

UNC Final Modification Report	At what stage is this document in the process?
<h1 data-bbox="134 322 730 414">UNC 0848S:</h1> <h2 data-bbox="134 450 1182 591">Alignment of Entry and Exit Capacity Constraint Management Provisions</h2>	<div data-bbox="1214 322 1477 636"> <div data-bbox="1214 322 1477 394">01 Modification</div> <div data-bbox="1214 400 1477 472">02 Workgroup Report</div> <div data-bbox="1214 479 1477 551">03 Draft Modification Report</div> <div data-bbox="1214 557 1477 636">04 Final Modification Report</div> </div>
<p>Purpose of Modification:</p> <p>This Modification seeks to clarify in the UNC that National Gas Transmission (NGT) will apply the System Management Principles in the course of the management of a capacity constraint at Exit. This will align the Exit arrangements with existing UNC terms relating to management of a capacity constraint at Entry, and also with the Exit Capacity release principles set out in the Exit Capacity Release Methodology Statement.</p>	
<p>Next Steps:</p> <p>The Panel determined that this Self-Governance Modification should be implemented.</p>	
<p>Impacted Parties:</p> <p>High: None</p> <p>Low: Users of NTS Exit Capacity</p> <p>None: None</p>	
<p>Impacted Codes:</p> <p>None</p>	

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Timetable			
Modification timetable:			
Pre-Modification Discussed	04 May 2023		
Date Modification Raised	04 May 2023		
New Modification to be considered by Panel	18 May 2023		
First Workgroup Meeting	01 June 2023		
Workgroup Report to be presented to Panel	17 August 2023		
Draft Modification Report issued for consultation	18 August 2023		
Consultation Close-out for representations	11 September 2023		
Final Modification Report available for Panel	12 September 2023		
Modification Panel decision	21 September 2023		

1 Summary

What

The high-level requirements for the release of Entry and Exit Capacity on the National Transmission System (NTS) by National Gas Transmission (NGT) are set out (respectively) in **TPD Section B2** and **B3** (System Use and Capacity). As required by NGT's Licence, principles for determination of the volumes of Entry and Exit Capacity to be released by NGT are set out (respectively) in the Entry Capacity Release Methodology Statement (**ECR**) and the Exit Capacity Release Methodology Statement (**ExCR**).

NGT's Licence requires NGT to have in place and maintain a System Management Principles Statement (**SMPS**) which sets out the principles and criteria by which NGT will determine:

- which System Management Services NGT will use to assist it in the operation of the NTS; and
- when and for what purpose NGT resorts to measures not involving the use of System Management Services.

Collectively, the methodologies detailed in the Entry Capacity Release Methodology Statement **ECR**, Exit Capacity Release Methodology Statement **ExCR** and the **SMPS** (the contents of all of which are subject to the consent of the Authority) set out NGT's approach to the release of Entry and Exit Capacity, including instances where utilisation of Constraint Management tools is necessary.

Why

The **SMPS** enables the use of a number of tools to manage localised transportation capability including the restriction of daily Firm NTS capacity (Entry and Exit) made available. This is also reflected in:

- the **ECR**, which makes provision for NGT to withhold Entry Capacity from release where a capacity constraint is foreseen; and
- the **ExCR**, which makes provision for NGT to withhold Exit Capacity from release where a capacity constraint is foreseen.

TPD Section B2 (Entry Capacity) explicitly requires NGT to apply the System Management Principles (as set out in the **SMPS**) in the management of a capacity constraint.

However, the existing equivalent UNC rules for Exit (set out in **TPD Section B3**) do not include a corresponding requirement regarding the application of System Management Principles in the management of a capacity constraint at Exit.

Hence **TPD Section B3** is inconsistent with:

- the equivalent terms relating to management of a capacity constraint at Entry in the UNC (**TPD Section B2**);
- the rules in the **SMPS** regarding the steps available to NGT in the management of localised (Exit) transportation capability; and
- the rules in the **ExCR** which makes provision for NGT to withhold Exit Capacity from release where a capacity constraint is foreseen.

Implementation of this Proposal would therefore align the Exit Capacity arrangements with existing UNC terms regarding management a capacity constraint at Entry, and also with the Capacity release principles set out in the **ExCR** and **SMPS**.

How

This Modification seeks to include a requirement in TPD Section B3 for National Gas Transmission (NGT) to apply the System Management Principles in the course of the management of a capacity constraint at Exit.

2 Governance

Justification for Self-Governance

Application of Self-Governance procedures is sought because the changes proposed are unlikely to have a material effect on the competition in the shipping, transportation or supply of gas conveyed through pipes or any commercial activities connected with the shipping, transportation or supply of gas conveyed through pipes, nor on the operation of one or more pipe-line system(s) (nor any of the other aspects described in the Self-Governance criteria).

This is because the nature of the proposed change is to merely provide clarity and transparency in the UNC regarding the arrangements relating to, and tools available to NGT, where an Exit Capacity Constraint is foreseen as set out in the SMPS.

Workgroup's Assessment

Some Workgroup participants argued that this is not a Self-Governance Modification because of the issues raised in relation to the hierarchy of governance i.e. the escalation of subsidiary methodology statements above the Code. These are issues that should be escalated to the Authority.

