

Modification proposal:	<b>Uniform Network Code (UNC) Modification 461: Changing the UNC Gas Day to Align with the Gas Day in EU Network Codes</b>		
Decision:	The Authority <sup>1</sup> directs that this proposal be made <sup>2</sup>		
Target audience:	The Joint Office, Parties to the UNC and other interested parties		
Date of publication:	28 March 2014	Implementation Date:	With effect from 1 October 2015

## Background

On 21 February 2014 the Authority received the Final Modification Report for UNC Modification 461 (UNC461) which seeks to implement changes to the definition of the gas day within the UNC and its associated documents to facilitate compliance with European (EU) legislative changes with effect from 1 October 2015.

The relevant EU legislation is contained in two European Network Codes:

1. Capacity Allocation Mechanisms in Gas Transmission Systems (CAM)<sup>3</sup>, which was published in the Official Journal of the European Union (OJEU) on 15 October 2013 and applies from 1 November 2015. This EU legislation applies to interconnection points<sup>4</sup> and defines the 'gas day' as *"the period from 5:00 to 5:00 UTC<sup>5</sup> the following day for winter time and from 4:00 to 4:00 UTC the following day when daylight saving is applied"*<sup>6</sup>.
2. The Gas Balancing of Transmission Networks Network Code<sup>7</sup> (BAL), which was published in the OJEU on 26 March 2014 and applies from 1 October 2015. BAL also defines the gas day as from 5:00 to 5:00 UTC in winter and 4:00 to 4:00 UTC during daylight saving time by applying the definitions contained in Article 3 of CAM. BAL applies to balancing zones, which includes the downstream sector<sup>8</sup>.

These EU legislative requirements take priority over GB domestic legislation and associated regulations and codes, including the UNC.

The current gas day in Great Britain (GB), as set out in the Gas (Calculation of Thermal Energy) Regulations 1996<sup>9</sup>, is *"a period beginning at 6am on one day and ending immediately before 6am on the following day"*; this definition is used as the basis for various times specified in the UNC. Therefore, in order to comply with CAM and BAL, GB's gas day at interconnection points and downstream must change to that defined in CAM.

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

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

<sup>3</sup> Commission Regulation (EU) No 984/2013 establishing a Network Code on Capacity Allocation Mechanisms in Gas Transmission Systems and supplementing Regulation (EC) No 715/2009 of the European Parliament and of the Council: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:273:0005:0017:EN:PDF>.

<sup>4</sup> For example, Bacton.

<sup>5</sup> Coordinated Universal Time.

<sup>6</sup> CAM Article 3(7).

<sup>7</sup> Commission Regulation (EU) No 312/2014 of 26 March 2014 establishing a Network Code on Gas Balancing of Transmission Networks: [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2014\\_091\\_R\\_0015\\_01&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2014_091_R_0015_01&from=EN).

<sup>8</sup> In other words, across the onshore gas industry.

<sup>9</sup> Regulation 2(1) of SI No. 439/1996 (<http://www.legislation.gov.uk/uksi/1996/439/contents/made>) (as amended).

## **The modification proposal**

UNC461 proposes to change specified 06:00 references within the UNC to 05:00 to align with the CAM gas day definition. UNC461 also proposes to change other time references within the UNC which National Grid (NGG), as proposer, considers would otherwise "no longer be able to operate at their current time due to operational constraints as a consequence of a change to the Gas Day". NGG produced the list of proposed time changes with input from other gas transporters and shippers during the workgroup phase of the UNC modification process.

## **UNC Panel<sup>10</sup> recommendation**

At its meeting of 20 February 2014, the UNC Panel: (i) considered the workgroup report on UNC461 and the 18 responses to the industry consultation; and, (ii) voted whether to recommend implementation of the modification proposal. Five out of the ten voting members of the UNC Panel were in favour of UNC461 being implemented. As the proposal was not supported by the majority of the UNC Panel, the UNC Panel recommended that UNC461 not be implemented.

## **The Authority's decision**

The Authority has considered the issues raised by the modification proposal and the Final Modification Report (FMR) dated 20 February 2014. The Authority has considered and taken into account the responses to the Joint Office's consultation on the modification proposal (the "Industry Consultation") which are attached to the FMR<sup>11</sup>. The Authority has concluded that:

1. implementation of the modification proposal will better facilitate the achievement of the relevant objectives of the UNC<sup>12</sup>; and
2. directing that the modification be made is consistent with the Authority's principal objective and statutory duties<sup>13</sup>.

## **Reasons for the Authority's decision**

Of the 18 respondents to the Industry Consultation, nine were supportive and one offered qualified support for UNC461. Two respondents offered comments and six were not supportive of UNC461. We agree with the majority of consultation respondents who considered that UNC461 better facilitates UNC relevant objective (g). We also note that despite voting not to recommend implementation of UNC461, the UNC Panel agreed that UNC461 "would expect to further this relevant objective".

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<sup>10</sup> The UNC Panel is established and constituted from time to time pursuant to and in accordance with the UNC Modification Rules.

<sup>11</sup> UNC modification proposals, modification reports and representations can be viewed on the Joint Office of Gas Transporters website at [www.gasgovernance.co.uk](http://www.gasgovernance.co.uk).

<sup>12</sup> As set out in Standard Special Condition A11(1) of the Gas Transporters Licence, see: <http://epr.ofgem.gov.uk/Pages/EPRInformation.aspx?doc=http%3a%2f%2fepr.ofgem.gov.uk%2fEPRFiles%2fStandard+Special+Condition+PART+A+-+Consolidated+-+Current+Version.pdf>

<sup>13</sup> 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.

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 the majority of consultation respondents, UNC461 introduces changes which align the UNC with the new EU legislative definition of gas day. This new EU legislative definition is part of legally binding decisions of the Commission. We therefore agree that implementation of UNC461 would better facilitate relevant objective (g).

Ofgem's powers and duties

Section 4C of the Gas Act 1986 specifically requires us to carry out our functions in the manner that we consider is best calculated to implement, or to ensure compliance with, any binding decision of the Agency for the Co-operation of Energy Regulators (ACER) or the Commission made under the Gas Directive, the Gas Regulation or the ACER Regulation in relation to gas. CAM and BAL are European Regulations that supplement the Gas Regulation. Therefore as we consider that UNC461 appropriately reflects relevant legal EU obligations, bearing in mind our governing framework, Ofgem would be acting unlawfully if it failed to approve the modification.

Implementation date

UNC 461 suggests an implementation date of 1 October 2015 to align with the change in the gas year and so as to be compatible with BAL's implementation deadline. We agree with this approach as it will aid compliance with BAL once it enters into force. We therefore agree with the suggested implementation date contained in the FMR for UNC461 to take effect from 1 October 2015.

**Decision notice**

In accordance with Standard Special Condition A11 of the Gas Transporters Licence, the Authority hereby directs that modification proposal UNC 461: 'Changing the UNC Gas Day to Align with the Gas Day in EU Network Codes' be made with implementation effective from 1 October 2015.

**Rachel Fletcher**

**Interim Senior Partner, Wholesale Markets**

Signed on behalf of the Authority and authorised for that purpose