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UNC modification proposals 0036 & 0043

Dear Mark,

Further to Ofgem's recent "minded to" letters regarding the above modification proposals, RWE npower welcomes the opportunity of commenting further on some of the concerns raised by respondents to the UNC consultation process.

RWE npower did not respond to modification proposal 0043 as its release and short consultation period coincided with annual leave arrangements of the relevant persons. However in that it was raised following on from the withdrawal of modification proposal 0037 (which we did not support), and is similar in intent, were we to have done have done so we would not have been in favour of it.

RWE npower offered its qualified support for modification proposal 0036. Whilst we would have preferred Transco not to have amended the IECR methodology statement parameters during the current price control period, given that a change had been made we favoured pre-auction certainty rather than allowing Transco NTS flexibility after the auctions had taken place.

We remain firmly of the view that allowing Transco to withhold quantities of entry capacity below the current baseline levels undermines the basis of their Price Control and the incentives regime which they are subject to. This suggests that there are amounts within their allowed revenue related to assets that do not exist and suggests therefore that they should be exposed to a greater proportion of the buyback cost within their incentive arrangements. To afford Transco the opportunity of extending their lead times for entry capacity investment part way through the current price control period reduces the risk their monopoly transportation business is exposed to, without any offsetting reduction in reward. By implication this exposes shippers and producers to an equal and opposite effect.

However, as Ofgem have stated that they are minded to approve both modification proposals we will limit our comments below to whether Transco should be required to obtain Ofgem's consent before being allowed to restrict incremental or unsold baseline entry capacity offered in auctions.

As a company that is well versed in consenting issues relating to major capital infrastructure projects we accept the basic premise which seems to underpin these

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modifications, namely that the consenting process has become more complicated and in certain cases more time consuming. This is by no means a new phenomenon however (as Transco themselves point out in their accompanying paper which refers to consent delays experienced on 2002 to 2004 projects), which begs the question as to why Transco have only recently raised this as a concern.

However we do not accept their argument that to the extent general construction challenges may result in more than one construction season being required for specific projects, this alone should allow them to seek an increase in the investment lead time.

Requiring Transco to obtain Ofgem approval before restricting any incremental or unsold baseline entry capacity offered in auctions will provide shippers with some degree of protection against Transco exercising their discretion more broadly than for purely consenting reasons. We therefore cautiously support this approach as a pragmatic interim measure until such time as this issue can be more properly resolved at the next price control.

At the recent Transmission workstream meeting on the 1st September, it was clear that Transco are anticipating using their discretion to restrict capacity during the forthcoming QSEC auctions. However, without knowing the extent of this it is difficult for us to comment on how best this can be achieved, and whether this can be done within the timescales dictated by the forthcoming auctions.

Whilst it might be possible to introduce an Ofgem approval mechanism for restricting incremental capacity by way of a further change to the IExCR Statement prior to the QSEC auctions, it is not clear to us whether this can be done for unsold baseline capacity without a licence change. This seems to depend on Ofgem's interpretation of whether Transco have used "reasonable endeavours" to make this available and we are unclear of the extent to which capacity restriction has already been discussed with Ofgem and whether they have an initial view on this.

To this extent it is disappointing that Transco have not chosen to follow Ofgem's recommendation to "publish a short document to inform industry participants as soon as possible of the terminal(s) where it may seek to extend investment lead times and to set out the reasons for the delays" so as to "assist respondents in commenting upon these options".

Whilst we appreciate there could be the potential for such information to be considered commercially sensitive, we believe that in all but exceptional cases Ofgem should conduct open consultations where Transco are seeking to restrict incremental and baseline entry capacity availability. This will ensure all market participants are equally aware of factors that could influence the forward market price of gas and which could influence their auction bidding strategy. If conducting a consultation on the current cases Transco would seem to be proposing requires there to be another delay to the forthcoming QSEC auction timetable then we would support this.

Any concerns Transco have about the commercial implications of more widely disseminating this information should encourage them to only exercise this option where there are transparent and unambiguous consenting hurdles facing a particular investment project. Also concerns they may have about shippers using this information to game the capacity buy back regime are in our opinion unfounded due to shipper licence obligations and Competition Act provisions.

Should you wish to discuss our response in more detail please do not hesitate to contact me.

Yours sincerely,

Steve Rose
Economic Regulation

