

The Gas Forum



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Dear Alistair

Fleetwood NTS Entry Point

In November 2008 gas shippers wrote to Ofgem regarding the National Grid Gas (NGG) Fleetwood NTS entry point. You are no doubt fully aware of this situation and its potential impacts upon customers, but for completeness I enclose a copy of the letter sent to Ofgem at that time setting out the background, and shippers' concerns.

Shippers consequently held two meetings with Ofgem, one in November 2008 and the other in May 2009, to discuss how the worst aspects of this situation could be mitigated. In the intervening period Ofgem has provided information which indicates that, if events unfold as expected, the smeared financial liability to shippers is likely to be in the order of £40-£50m. Ofgem has also confirmed that the construction of the Transporter licence prevents either shippers or Ofgem from raising an income adjusting event (IAE) against NGG, due to the absence of any demonstrable impact upon NGG's costs. Instead, this issue concerns windfall, unearned revenues which apparently cannot be recovered through an IAE.

Gas Forum members are deeply concerned at the magnitude of this cost, and at the limited Ofgem engagement in this matter. Whilst it is for individual companies to decide how such a cost is treated, it seems inevitable that there will be a significant customer impact. To date, other than acknowledging the existence and scale of the situation we have seen little evidence of actions by Ofgem to prevent or mitigate the problem. National Grid is set to request credit payments in October this year, and any failure by Canatxx to pay this credit will signal a start to shippers' shared liabilities.

To be clear, Gas Forum members agree that NGG should be fully compensated for actual expenditure in respect of the Fleetwood entry point, (although members are surprised at NGG's claim of £10m and would welcome Ofgem's reassurance that this has been efficiently incurred). Further, if planning consent is eventually secured for the Fleetwood storage facility, we believe that NGG should then be able to recover the full amount of the signalled auction revenues at Fleetwood from the original bidder.

What Gas Forum members strongly oppose is NGG collecting the Fleetwood revenues from shippers who are not party to the Fleetwood project, irrespective of whether or not the full investment has been made or indeed will ever be required. The Gas Forum believes that this would reflect extremely poorly on the whole industry at this time of heightened scrutiny and economic difficulty, and in particular upon Ofgem in the light of its primary duty to protect consumers' interests.

Gas Forum members consider that this issue has arisen because of a failing of the regulatory regime, specifically the transmission price control agreement which exists between Ofgem – as the regulator, and NGG – as the regulated monopoly. The industry has debated ways of preventing a recurrence of this situation under the current transporters licence arrangements

under the guise of UNC Review Group 0221. That code review concluded in February of this year, and gave rise to three separate modification proposals – 0246, 0246A and 0246B – all aimed at preventing a recurrence of this issue. Shippers still await the Ofgem Regulatory Impact Assessment on these proposals.

However, even if one of those proposals were to be implemented, it would not unpick the specific Fleetwood issue set out above, but merely provide some mitigation were this situation ever to be repeated. Rather, Gas Forum are of the view that this specific issue is likely to require remedying through changes to the transporter licence and members are therefore looking to Ofgem to demonstrate leadership in resolving this matter.

We look forward to hearing from you as a matter of urgency with an explanation of the actions that Ofgem now intends to take, and when, in order to remedy this situation. In the interests of transparency we will be placing this letter in a public area of the Gas Forum web site.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Franck Neel', with a horizontal line underneath.

Franck Neel

Chairman of the Gas Forum