The Proposer responded that the view of NGT is that this is a Self-Governance Proposal.

Requested Next Steps

The Workgroup asked that Panel consider whether this Proposal should continue to be subject to Self-Governance procedures.

3 Why Change?

Issue Summary

There is an inconsistency in the UNC regarding the management of capacity constraints at Entry and Exit as set out below. Alignment of the provisions relating to the management of capacity constraints at Exit with the existing provisions relating to Entry (as proposed in this Modification) would enhance the clarity of the UNC arrangements and better reflect the approach taken by NGT in the circumstances as set out in the SMPS and the ExCR.

Context

The high-level requirements for the release of Entry and Exit Capacity on the NTS by NGT are set out (respectively) in TPD Section B2 and B3 (System Use and Capacity).

As required by Special Condition 9.18 of NGT's Licence, principles for the determination of the volumes of Entry and Exit Capacity to be released by NGT are set out (respectively) in the:

- ECR; and
- ExCR.

In summary, Special Condition 9.18.1 states:

This condition places the following obligations on the licensee:

- a) *to release Obligated Entry Capacity and Obligated Exit Capacity;*
- b) *to maintain and comply with capacity release methodology statements;*
- c) *to report to the Authority; and*
- d) *to publish the capacity release methodology statements.*

Special Condition 9.19 of NGT's Licence also requires NGT to have in place and maintain a SMPS. Special Condition 9.19.8 requires that the SMPS must set out the principles and criteria by which NGT will determine:

- o which System Management Services NGT will use to assist it in the operation of the NTS; and
- o when and for what purpose NGT resorts to measures not involving the use of System Management Services.

Specifically, Special Condition 9.19.9 explicitly states that NGT must comply with the provisions of the SMPS.

Collectively, the methodologies detailed in the ECR, ExCR and the SMPS (the contents of all of which are subject to the consent of the Authority) set out NGT's approach to the release of Entry and Exit Capacity, including instances where utilisation of Constraint Management tools is necessary.

Alignment of Methodology Statements and the UNC

Part C of the SMPS enables the use of a number of tools to manage localised transportation capability including to "*restrict the quantity of daily firm NTS Capacity made available*". As this utilisation of the term 'NTS Capacity' is not pre-fixed with 'Entry' nor 'Exit' then this tool is available to NGT in both cases.

This is also reflected in:

- the ECR, paragraph 74 of which states:
"Where, in respect of any given Gas Flow Day, circumstances arise in which National Grid¹ foresees a capacity constraint occurring at an ASEP, National Grid may withhold capacity from sale for that ASEP in DSEC auction..."
- the ExCR, paragraph 162 of which states
"Where, in respect of any given Gas Flow Day, circumstances arise in which National Grid¹ foresees a capacity constraint occurring at an NTS Exit Point, National Grid may withhold capacity from sale for that NTS Exit Point in the Daily auctions. The quantity withheld will be limited to that which National Grid considers necessary to avoid the constraint or to avoid increasing the extent of the constraint, and hence to avoid or limit, the cost of any actions needed to manage the constraint".

TPD Section B2.9.6 (in the context of Entry Capacity) explicitly requires NGT to apply the System Management Principles (as set out in the SMPS) in the management of a capacity constraint at Entry. This section states:

"National Gas Transmission shall for the purposes of the management of a capacity constraint take such steps as are in accordance with the System Management Principles"

However, the existing equivalent UNC rules for management of a capacity constraint at Exit (set out in TPD Section B3) do not include the corresponding requirement regarding application of System Management Principles in these circumstances.

¹ Occurrences of the entity name 'National Grid' in the ExCR, ECR and SMPS are expected to be amended to reflect the new entity name 'National Gas Transmission' on an incremental basis in prospective versions of each document.

Hence TPD Section B3 is inconsistent with:

- the equivalent terms relating to management of a capacity constraint at Entry in the UNC (TPD Section B2.9.6);
- the rules in Part C of the SMPS regarding the steps available to NGT in the management of localised (Exit) transportation capability; and
- the rules in paragraph 162 of the ExCR which makes provision for NGT to withhold Exit Capacity from release where a capacity constraint is foreseen.

Implementation of the changes advocated by this Proposal would therefore provide clarity and remove ambiguity for Users by aligning the arrangements at Exit with existing UNC terms relating to management of a capacity constraint at Entry, and also with the Capacity release principles set out in the ExCR and SMPS.

Consequences of continued Capacity Release in a constraint situation

Where a capacity constraint is foreseen (or indeed in effect) NGT has a suite of operational and commercial tools which may be adopted to alleviate the constraint at the most efficient cost. In such cases, NGT only withholds those capacity volumes that exceed the expected (or actual) capability of the network at that time. If NGT released such volumes (that exceeded physical capability), and due to the constraint was required to use other constraint management tools to manage the constraint (including Locational actions and/or the buy back of firm NTS Exit Capacity), this may result in constraint management costs in excess of those which would have otherwise been incurred.

The net costs associated with constraint management actions are recovered from all Users via neutrality charges, and the ongoing release of all firm capacity (regardless of whether a capacity constraint is foreseen) may not result in the most efficient means of managing a capacity constraint for the industry as a whole.

