

Modification proposal:	Uniform Network Code (UNC) 817: Treatment of Existing Capacity Holding at Easington on creation of the new Rough Storage ASEP (UNC 817)		
Decision:	The Authority ¹ directs this modification be made ²		
Target audience:	UNC Panel, Parties to the UNC and other interested parties		
Date of publication:	27 Sep 2022	Implementation date:	To be confirmed by the code administrator

Background

Centrica Storage Limited (“CSL”) is working on the reopening of the Rough gas storage facility for use during Winter 2022/23. Prior to the closing of Rough in 2017, CSL bought National Transmission System (“NTS”) Entry Capacity at the Easington Aggregate System Entry Point (“ASEP”), which at the time could be used for entering gas into the NTS from both the Easington Beach entry point and the Rough gas storage facility. As a result of the introduction of the Tariff Network Code (“TAR NC”)³, capacity at storage NTS points is subject to different requirements from non-storage points. On 4 August 2022, National Grid Gas (“NGG”) created a new Rough Storage ASEP, to ensure that capacity can be booked with appropriate discounts and exemptions applied.⁴ The result of this is that CSL are no longer able to use the entry capacity it bought at Easington prior to 2017 for withdrawal of gas from the Rough gas storage facility.

¹ References to the “Authority”, “Ofgem”, “we” and “our” are used interchangeably in this document. The Authority refers to GEMA, the Gas and Electricity Markets Authority. The Office of Gas and Electricity Markets (Ofgem) supports GEMA in its day to day work. This decision is made by or on behalf of GEMA.

² This document is notice of the reasons for this decision as required by section 38A of the Gas Act 1986.

³ Article 9(1) of Commission Regulation (EU) 2017/460 of 16 March 2017 establishing a network code on harmonised transmission tariff structures for gas, now incorporated in UK law by the European Union (Withdrawal) Act 2018 and the European Union (Withdrawal Agreement) Act 2020, as amended by Schedule 5 of the Gas (Security of Supply and Network Codes) (Amendment) (EU Exit) Regulations SI 2019/531.

⁴ See <https://www.nationalgrid.com/gas-transmission/document/140401/download>

The modification proposal

On 23 August, Centrica Energy Limited (“the Proposer”) raised modification UNC817 requesting that it should be granted urgent status. UNC817 would allow CSL to nominate amounts of its Existing Capacity Holdings (ie, long-term entry capacity bought prior to 6 April 2017) at Easington ASEP for use at the Rough Storage ASEP. This process would take place on a monthly basis with CSL giving NGG at least one month’s notice (eg capacity to be used from 1 November would need to be nominated by 30 September). The nominated amount will be deducted from CSL’s Existing Capacity Holding at Easington, and will therefore no longer be available for use at that ASEP. It is proposed that these arrangements will be temporary, with an end date of 31 March 2023.⁵

On 30 August 2022, we granted urgent status to UNC817.⁶ In our reasons for urgency we said that uncertainty regarding the applicable charging arrangements at Rough could be detrimental. Therefore, regardless of Ofgem’s decision on UNC817 and the resulting charging arrangements at Rough ASEP, we recognised it is important to give clarity on the arrangements ahead of the upcoming winter.

UNC Panel⁷ recommendation

At the UNC Panel meeting on 8 September, a majority of the UNC Panel considered that UNC817 would better facilitate the UNC objectives and the Panel therefore recommended its approval. The Non-Domestic Consumer representative was aligned with the majority of the Panel, while the Consumer representative did not vote in favour of implementation.

Our decision

We have considered the issues raised by the modification proposal and the Final Modification Report (“FMR”) dated 8 September 2022. We have considered and taken into account the

⁵ The Proposer notes that at that point, and if determined to be necessary, a more comprehensive solution may be proposed.

⁶ UNC817: Treatment of Existing Capacity Holding at Easington on creation of the new Rough Storage ASEP - Urgency Application (30 August 2022) <https://www.ofgem.gov.uk/publications/unc817-treatment-existing-capacity-holding-easington-creation-new-rough-storage-asep-urgency-application>

⁷ The UNC Panel is established and constituted from time to time pursuant to and in accordance with the UNC Modification Rules.

responses to the industry consultation on the modification proposal which are attached to the FMR.⁸ We have concluded that:

- implementation of the modification proposal will have a neutral impact on the achievement of the relevant objectives of the UNC;⁹ and
- directing that the modification be made is consistent with our principal objective and statutory duties.¹⁰

In brief, we found that UNC817 will have a neutral impact on the relevant UNC objectives but on balance we consider that approving the modification is consistent with our statutory duties for the reasons set out further below ('Our principal objective and statutory duties').

