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**Response to UNC Modification Proposal 0046, "Extension of the Sunset Clauses for Registration of Capacity at NTS Exit Points"**

Dear Tim

E.ON UK offers qualified support for this proposal.

We remain opposed in principle to the continued inclusion of a sunset clause in the Uniform Network Code. Nevertheless the rest of the proposal does offer a pragmatic way forward with regard to the offtake arrangements between Transco NTS and the DNs. Indeed this proposal offers a viable model for the so called "enduring offtake arrangements". We would offer our full support for this proposal if the process for Firm Capacity Applications was not 'end-dated' at 30 September 2010 and this effectively remained an evergreen process until a code signatory thought it appropriate to propose further changes.

The continued application of a 'drop-dead' date (the sunset clause element of the proposal) means that parties do not have any certainty as to what arrangements might be in place after 30 September 2010 – the delay is welcome but the inclusion of this date perpetuates regulatory uncertainty which in turn undermines competition in the shipping and supply of gas. It is wrong in principle to create this unnecessary uncertainty especially where a code baseline is supposed to set out the terms and conditions for gas transportation on an 'evergreen' basis. Where transition arrangements are specified in a code it is normal to define what one is transitioning to! Transco are not in a position to do this at the moment so the end-date should not be included.

The whole process is brought into disrepute if parties are forced to bring forward proposals simply because an arbitrary end-date that has been included in the code. We would therefore urge Transco to amend its proposal to ensure its proposal can continue to apply post 30 September 2010.

We also note that Ofgem no longer intends to hold Transco to the conditional licence condition that requires Transco to use best endeavours to implement the enduring offtake arrangements by 1 September 2005. This means Transco should no longer feel obliged to pursue reforms that we understand it does not

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fundamentally believe in. Thus Transco should now be happy to remove the 'end-date' from its proposals.

Coming on to some of the more detailed features of the proposal, we consider that the legal drafting should make clear that all Advance Reservation of Capacity Agreements should be subject to UNC governance and oversight by the UNC Panel.

The ARCA terms could either be included in the UNC, or the form of these ancillary documents should be subject to approval by the UNC Network Code Committee from time to time (as per modification proposal 730 "*Extending established Network Code governance arrangements to relevant Transco documents*"). To avoid undue discrimination between NTS connectees it is particularly important that ARCAs remain standard documents, and any future changes to ARCA terms are properly consulted on and are visible to all market participants. These documents should not be allowed to evolve into bilaterally negotiated agreements.

Yours sincerely

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