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Dear Tim,

**RE: Urgent Modification Proposal 0151 – “Transfer of Sold Capacity between ASEPs”**

E.ON UK does **not support** implementation of Modification Proposal 0151.

We consider that the facilitation by NG NTS of entry capacity trading / transfers is a key issue which, if not addressed quickly could lead to sterilised capacity at certain ASEPs, ultimately affecting a User's ability to bring competitively priced gas into the country; particularly affecting winter 07/08. It is imperative that market participants are able to plan ahead to ensure gas supplies can be delivered where demand exceeds the baseline capacity of an ASEP, well before winter.

It is also in the best interests of UK security of supply that Users are able to resolve any problems that may have been exacerbated by reduced entry capacity baselines, and can optimise their own portfolios as early as possible. Forcing market participants to leave such important decisions until the start of winter is counter-productive and could lead to inefficient decision making. It is therefore crucial, that robust and User-friendly arrangements are in place well before winter 07/08.

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We consider that Modification Proposal 0151A better facilitates the relevant objectives than Modification 0151. We believe that 0151A is more simple and straightforward than NG's proposals and affords significantly more flexibility and certainty to Users at this critical time.

### **Disadvantages of Modification Proposal 0151:**

- Our primary concern, which we believe has the potential to undermine the entire trade and transfers process, is that many User requests for sold capacity trades will simply NOT be met in a timely fashion under Mod 0151. Based on the queue system proposed ('first-come-first-served') and the fact that each trade requires one-week to complete, no more than a handful of trades will take place before winter. Moreover, due to the end-date of March 2008, there is an ultimate limit on the total number of requests that can actually be processed by NG before winter ends – resulting in many User Trade Requests becoming null and void. This problem is compounded by the fact that Users are only permitted to raise one Trade Request until all other Trade Requests have been completed. If a User raises a Trade Request but is only 30<sup>th</sup> in the queue, for example, the User will almost certainly be unable to secure additional entry capacity through this means before the end of winter 07/08. This unnecessary delay could have a significant adverse impact on UK security of supply, competition and wholesale and consumer gas prices. For clarity, E.ON's Modification Proposal 0151A addresses this major concern by introducing a window of application post-2007 AMSEC to allow unlimited within-zone trades of capacity based on a 1:1 fixed exchange rate. Requests to transfer capacity to the same recipient ASEP would be dealt with in aggregate. This will allow Users to compete on an equal basis for capacity. After 1<sup>st</sup> October 2007, Users will be entitled to raise a Trade Request on a 'first-come-first-served' basis.
- NG has publicly acknowledged that their Modification Proposals 0150 and 0151 would not meet current proposed Licence Obligations in full. With this in mind, we do not believe it is economic and efficient that these insufficiently comprehensive Proposals should be implemented, as this will add to on-going uncertainty about inevitable future arrangements to follow. The restricted nature of such proposals was also a reason cited by Ofgem for rejecting E.ON UK's previous Proposal on this subject – Mod 0138.
- The key to any transfer and trade arrangements should be transparency and ease of use. Unfortunately, as proposed, NG's plans for the sold capacity trade process do not extend past March 2008, which will add to on-going uncertainty about inevitable future arrangements and may undermine the success of any short-term solution. NG have not yet indicated any intention of bringing forward any further proposals, so on-going uncertainty surrounding possible future arrangements may result in higher forward prices throughout the year and the resultant risk that consumers may see, as a result, higher prices.

- The lack of *ex-ante* exchange rates is a major disincentive for Users to participate in this proposed process. The use of 1:1 exchange rates within zones, as proposed by Mod 0151A, would aid future planning by Users due to enhanced regulatory and commercial certainty.
- If NG's Mod 0150 is implemented (as proposed) before Mod 0151, there is a danger, as highlighted by E.ON UK at several industry meetings, that the AMTSEC, if initiated before the sold capacity transfer process, may miss the most efficient ASEP (i.e. with highest transfer rate). This is because the AMTSEC would only permit capacity transfers from ASEPs with unsold baseline, whereas a sold capacity process would, in theory, permit transfers from any "donor" ASEP. It is also clearly inefficient and uneconomic that Users are not offered the opportunity to re-allocate and optimise their existing capacity holdings, before trading on an additional market; which could lead to misleading User signals.
- If Mod 0151 is implemented, there is likely to be a large number of Users wanting to make use of the process. As a result there will unfortunately be an inevitable "race" to be the first to get your application on the fax when the lines open. This is clearly not conducive to effective competition between Shippers.

**Advantages:**

- Provides a process to re-allocate some sold capacity to where Users value it most, pre-winter and some before the end of winter 07/08.

Overall, E.ON UK believes Modification Proposal 0151A better facilitates the relevant objectives than Mod 0151 and on this basis does not support implementation of Mod 0151.

If you have any questions or queries regarding this response, please do not hesitate to contact me on 02476 181421.

Yours sincerely

**Richard Fairholme (by email)**  
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E.ON UK