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Dear Mark

**RE Consent process to limit the Obligation to Offer for sale obligated Entry Capacity, Section 23 notice to modify Transco's Gas Transporter Licence**

Thank you for the opportunity to comment on this Consultation Document.

You will be aware of our views on the limitation of obligated and incremental Entry Capacity from our responses to the various consultations on the Modification Proposals and proposed amendments to the IECR.

We recognise that this proposed amendment to the Transporter licence is largely necessary as a consequence of the approval of Modification Proposals 0036 and 0043, as has been indicated. These Modification Proposals would allow the Transporter of the National Transmission System (NTS) to limit the amount of System Entry Capacity (SEC) offered in the various Auction and Allocation processes. In the case of Modification Proposal 0036, this would reduce the amount of incremental capacity and in the case of Modification Proposal 0043, this would limit unsold obligated (Baseline) Capacity. In either case the Transporter would require the written consent of the Authority. Therefore, although we have expressed concerns about the implementation of these Modification Proposals, on the understanding that they are likely to be approved, we support the inclusion of the Consent process within the licence provisions.

We note from the proposed wording of the licence amendment it would appear that simply the requirement to obtain consent is included. Whilst we accept that this may be adequate to include just this provision, we would prefer to see something more prescriptive in terms of the manner in which consent is obtained. You will see that we have made a similar point in our response to Transco's consultation on the amendment to be made to the Incremental Entry Capacity Release (IECR) statement, copy attached for your information.

We would not expect to see the same level of detail contained within the licence as would be necessary in the IECR. However, we believe that the inclusion of the requirement to consult the industry on the limitation following publication of the location, scale of limitation and the reasoning behind the restriction should be covered. This is in line with the “minded to” letters published by Robert Hull, with respect to Modification proposals 0036 and 0043 recently.

You will note that I have acknowledged the fact that Transco do seem to be following this guidance as good practice in respect of the two consents sought this year. However, we still believe that it should be codified as an obligation upon the Transporter in the process leading to obtaining the consent of the Authority.

The other factor that we would raise is the impact of the granting of these consents upon Transco's incentive arrangements. Whilst this may not be an issue with regard to a restriction of incremental capacity, as the incentive is focussed upon the provision of the incremental quantities, it is of concern in respect of unsold obligated (baseline) capacity. Even at the most basic level, the Transporter will be allowed a rate of return on assets, which is enhanced in the case of capacity that was incremental at the time of allocation. This will determine the level of allowed revenue. Where obligated capacity is not available for any reason, the Transporter will be obliged to buyback this quantity. These costs are shared between Transporter and Users in accord with the incentive regime. The consent process is specifically aimed at avoiding the cost of buybacks which may be incurred by industry more widely but this should not entirely absolve the Transporter from their exposure to the consequences of failure to provide obligated capacity.

I trust that you find these comments constructive and helpful. Please contact me if you require any further information.

Yours sincerely,

Mike Young  
Commercial Manager