



Customers, Shippers, Transco, Terminal Operators, UKOOA and other interested parties.

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Dear Colleague,

The disclosure of offshore information

During summer 2003, Transco initiated interruptions of National Transmission System (NTS) and Local Distribution Zone (LDZ) supply points under interruptible transportation contracts as a result of supply deficits in the south of Great Britain. Summer interruptions had not been experienced previously. There were also other incidents when system conditions almost resulted in further interruptions and / or high cost balancing actions by Transco. To some degree, these incidents were attributable to the nature of the information flow between the offshore and onshore gas industries.

In particular, Ofgem considered that the provision of more detailed and timely information on terminal and offshore outages that occurred at the time may have allowed the resolution of the supply deficits through normal market mechanisms potentially minimising or even avoiding the need for interruption.¹

In that light, work has been undertaken by the Department of Trade and Industry in consultation with UKOOA, terminal operators, National Grid Transco and Ofgem to consider the effectiveness of communications and information release between the offshore and onshore gas industries. The DTI has concluded that there are improvements that could and should be made in this area.

As a result of the DTI initiative, progress has been made towards establishing a standardised (albeit voluntary) framework for the release of offshore information by terminal operators to Transco to assist it in managing the operation of the pipeline system. Ofgem welcomes the development of this framework and considers that this initiative represents a valuable step

¹ Ofgem would note that there were a number of other factors that contributed to the interruptions of NTS and LDZ sites in the summer including Transco's exit capacity regime, the release of use-it-or-lose-it rights at the Rough storage facility and the extent to which Transco itself provided adequate notice of potential interruptions.

forward towards improving security of supply through better communications between terminal operators and Transco.

In addition, Ofgem welcomes the undertakings from terminal operators, and Transco that discussions will continue with respect to:

- a) further enhancing information flows between the terminal operators and Transco;
- b) information provision to Transco upstream of the terminals, and
- c) information provision to the market with respect to terminals and upstream of the terminals.

Ofgem has long considered that the release of information to Transco and the broader market relating to offshore maintenance and unplanned outages is important to ensuring that both Transco and the market can react to reductions in supply, thereby minimising the likelihood of gas emergencies.

As part of the development of a standardised voluntary framework for the release of offshore information to Transco, Ofgem has undertaken to respond to some of the concerns raised by UKOOA, and operators of gas processing terminals regarding the provision of confidential or commercially sensitive offshore information to Transco, and Ofgem's treatment of network code modification proposals relating to offshore information.

Protecting the confidentiality of offshore information

Terminal operators and UKOOA have sought assurances that information provided to Transco on a confidential basis not be disclosed to the broader market. In this respect, offshore participants have been concerned that shippers and third parties, could raise network code modification proposals to gain access to the information that has been provided to Transco, by virtue of special condition 4E of Transco's Gas Transporter's (GT) licence. Condition 4E requires Transco to comply with any obligation in its network code to disclose commercial and operational information.

When Ofgem receives a modification proposal for decision on behalf of the Authority, it must be satisfied, before directing implementation of the modification, that the proposal would better facilitate the achievement of the relevant objectives of Transco's network code as set out in amended standard condition 9 of its GT licence. Ofgem must also have regard to its wider statutory duties.

It is clear that, with respect to any prospective modification proposals, Ofgem is not able to fetter its discretion as to whether to direct the implementation of any modification proposal. However, in April 2002, as part of its consultation on the information disclosure licence modification contained in special condition 4E², Ofgem provided guidance as to how it might approach modification proposals in this area. We indicated that a network code modification

² *Transco price control and NTS incentives 2002-7. Explanatory notes to accompany the section 23 notice of proposed modifications to Transco's gas transporter licence, Ofgem, April 2002. See also Ofgem's letter of 27 September 2002 to shippers, Transco and other interested parties regarding modifications to Transco's GT licence.*

proposal which required Transco to disclose information which was provided to it on a confidential basis was unlikely to better facilitate the achievement of the relevant objectives if it could be demonstrated that acceptance of such a proposal threatened the continued provision of such information to Transco or if it placed Transco in breach of pre-existing confidentiality obligations.

By way of example, Ofgem would not normally expect to approve a network code modification proposal which required the disclosure to the wider market of ex ante field specific information that had been provided to Transco in a non-aggregated form on a confidential basis. As we have noted previously, Ofgem considers that, generally speaking, information which is disclosed to the market on an ex ante basis should be at a level of aggregation which does not disclose an individual participant's commercial position. Such aggregation could include, for example, zonal and national information.

