



Tim Davis  
Chief Executive  
Joint Office of Gas Transporters  
51 Homer Road  
Solihull  
West Midlands  
B91 3QJ

**E.ON UK plc**  
Westwood Way  
Westwood Business Park  
Coventry  
CV4 8LG  
eon-uk.com

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**Response to UNC Modification Proposal 036 Limitation of Incremental Capacity offered in QSEC auctions and 037 Limitation on offering for sale unsold capacity**

Dear Tim

E.ON UK does not support these proposals. We do not consider that changes proposed to the allocation of incremental entry capacity ought to be addressed through a UNC modification proposal. Section B of the UNC primarily governs registration of capacity and the sale of capacity in the long term auctions. How any incremental capacity is then released post the auctions should be dealt with through Transco's incentives, in connection with the IECR Methodology Statement.

Transco originally sought to place these market rules into these non Code documents to avoid the possibility of frequent changes to the arrangements and to agree a longer term settlement with the regulator on incentives. They cannot now choose to opt certain rules back into the Code because they now feel they are unable to fulfil their contractual obligations to shippers with respect to incremental capacity. Transco should be required to continue to use the agreed buy-back mechanism.

Ofgem state in their initial consultation on Transmission price control review, the importance of ensuring 'licensees bear an appropriate share of the risk of underperformance under the price controls in relation to, for example, the cost of buying back capacity rights if investment by a licensee is not focused and timely'. These modification proposals weaken such fundamental incentives.

Incentives and revenues are set relating to the required baseline and incremental outputs and any proposal which impacts these must be dealt with through the proper mechanisms of a price control review and not through a Code

E.ON UK plc  
Registered in  
England and Wales  
No 2366970  
Registered Office:  
Westwood Way  
Westwood Business Park  
Coventry CV4 8LG

modification, to ensure the full impact of the proposals is understood and appropriately assessed.

In proposal 036, Transco state that changes to the UNC are necessary to reflect changes to the Incremental Capacity Release (IECR) Methodology Statement. In our response to the changes proposed to the IECR Methodology Statement, we expressed our concerns with changes proposed to investment lead times. We have not had the opportunity to see other representations or objections to the proposals. Under Special Condition C15(10)(b), we request a copy of each statement and report prepared pursuant to paragraphs 2, 3, 4, 5, 6 and 7 of that condition. We are surprised that we have to specifically request to see representations to the consultation on the IECR Methodology Statement, as with most consultations, such information is publicly available to ensure transparency and accountability in the process. We attach our response to consultation on the IECR Methodology Statement, for information.

Both proposals allow for Transco to deviate away from the three year investment lead time, which, as we noted in our response to the changes proposed in the IECR Methodology Statement, raises some serious questions of what has changed to make this no longer tenable. Neither proposal is clear in the discretion which Transco can use to hold back incremental entry capacity as the result of being unable to make the three year lead time, undermining the current balance between revenue received from incremental outputs, weighed against the risk of buy-back to ensure against inefficient investment in the system. Both proposals therefore destabilise the relevant objective (a) the efficient and economic investment in the system, through providing a means by which Transco can circumvent its incentives.

It is regrettable that we have not had the opportunity to consider these proposals in an earlier development stage where it would no doubt have become clear that the proposals would be better addressed through Ofgem's consultation on Transmission price control review and could have been raised as a specific question in that consultation. We would urge Transco to raise any issues with investment lead times and associated revenue, in their response to that consultation.

We hope you have found these comments useful. Please do not hesitate to contact me if you wish to discuss any of the above.

Yours sincerely

Christiane Sykes  
Trading Arrangements  
Energy Wholesale  
02476 424 737



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