Logically, making a product/service available to a counterparty which the seller foresees, at the time of sale it is not able to provide, and which it is then required to rectify, potentially at a premium cost (a cost which is borne principally by other parties), does not represent the optimal approach. Alternatively, limiting sales in the first instance to volumes that are expected to be available (and thus not incur any premium costs for other parties) is in our view the most efficient solution.

4 Code Specific Matters

Reference Documents

[UNC TPD Section B](#)

[SMPS \(version 11.0\)](#)

[EXR \(version 7\)](#)

[ExCR \(version 15\)](#)

NGT Licence available on the Ofgem Electronic Public Register ([EPR](#))

Knowledge/Skills

Knowledge of Capacity Release principles and System Management Principles would be beneficial.

5 Solution

This Modification seeks to include a requirement in TPD Section B3 for National Gas Transmission (NGT) to apply the System Management Principles in the course of the management of a capacity constraint at Exit.

6 Impacts & Other Considerations

Does this Modification impact a Significant Code Review (SCR) or other significant industry change projects, if so, how?

No

Consumer Impacts

In the event that any additional constraint management costs (borne in part by Users) are ultimately recovered from consumers via supply charging then the preferred approach (as set out in this Proposal) to limit the extent of such costs which are incurred represents the best outcome for consumers.

What is the current consumer experience and what would the new consumer experience be?

NGT currently operates in accordance with ExCR and the SMPS and therefore withholds the release of Daily Firm NTS Exit Capacity where an Exit Capacity Constraint is foreseen. To the extent that this Proposal seeks to enhance alignment between the UNC provision relating to Exit Capacity and the ExCR and SMPS there would be no change between the 'current' and 'new' consumer experiences. Notwithstanding this, we would expect enhanced clarity of the approach NGT takes in such instances to result in the following benefits.

Impact of the change on Consumer Benefit Areas:	
Area	Identified impact
Improved safety and reliability No impact	None
Lower bills than would otherwise be the case As set out above, whilst NGT currently operates in accordance with ExCR and the SMPS, the alternative approach (of releasing Exit Capacity in excess of expected capability) may result in additional costs of System Operation (borne by Users) which may ultimately recovered from consumers via supply charging.	Positive
Reduced environmental damage None	None

<p>Improved quality of service</p> <p>Enhanced clarity regarding the approach NGT will take to the management of capacity constraints at Exit will provide a greater level of certainty for Consumers that the capacity made available on a Day Ahead or Within Day basis is at reduced risk of being subject to System Management Services actions undertaken by NGT pursuant to the SMPS.</p>	<p>Positive</p>
<p>Benefits for society as a whole</p> <p>None</p>	<p>None</p>

Workgroup Impact Assessment

The Workgroup considered points submitted by Energy UK in respect of the impact of the change on consumer benefit areas (above).

- Lower bills than would otherwise be the case - Energy UK view = **uncertain**

It is not self-evident that withholding the sale of firm capacity day-ahead in the event of a potential constraint will impact costs to consumers. The revenue foregone by not selling capacity may exceed constraint costs or there may be no constraint costs if the anticipated constraint assessed day-ahead does not emerge. There may also be overrun revenue to consider.

The Proposer responded that NGT agree that there is uncertainty in terms of the total impact on consumer bills - to date NGT have not had an Exit constraint on the network that has required the use of Locational Actions or Buy Backs. NGT believes that selling capacity into a constraint situation would lead to a greater correction required through commercial actions, and based on Entry constraint management experience, these would likely be at a premium to market pricing. In the most recent Entry Capacity constraint (18th January at Milford Haven), Locational Buys were on average taken at 146% of SAP.

- Improved quality of service - Energy UK view = **none**

NGT clearly states that this proposal will not affect its operational actions. Direct connects as consumers may face greater uncertainty over the release of exit capacity and therefore receive a lower level of service. Consumers more generally may face interruption to power supplies.

The Proposer responded thus; “As recognised by Energy UK, implementation of this proposal would not change NGT’s approach in these circumstances hence NGT are unclear how implementation would result in a *lower* level of service compared with that provided under the prevailing UNC terms. The Proposer’s suggestion of a positive impact on the quality of service provided to Consumers was predicated upon enhanced clarity in the UNC, this being a published document available for all parties (including consumers) to view, therefore enhancing Consumers’ awareness of the approach taken by NGT to constraints at Exit (i.e. enhanced awareness of the circumstances in which NGT would withhold the release of Exit capacity).”

The Proposer continued that NGT are unclear how, or why, the implementation of this Proposal would directly impact the likelihood (or otherwise) of consumers facing interruption to power supplies given there would be no change to our operational approach in these circumstances.

Cross-Code Impacts

None.

EU Code Impacts

None.

Central Systems Impacts

We do not believe there will be any impacts on Central Systems.

Performance Assurance Considerations

None identified by Workgroup.

Initial Representations

None Received.

Panel Questions

None

Workgroup discussions related to hierarchy in the governance framework

Energy UK submitted a paper that was considered by the Workgroup highlighting that in its view this modification highlights a challenge to the accepted hierarchy of the governance framework being:

- Gas Act
- Licence
- UNC
- Other methodologies and statements.

The content of that paper is replicated below at the request of the Workgroup.