Reasons for our decision

We consider this modification proposal will have a neutral impact on UNC Relevant Code Objective (RO) (a) and (d).

Objective (a) the efficient and economic operation of the pipe-line system to which this licence relates

We consider that the proposal has a neutral impact on RO (a).

The Proposer argues that the new Rough ASEP 'was established to comply with the UNC restrictions requiring the separation of Storage System Points from other System Points. Allowing Centrica to utilise Existing Entry Capacity it had acquired at Easington for the purpose of underpinning withdrawals from Rough will ensure storage injections are at a lower cost than otherwise would be the case. Reductions in withdrawal costs will facilitate the optimisation of Rough storage operations thereby facilitating physical security on more economic terms while reducing the overall cost of balancing the system'.

⁸ UNC modification proposals, modification reports and representations can be viewed on the Joint Office of Gas Transporters website at www.gasgovernance.co.uk

⁹ As set out in Standard Special Condition A11(1) of the Gas Transporters Licence, available at: <https://epr.ofgem.gov.uk/Content/Documents/Standard%20Special%20Condition%20-%20PART%20A%20Consolidated%20-%20Current%20Version.pdf>

¹⁰ The Authority's statutory duties are wider than matters which the Panel must take into consideration and are detailed mainly in the Gas Act 1986 as amended.

Panel members considered that UNC817 would have a positive impact on this objective. However, during the Panel discussion, different views were expressed in relation to this proposal. Some Panel members stated that 'the modification enables the Proposer to retain and utilise its right to use Entry Capacity originally bought for the Easington ASEP for the purposes for which it was originally acquired (namely provision of storage services at Rough)'. However, other Panel members did not consider that the Proposal was necessary and noted that Entry Capacity is now available for purchase at the Rough Storage ASEP and will qualify for 80% Storage discount on current reserve prices. These members also noted that Existing Contracts bought before 2017 can be surrendered under current processes. Finally, it was noted that the flexibility available under UNC817 is greater than what was envisaged under the Bacton split arrangements (UNC501V).¹¹

We accept that some of the long-term capacity contracts held by CSL at Easington were bought for the purpose of withdrawing gas at Rough. However, we recognise that it is not possible to determine what percentage of these holdings were intended to be used at the storage facility versus the Easington Beach entry point, due to the flexibility that existed when Easington was a single entry point. This flexibility was removed via the creation of the new Rough Storage ASEP.

In our UNC501V decision, we found that the modifications proposed in that case¹² carried some benefit for achieving Relevant Objective (a). These proposals facilitated the reallocation of existing Bacton entry capacity rights to one of the two new entry points at Bacton. We said that this will allow existing (at the time) Bacton capacity holders to continue to use their capacity to flow gas following the split of Bacton on 1 November 2015.¹³

The limited time between the creation of the new ASEP on 4 August and the upcoming winter period (ie, the Proposer has stated in UNC817 that Rough will operate during the Winter 2022/23), means that there has not been enough time to clarify the applicable arrangements at Rough. In light of these time constraints and the fact that UNC817 is proposed as a time-limited arrangement for October 2022 to March 2023, we consider that UNC817 provides a

¹¹ See Uniform Network Code (UNC) 0501V, UNC501AV, UNC501BV and UNC501CV: Treatment of Existing Entry Capacity Rights at Bacton (21 July 2015) <https://www.ofgem.gov.uk/publications/uniform-network-code-unc-0501v-unc501av-unc501bv-and-unc501cv-treatment-existing-entry-capacity-rights-bacton>

¹² UNC501V, UNC501AV, UNC501BV and UNC501CV

¹³ UNC501V decision, page 7

pragmatic solution which is based on the existing processes for the surrender of NTS Entry capacity in advance of the rolling Monthly NTS Entry Capacity auctions.

