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Julian Majdanski  
UNC Modification Panel Secretary  
Joint Office of Gas Transporters  
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Dear Julian

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

Thank you for providing Scottish and Southern Energy plc with the opportunity to comment on the above draft modification report.

SSE does not support implementation of this proposal for the reasons set out below.

We have structured our response to match the headings in the report.

**1. The Modification Proposal**

The rationale for raising the proposal is the revision to the Network Emergency Coordinator (NEC) Safety Case which was approved by the HSE in March 2005. The proposal states that “the key commercial implication of the change to the Safety Case is the introduction of a new type of emergency known as a GSMR Safety Monitor Breach.”

It is disappointing that the industry was not made aware of this development until the Transmission Workstream meeting in June, given its “commercial implications”. SSE queries why an amendment to the NEC Safety Case should have any commercial implications at all; we thought that the role of the NEC is to deal with circumstances where the commercial/market arrangements are no longer working.

Given that the revisions to the NEC Safety Case will have such significant commercial implications it is wholly inappropriate that such changes were not consulted upon first with the industry. It is of concern to us that in recent months a number of UNC proposals have been raised on the back of changes to other documents that lie outside the UNC governance process. We believe that the governance of safety case changes does permit consultation with interested parties and we question why this was not carried out at the time.

If it is indeed the case that HSE did require the arrangements for the protection of the GSMR Safety Monitor to be specifically outlined and demonstrated in the Safety Case, we are surprised that this issue was not debated at the time that Urgent Network Code Modification proposal 0710 was consulted upon this time last year.. Although SSE did not support the removal of top-up, we did not envisage that it would ever result in command and control over storage withdrawals in the event of a potential or actual Safety Monitor breach.

On that basis we disagree with the concept that the NEC should be able to direct Users and Storage Operators via the relevant Transporter(s) to turn down or curtail their deliveries of gas to the system in the event of a potential or actual GS (M) R Safety Monitor Breach. How can it be appropriate for the NEC to exercise “command and control” over gas in storage at Stage 1 when Transco NTS’s use of the market has not been suspended?

We are concerned that, if implemented, a consequence of the proposal, by preventing the withdrawal of gas from storage, could in fact lead to the automatic declaration of a Stage 2 emergency

It is proposed to define potential and/or actual GSMR Monitor Breach as a separate type of emergency. We are confused by this statement. In the legal text, a Network Gas Supply Emergency Safety Monitor Emergency is a Network Gas Supply Emergency (NGSE) which arises as a result of an “imminent or actual” breach of a Safety Monitor. This seems to suggest that a potential or imminent Safety Monitor breach would result in the declaration of a NGSE. There would be no stage 1.

The proposal states that the **relevant Transporters** on instruction from the NEC may direct relevant storage operators to reduce or cease flowing gas in the event of a potential or actual GSMR Supply Monitor breach that is affecting that type of facility. This is at odds with the legal text which refers only to Transco NTS.

Another element of the proposal is that “for clarity trades completed on the OCM before the OCM market has been suspended will be included within the relevant shipper’s imbalance calculation”. We do not see how this clarity is given as we see no reference in the legal text to this situation.

On the basis of the above we conclude that the proposal as it stands is confusing, ill-defined and not fit for purpose.

## **2. Extent to which implementation of the proposed modification would better facilitate the relevant objectives**

We do not believe that aligning the UNC with the current NEC Safety Case will improve the efficient operation of the emergency procedures or the economic and efficient operation of the NTS pipeline system. Indeed, given that it appears that the NEC Safety Case revision has already granted “command and control” powers to the relevant Transporter acting on behalf of the NEC does the UNC need to change at all?

We consider the UNC modification proposal (coupled with the Safety Case changes) will have a detrimental effect on the efficient and economic operation of the NTS pipeline system and consequences for the operation of the pipeline systems of other relevant gas transporters. We believe that if implemented this proposal will lead to distortions in market behaviour. As storage levels reduce, players may be reluctant to nominate storage withdrawal at times of relative system stress, for fear that the safety monitor may be breached. Perversely, the proposal would encourage shippers to exhaust their storage stocks prematurely because of the fear of their gas being “stranded” and their resulting exposure to a volatile market.

In a situation where storage is subject to command and control arrangements, but the market has not been suspended, such powers will distort the market and are not appropriate. The proposal will therefore have an adverse effect on the operation of the market, and thus distort competition in the provision of storage and related flexibility services. It will also be detrimental to facilitating competition between shippers and suppliers, with knock-on effects for customers, particularly those customers that are “protected” by the Safety Monitors. One of the arguments for removing top-up was that it would benefit the market and competition in

shipping and supply. We consider that the NEC safety case changes and this proposal if implemented will have the opposite effect.

