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Dear Andy

Statutory consultation on the 2014/15 Permits Arrangements (varying lead-times for incremental obligated capacity) – Notice under section 23(2) of the Gas Act 1986

The industry, Ofgem and National Grid have worked together through a highly constructive process to develop a package of proposals that change the way in which long term capacity is released on the Gas National Transmission System. To date, this has resulted in the submission of UNC Modification Proposals 0452v and 0465v to Ofgem (in December 2013). Throughout this development process it has been clear that an implementation date of 1st April 2014 for the package of proposals was the aim and, consequently, proposed timelines for the development and implementation of the Modification Proposal and associated documents (Methodology Statements, licence conditions and PARCA contract) have been presented and discussed since February 2013, with a clear emphasis on the milestones required to achieve an implementation date of 1st April 2014.

Given the constructive process followed, open sharing of timelines and development of the proposals in line with those timelines; we are disappointed that we find ourselves commenting on a potential extension to the permit arrangements as delays in decisions on the Modification Proposals and associated licence consultation mean that it is no longer possible to achieve implementation for the start of the next financial year when the current permit arrangements expire.

However, as it now appears that any new arrangements cannot be implemented for 1st April 2014, we do support an extension of the permits arrangements in order to avoid the potential for constraint management costs to be incurred by National Grid, industry and, ultimately, end consumers as a result of the misalignment between our Gas Transporter Licence containing obligated lead times for the delivery of incremental capacity and the timescales associated with the delivery of network reinforcement, particularly in relation to planning requirements. Our comments on the proposed licence drafting are included in this letter.

We continue to urge Ofgem to provide clarity to the industry on the timelines for implementation (or not) of the new arrangements. We note that even if the licence change process for the new arrangements were to be started this week (by 7th March), that would lead to an implementation date of on or around 6th June 2014. We do not think it is appropriate to implement new incremental capacity arrangements very close to, or during, the annual exit application window process:

- This could create confusion amongst potential participants about what rules apply to the application window.
- This could create an unintended situation whereby the introduction of the new arrangements means that no funded incremental capacity will be available in the July application window due to the new arrangements providing a single route through the PARCA for the release of

funded incremental capacity and customers will not have had an opportunity to progress a PARCA.

Although it would have been preferable for the PARCA arrangements to have been implemented from the 1st April, due to the points outlined above it may be more appropriate to implement the arrangements once the application window process has concluded (e.g. 1st October 2014) to provide opportunity for the release of funded incremental capacity, to our customers, through the July window.

Licence Drafting Comments

Clarity on ability of authority to issue direction

The cover letter accompanying the statutory consultation states that

“We propose to put in place licence changes which will allow us to later issue a direction to extend the Permits Arrangements for Year 2 of RIIO-T1. We would only issue this direction on the basis that new commercial arrangements might not be in place for the scheduled capacity release windows in that year. We will only issue a direction to bring the arrangements into force when we are certain that the new commercial arrangements will not be in place. If new commercial arrangements are delivered in time, then we will not direct that these Permits Arrangements come into force.”

It is important for additional clarity and certainty to be provided on the specific triggers that would result in a direction to extend the permit arrangements for year 2 of RIIO-T1. We consider that additional clarity on what Ofgem consider constitutes “*new commercial arrangements might not be in place for the scheduled capacity release windows in that year*” and “*If new commercial arrangements are delivered in time*” is important to fully understand the intention of the proposed licence changes, what arrangements will be in place and by when.

This lack of clarity also presents a problem in relation to our existing licence obligation to provide notice of our intention to play permits 90 days in advance of the July annual application window for Enduring NTS Exit Capacity, which would require us to notify Ofgem at the beginning of April. It would be useful if Ofgem could provide additional clarity as to their policy of when a decision will be made whether to direct the introduction of the permits arrangements or not.

In addition, the drafting in Part A of the licence condition is not sufficiently clear about what parts of the condition can be switched on or off by an Ofgem direction and the accompanying cover letter does not provide any additional information regarding this. This creates regulatory uncertainty with regard to the overall standing of the condition. We therefore propose the following alternative drafting to make the intent clearer.

Part A: Relevant directions with respect to this condition

2D.15 The Authority may bring paragraphs 2D.28, 2D.29, 2D.32 and 2D.33 in this condition into effect by issuing a direction for that purpose, similarly the Authority may direct that paragraphs 2D.30 and 2D.31 in this condition cease to be in effect.

