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11<sup>th</sup> June 2009

Re: UNC Modification Proposal 0229 'Mechanism for correct apportionment of unidentified gas'

Dear John,

Thank you for your invitation seeking representations with respect to the above Modification Proposal.

Unfortunately National Grid Distribution (NGD) is not able to offer support for the Proposal as drafted.

Modification Proposal 0229 is one of a suite of alternative proposals which seek to establish a mechanism to reappportion allocated energy between the Smaller Supply Point (SSP) and Larger Supply Point (LSP) markets.

NGD has consistently supported the principle of moving energy between these market sectors as a means of more accurately attributing gas consumption to relevant Users in the interests of cost reflectivity.

We note that that the subject area has been very controversial with polarised views being expressed on the extent to which costs of misallocated gas should be borne by LSP Users. In our opinion the root cause of disagreement is in ascertaining how much energy should be reappportioned and the mechanism for determining this.

NGD acknowledges that this proposal identifies an innovative way by which an allocation methodology may be used for the purposes of reappportioning energy between market sectors. However, our view is that a regime where Shippers wish to use a third party and seek to discharge this via a Transporter obligation is unduly complicated and inefficient. If such a requirement were to be placed on Transporters we believe that xoserve has the requisite expertise that could readily fulfil this role. xoserve already co-ordinates a significant proportion of the UNC processes which are the collective responsibility of Transporters and would have no reason for commercial bias in the apportionment of energy it would be required to determine if it undertook this role. We tabled this suggestion in the early stages of development of this Proposal but a number of industry parties did not support this option. An alternative approach would be for Users collectively to procure the services of a third party of their choice to derive the apportionment of energy.

Aside from the primary issues highlighted above, In respect of the proposed regime, NGD would like to comment on following aspects:

- AUGS process complexity and opportunity for challenge
- AUGE appointment complexity
- DNO liability without control
- DNO cost recovery

## **AUGS Process Complexity and Opportunity for Challenge**

For the purposes of this representation we have chosen not to comment in detail on the process by which the independent expert (the Allocation of Unidentified Gas Expert - AUGE). determines the methodology and gains approval by the UNC Committee (UNCC). However, we would question the proposed status of the UNCC (and the composition including Transporters) to take decisions to challenge/appeal findings of the expert and the complexity in relation to the number of opportunities by which the findings of the expert may be challenged and/or appealed This seems to be inconsistent with the purpose of appointing an independent party to determine the allocation methodology in the first place.

## **AUGE Appointment Complexity**

One of NGD's concerns relates to the procurement process and the contractual arrangements around the appointment of the independent expert

There are a number of complexities surrounding the contractual arrangements which would need to be entered into by Distribution Network Operators (DNOs) to discharge our obligations under the Proposal.

## **DNO Liability Without Control**

Of particular significance is the proposed obligation within the UNC for DNOs to enter into a contract for services with the AUGE, without having full control of the contractual terms (in this respect we are referring to the fact that the UNCC may intervene in the procurement and contractual process) and issues of privity of contract from a Shippers point of view. Whilst in this appears to be simple in concept, we believe in the circumstances, the DNO should be held harmless from any liability which might arise from entering into such arrangements. NGD has identified within Workstream discussion that appropriate liability could be borne by Users by relevant terms being incorporated within the UNC.

Within Workstream discussions it was suggested that two UNC processes utilise similar contracting principles to that proposed by 0229, these being the appointment of the RbD Auditor (TPD V9.5) and the appointment of an Independent Technical Expert as per the Measurement Error Notification Guidelines (TPD V12.1(d)). We believe that there are significant differences with these two appointment processes when compared to the regime proposed by 0229.

In respect of the RbD Auditor, DNOs maintain full control of the appointment process and therefore enter into contractual arrangements voluntarily unlike the proposed regime whereby the UNC Committee makes this determination. In respect of both scenarios, the service procured addresses a direct Transporter obligation or requirement of benefit to it. The regime proposed in 0229 effectively delivers a service of benefit to Users in respect of the apportionment of energy but requires a third party (the DNOs) to enter into contractual arrangements with the service provider.

## **Cost Recovery**

On a related point, we believe that clarity is required within the Modification Proposal on how DNOs would identify in advance and subsequently recover their costs associated with AUGE tendering and appointment and how these would be apportioned to Users.

We are aware that Modification Proposal 0229 has been amended and note the changes to Section 5 'Generic Terms of Reference for Appointed AUGE'. Specifically:

- The AUGE shall limit the extent of any legal proceedings to recovery of its fees as contained in its contract with the Gas Transporters.

From a commercial perspective we consider that limiting the extent of the AUGEs ability to recover monies pursuant to its contract with the DNOs may have serious cost implications for the service and also may affect the parties wishing to participate.

For the above reasons, not least the likely high costs (based on the costs associated with the procurement of the AUGE and the complexities of the contractual arrangements likely to be required between the Transporters and the AUGE) we believe that Modification Proposal 0229 does not facilitate the GT Licence relevant objective SSC A11(1)(d) 'so far as is consistent with sub paragraphs (a) to (c) the securing of effective competition.... between relevant shippers.....'

We trust the above information is helpful in clarifying our position regarding the AUGE tendering and appointment process and therefore the viability of Modification Proposal 0229. We are aware that Ofgem intends to undertake an Impact Assessment with respect to the current suite of 'energy' related UNC Modification Proposals.

Please contact Chris Warner on 01926 653541 ([chris.warner@uk.ngrid.com](mailto:chris.warner@uk.ngrid.com)) should you require any further information with respect to the above.

Yours sincerely,

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