It is understood that where there is an inconsistency with a higher document the 'rules' in the higher document prevail. One challenge is that NGT's licence places a number of obligations on NGT with respect to the release of obligated capacity and to maintain and comply with capacity release methodology statements and system management principles statements. The licence extracts below are relevant and highlighted for emphasis.

Special Condition 9.18 *Methodology to determine the release of Entry Capacity and Exit Capacity volumes*

*9.18.1 This condition places the following **obligations** on the licensee:*

- a) to release Obligated Entry Capacity and Obligated Exit Capacity;***
- b) to maintain and comply with capacity release methodology statements;***
- c) to report to the Authority; and*
- d) to publish the capacity release methodology statements.*

9.18.2 This condition also sets out the process for the licensee to revise the capacity release methodology statements.

Part A: Release of Obligated Entry Capacity and Obligated Exit Capacity

*9.18.3 The licensee must, unless the Authority otherwise directs, use reasonable endeavours to release **Obligated Entry Capacity** at each NTS Entry Point in all available Allocations up to the end of the day to which the capacity relates, in accordance with the provisions of Standard Special Condition A5 (Obligations as Regard Charging Methodology).*

9.18.4 The licensee must, unless the Authority otherwise directs, use reasonable endeavours to release Obligated Exit Capacity at each NTS Exit Point in all available Allocations up to the end of the day to which the capacity relates, in accordance with the provisions of Standard Special Condition A5 (Obligations as Regard Charging Methodology).

The Proposer responded on this point noting that the licence obligation to release Obligated Exit Capacity requires use of “reasonable endeavours” to do so. NGT believes that where an Exit capacity constraint is forecast to occur and other constraint management tools available to it have been deployed, though not alleviated the constraint fully, this is sufficient grounds upon which to withhold from sale certain quantities of Obligated Exit Capacity.

NGT believes that in this situation, it will have expended reasonable endeavours (use of other tools) and concluded it would not be efficient, nor economic, to release for sale Obligated Exit Capacity in excess of that which can be physically supported by the system. On this basis, NGT does not believe that such action would be in conflict with SC 9.18.4.

A Workgroup Participant queried whether the “reasonable endeavours” obligation to release capacity is intended to address a capacity related concern and here it appears to be used to address a commodity related issue.

A Workgroup participant recognized that whilst the issue with the Licence Condition is not within the purview of this Workgroup it remained a matter for broader consideration.

Energy UK highlighted the following extract from the NGT Licence;

9.18.7 The Exit Capacity release methodology statement must:

- a) *set out how the licensee decides whether to make Incremental Exit Capacity available for sale to Relevant Shippers and DN Operators;*
- b) *set out where the licensee makes Incremental Exit Capacity available, how it decides what quantity to make available, and how much capacity is made available;*
- c) **set out how the licensee offers for sale Obligated Exit Capacity to Relevant Shippers and DN Operators; and**
- d) **incorporate the obligation set out in paragraph 9.18.4.**

Energy UK stated its view that the modification does not address the hierarchy of documents in the gas market regulatory framework such that lower documents cannot take precedence over higher documents. Nor does it, in the event of a potential constraint, address the inconsistency between licence condition 9.18.1 and 9.18.4, namely complying with the ExCR and potentially withholding capacity and using reasonable endeavours to release obligated capacity in all allocations up to the end of gas day D.

The UNC is already inconsistent with licence in this respect as obligated capacity is only made available day-ahead (UNC B3.5).

The Proposer responded that in principle, NGT does not believe that it is the role of any UNC Modification Proposal to address / resolve perceived or actual inconsistency within our Licence. Notwithstanding this principle, NGT does not agree that there is inconsistency between SC 9.18.1 and SC 9.18.4. This is on the basis that the SC 9.18.4 obligation to release Obligated Exit Capacity requires the use of reasonable endeavours to do so. The methodology employed for the release of Exit Capacity, as set out in the ExCR (which NGT is required to comply with under SC 9.18.1) set outs, in detail, how reasonable endeavours are then applied.

In respect of the later point NGT responded; Obligated Exit Capacity is made available as Day Ahead (from 05:00 D-7) and Within Day (to 02:00 D). In addition, this product can be bought in long-term auctions each July, for a subsequent gas year.

Energy UK argued that the key question is whether the fact that the ExCR and SMPs are required by licence elevates their status above the UNC? If so, this makes large parts of Section B irrelevant, leaving governance of the capacity release arrangements with limited or no role for Shippers, no ability to raise change proposals nor appeal a decision, which is at odds with all other parts of the Code. It also makes licence condition 9.18.4 irrelevant. Ofgem's decision letter² in approving paragraph 162³ in the ExCR does little to help understand these issues. It is not clear what obligations this relates to, perhaps licence condition 9.18.4? But it is clear that this approval of a change to the ExCR does not formally constitute a derogation from licence condition 9.18.4.

The Proposer responded to say; Notwithstanding any specific narrative contained within its decision letter (referred to above), Ofgem nevertheless approved the changes to the ExCR that included the relevant paragraph (162) setting out the ability for NGT to withhold the release Obligated Exit Capacity in the circumstances identified.

NGT does not believe there to be inconsistency between SC 9.18.1 and SC 9.18.4. As NGT's statement to stakeholders and the Independent Examiner stated, the withholding of unsold Obligated Exit Capacity will only be actioned if other constraint management tools available to NGT have been deployed though not fully alleviated the constraint.

