

Mr J. Majdanski  
Secretary, Modification Panel  
Joint Office  
National Grid Transco

Your ref  
Our ref  
Name Steve Rose  
Phone 01793 892068  
Fax 01793 892981  
E-Mail [stephen.rose@rwenpower.com](mailto:stephen.rose@rwenpower.com)

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### **Draft Modification Report 0035 - Revisions to Section Q to Facilitate the Revised NEC Safety Case**

Dear Julian,

RWE npower does not support this modification proposal.

Whilst we have no objections to the changes contained within the proposal designed to add clarity to the emergency arrangements and to reflect Transco's Network Sales, we do not agree with the changes that are being proposed to reflect the change in Transco's Safety Case concerning Safety Monitor breaches.

Whilst we recognise that changes have already been made to Transco's Safety Case which now allow the NEC to constrain storage withdrawals during a potential NGSE (Stage 1) we do not agree with this change. Nevertheless as the NECs actions are given effect under powers granted under the Gas Act, this will take precedence over any conflicting wording that may be contained in the UNC.

However, in our opinion the current UNC drafting does not conflict with the Safety Case change or disoblige Transco and/or Users from acting on Safety Case instructions. The modification proposal is simply seeking to expand on a particular aspect of the Safety Case but is not aligning the UNC with this as there is currently no conflict between the two.

Transco state in the modification proposal that the "revisions to Safety Case were made following legal advice as to what the NEC's specific GSMR duties would be following such a Safety Monitor breach". This "identified that it would not be acceptable for the NEC to allow an increase in the risk of an actual NGSE, by allowing gas to continue to flow from the affected storage facility or facilities where there was a clear and present intent that the Safety Monitor level for that type of Storage Facility had been, or was about to be, breached (further depleting critical stocks), whilst the relevant Transporter undertook indirect emergency interruption."

This being the case why did the earlier Safety Case revision in September 2004 not address this concern and what if anything has caused Transco to change their legal position since then. Also the advice seems to suggest that it is appropriate to constrain storage facilities to prevent a potential Safety Monitor breach because at the same time Transco will be undertaking emergency interruption of interruptible sites, which may not necessarily be the case.

RWE npower

Trigonos  
Windmill Hill Business  
Park  
Whitehill Way  
Swindon  
Wiltshire SN5 6PB

T +44(0)1793/87 77 77  
F +44(0)1793/89 25 25  
I [www.rwenpower.com](http://www.rwenpower.com)

Registered office:  
RWE Npower plc  
Windmill Hill Business  
Park  
Whitehill Way  
Swindon  
Wiltshire SN5 6PB

Registered in England  
and Wales no. 3892782

We are concerned that Transco's legal interpretation of the NEC's duties, and the resulting changes made to the Safety Case, have created a situation where storage users could be constrained from withdrawing gas from storage whilst the OCM is still operating. Previously hitting the Safety Monitors was indicative of a market failure and triggered (amongst other things) market suspension.

In our opinion this may increase incentives on storage users to deplete their gas in store faster than they otherwise might have done, increase the balancing cost exposure of storage users and increase the likelihood of command and control actions being taken prematurely before other mechanisms and options have been exhausted.

It also seems to be somewhat conflict with the sentiment expressed by Ofgem in their final conclusions document on the Review of Top Up Arrangements in Gas Proposals published last August. This stated (in paragraphs 3.14 & 3.15) that "market conditions (including prevailing weather conditions), and market responses to falling storage stock levels, may be such that the level of gas in store could start to approach the safety monitor level", but that "it is very unlikely that stock levels would fall to levels very close to the safety monitors" as "this would require a sustained lack of price response from customers and the market to very high prices. In such circumstances, Transco has indicated to Ofgem that it would exercise its judgement regarding the risk of a safety monitor breach. For instance, Transco may determine that it is appropriate to consider re-allocation of the monitor levels between storage facilities. In the event that Transco's actions were unable to reduce the likelihood of a safety monitor breach sufficiently and, as a consequence, the safety monitor was breached, a network gas supply emergency would be instigated and, pursuant to the emergency provisions set out in Transco's network code, it would seek to ensure that the required volume of loads protected by isolation were no longer taking gas."

We are also concerned that the modification proposal fails to address the disparity in compensation arrangements that exist during an emergency between shippers who are constrained from withdrawing gas from storage facilities and shippers who are obliged to maximise beach deliveries, despite this being expressed as a concern at the Transmission Workstream.

Whilst we accept that it should ultimately remain Transco's responsibility to prepare and agree their NTS (and DN) Safety Case with the HSE, we believe that Transco should take a more inclusive approach to this than they do currently. In our opinion Transco would benefit from seeking the views of shippers as part of any revision process and this would help to ensure that the HSE are informed of the wider industry view.

In the absence of such an approach shippers will continue to be forced to comply under statute with solutions which are not necessarily efficient, or optimal. It does not follow however, that they should be forced to accept modifications to the UNC that reflect these inefficiencies simply to achieve "alignment" if these modifications do not comply with the UNC relevant objectives. In our opinion this modification proposal represents a case in point.

Yours sincerely,

Steve Rose  
Economic Regulation