

Modification proposal:	Uniform Network Code (UNC) 449: Introduction of Interconnection Points and new processes and transparency requirements to facilitate compliance with the EU Congestion Management Procedures		
Decision:	The Authority ¹ directs that this proposal be made ²		
Target audience:	The Joint Office, Parties to the UNC and other interested parties		
Date of publication:	20 September 2013	Implementation Date:	1 October 2013

Background to the modification proposal

The final report of the European Commission's (the "Commission") sector inquiry into competition in gas and electricity markets (published in January 2007)³ noted (amongst other things) the lack of effective competition in European markets and ineffective congestion management mechanisms across Europe.

In response, a suite of legally binding European Union (EU) legislation, referred to as the Third Package⁴, on European electricity and gas markets was introduced and adopted on 13 July 2009. Member States were required to ensure that the requirements of the Third Package were implemented by 3 March 2011⁵.

The Third Package created a new legal framework to promote cross border trade. It requires a number of legally binding 'Network Codes' be established and implemented. Such Network Codes are aimed at promoting liquidity, improving integration between Member States' gas markets and promoting the efficient use of interconnectors to ensure that gas flows according to price signals, ie to where it is valued most⁶.

The first of these to be implemented is a set of legally binding 'Guidelines' aimed at tackling contractual congestion, whereby gas transportation capacity is fully booked but not fully used. In other words, where there is physical capacity to flow more gas, but the right to flow it is tied up and being hoarded by network user(s) so that others cannot gain access to it.

The Guidelines require a number of Congestion Management Procedures (CMPs) to be implemented by 1 October 2013. These CMPs aim to enhance the efficient use of transportation capacity by bringing unused capacity back to the market on a firm basis, thereby making it available to market participants who wish to make use of it.

The CMPs required by the Guidelines are:

¹ The terms 'the Authority', 'Ofgem' and 'we' are used interchangeably in this document. Ofgem is the Office of the Gas and Electricity Markets Authority.

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

³ <http://ec.europa.eu/competition/sectors/energy/inquiry/>

⁴ In relation to gas, the Third Package includes Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC (the "Gas Directive") and Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005 (the "Gas Regulation").

⁵ Article 6 (Establishment of network codes) of the Gas Regulation sets out the process for establishing EU wide network codes for gas.

⁶ See Article 8(6) of the Gas Regulation for the areas required to be covered by network codes.

- (a) capacity increase through oversubscription and buy-back (OSBB)⁷. This is where Transmission System Operators (TSOs) offer capacity in excess of their technical capability where they expect this capacity not to be used. Where users signal that they intend to flow more gas than the system can carry, TSOs may then buy-back some of this capacity to reduce flows on the system;
- (b) surrender of contracted capacity⁸. This refers to a process where shippers who hold capacity (ie the right to flow gas) but do not intend to use it to can surrender this capacity back to the TSO to be reallocated;
- (c) long-term use-it-or-lose-it mechanism⁹.

In addition there are several requirements under the Guidelines relating to transparency which are also required to be implemented by 1 October 2013¹⁰.

The Guidelines entered into EU law through the Commission decision of 24 August 2012 to amend Annex I to the Gas Regulation. They apply to all physical or virtual points connecting adjacent entry-exit systems or connecting an entry-exit system with an interconnector, in so far as these points are subject to booking procedures by network users, for example, in Great Britain (GB) at Moffat and Bacton.

The modification proposal

UNC 449 builds on National Grid Gas Plc's (NGG's) existing congestion management processes and proposes to introduce a number of new terms (such as 'interconnection point') and processes (such as OSBB for the Annual Monthly System Entry Capacity (AMSEC) auction) to the UNC to facilitate compliance with the CMP Guidelines.

In addition to OSBB for the AMSEC auction, UNC449 proposes to put in place the following processes:

- New National Transmission System (NTS) entry and exit capacity surrender processes for the following entry and exit capacity products:
 - o NTS Entry Capacity
 - Quarterly System Entry Capacity (QSEC)
 - Monthly System Entry Capacity (excluding the rolling monthly system entry capacity (RMSEC) Auction)
 - o NTS Exit Capacity
 - Enduring Annual NTS Exit (Flat) Capacity
 - Annual NTS Exit (Flat) Capacity
- New transparency obligations, with NGG publishing additional allocation information for interconnection points within five business days.
- The introduction of a new classification of System Entry Point and NTS Exit Point within the UNC

All of these processes would be based on existing NGG functionality.

⁷ CMP Network Code 2.2.2.

⁸ CMP Network Code 2.2.4.

⁹ CMP Network Code 2.2.5

¹⁰ CMP Network Code 2.2 and 2.3.