The wording of SC 9.18.4 requires NGT to use *reasonable endeavours* to release Obligated Exit Capacity. As NGT believe we *would* be using reasonable endeavours to release such (notwithstanding the fact that in certain exceptional circumstances it would not be efficient nor economic to release all such volumes) NGT does not believe that such action requires an explicit direction from the Authority as contemplated in SC 9.8.14.

² <https://www.ofgem.gov.uk/publications/approval-modified-capacity-release-and-capacity-methodology-statements>

³ **Extracts from the decision letter:**

The Independent Examiner said that there is ***limited evidence that withholding obligated capacity from the daily allocation processes where you foresee a constraint is economically efficient.***

We (Ofgem) note the clarifications you provided to stakeholders and the Independent Examiner with regard to withholding capacity from daily allocation when you foresee a constraint. You said that continuing to sell capacity into a constraint would increase constraint management costs significantly, with the cost ultimately passed on to consumers. You also said that this practice is covered by the System Management Principles, which have recently gone through industry consultation, and explained that you would in the first instance scale back interruptible capacity before considering any action related to firm capacity. ***We expect that you will continue to act in compliance with your obligations.***

7 Relevant Objectives

Impact of the Modification on the Transporters' Relevant Objectives:

Relevant Objective	Identified impact
a) Efficient and economic operation of the pipe-line system.	Positive
b) Coordinated, efficient and economic operation of (i) the combined pipe-line system, and/ or (ii) the pipe-line system of one or more other relevant gas transporters.	None
c) Efficient discharge of the licensee's obligations.	Positive
d) Securing of effective competition: (i) between relevant shippers; (ii) between relevant suppliers; and/or (iii) between DN operators (who have entered into transportation arrangements with other relevant gas transporters) and relevant shippers.	Positive
e) Provision of reasonable economic incentives for relevant suppliers to secure that the domestic customer supply security standards... are satisfied as respects the availability of gas to their domestic customers.	None
f) Promotion of efficiency in the implementation and administration of the Code.	None
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.	None

The Modification furthers Relevant Objectives (a), (c) and (d), as follows:

a) Efficient and economic operation of the pipe-line system

The proposed changes in this Modification will enhance alignment between the UNC and ExCR/SMPS which will result in enhanced transparency of the arrangements in place to deal with management of a capacity constraint at Exit. As set out above, the Proposer's view is that availability of the ability for NGT to withhold release of Daily Firm Exit Capacity represents the most efficient means of addressing a forecast or actual Exit Capacity Constraint. Implementation would therefore better facilitate the efficient and economic operation of the NTS (as compared with the current misalignment)

c) Efficient discharge of licensee's obligations

By aligning the UNC Exit Capacity arrangements with those capabilities set out in the ExCR and the SMPS implementation would further enable the efficient discharge of NGTs obligations under Special Conditions 9.18.1(b) and 9.19.9 of our Licence (i.e. to comply with the provisions of the ExCR and SMPS respectively).

d) Securing of effective competition between relevant Shippers;

Maintenance of the approach whereby an appropriate volume of Daily Firm Exit Capacity is withheld where an Exit Capacity Constraint is foreseen will minimise the costs of System Operation which are borne by all Users. Thus limiting the extent of such 'pass through' costs will secure effective competition between relevant Shippers.

Workgroup Assessment of Relevant Objectives

Relevant Objective a)

A Workgroup Participant submitted the following observation in respect of Relevant Objective a) efficient and economic operation of the pipeline system. On the arguments submitted by the Proposer;

- *From an operational perspective there would be no change if implemented as NGT operates, and will continue to operate, in accordance with the SMPS (and ExCR) in the management of Exit Capacity Constraints.⁴*

the effect on this Objective should be evaluated as ‘None’.

The Proposer responded that this Modification improves transparency in terms of operation of the System and thus is positive.

Relevant Objective c)

A Workgroup Participant submitted the following observation in respect of Relevant Objective c) efficient discharge of the licensee’s obligations – The evaluation depends on which licence conditions re considered, **negative** for licence condition 9.18.4

The Proposer countered that NGT believes that withholding Obligated Exit Capacity in the specific circumstances identified is *not* contrary to SC 9.18.4 and therefore implementation of this Proposal would *not* have a negative impact on this objective. NGT believes this is positive in respect of the obligation to comply with the SMPS.

Relevant Objective d)

A Workgroup Participant submitted the following observation in respect of Relevant Objective d) Securing effective competition - **negative**

The independent examiner saw limited evidence that withholding capacity is economically efficient.

Any customers, in particular direct connects, that have capacity withheld where a constraint is *potential* rather than actual at the day-ahead stage, may still choose to flow and incur overrun charges which would place them at a competitive disadvantage to other similar parties where capacity is not withheld.

If they choose not to flow they are similarly disadvantaged. So, this does not support competition. In this respect withholding capacity at exit it is different than entry as it has a direct impact on end consumers of gas.

Lack of clarity over the timing of notifications of withholding firm day-ahead capacity also impacts competition between shippers providing gas to gas fired generation as the day-ahead timescales with respect to the electricity market are not considered.

