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Dear Tim

Response to UNC Modification Proposal 0229 Mechanism for apportionment of unidentified gas

There have been a number of UNC proposals raised that attempt to resolve the issue of unidentified gas. In our consultation response to UNC 0228 & 0228A dated 6 February 2009 we provided our views including our preference for UNC 0228A. In that letter we drew attention to the work of the 0194 Development Group and the merits or otherwise of UNC 0194 and 0194A as we saw them. At the time UNC 0229 was still in development.

We feel that the only way forward is to find a solution that provides a fair, unbiased and transparent process amenable to all shippers who are active in or considering entry into both the large and small supply point markets.

We see the only way of achieving this is to appoint an independent expert with a wide brief to collate and examine available evidence and carry out full unfettered analysis, with a view to reaching conclusions as to the sources and amounts of unidentified energy and to where this energy should best be allocated.

Of all the alternatives tabled, it is our view that UNC 0229 presents the best opportunity.

In addition to introducing the concept and explaining the role of the independent expert UNC 0229 comprises a comprehensive process including a Charging Methodology and Guidelines for Appointment of the independent expert. We see this as an extremely well thought out and valuable contribution.

The one area where there remain difficulties is in the actual procurement process itself, particularly the contracting mechanism. During the development

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discussions it became clear amongst shippers that it would be entirely impractical for them to contract either individually or collectively with the expert. The conclusion was that the most pragmatic and logistically sound answer lay with the contract being taken out by the transporters via their own agent xoserve.

There are already examples of where this happens, including the RbD audit. It is acknowledged that there are differences but the principle is not dissimilar.

It would seem unfortunate if the transporters do not feel that they are able to facilitate this without onerous pre-conditions. We understand that the DNs do not have responsibilities for energy and that National Grid NTS although given the opportunity did not wish to participate in this modification development. However the transporters clearly hold the key to the success or otherwise of this initiative.

In an open letter National Grid Distribution have suggested that they would expect shippers to indemnify them on an unlimited liability basis. It is common practice for any liability, aside from certain exemptions such as death, injury or where required by law or regulation to include some form of limitation. This limit is usually associated with the value of the contract itself and is a common component of energy supply contracts. Therefore we do not feel that this is a reasonable inclusion.

The letter also sets out the detail of National Grid's procurement policy which we presume is common amongst the DNs. We note that National Grid clearly have much experience in this area from which the industry could benefit.

We also note that the DNs carry out a procurement process for the appointment of independent experts in the area of Meter Error Notification. Again we see this as very similar to the role that they would be expected to take on for the procurement of unidentified gas expert. It is interesting to note that DNs have responsibility for offtake meters, i.e. in relation to energy for which they have no problem procuring independent experts.

E.ON UK supports UNC Proposal 0229.

Yours sincerely

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Retail Regulation