UNC Panel¹¹ recommendation

At its meeting of 15 August 2013, the UNC Panel: (i) considered the workgroup report on the modification proposal and the four responses to the industry consultation, which all supported the proposal¹²; and, (ii) voted unanimously to recommend implementation of the modification proposal.

The Authority's decision

The Authority has considered its statutory duties and functions in reaching its decision. The Authority has considered the issues raised by the modification proposal and the Final Modification Report (FMR) dated 15 August 2013. The Authority has considered and taken into account the responses to the Joint Office's consultation on the modification proposal which are attached to the FMR. The Authority has concluded that:

1. implementation of the modification proposal will better facilitate the achievement of the relevant objectives of the UNC¹³; and
2. directing that the modification to be made is consistent with the Authority's principal objective and statutory duties¹⁴.

Reasons for the Authority's decision

We note that the four responses to the Joint Office's consultation were unanimously supportive of implementing the modification proposal. We agree with the proposer, the UNC Panel and those respondents who specifically commented that the modification proposal should be considered to better facilitate achievement of relevant objectives (d) and (g). We consider that the modification proposal is neutral in relation to the other relevant objectives.

Relevant Objective (d): the Securing of Effective Competition between Relevant Shippers

We agree with the UNC Panel and those respondents who considered that UNC449 would help secure effective competition between relevant shippers. The introduction of NTS entry and exit surrender processes and the AMSEC auction will allow shippers holding capacity but no longer needing it to offer it back to the market for resale through NGG's regular firm capacity allocations. Similarly, the introduction of an OSBB mechanism on the AMSEC auction will require NGG to use its experience of network flows and shipper behaviour to calculate likely quantities of unused capacity, and offer this to the market on a firm basis. This will help to mitigate against potential new entrants to the GB gas market being unable to obtain capacity in such auctions, thereby facilitating the securing of effective competition between relevant shippers.

We also consider that UNC449 would increase competition by aligning CMPs across Europe, thereby removing barriers to shippers wishing to participate in multiple markets.

¹¹ The UNC Panel is established and constituted from time to time pursuant to and in accordance with the UNC Modification Rules.

¹² UNC modification proposals, modification reports and representations can be viewed on the Joint Office of Gas Transporters website at www.gasgovernance.co.uk

¹³ As set out in Standard Special Condition A11(1) of the Gas Transporters Licence, see: <https://epr.ofgem.gov.uk/Content/Documents/Standard%20Special%20Condition%20%20PART%20A%20Consolidated%20-%20Current%20Version.pdf>

¹⁴ 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.

This in turn should facilitate market entry for new players, and facilitate gas flowing to and from GB, increasing liquidity and competition.

In addition to the OSBB and surrender processes, UNC449 would see NGG publish data on the aggregate amount of firm NTS exit and entry capacity that is made available via the new surrender and OS processes at interconnection points. Such transparency on gas flows and network capacity could help to identify constraints and therefore help mitigate against them.

We also consider the application of OSBB and surrender processes help protect the interests of existing and future consumers by helping to mitigate against contractual congestion preventing the flow of gas at interconnection points to GB. This should therefore aid security of supply and promote effective competition.

Relevant Objective (g): Compliance with the Regulation and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators

As noted by the proposer, the UNC Panel and consultation respondents, UNC449 introduces CMPs that are required by the CMP Guidelines. These Guidelines form part of the Gas Regulation and are a legally binding decision of the European Commission. We therefore agree that implementation of the modification proposal would better facilitate the Relevant Objective regarding compliance with the Regulation.

Other issues

One consultation respondent raised a concern that, as part of an aggregate interconnection point under the bundling and capacity matching requirements in the Capacity Allocation Mechanism (CAM) Network Code, its capacity may be restricted by the amount of available NGG entry capacity, making its capacity less attractive to the market. However, this respondent also acknowledged NGG's stated intention to review its CMPs as part of the process of implementing CAM and therefore supported implementation of the modification proposal. We acknowledge the concern raised by this respondent, and will seek to address this as part of the process of ensuring GB's compliance with CAM (and other Network Codes).

We welcome NGG's commitment to keep its CMPs under review and to revisit the CMPs – in particular the new UNC definition of interconnection point – during the process of NGG implementing CAM and the subsequent network codes.

Decision notice

In accordance with Standard Special Condition A11 of the Gas Transporters Licence, the Authority hereby directs that modification proposal UNC 449: 'Introduction of Interconnection Points and new processes and transparency requirements to facilitate compliance with the EU Congestion Management Procedures' be made.

Rachel Fletcher

Interim Senior Partner, Wholesale Markets

Signed on behalf of the Authority and authorised for that purpose