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06 September 2005

Dear Mark

Re: UNC Modification Proposals 0036 and 0043

Thank you for the opportunity to respond to your letters of 25 August 2005 concerning the Modification Proposals 0036 and 0043.

We recognise Ofgem's concerns regarding the degree of discretion that both proposals and the latest version of the IECR provide to Transco NTS with respect to extending the lead times for provision of incremental and unsold capacity. We therefore support the introduction of a formal mechanism through which we would be required to obtain approval from the Authority to adjust the lead time for specific terminals and the subsequent impact that this would have on the level of incremental and unsold capacity to be released.

However, we believe that any application which we may wish to make to seek the Authority's consent to adjust lead times for delivery of capacity should not include an industry-wide consultation. Our reasons for this are summarised below:

The release of information regarding the reasons for delay in specific investments prior to the Authority's approval would, if the request were not to be granted, significantly impact the subsequent entry capacity auctions and resulting buy-back costs. The release of capacity at a terminal where Transco NTS had previously indicated, through such a consultation process, that there may be delays is likely to increase the demand for the capacity at that terminal. This is likely to exacerbate any resulting buy-back costs above the level that Transco NTS was seeking to avoid by making such an application in the first instance. This would therefore only increase the risk that shippers, and therefore customers, would be exposed to significant buy-back costs through the capacity neutrality mechanism.

We are uncertain what added benefit would be gained by opening this process to industry-wide consultation, as it is considered that users would not be a position to comment on whether proposed delays are beyond Transco NTS' control and therefore appropriate. We consider that issues surrounding whether we have undertaken appropriate actions to ensure timely delivery of required investments to be an issue for the Authority only. We assume that the Authority would be able

to appoint expert consultants to support determination of any application that Transco NTS may wish to make.

An industry-wide consultation is likely to add unnecessary additional timescales to the process by which Transco NTS could seek Authority approval to not release capacity. This might not always be possible without delays to scheduled auctions, which would require modification to the UNC.

The release of information about specific schemes could prejudice the planning consents process with various authorities and local land owners. Public disclosure at an early stage might create considerable uncertainty amongst the public at a time when we are unable to respond with tangible details of the nature and probability of potential investment schemes.

We therefore believe that it would be counterproductive to undertake an industry-wide consultation. Instead we consider that it would be appropriate for Transco NTS to provide the required details for specific terminals in its application to the Authority, and only notify the industry of any application that has been approved. Such a notification should consist only of the specific terminals and the amounts of capacity that would not be released in accordance with the Authority's decision, supported by the reason for the delay based on generic criteria e.g. delay in obtaining consents. Provision of project specific details to the industry regarding reasons for the delay could jeopardise difficult contractual negotiations that Transco NTS may be seeking to conclude. This is likely to increase the cost of investments and potentially add further delay beyond that which gave rise to the application in the first instance, and hence is not considered appropriate.

We consider that the 2005 QSEC auction should be completed by 30th November 2005 to avoid creation of further uncertainty within the industry regarding their long term capacity positions and further modifications to amend the UNC to reflect any later auction completion dates. It is therefore considered that solutions to the issues raised by Ofgem should be capable of being implemented in advance of the latest date for release of the auction tender i.e 19th October 2005. With this aspiration in mind, we have included below our view of the appropriate way forward.

Modification Proposal 0036

We propose that the Incremental Entry Capacity Release (IECR) Methodology Statement is amended to include a new provision that Transco NTS must obtain written permission from the Authority to increase lead times beyond the typical 3 years associated with the release of incremental capacity. A potential timetable for such a consultation is included below:

12 th to 23 rd Sept	IECR consultation – the timetable requires the Authority to consent to a reduced consultation period of 14 days as opposed to the standard 28 days under Special Condition C15 of Transco NTS' Transporters Licence
29 th Sept	Issue consultation report to Authority
6 th Oct	Authority decision on amended IECR and 0036
7 th Oct	Transco NTS request required written permission from Authority
14 th Oct	Authority grant/reject written permission
19 th Oct	Issue 2005 QSEC auction tender including notification of any adjusted lead times (latest date)

17th Nov to 30th Nov Conduct auctions (latest period)

Modification Proposal 0043

We note Ofgem's suggestion to amend the legal text for this Proposal in two areas:

In respect of the suggestion to include clarification that Transco NTS is required to obtain written permission to not release capacity, we believe that this would be appropriate and could be undertaken without further UNC Modification Proposals.

In respect of the suggestion to include clarification within the legal text that any exercise of discretion does not limit the operation of the 'reasonable endeavours' condition within Special Condition C8B paragraph 14(5)(f)(ii)(a) of Transco NTS's GT Licence, we do not consider that this can be satisfied by a change to the existing legal text. This is because the Authority is not a party to the UNC and therefore could not enforce the provision. However, we believe that this requirement can be satisfied by the formal mechanism of applying to the Authority to adjust investment lead times. At the time of submission the Authority can consider and either accept or reject the request with consideration to the 'reasonable endeavours' clause. In any event, the reasonable endeavours Licence condition still applies even if it is not specifically stated in the UNC.

We therefore propose a timetable for progression of Modification Proposals 0043, consistent with that proposed for 0036, below:

12 th Sept	Final Modification Report for 0043 reissued to Ofgem with revised legal text to include obligation on Transco NTS to obtain written permission from Authority prior to not releasing unsold capacity
6 th Oct	Authority decision on 0043
7 th Oct	Transco NTS request required written permission from Authority
14 th Oct	Authority grant/reject written permission
19 th Oct	Issue 2005 QSEC auction tender including notification of any adjusted lead times (latest date)
17 th Nov to 30 th Nov	Conduct auctions (latest period)

We hope this additional information is useful in your considerations of Modification Proposals 0036 and 0043.

Yours sincerely

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