Representation For. 0043

"Limitation on offering for sale unsold capacity"
Version 1.0

From Tanya Morrison, Shell Gas Direct Ltd

I refer to the above urgent modification proposal raised by National Grid - Transco NTS. It proposes that Transco NTS's current obligations to offer unsold capacity be limited when certain criteria are met, namely that there is a risk that Transco will be unable to deliver the capacity or that there will be high buy back costs. This proposal is a replacement for UNC0037 which was recently withdrawn by UKT.

While Shell Gas Direct (SGD) appreciates the effort that Transco has made to address the concerns raised by respondees to UNC0037 in this proposal, it does not support this proposal. Our concerns expressed in our reponse to UNC0037 remain regarding the attempt to alter arrangements so close to what is expected to be the start of the next round of LT auctions. This is particularly concerning given the doubts we now have about the timing of the next auction.

Our main concerns outlined in response to UNC0043 remain. We consider this proposal to contain major changes in approach from that originally implemented for the LTSEC auctions and the incentives on Transco. Transco has been given a number of complex incentives in its price control to encourage it to maximise available capacity and to take on risk when it cannot deliver capacity sold. Transco accepted these incentives but now appears to be responding to them not by making investment or finding other commercial solutions but by changing the arrangements themselves. This is inconsistent with the "commercial" approach envisaged for Transco to take. We do not consider the fact that scenarios developed which were unexpected is a reason for Ofgem to accept such a proposal. What this does suggest is that the arrangements themselves have not been successful, increase regulatory uncertainty for all parties and create an on-going workload for the regulator. We remain of the view that the long term capacity auctions should be subject to independent review by a party not involved in their original design or development.

SGD notes that when the LT auctions were put in place, Ofgem stated that it expected shippers' exposure to buy back costs to reduce over time . If Transco's concern is shippers' exposures, it would seem sensible to change the sharing factors to reduce these. However, it appears to us that it is more likely that Transco's concern is its own exposure and the effect that this could have on its incentive package. It may be that Transco has not invested to the extent that it should have to avoid the risk of buy back costs.

In respect to this proposal, we are not clear why if the proposal is only for QSEC auctions conducted prior to 31 March 2007, that the arrangements themselves would need to be changed beyond this date. We would expect that these changes should go into the transitional arrangements and be restricted to capacity released up to 31 March 2007.

The proposal to only allow this arrangement to be put in place with written consent from the Authority does not provide the level of comfort we would want. We would welcome details of how this process would work: we recommend that if adopted Transco would publicly state that it was doing this before any agreement between Ofgem and Transco was announced. Any agreement in writing would need to be signed by a member of the Authority itself.

SGD does not support this proposal. We cannot concur with Transco's assertion that avoiding potentially high buy back costs is consistent with efficiency. We consider that the major changes proposed here undermine effective competition between shippers and therefore do not further the relevant objectives of the UNC. As set out in our response to UNC0037, we consider it misleading to suggest that there is a risk to consumers of high buy back costs. This misrepresents the impact of neutrality payments on end consumer prices.

Yours sincerely

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