We do not see how the proposal will lead to improvements in market information or sharpen incentives such that they would serve to avert the emergency. As it stands, the legal text states that Section D will be suspended in the event of an imminent or actual Safety Monitor breach. If Section D were suspended this means that a Stage 2 emergency has been declared, therefore the emergency will not have been averted at all. We fail to see how this better facilitates any of the relevant objectives.

### **3. The implication of implementing the Modification Proposal on security of supply, operation of the Total System and industry fragmentation**

We do not believe that the proposal introduces clear roles, responsibilities and processes for the management and resolution of a potential or actual GSMR Storage Monitor Breach. Instead it simply serves to confuse our understanding of what would happen in such circumstances.

We do not consider implementation of the proposal to be beneficial to security of supply. In fact we consider it to be detrimental and contradictory to the rationale for removing top-up last winter. Our understanding is that the reason for removing top-up and replacing those arrangements with safety monitors was to allow the market to respond to supply/demand fundamentals without the need for intervention by Transco NTS.

TPD Section Q.5.4 explicitly states that other than notifying Users of potential or actual breaches, and “subject to taking such steps as required under the Transco Safety Case, Transco NTS will not take any specific action as a consequence of identifying a potential or actual breach of a Safety Monitor or a Firm Gas Monitor”. At the time that Network Code modification proposal 0710 was approved, the only action that Transco NTS could take to resolve a potential breach would have been triggered by its ability to invoke interruption for supply/demand balancing purposes. This ability has been removed by implementation of UNC proposal 0013a.

Why therefore has it subsequently been considered necessary to amend the NEC Safety Case to grant it with the ability to take specific action as a consequence of a potential or actual breach of a Safety Monitor? All the costs and risks of such actions are borne by shippers and ultimately customers. This seems to be at odds with the principle that “command and control” procedures should only come into force when the market can no longer operate.

We note that an interaction was identified between Operating Margins gas and the LNG Monitor during the consultation on 0710 and that Transco was to review this prior to making bookings for this winter. We are not aware of any review. In addition, in its 0710 decision letter Ofgem stated that it would expect Transco to consider the methodology for setting the monitor levels and specific ways in which Transco should seek to ensure that the safety monitor is not breached to form the subject of further discussion with industry. To our knowledge, such discussion has not taken place.

### **4. The implications for Transporters and each Transporter of implementing the Modification proposal**

The proposal does not establish clear processes for the management of storage flows during a NGSE. The proposal states that the relevant transporter will give instructions to relevant storage operators; however the legal text refers only to Transco NTS.

We do not believe it is clear that a Stage 2 NGSE would be declared in the event of an actual storage monitor breach when the legal text defines a GSMR emergency as an “imminent or actual breach”. Which one is it?

We believe that implementation could lead to an increase in the costs of balancing the system as a result of stranding gas in storage.

**5. The high level indications of the areas of the UK Link System likely to be affected, together with the development implications and other implications for the UK Link System and related computer systems of each Transporter and Users**

We note that in the Workstream report to the Panel it was suggested there should be enhanced mechanisms to alert/inform market participants of a potential or actual breach of the safety monitor. The proposer was supposed to have clarified this but to our knowledge this has not been done.

We are aware that via the Ofgem Demand Side Working Group sub-group there have been positive discussions regarding improving the Transco NTS “information exchange” website. We urge Transco NTS to implement these changes as soon as possible.

**7. The implications of implementing the Modification Proposal for Users, including administrative and operational costs and levels of contractual risk**

We find it surprising that the proposer “does not envisage any such consequences” given the statements in the proposal about the commercial implications of the change to the Safety Case. The proposer also seems to have ignored the concerns that have been raised by Workstream participants, including SSE, in public meetings since Transco gave a presentation on the NEC Safety Case Changes in June.

We strongly believe that implementing the Modification Proposal will increase administrative and operational costs and the level of contractual risk that Users face under the commercial regime.

The effect of the proposal is that the value of storage capacity and gas in store is seriously eroded for those parties that have made provision to meet their winter supply/demand obligations by their use of Storage Facilities. In the event of a potential or actual Safety Monitor breach such gas is then “stranded” for those Users, who will be out of balance through no fault of their own. They then face exposure to the market as a distressed buyer of gas and could end up being unfairly penalised via high prices and/or volatile cashout exposure. This circumstance was not envisaged at the time top-up was removed. We have concerns that this will have an adverse effect on parties’ operational decision-making during the winter period.

Implementation could lead to perverse incentives about the way in which parties utilise their gas in store over the winter period. Depending on the level of the monitors and the assessment of whether a breach is “imminent” (which is not clear under this proposal) Users will have to manage an unquantifiable risk in terms of whether or not to withdraw their gas from storage during the winter period.

Finally, implementation could actually provide a disincentive to use storage facilities in future because of the risk of gas in store being stranded when it is most needed. This will probably result in higher monitor levels being set in future years.

