

**Andy Burgess**  
Associate Partner  
Transmission and Distribution Policy  
Ofgem  
9 Millbank  
London  
SW1P 3GE

Helen Campbell  
Head of Commercial Frameworks -  
Gas

[helen.campbell@nationalgrid.com](mailto:helen.campbell@nationalgrid.com)

Direct tel +44 (0)1926 653296

Mobile +44 (0)7785 386115

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[www.nationalgrid.com](http://www.nationalgrid.com)

**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**

Dear Andy

In our previous statutory consultation response (dated 4<sup>th</sup> March 2014) we stated that:

- 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.
- UNC Modification Proposals 0452v and 0465v were submitted to Ofgem in December 2013.
- Throughout the development process it was clear that an implementation date of 1<sup>st</sup> April 2014 for the package of proposals was the aim.

The 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 1<sup>st</sup> April 2014.

Given the constructive process followed, open sharing of timelines, commitment to resolve stakeholder issues as they arose enabling the development of the proposals in line with those timelines; it is disappointing that we find ourselves commenting on a further statutory consultation to extend the permit arrangements due to further delays in decisions on the Modification Proposals and associated licence consultation. This now means that it is no longer possible to achieve implementation ahead of the July 2014 Annual Application Window for Enduring NTS Exit Capacity.

We continue to urge Ofgem to provide clarity to the industry on the timelines for decisions and implementation (or not) of the new arrangements.

However, and as stated in our previous response, 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 below.

## **Licence Drafting Comments**

### **Start date of the permits arrangements**

We welcome the clarity provided by the proposed drafting that removes the need for the Authority to issue a direction in order to activate the permits arrangements. However our previous response stated that we believe the arrangements should apply from 1<sup>st</sup> April, an opinion we continue to hold, and thus we do not support a further delay to the start date. The proposed start date means that for the months of April, May and June the obligated lead times of 42 months for entry and 36 months from October for exit would be applicable without any permits arrangements being in place. 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.

We are concerned by Ofgem's comments stating that in the event a signal were received ahead of July 1<sup>st</sup> 2014 that they would take steps to ensure consumers do not face excessive buyback costs. It is unclear what Ofgem's intention is in this area, which creates regulatory uncertainty for us and any prospective developers / capacity applicants.

The most appropriate approach would be to allow permits to become effective on 1<sup>st</sup> April, to enable 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 National Grid, industry and ultimately end consumers being exposed to constraint management costs in the event that the new arrangements were not anticipated to be in place by 1<sup>st</sup> April.

### **Status of the permits arrangements when the new commercial arrangements are introduced**

Ofgem states that if the new commercial arrangements were to come into force at some point during 2014/15 then they will consider what an appropriate and fair treatment of the permits arrangements is.

As set out in Ofgem's consultation, the proposed permits allowance for 2014/15 has been based on the project analysis that provided by National Grid. A direct correlation cannot be made between the number of months in the year that have elapsed and the proportion of permits that may or may not have been used, given that a signal could materialise at any point prior to any new arrangements coming into force during which time National Grid has been managing the risk of an incremental capacity bid on behalf of consumers. We therefore would not support any retrospective adjustment to the permits volume.

### **NGG obligation to inform Ofgem about proposed usage of permits**

We echo our previous concern that we are required to indicate where we are proposing to extend lead times through the use of permits in the annual application window invitation letter. We are unsure under what legal basis we would be able to do this if the licence is not in force at this time.

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 "Kempshall". The signature is written in a cursive style with a period at the end.

Head of Commercial Frameworks - Gas

Cc Aled Moses