In order to provide some additional reassurance on this matter, Ofgem has agreed that we intend to formally seek the views of the DTI, in their role as upstream licensing regulator, with respect to any modification proposal relating to the disclosure of potentially confidential offshore information by Transco to the industry, prior to reaching any decision. This would ensure that any views of all offshore participants on such a proposal are considered. We would note in this respect that Ofgem has recently shared with the DTI a draft decision on a particular network code modification proposal relating to the disclosure of gas quality information relating to Transco terminal flow advices.³

As a final matter, we would also wish to make clear that we are not normally able to disclose to Transco or any other market participant, offshore information provided to us by the DTI or any other party on a confidential basis except where required to do so by law or otherwise enabled to do so. In this regard, Ofgem is subject to the prohibition on the disclosure of information as set out in section 105 of the Utilities Act. Broadly speaking, Ofgem is prohibited from disclosing information which it has received in its capacity as sectoral regulator except under certain gateways (including the relevant party's consent). Disclosure in breach of the prohibition is a criminal offence.

Transco's use of offshore information

Offshore participants have also raised concerns about the possibility of Transco using confidential offshore information for its own commercial purposes. Special condition 26 of Transco's GT licence, '*Prohibited procurement activities*', prohibits Transco from speculative trading. In particular, the condition specifies that Transco is only permitted to purchase gas or capacity for balancing purposes. Were Transco to use the information it receives for speculative purposes it risks contravening this licence condition following which it may be open to Ofgem to take enforcement action.

It should be noted in this context that Ofgem monitors Transco's procurement activities to ensure that it is complying with its special condition 26 obligations. It is also worth noting that

³ *Modification proposal 0593, Obligations on Transco to publish TFA data*, Ofgem proposed decision, Ofgem, 29 August 2003. Ofgem will consider its final decision on this proposal pending progress on discussions regarding the release of aggregated offshore and terminal based information to the broader market.

NGC receives a considerable amount of confidential information from market participants such as generators and is subject to similar speculative trading obligations.

Some offshore participants have raised concerns that Transco may use any information that is provided to them to optimise its system operator (SO) incentive revenues. Ofgem would however note that the SO incentives are intended to align Transco's commercial behaviour as system operator with the efficient and economic operation of the NTS. As such, Transco is entitled to rely on information from offshore producers and terminal operators in making commercial decisions provided that it does not engage in speculative trading. For example, Transco would be entitled to use offshore planned maintenance information in making decisions as to whether or not to enter into forwards and options contracts to buy back entry capacity. In this context, the provision of such information should assist Transco in minimising any costs associated with capacity buy backs, hence facilitating the efficient operation of the transmission system and potentially rewarding Transco under its entry capacity buy-back incentive.

It is also worth noting in this context that Transco is obligated under special condition 27 of its GT licence to operate the NTS in an efficient, economic and co-ordinated manner. Ofgem would normally expect this obligation to be satisfied when Transco is responding to its commercial incentives in its SO incentive schemes. However, to the extent that these incentives are not biting (eg when Transco has reached its incentive caps or collars) this condition will operate to constrain its conduct. In addition, if the provision of extra information to Transco resulted in it being able more easily to earn revenues under its incentives, the appropriate step would be for Ofgem to tighten Transco's targets rather than not provide necessary information to Transco.

Security of supply review

Ofgem considers that it will be important to monitor the success of any standardised framework that is developed for the release of offshore information to Transco and the broader market from a security of supply perspective.

In this respect Ofgem considers that an effective information release framework to both Transco and the broader market may have significant benefits. For example, the release of fundamental physical supply (ie production related) information should increase the ability of the market and ultimately Transco, as system operator, to react efficiently and rapidly to any reductions in supply that occur as a result of planned or unplanned outages.


If the provision of ex ante aggregated offshore information to the market is inadequate or non-existent then the ability of the market to plan and offer products ahead of the day (or within-day) to address any shortfall will be reduced as time becomes limited (ie as the gas day draws nearer or as it draws to a close). Further, if any standardised framework for the provision of information to Transco is inadequate, Transco's abilities to react to a short fall by sourcing additional gas may be impeded potentially increasing the possibility of a gas emergency, and as such, threatening security of supply. As such, Ofgem considers that the effectiveness of any standardised framework for information release will have important implications for reducing the potential for emergencies and security of supply incidents.

In this respect, Ofgem will report on the effectiveness of any information release framework as part of our regular six monthly security of supply review for the Secretary of State as part of Ofgem's Energy White Paper commitments.

I hope the above assurances are helpful and we look forward to working with the DTI and offshore participants including UKOOA and terminal operators to furthering offshore information disclosure.

If you have any questions regarding this letter please contact me on the above number or Mark Feather on extension 7437.

Yours sincerely

A handwritten signature in black ink that reads "Kyran Hanks". The signature is written in a cursive style and is enclosed within a large, hand-drawn loop that extends to the right.

Kyran Hanks
Director, Gas Trading Arrangements