**8. The implications of implementing the Modification Proposal for Terminal Operators, Consumers, Connected System Operators, Suppliers, producers and any non Code Party**

We agree with the comment that implementation would increase risks for Storage Operators

Implementation would adversely affect the economics of investment in storage as storage operators would have to reconsider their commercial terms to take account of circumstances

over which they would have no control. This could affect the viability of existing and new projects.

We note that no time has been allowed for the renegotiation of Storage Contracts to accommodate these new arrangements. Parties will have entered into storage agreements earlier in the year with no knowledge of the revisions to the Safety Case that were approved in March. Such information would undoubtedly have influenced parties' commercial decisions to purchase storage compared with other flexibility products.

However the effect of the legal drafting proposed to Section Z is that it will change the Transco LNG storage terms and conditions. This is not mentioned anywhere in the proposal.

Finally, implementation could actually provide a disincentive to use storage facilities in future because of the risk of gas in store being stranded when it is most needed. This will probably result in higher monitor levels being set in future years.

#### **10. Analysis of advantages/disadvantages**

We do not believe that the proposal:

- provides us with any clarity with respect to the NGSE process;
- provides greater clarity about the role of the relevant Transporters during a NGSE
- will conserve gas associated with the protection of domestic or priority loads
- will lead to improvements in market information or sharpen incentives

#### **12. Facilitating compliance with safety or other legislation**

We request clarity on whether it is a requirement of the GS (M) R for the UNC to be aligned with the NEC Safety Case.

#### **18. Legal text**

**There are a number of fundamental discrepancies between the legal text and the proposal itself which we believe need to be clarified in the draft Final Modification Report. We consider it will be necessary for the legal text to be subject to further consultation. In the event that urgent proposal 0044 is implemented, this text may no longer be valid and therefore further consultation will be required.**

#### **Detailed comments**

TPD Section Q

1.2.3(d) What criteria will be used to judge whether a Network Gas Supply Emergency Safety Monitor Emergency is "imminent". From the proposal we were under the impression that a "potential" breach would be defined separately to an "actual" monitor breach. What is the difference between "potential" and "imminent"? As both circumstances seem to have been categorised together, how will the market be informed of and be able to respond to a "potential" breach?

3.2.2 states that in the event of a Network Gas Supply Emergency Safety Monitor Emergency that application of Section D will be suspended. This is at odds with our understanding of the proposal itself and the changes to the NEC Safety Case which are the rationale for this proposal. Is it the proposer's intention that in the event of an imminent breach, the application of Section D would be suspended? If this is the case, then we are in to Stage 2 of an emergency. Whilst this would address many of our fundamental concerns with the proposal it would then seem to place the UNC in conflict with the NEC Safety Case. This needs to be clarified as a matter of urgency. In addition, declaring a Stage 2 emergency when there is potential for a Safety Monitor breach would not allow the market to respond, demand side bids to be placed etc. This does not seem to be in the interests of the efficient and economic operation of the Total System.

3.3.2 (a) states that Users must comply with all instructions by “Transco NTS”. As gas is being delivered to the Total System, the instructions must be given by the relevant Transporter.

3.3.2 (b) refers to a “Potential Gas Supply Emergency Safety Monitor Emergency” but this is not defined.

The comments in respect of 3.3.2(a) are equally relevant here.

3.3.3. Again, we query the references to Transco NTS and not the relevant Transporter acting on the instruction of the NEC.

4.1. Given the definition of Network Gas Supply Emergency Safety Monitor Emergency proposed in 1.2.3(d) above, we note that all provisions of UNC referenced here would be suspended in the event of an “imminent” Safety Monitor breach.

4.2.1 We note that emergency cashout will apply in the event of an “imminent” Safety Monitor breach.

4.2.2(a) there is a missing “who” after User on line 1

#### TPD Section Z

We note that Transco NTS is using the legal text to change the terms and conditions of the LNG contract but this is not mentioned anywhere in the proposal. We are concerned that without scrutinising the legal text, LNG Users may not be aware of this point.

During a Network Gas Supply Emergency, including a Potential Network Gas Supply Emergency, which could include an “imminent” breach of a Safety Monitor, Transco LNG Storage would act on instructions from Transco NTS regarding increasing or decreasing flows from its facility. We interpret the effect of this change to mean that such steps would override any Nominations made by Users, i.e. Users would not be held whole against their nominations even in a Stage 1 emergency situation. We query the validity of this change to the LNG Contract when it has not been explicitly identified in the modification proposals.

#### **Conclusion**

In summary, SSE is firmly opposed to the implementation of this proposal.

- We do not believe it will better facilitate the relevant objectives.
- We do not see how command and control over storage facilities can be appropriate when the market is still in operation.
- In our view, the proposal provides little clarity about the procedures that would be followed by Transporters in an emergency.
- We are concerned that the legal text is inconsistent with the proposal itself

I hope that our comments have been helpful. Please do not hesitate to contact me in the first instance if you wish to discuss any of the points raised in our response.

Yours sincerely

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Market Development