<https://www.nationalgas.com/document/142171/download>

It also appears that Ofgem’s position on demonstrating the probability and impact of constraint costs has changed since is approved the ExCR change many years ago. This is identified in its recent decision with respect to limiting the release of capacity at Milford Haven

<https://www.ofgem.gov.uk/publications/decision-proposed-revisions-methodology-statements-held-national-gas-transmission-plc>

⁴ From NGT presentation to workgroup <https://www.gasgovernance.co.uk/sites/default/files/ggf/book/2023-05/0848%2020230601%20Workgroup%20%281%29.pdf>

Ofgem is of the opinion that NGT have not sufficiently demonstrated that high capacity constraint costs are likely as informed by a probability assessment, nor that the impact of withholding capacity would be less damaging to the GB market and GB consumers.

The Proposer responded that NGT does not believe that withholding Obligated Exit Capacity has a negative impact on the securing of effective competition. Every User has an equal opportunity to secure Obligated Exit Capacity ahead of and during any gas day and is informed of constraint situations and updates at the same time via ANS. The decision on whether, and when, to buy Obligated Exit capacity is of course a matter for each User to determine, based on their own commercial and operational strategy, risk appetite etc. There is opportunity to buy Obligated Exit Capacity each July (for future gas years) and from 15:00 D-1 to 02:00 on D. (In addition, there is Off-Peak capacity released from D-1, though appreciate we are considering Firm capacity in this discussion.)

In terms of a day-ahead constraint being potential or actual, and Users' response to this; a constraint situation is declared where we project that safe operating pressures will be breached in a part (or parts) of the network, based on supply, demand and other prevailing view information, such as asset availability. NGT will at this point have already applied any feasible operational strategic tools such as system reconfiguration, to try and alleviate the situation. As discussed at the Exit webinar (16th December 2022), Users may choose to overrun in this situation though clearly this may lead to an increased level of consequential commercial actions/costs and potentially warrant a post-event review of the contributory circumstances. As and when any constraint is alleviated, capacity restrictions will be lifted wherever possible.

Relevant Objective f)

A Workgroup Participant submitted the following observation in respect of Relevant Objective f) promotion of efficiency in the implementation and administration of the code – **negative**. Aligning the UNC with the ExCR and SMPS undermines the status of the Code in the governance hierarchy.

Some Workgroup Participants agreed with this evaluation.

The Proposer responded that this Proposal seeks to address an inconsistency in the UNC. Equivalent provisions allowing for the withholding of obligated capacity to manage a forecast constraint exist in prevailing versions of the ECR and the ExCR. Despite this, the UNC currently *only* reflects this in the context of Entry. NGT believes it is entirely logical and appropriate for UNC provisions relating to Exit to be modified in the manner proposed, to achieve consistency with UNC arrangements for Entry.

8 Implementation

No specific timescale is proposed for implementation. As no changes to central systems are expected to be required, there is no lead time required for implementation from the Proposer's perspective.

9 Legal Text

Legal Text has been provided by National Gas Transmission and is included below.

Workgroup Assessment

The Workgroup has considered the Legal Text and is satisfied that it meets the intent of the Solution.

Text Commentary

PARAGRAPH	EXPLANATION
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<p>TRANSPORTATION PRINCIPAL DOCUMENT SECTION B – SYSTEM USE AND CAPACITY New paragraph 3.8.8</p>	<p>This clarifies that NGT shall be able to apply and take such steps as are in accordance with the System Management Principles Statement to manage an exit capacity constraint similar to the provisions relating to an entry capacity constraint.</p>
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Text

Uniform Network Code - Transportation Principal Document

Section B – System Use and Capacity

Add new paragraph 3.8.8 to read as follows:

3.8.8 Notwithstanding any other provision of the Code, National Gas Transmission shall for the purposes of the management of a capacity constraint be entitled to apply and take such steps as are in accordance with the System Management Principles; it however being acknowledged that the System Management Principles do not form part of, and are not incorporated into, and are not binding upon National Gas Transmission pursuant to, the Code.

10 Consultation

Representations were invited from interested parties on 18 August 2023. All representations are encompassed within the Appended Representations section, including any initial representations.

The following table provides a high-level summary of the representations. Of the 3 representations received 1 supported implementation, 1 provided comments and 1 was not in support.

Representations were received from the following parties:		
Organisation	Response	Relevant Objectives
National Gas Transmission	Support	a) none c) positive d) positive
RWE	Oppose	a) negative c) negative d) negative
Wales & West Utilities	Comments	Not Provided

Please note that late submitted representations may not be included or referred to in this Final Modification Report. However, all representations received in response to this consultation (including late submissions) are published in full alongside this Report and will be taken into account when the UNC Modification Panel makes its assessment and recommendation.

11 Panel Discussions

The Panel Chair summarised that Modification 0848S seeks to clarify in the UNC that National Gas Transmission (NGT) will apply the System Management Principles in the course of the management of a capacity constraint at Exit. This will align the Exit arrangements with existing UNC terms relating to management of a capacity constraint at Entry, and also with the Exit Capacity release principles set out in the Exit Capacity Release Methodology Statement.

Discussion

Panel members noted that no initial representations had been submitted.

Panel Members noted no initial Panel Questions had been raised.

