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Dear Julian

RE UNC Modification Proposals:-

0023 "Re-assessment of User Unsecured Credit Limits"

0024 "Independent security provision by an entity with an Investment Grade Rating of 'A' or above"

0025 "Notice Period for Credit Limit Downgrade and Remedies for Non-compliance"

0026 "Application of Charges consistent with Late Payment of Commercial Debts (Interest) Act 1998"

0027 "Right of Set Off Under Uniform Network Code"

0031 "Re-assessment of User Unsecured Credit Limits"

0032 "Adjustment to the number of days in the V A R calculation to bring the Code Credit Rules into line with the Best Practice Guidelines, Conclusions document Feb 2005"

0034 "Netting Off of payments and Credits relating to Transportation Charges"

0041 "Re-assessment of User Unsecured Credit Limits"

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

Firstly, may I comment on the structure of the Modification Proposals and this response. The initial suite of proposals, raised by Transco (0023 – 0027), has emanated from the recommendations contained within the Ofgem conclusions document "Best practice guidelines for gas and electricity Network Operator credit cover" (58/05). These initial proposals have been developed through a group established under the Distribution Workstream, closely aligned to the membership of the Energy Balancing Credit Committee. Within this development a number of Users have raised other proposals related to the recommendations. The suite of Modification Proposals is recognised as the result of a considerable contribution by a number of individuals and organisations closely involved with these matters. The consultation on these nine proposals has been intentionally co-ordinated to allow interested parties to comment on individual proposals and the alternatives and interaction between them.

General

The issue of credit cover has a particular role in the energy business as, in addition to the conventional purpose of ensuring creditworthiness of trading parties, the wider community can be exposed to significant costs in the event of the failure of one of the participating trading parties.

The cost of provision of credit cover is a necessary operating cost of any participant in the energy supply train. The provisions of the Uniform Network Code address these matters in respect of energy trading with the system operator and transportation charges. Too great a requirement for credit cover will increase costs, ultimately borne by consumers, and may serve as a barrier to entry for new participants in the market. Too little credit cover will expose all players to unacceptably high risk of failure.

These two elements of Credit Cover form a tension for all participants. All parties will seek to keep their costs to a minimum but require adequate protection from any exposure to a defaulting or failed party. The consultation, and this suite of Modification Proposals, has considered the position for the resolution of this tension to achieve optimum protection from industry risk without incurring unnecessary or excessive costs.

In achieving these aims the Modification Proposals will satisfy the relevant objectives of the various licence objectives by:-

- (d) securing effective competition
 - (i) between relevant shippers
 - (ii) between relevant suppliers
- (f) promotion of efficiency in the implementation and administration of the Network Code and/or Uniform Network Code

Our observations and support are based upon the furtherance of these objectives.

0023 "Re-assessment of User Unsecured Credit Limits" (Transco)

0031 "Re-assessment of User Unsecured Credit Limits" (RWE)

0041 "Re-assessment of User Unsecured Credit Limits" (TGP)

These three proposals are very similar in structure, differing only in the application of thresholds where levels of cover are required. At the most secure levels, companies with established high credit ratings should be afforded maximum credit allowances reflecting their stature. At the other end of the scale, we support a more cautious approach as the degree between a low rating and no rating can be very fine and this situation may change over a short period of time. On balance, having considered the various structures proposed by each of these three proposals, we believe that Modification Proposal 0041 is the one that best furthers the relevant objectives. It does so by setting the Credit Allowance %age at 15% for companies with a rating of BBB- and 10% for those with a rating below BB. We believe this serves as an appropriate level of protection to the risk borne by the wider community without raising the barrier to entry for a new participant to an unacceptable level.

We support implementation of Modification Proposal 0041.

0024: "Independent security provision by an entity with an Investment Grade Rating of 'A' or above" (Transco)

This Modification Proposal enable a participant to obtain the necessary level of security from an independent third party. With the provision, contained within the proposal that the said third party itself holds a sufficient credit rating, we believe that this is a pragmatic solution to the difficulty that some companies may experience in obtaining a credit rating without the benefit of an established credit history. This is particularly relevant to new participants to the market and effectively removes a potential barrier to entry.

We support the implementation of this Modification Proposal.

0025 "Notice Period for Credit Limit Downgrade and Remedies for Non-compliance" (Transco)

This Modification Proposal amends the timetable, which determines the escalation of measures which may be applied to a User in or approaching default. The current provisions within Code Credit Rules, which take effect after 30 days, do not reflect the manner in which the credit position of a User may change within a short time. This proposal would bring these measures to bear over a period of just five days which is both more realistic and serves as a greater incentive for a User to address their credit position more expeditiously.

We support the implementation of this Modification Proposal.

0026 "Application of Charges consistent with Late Payment of Commercial Debts (Interest) Act 1998" (Transco)

The current provisions for late payment would apply interest at a rate of Bank of England base rate plus 3% points. The intent of this rate escalator is to serve as an incentive to pay on time and not to use this industry settlement process as a form of credit in the short term. In certain circumstances this rate could be judged as a relatively attractive option for short-term credit. Therefore some Users may be incentivised not to pay rather than being unable to pay. This Modification Proposal would increase this rate to Bank of England base rate plus 8% points. Although it could be asserted that this rate is penal, the prime intent of setting the rate at this level is to serve as a strong incentive to pay on time and not to use this mechanism as a source of credit. Therefore, we believe that Users have every opportunity to avoid payment of this rate and it cannot be considered as a penalty but providing a much stronger incentive than exists at present.

We support the implementation of this Modification Proposal.

0027 "Right of Set Off Under Uniform Network Code" (Transco)

0034 "Netting Off of payments and Credits relating to Transportation Charges" (BGT)

Although not directly related to credit cover, these Modification Proposals have been raised to address the ability of Users to "Net off" credits and debits when making payments to Transporters. Although we support the principles and structure proposed within Modification Proposal 0027, we strongly object to the inability of Users to initiate netting

off. Within the development of this proposal we had proposed that a provision be made for Users to initiate the production of a "set off notice" but this was declined by the proposer. Modification Proposal 0034 is much simpler in its approach by removing the limitation of netting off to just Balancing invoices as currently exists within Uniform Network Code (UNC). By the removal of this limitation, Users and Transporters would have the ability to make mutually convenient arrangements for netting off payments and credits without breach of UNC.

We support the implementation of Modification Proposal 0034.

0032 "Adjustment to the number of days in the V A R calculation to bring the Code Credit Rules into line with the Best Practice Guidelines, Conclusions document Feb 2005" (RWE)

This Modification Proposal would change the basis of calculation of the Value at Risk in assessing the amount of credit cover required. It is currently set as 63 days of peak trading activity. The proposal instead would apply one calendar month (31 days as the maximum value) plus 15 days of the peak daily average, being that implied within the billed charges. We believe that this is a much more realistic assessment of the maximum exposure reflecting the pattern of actual flows more accurately.

We support the implementation of this Modification Proposal.

Please contact me if you require any further information.

Yours sincerely,

Mike Young
Commercial Manager