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Our Ref: AHT/Mod 0188\_0188A response

Dear Julian

**Representation to Modification Proposals 0188 & 0188A: Introduction into the UNC of the Agency Charging Statement (“User Pays”)**

Thank you for the opportunity to respond to these Modification Proposals. National Grid Transmission supports Modification Proposal 0188 and does not support the alternate proposal 0188A for the reasons set out below. We note that draft legal text for Modification Proposal 0188 has been published on the Joint Office website alongside the proposal and we have provided comments on the text in the relevant section below.

Our preference for Modification Proposal 0188 over the alternate is based on our belief that neither the Agency Charging Statement (ACS) nor the contractual documentation associated with “Non Code ACS Services” should be affiliated to the UNC. The ACS is a product of the proposed new licence obligations within Standard Special Condition A15 and should therefore be subject to the governance arrangements set out within the proposed licence drafting (see Ofgem’s “GDPCR: Second Licence Drafting Consultation Document”, Ref: 290/07, 11 December 2007). As the Proposer of 0188A states, it is common practice for Methodology Statements that are Licence requirements to be cross-referenced within the UNC but not be subject to UNC governance arrangements as they are approved by Ofgem, therefore we see no benefit in changing this for the ACS.

The alternate Modification Proposal 0188A states that its purpose is to “give effect to the ACS and associated documents as UNC Ancillary Documents.”. Our interpretation of this statement is that the ACS and the contractual documentation (namely the “Conditions for the Provision of Non-Code User Pays Services” and the Schedules to that document) would become “UNC Related Documents” as defined in UNC TPD Section V12. If our interpretation is correct, this seems inappropriate as it would require the ACS to be subject to a second, UNC-related, set of governance requirements in addition to the licence governance arrangements, which could cause confusion as to which set of governance arrangements should take precedence.

Furthermore, it does not seem appropriate for documentation related to a “Non Code ACS” Service to be included as a UNC Related Document and subject to the relevant governance arrangements.

**2. Extent to which implementation of the proposed modification would better facilitate the relevant objectives**

***Standard Special Condition A11.1 (c): so far as is consistent with sub-paragraphs (a) and (b), the efficient discharge of the licensee's obligations under this licence;***

National Grid Transmission agrees that implementation of Modification Proposal 0188 would facilitate the efficient discharge of the licensee's obligations under the Gas Transporter Licence, should the proposed amendments to Standard Special Condition A15 to introduce "user pays" arrangements take effect as proposed from 1 April 2008.

**4. The implications for Transporters and each Transporter of implementing the Modification Proposal, including:**

**a) Development and capital cost and operating cost implications**

We consider that if alternate Modification Proposal 0188A were to be implemented, the operating cost implications would be increased above those for Modification Proposal 0188. This would be due to the duplication of effort required to run two governance processes in parallel, as outlined further in section 10 below. As it is proposed that the ongoing operating costs would be included in the respective code ACS service charge, this means that the industry would pay a higher price for User Pays Service under the alternate proposal.

**10. Analysis of any advantages or disadvantages of implementation of the Modification Proposal**

**Disadvantages associated with alternate Modification Proposal 0188A**

National Grid Transmission considers that the governance arrangements proposed in Modification Proposal 0188A have the potential to cause confusion given that, if implemented, the ACS would be subject to two sets of governance arrangements: one under the UNC and one under the licence. This means that the proposal would not better facilitate the relevant objective under SSC A11.1 (f) for the promotion of efficiency in the implementation and administration of the uniform network code, as it cannot be efficient to have two potentially conflicting governance procedures co-existing.

Taken to its extreme, if the governance arrangements set out in the alternate proposal 0188A are implemented, a User could propose a change to the ACS which could be approved by a majority of the UNC Committee and implemented. In parallel, a Transporter would be required by the licence to propose the same change using the licence governance arrangements and that change could be rejected by Ofgem.

**15. Proposed implementation timetable (including timetable for any necessary information systems changes)**

National Grid Transmission agrees that Modification Proposal 0188 could be implemented immediately following the Authority's decision.

**19. Text**

We note that draft legal text was published alongside the DMR for Modification Proposal 0188 on the Joint Office's website. We have the following comments on the proposed legal text:

- a) The proposed legal drafting for TPD Section B para 1.7.1 does not appear to be based on the latest version of the UNC (version 2.59, 5 December 2007). We think the wording “and are amounts payable by a DNO User in respect of DN Pensions Deficit Charges” is missing from the final sentence of the revised text.
- b) TPD Section B new paragraph 1.7.11, the reference to the licence should be “Standard Special Condition A15”, not “Special Standard Condition A 15”.
- c) TPD Section B new paragraph 1.7.12, the term “Users Pays Service” should be “User Pays Service”.
- d) TPD Section M, revised paragraph 3.6.1, sub-paragraphs a) and b) both contain new text that has not been change-marked, in comparison with the current version of the UNC (v2.59, 5 Dec 2007)
- e) The proposed drafting for TPD Section M, revised paragraph 3.6.1, sub-paragraph b) does not appear to be based on the latest version of the UNC (v2.59, 5 Dec 2007).

Yours sincerely

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