2D.16 A direction under paragraph 2D.15 may give effect to different parts of this condition in such manner as is specified in the direction and at such different times as may be so specified or are to be determined in accordance with its provisions.

2D.17 Any direction under paragraph 2D.15 that causes paragraphs 2D.30 and 2D.31 to cease being in effect will bring paragraphs 2D.32 and 2D.33 into effect.

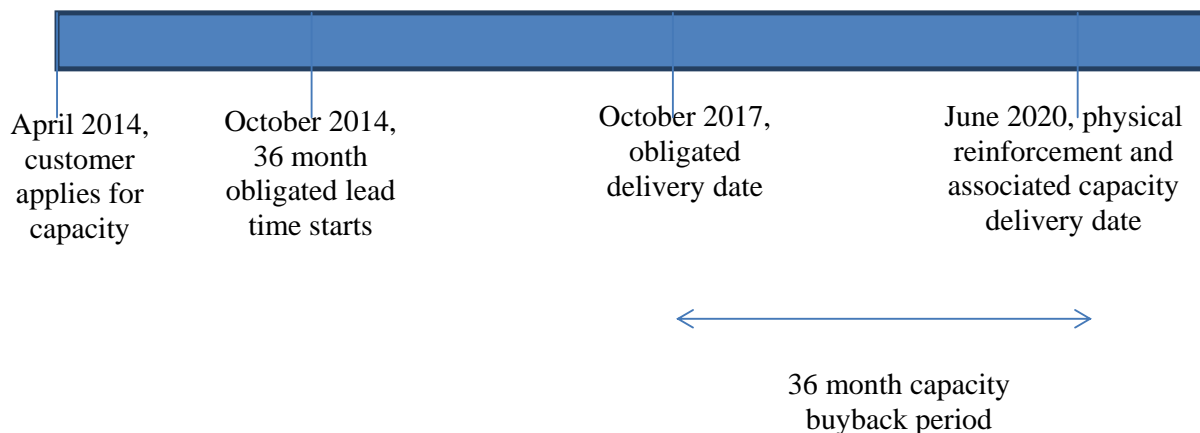
Period in which permits can be used

The drafting pertaining to the period in which permits can be used is unclear; 5th May – 31st March is mentioned in the title of Part D, 1st April – 31st March is used elsewhere within the condition and 1st

May - 31st March is stated in the accompanying cover letter. The drafting would benefit from clarity in this regard.

Notwithstanding the above, our current interpretation is that Ofgem intend to only allow permits to be utilised from May 2014, meaning no permits could be used in the month of April during the exit ad hoc application window. We do not support this approach. If we were to receive a signal within this period that ordinarily would have required permits, industry and end consumers could be exposed to significant constraint management costs as a result of the default lead times and lack of permits in the licence.

By way of example: a power station in the South West applies for capacity of 130GWh/d within the obligated lead times, but this capacity will take 74 months to deliver due to planning requirements.



Utilising the assumptions that the requested capacity is in excess of the capability of the NTS in that area and constraint resolution costs are in the region of £200,000 per mcm per day (consistent with our RIIO analysis assumptions), in this example constraint resolution costs could be around £2.4m per day.

A more appropriate approach would be to allow permits to become effective on 1st April, enabling National Grid to manage this risk on behalf of consumers. We have previously made the point clear, when sharing timescales for contingency arrangements, that there was a need to publish any licence consultation before the end of December 2013 to avoid the potential for end consumers being exposed to constraint management costs in the event that the new arrangements were not anticipated to be in place by 1st April.

Permit allowance

We note that although Ofgem references the updated analysis we have provided in terms of potential projects that could apply for incremental capacity, the additional allowance for 2014/15 has instead taken the £40.2m included in Final Proposals for years 2 to 4 of RIIO-T1 and pro-rated to a third.

We look forward to Ofgem publicising a decision of whether to implement either UNC Modification 0452v or 0465v and in the meantime we believe it is appropriate to extend the permits arrangements to help prevent uncontrollable costs being levied on end consumers.

If you have any queries with any of the points raised in this response then please do not hesitate to contact me.

Yours sincerely

A handwritten signature in black ink that reads "H. Campbell".

Helen Campbell
Head of Commercial Frameworks – Gas

cc: Aled Moses