

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

Centrica Energy  
Millstream East  
Maidenhead Road  
Windsor  
Berkshire  
SL4 5GD

Tel. (01753) 431242  
Fax (01753) 431150  
Our Ref.  
Your Ref.

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Dear Julian

**RE UNC Urgent Modification Proposals**  
**0036 – Limitation of incremental capacity offered in the QSEC auctions**  
**0037 – Limitation on offering for sale unsold capacity**

Thank you for the opportunity to comment on these Modification Proposals.

**General Comments**

**Process and timing**

We are concerned at the manner in which these proposals have been raised. There are a number of documents and issues which must be considered in relation to these matters:-

- Transporters licence obligations
- Transporters operational procedures (IECR, PG, SMPS etc)
- Transporters incentive arrangements
- Transporters common contract with the users of their networks (Uniform Network Code)

These modification proposals deal only with the latter of these points and therefore address only part of the issue. The raising of Urgent proposals with only 5 days to allow Users to respond to proposals, which will have far reaching effects on the LTSEC process by which Users procure requirements for system entry capacity well into the future, is unacceptable.

**Consistency of documents**

As mentioned above, the arrangements for offer of System Entry Capacity are governed by a number of documents. The amendment of one does not in itself constitute a reason for urgency in bringing the other elements in line. This approach exemplifies an abuse of process where a piecemeal approach to implementation of change has been adopted. We have long advocated the engagement of industry parties in full and open consideration of such issues prior to proposing amendment of all related documentation in a consistent and co-ordinated manner.

## Incentives

The modification proposals cite the commercial exposure directly to the Transporter and indirectly to the wider industry through neutrality. As the exposure to this element of risk is largely within the control of the Transporter, we believe that this issue of incentives also needs to be considered in this context. The effect of these Modifications would be to reduce the risks associated with the inability to deliver obligated capacity, therefore the degree of exposure to incentives should reflect this change by increasing their share of the related buybacks. This is a further reason for a more holistic approach to modifications of this nature.

## **Modification Proposal 0036 – Limitation of incremental capacity offered in the QSEC auctions**

In the lengthy process that implemented arrangements for the allocation of Long Term System Entry Capacity (Modification Proposal 500), there were a number of high level principles instilled in the details. One of these was the availability of incremental capacity up to 150% of baseline within three years where a clear signal had been indicated through the allocation process. We are strongly of the view that this principle remains paramount.

However, we recognise that there may be exceptional circumstances where it is not possible, for reasons outside the control of the Transporter, to meet this requirement. In such exceptional circumstances it may be appropriate to allow minimal departure from this principal. Where this is the case the reasons for the variation must be open and transparent and variation sanctioned by the regulator. Any resulting restriction in the availability of incremental capacity must be visible to participants in the LTSEC process in advance of it being conducted.

The proposed legal text of this Modification nor the revised wording of the IECR does not provide sufficient clarity of the precise conditions where such departure would be acceptable.

The parameters for such exceptions has not been discussed in the context of the amendment of the IECR and is not something that can be discussed, designed, agreed and implemented in the timescale facilitated under this Urgent Modification Proposal. For these reasons we are not supportive of the implementation of this Modification Proposal.

## **Modification Proposal 0037 – Limitation on offering for sale unsold capacity**

The second of these Urgent Proposals is also inappropriate to the process and, we believe, incorrect in its intention.

The LTSEC process has been specifically designed and implemented as the mechanism for the primary sale of System Entry Capacity below baseline and to facilitate the commitment to incremental System Entry Capacity.

The Transporters licence obliges them to offer 80% of baseline in the LTSEC. The licence also obliges them to make available 100% of baseline in the AMSEC, RMSEC and daily auctions up until D-1. Capacity below baseline is obligated and there must be no restriction of its availability, as to do so would radically alter the incentive structure built around capacity release.

The LTSEC process enables Users of Transco's NTS to book System Entry Capacity well into the future, 3 to 18 years forward. Any bids are considered in aggregate and assessed against the baseline. Where aggregate bids are below baseline, capacity is allocated as above. Where the aggregate is beyond baseline, incremental capacity is only allocated where the demand meets the criteria contained within IECR statement. Any capacity that is allocated within the LTSEC process is, by definition, not "unsold". Users in aggregate will have signalled to the Transporter that there is a financial commitment to capacity at that level. Whether this has been within the current LTSEC process in respect of baseline capacity or a previous LTSEC process in respect of incremental capacity. By committing to provide any incremental capacity, this must not prejudice or undermine the availability of baseline capacity that has not been sold in a previous LTSEC process. Indeed this principle extends to the availability of unsold capacity, including the 20% withheld in LTSEC, which is offered in AMSEC, RMSEC and daily auctions.

We are particularly concerned by the second bullet point under the "Nature and Purpose of Proposal". If capacity has been allocated to a User within the LTSEC process it cannot and should not be simply withdrawn or offset by a reduction in baseline capacity available. Following allocation of incremental capacity, Transco NTS will make a risk assessment about the investment required to meet this additional requirement. Should Transco NTS assess that previously allocated capacity would need to be bought back, it infers that the system capability has already been oversold without the requisite investment being made. In such circumstances we believe that they should be exposed to a greater, not lesser, proportion of those buybacks.

For the reasons above, we do not support the implementation of this Modification Proposal.

### **Summary**

We are of the opinion that the nature of capacity released within the LTSEC process must be reliable and unambiguous. Users must have the certainty that their requirements for System Entry Capacity will be met when bidding in the process. The only variance to this must be where there are exceptional conditions that meet pre-determined criteria and this is made known to participants in the process in advance of their submitting bids. Once the allocation has been made, Users must be able to rely on that capacity being available, as they will have made significant commercial commitments based upon this availability.

We believe that the incentive arrangements relating to release of System Entry Capacity should also reflect any inability of the Transporter to meet commitments made in the LTSEC process. This should include a direct exposure to the risk, not shared with the community or recoverable through transportation charges.

Please contact me if you require any further information.

Yours sincerely,

Mike Young  
Commercial Manager