Panel Members considered the representations submitted during the Consultation noting that, of the 3 representations received 1 supported implementation, 1 provided comments and 1 was not in support.

Panel Members noted that much of the Workgroup discussion had considered the governance of the relevant methodology statements (System Management Principles Statement (SMPS) and Exit Capacity Release Methodology Statement (ExCR)) and the way in which these are operationally implemented. Panel Members noted that the same issues were in part reprised in two of the representations whilst the third, offering comments, recognised that the methodologies that are required by the GT licence take precedence over the UNC provisions. The licence requires both the methodologies and the UNC.

Some Panel Members expressed concern that the governance of changes to the SMPS and ExCR does not provide the same opportunity for Stakeholder input as for the UNC. Panel Members agreed that this issue falls outside the vires of the Panel and is thus not within scope for its evaluation of this Modification Proposal.

Some Panel Members noted that this Modification aligns the UNC and the methodologies, essentially aligning Code with the practice that is already in place.

Some Panel Members were concerned that subsidiary documents appeared to be taking precedence over Code which is not fundamentally correct and is counter to the hierarchy of Code.

A Panel Member noted that this Modification is relating to specific methodologies required by licence.

A Panel Member noted that, from a Shipper's point of view, Shippers accede to Code not the methodologies documents.

Panel Members request that the Authority to take this into account in their consideration of this Modification.

Consideration of the Relevant Objectives

Some Panel Members considered Relevant Objective a) *Efficient and economic operation of the pipe-line system*, agreeing that implementation would have a neutral impact because National Gas Transmission has stated that it would continue to operate in accordance with the methodologies called up by its GT licence and that whilst this Modification would put a requirement to do so on the face of the UNC it would not change any operational procedures.

Some Panel Members noted that Shippers' obligations are to the requirements of the UNC. If the primacy of the UNC is challenged, this Relevant Objective a) is negatively impacted.

A Panel Member noted that this Modification merely aligns methodologies and the UNC to add clarity and will make no change to current operations. It is not changing a principle statement, the document still stands.

Panel Members considered Relevant Objective c) *Efficient discharge of the licensee's obligations*, agreeing that implementation would have a positive impact because the Modification will bring a better alignment between the Licence and the UNC.

Panel Members considered Relevant Objective d) *Securing of effective competition between Shippers and/or Suppliers*, agreeing that implementation would have a neutral impact because National Gas Transmission has stated that implementation will not lead to any change in the way that the SMPS and ExCR are operationally implemented.

Governance

Panel Members considered the Workgroup request for them to review whether this Proposal should continue to be subject to Self-Governance procedures. Panel Members noted that the Workgroup had been unable to reach a consensus on this question.

A Panel Member pointed out that the issues raised relate to the hierarchy of obligations on National Gas Transmission and that the governance of the GT Licence and of the methodology documents that are required under the Licence sits with the Authority. The Proposals in this Modification do not diminish in any way the robustness of that governance.

Some Panel Members concluded that this Modification would not implement any material change to the operation of the UNC or to the operation of the System and thus it does not meet the criteria for Authority Direction.

Some Panel Members did not agree and believed that there is a concerning precedent being set through this Modification and thus this Modification is not suitable for self governance. This may have a consequential impact in the future where Users cannot rely on the primacy of the UNC.

A question debated by Panel was whether this Modification is the right place to bring this concern to the attention of the Authority.

A Panel Member noted the Panel is the UNC Modification Panel – why is this a UNC Modification? It is the application of a principle.

The Independent UNC Modification Panel Chair requested input from the Authority representative, who confirmed that if/when the Authority is called upon to consider this Modification, it will be considered in terms of the reach of this Modification only.

A Panel Member believed that a separate Review group or Modification could be brought forward to discuss the principle question itself, rather than considering it as a side issue to this Modification.

Determinations

Panel Members voted unanimously (13 out of 13, with 1 abstention) that no new issues were identified as part of consultation.

Panel Members voted unanimously (14 out of 14) that there are no Cross Code impacts associated with this Modification.

Panel Members voted by majority vote (8 out of 10, with 4 abstentions) that the criteria for Self-Governance are met, as this Modification is unlikely to have a material effect on competition in the shipping, transportation or supply of gas conveyed through pipes or any commercial activities connected with the shipping, transportation

or supply of gas conveyed through pipes.

Panel Members voted with 9 votes in favour (out of a possible 12, with 2 abstentions), to implement Modification 0848S.

12 Recommendations

Panel Determination

Panel Members agreed that Modification 0848S should be implemented.

13 Appended Representations

Initial Representation – None

Representation - National Gas Transmission

Representation - RWE

Representation - Wales & West Utilities

Representation - Draft Modification Report UNC 0848S

Alignment of Entry and Exit Capacity Constraint Management Provisions

Responses invited by: 5pm on 11 September 2023

To: enquiries@gasgovernance.co.uk

Please note submission of your representation confirms your consent for publication/circulation.