We agree with the Panel members and the consultation respondent who noted that the solution proposed under UNC817 provides greater flexibility compared to the solution implemented following the Bacton ASEP split (UNC501V).¹⁴ However, as stated above, we consider that UNC817 provides a pragmatic solution given the circumstance identified in the previous paragraph. We stress, however, that approval of this modification is due to the particular circumstances explained in the previous paragraph. It should not be construed as an indication of how we might decide on future arrangements if Rough continued to operate beyond Winter 2022/23.

Objective (d) so far as is consistent with sub-paragraphs (a) to (c) the securing of effective competition between relevant shippers;

We consider that the proposal has a neutral impact on RO (d).

The proposer argues that absent UNC817, 'Centrica would be denied access to entry capacity it had acquired for the purpose of underpinning withdrawals from Rough. Not only would Centrica be exposed to higher costs, as a result of having to acquire additional entry capacity, this expropriation of rights also undermines the entry capacity regime and discriminates against a User which is subject to a restructuring of an ASEP post acquisition of capacity. Such an outcome would be damaging to competition'.

Opinion was split among panel members regarding this objective. Some stated that UNC817 would allow the Proposer to retain and utilise its right to use Existing Entry Capacity originally bought at the Easington ASEP for the purposes for which it was originally acquired (namely provision of storage services at Rough). Others disagreed noting that the proposal creates a precedent of protecting existing contract prices when capacity is moved between ASEPs. During the Panel discussion, some parties stated that only CSL would benefit from the proposed solution under UNC817. Some Panel parties said that UNC817 would entail a competitive advantage and that the modification is discriminatory. A Panel Member enquired

¹⁴ A consultation respondent described the UNC501V solution as a 'one-time only opportunity for all relevant Users to apportion the capacity to each of the new ASEPs'.

whether a more open arrangement could have been considered, for example one which was available to other Users.

We recognise that the proposal is specific to one party, namely CSL. This is explicit in the legal text of UNC817. We note that the Proposer has been granted an exemption from negotiated Third Party Access (“nTPA”) requirements, which will expire on 30 June 2024.¹⁵ As such, it will be the only user likely to access the facility, and therefore the only party likely to have any use for the proposed reallocation process. However, under the nTPA exemption, the facility owner must make any unused capacity in the exempt infrastructure available to other users or potential users.¹⁶ As such, we expect CSL to minimise any barriers that may be faced by third parties wishing to use the Rough storage facility should unused capacity be available, to support an efficient and competitive GB gas market. This may include the transfer of existing system capacity.¹⁷

Finally, while we are not wholly persuaded by the argument raised by the Proposer that without the modification the entry arrangements would be damaging to competition, we do consider that approving UNC817 will remove uncertainty for the short period that these arrangements are in place.

Our principal objective and statutory duties

The Authority’s principal objective is to protect the interests of existing and future consumers in relation to gas conveyed through pipes and electricity conveyed by distribution or transmission systems.

In recent years, we have assessed a number of modification proposals that would have the effect of increasing the benefits enjoyed by ‘Existing Contracts’ (ie, long-term entry capacity contracts booked before April 2017 which were grandfathered¹⁸ under Article 35 TAR NC and are subject to a fixed price). Existing contracts are on average significantly cheaper compared to ‘new capacity’ (ie, entry capacity not protected by Article 35 TAR NC which is subject to a

¹⁵ Decision on Centrica Storage Limited's application for an exemption to nTPA for Rough gas storage facility (3 August 2022) <https://www.ofgem.gov.uk/publications/decision-centrica-storage-limiteds-application-exemption-ntpa-rough-gas-storage-facility>

¹⁶ Section 19DB(6) of the Gas Act: Allocation of capacity in exempt new and modified facilities.

¹⁷ Uniform Network Code – Transportation Principal Document Section B5 ‘Capacity Transfer’.

¹⁸ In this context, we use grandfathered to mean that the terms of the contract are protected by legislation, and that holders of these contracts should be granted access to capacity under these terms.

floating price). Protections for existing contracts have led to a dual regime in the GB charging methodology where NTS users face significantly different costs for capacity depending on their access to existing contracts.

