

Representation For. 0043
"Limitation on offering for sale unsold capacity"
Version 1.0

12 August 2005

Dear Tim

E.ON UK maintains its position of no support for this urgent modification proposal. Whilst we would take this opportunity to acknowledge Transco's efforts in addressing some of the concerns raised in response to modification proposal 37, the more fundamental issues with regards to incentives and licence obligations remain.

It was noted in the last Modification Panel meeting by members, that Modification Proposal 037 would more suitably be assessed through a holistic approach, taking into account Transco's licence obligations and their incentive arrangements.

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". It is our opinion that this modification proposal continues to weaken such fundamental incentives. Ofgem appear to substantiate this point in their price control review, stating that "Ofgem will seek to use rolling 5-year retention periods for efficiency savings in both operating and capital expenditures as a means of ensuring consistent strength of incentive".

We continue to maintain that 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 modification, to ensure the full impact of the proposal is understood and appropriately assessed.

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

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