Representative:	Phil Lucas
Organisation:	National Gas Transmission
Date of Representation:	11 September 2023
Support or oppose implementation?	Support
Relevant Objective:	a) None c) Positive d) Positive
Relevant Charging Methodology Objective:	Not Applicable

Reason for support/opposition: Please summarise (in one paragraph) the key reason(s)

As the Proposer, National Gas Transmission (NGT) supports implementation of this Proposal. It seeks to address the inconsistency in the UNC regarding the management of capacity constraints at Entry and Exit as set in the Proposal. Alignment of the provisions relating to the management of capacity constraints at Exit with the existing provisions relating to Entry would enhance the clarity of the UNC arrangements and better reflect the approach taken by NGT in the circumstances as set out in the System Management Principles Statement (SMPS) and the Exit Capacity Release Methodology (ExCR), both of which are subject to approval by the Authority as set out in NGT's Licence.

NGT believes that implementation would better facilitate the efficient discharge of obligations in our Licence relating to the requirement for NGT to comply with the SMPS and ExCR (code relevant objective (c)). Further, we believe that the mechanisms set out in these Methodology Statements reflect the most efficient means of managing capacity constraints at Exit which therefore minimises the costs of System Operation which are borne by all Users. Limiting the extent of such 'pass through' costs (for example, incurred from Locational Actions and/or capacity buybacks) will contribute to securing effective competition between relevant Shippers (relevant objective (d)).

Self-Governance Statement:

NGT believes the application of self-governance procedures is appropriate in this case as the nature of the proposed change is to merely provide clarity and transparency in the UNC regarding the arrangements relating to, and tools available to NGT, where an Exit Capacity Constraint is foreseen as set out in the SMPS. NGT currently operates in accordance with ExCR and the SMPS and therefore is able to withhold the release of Daily Firm NTS Exit Capacity where an Exit Capacity Constraint is foreseen. Hence in terms of the operational approach, there would be no change.

Implementation:

From an NGT perspective there are no systems or operational changes required in the event of implementation hence there is no requirement for any lead time ahead of implementation.

Impacts and Costs:

From an NGT perspective there would no specific implementation impacts or costs of implementation.

Legal Text:

NGT is satisfied that the legal text delivers the intent of the Solution.

Are there any errors or omissions in this Modification Report that you think should be taken into account?

NGT has not identified any such errors or omissions.

Please provide below any additional analysis or information to support your representation

N/A

Representation - Draft Modification Report UNC 0848S

Alignment of Entry and Exit Capacity Constraint Management Provisions

Responses invited by: 5pm on 11 September 2023

To: enquiries@gasgovernance.co.uk

Please note submission of your representation confirms your consent for publication/circulation.

Representative:	Lauren Jauss
Organisation:	RWE Supply & Trading GmbH
Date of Representation:	11 September 2023
Support or oppose implementation?	Oppose
Relevant Objective:	a) Negative c) Negative d) Negative
Relevant Charging Methodology Objective:	Not Applicable

Reason for support/opposition: Please summarise (in one paragraph) the key reason(s)

We are not entirely familiar with the SMPS (which is an issue in itself), but as we understand it, the SMPS is a statement written by NGG for approval by Ofgem and we have recently realised that it currently contains material statements about decisions NGG has taken towards system management. In practice, it appears to circumvent the UNC so that there is no process that allows for or requires any input or comment by industry stakeholders to the SMPS. Many of the system management principles described in the document appear to be not principles, but views that should require cost benefit analysis and/or a detailed understanding of the impacts on Users and their use of the system. Therefore, we do not think it is appropriate that the SMPS content and process be automatically adopted for Exit, but rather that the principles should be carefully considered as part of the UNC change process and adopted each on their own merit. We think some of the principles in the SMPS, when considered for Exit, probably promote more inefficient operation of the system and therefore, if anything, reduce competition. Therefore, under the current SMPS process, we do not think NGG is fulfilling its obligation in the licence to develop and maintain an efficient and economic pipeline system for conveying gas, and that this modification would result in the opposite in fact.

We would also highlight that unlike the UNC, the SMPS is currently very difficult to locate online and is therefore not as readily available and transparent as UNC documentation.

Self-Governance Statement: *Please provide your views on the self-governance statement*

This modification proposes a significant and material change to the governance process and on this basis we do not agree that it should be self-governance.

Implementation: *What lead-time do you wish to see prior to implementation and why?*

N/A

Impacts and Costs: *What analysis, development and ongoing costs would you face?*

None

Legal Text: *Are you satisfied that the legal text will deliver the intent of the Solution?*

Not reviewed

Are there any errors or omissions in this Modification Report that you think should be taken into account? *Include details of any impacts/costs to your organisation that are directly related to this.*

No comment

Please provide below any additional analysis or information to support your representation

We do not have any further material to provide.

Representation - Draft Modification Report UNC 0848S

Alignment of Entry and Exit Capacity Constraint Management Provisions

Responses invited by: **5pm on 11 September 2023**

To: enquiries@gasgovernance.co.uk

Please note submission of your representation confirms your consent for publication/circulation.

Representative:	Richard Pomroy
Organisation:	Wales & West Utilities
Date of Representation:	11th September 2023
Support or oppose implementation?	Comments
Relevant Objective:	
Relevant Charging Methodology Objective:	Not Applicable

Reason for support/opposition: Please summarise (in one paragraph) the key reason(s)

We recognise that methodologies required by licence take precedence over UNC provisions. The methodologies set out principles and methods and the UNC is the contractual agreement between the relevant parties that puts them into effect.