In 2021, we rejected modification proposal UNC739¹⁹ which would have allowed some users to use Existing Contracts flexibly across both Bacton UKCS²⁰ and Bacton IP²¹ for less than one tenth of the prevailing price. We found that this would have exacerbated the problems caused by existing contracts by increasing their economic value even more relative to new capacity. We also considered that UNC739 could lead to 'capacity displacement', namely fewer bookings of new capacity and more utilisation of existing contracts. We found that this would be detrimental for users of new capacity, as any revenue shortfall caused by capacity displacement would lead to an increase in the price for new capacity. We concluded that approval of UNC739 would only benefit a few parties at the expense of other NTS parties and gas consumers across GB and for this reason it would be inconsistent with our principal objective and statutory duties.

We confirm that the above-mentioned principles, which were articulated in UNC739 and other Ofgem decisions, still represent our policy views. However, we note that in the circumstances under consideration, there is no risk of revenue shortfall to occur due to capacity displacement. The new Rough ASEP is part of NGG's Zero Licence Baseline Entry Capacity Table.²² Therefore, any entry capacity released by NGG at Rough will be non-obligated entry capacity. Under the current UNC arrangements, any revenue associated with the sale of non-obligated entry capacity does not contribute towards NGG's recovered revenue but it is redistributed to shippers via the operation of the 'capacity neutrality' mechanism.²³

UNC817 will likely lead to lower sales of new entry capacity at Rough. This would indicate that there is a risk of capacity displacement. However, as noted in the previous paragraph, the proceeds associated with the sale of new entry capacity at Rough would not be treated as collected NGG revenue but would be redistributed among shippers. This means that – all else

¹⁹ UNC739: Aggregate overrun regime for Original Capacity held at the Bacton ASEPs (20 August 2021) <https://www.ofgem.gov.uk/publications/unc739-aggregate-overrun-regime-original-capacity-held-bacton-aseps>

²⁰ United Kingdom Continental Shelf

²¹ Interconnection Point

²² See <https://www.nationalgrid.com/gas-transmission/document/140401/download>

²³ NGG has produced an explanation of these arrangements, which can be viewed at: <https://www.gasgovernance.co.uk/sites/default/files/ggf/2021-12/Determination%20of%20Target%20Revenues%20and%20Recovery%20v0.2.pdf>

being equal - approval of UNC817 will have no impact on NGG's revenue recovery or the reserve prices paid by other NTS users, meaning that the modification will not lead to cross-subsidisation between NTS users.²⁴

The Proposer claims that approval of UNC817 will facilitate a number of benefits, such as facilitating physical security on more economic terms while reducing the overall cost of balancing the system. During the Panel discussion, the Proposer argued that the modification will reduce the costs of gas withdrawals from storage which will be reflected in wholesale gas prices. Some Panel members agreed with these arguments while a Panel member questioned whether any cost savings will be passed through to consumers. The Proposer has not produced evidence demonstrating that the claimed benefits will materialise.

Under the unique circumstances we currently face, approval of UNC817 could encourage injections and withdrawals of gas into and from Rough gas storage. In light of the challenges posed by the wider international and market context for Winter 2022/23, we think that encouraging increased injections of gas into Rough gas storage is in keeping with the interests of consumers. We recognise, though, that some uncertainty remains as to whether the effect of UNC817 is material enough to influence operational and commercial decisions at Rough.

On balance, we consider that approving UNC817 is consistent with our statutory duties given that:

- it would not lead to higher reserve prices for other NTS users, given the operation of capacity neutrality mechanism highlighted above; and
- it could encourage increased injections of gas into storage (while we recognise that there is some uncertainty surrounding this point).

Next steps

We stress that approval of this modification is in light of its temporary nature, and should not be construed as an indication of how we might decide on future arrangements if Rough continued to operate beyond Winter 2022/23. Furthermore, we will continue to scrutinise

²⁴ However, all else being equal, approval of UNC817 will reduce the cashflow feeding into capacity neutrality and redistributed among shippers.

proposals that would have the effect of increasing further the economic value of Existing Contracts and/or leading to capacity displacement.

Decision notice

In accordance with Standard Special Condition A11 of the Gas Transporters licence, the Authority hereby directs that modification proposal UNC817: '*Treatment of Existing Capacity Holding at Easington on creation of the new Rough Storage ASEP*' be made.

Charlotte Friel

Deputy Director - Market Operations and Signals

Signed on behalf of the Authority and authorised for that purpose