

UNC Panel Chair, UNC Panel members, gas transporters licensees, gas shipper licensees, gas interconnector licensees and other interested parties

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Date: 1 April 2015

Dear Alex,

**Authority decision to direct that UNC modification proposals 0501/A/B/C 'Treatment of Existing Entry Capacity Rights at the Bacton ASEP to comply with EU Capacity Regulations' are revised and resubmitted**

On 19 February 2015 the UNC Panel submitted a Final Modification Report (FMR) to the Authority for UNC modification proposals 0501/A/B/C 'Treatment of Existing Entry Capacity Rights at the Bacton ASEP to comply with EU Capacity Regulations' for Authority decision. These modifications have been raised following our decision to split the existing Bacton entry point into two entry points in order to facilitate the implementation of the Capacity Allocation Mechanisms European network code (CAM).<sup>1</sup> CAM is to be implemented by 1 November 2015.

This letter sets out the reasons for our decision to direct that the FMR is revised and resubmitted, to address the issue with the legal text identified below, which arises in light of our decision to undertake an impact assessment on the proposed modifications.

Section 5A of the Utilities Act 2000 places a duty on the Authority to carry out an impact assessment (IA) where:

- the Authority is proposing to do anything for the purposes of, or in connection with, the carrying out of any function exercisable by it under or by virtue of Part 1 of the Gas Act 1986 or Part 1 of the Electricity Act 1989; and
- it appears to the Authority that the proposal is "important" within the meaning of section 5A.

Our view is that our decision on UNC 0501/A/B/C falls under the meaning of "important" and we will therefore conduct an IA prior to making our decision. We are currently aiming to publish an IA on these modifications by 19 May 2015. We are aiming to make a final decision on the modifications in August 2015.

In light of our decision to carry out an IA, we consider that there will be an impact on the legal text developed for each of the modifications and set out in the FMR. In particular, the legal text for all four modifications specifies a fixed date for the start of their respective processes (no later than ten Business Days following completion of the allocation of Quarterly NTS Entry Capacity). We understand that the completion of the allocation of

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<sup>1</sup> Our decision can be found here: <https://www.ofgem.gov.uk/publications-and-updates/modification-special-conditions-1a-and-5f-national-grid-gas-plc%E2%80%99s-gas-transporter-licence-facilitate-implementation-capacity-allocation-mechanisms-network-code>

Quarterly NTS Entry Capacity will be some time in May 2015. Each modification then describes processes and timescales following on from this date. If the legal text remains as it is, it will be referring to dates in the past at the point when we make our final decision. The modifications will therefore be unworkable based on the dates described in the current drafting of the legal text.

We therefore direct the UNC Panel to undertake further work to ensure that the dates and timescales described within the legal text are resilient to our anticipated decision timing for the modifications. These dates should also be reflected in an updated version of the FMR. For the avoidance of doubt, we do not currently consider that the UNC Panel needs to consider making changes other than to the dates and subsequent timings set out in the proposed legal text.

We would prefer to receive the revised FMR and legal text before publishing our IA. This would mean that we can publish our IA with the certainty that any changes to the legal text relate to the dates/timescales only. However, we recognise that there may not be sufficient time for the UNC Panel to properly assess what changes are required. We therefore request that after addressing the issues described above, and revising the FMR and legal text accordingly, the UNC Panel should resubmit UNC0501/A/B/C to us for decision as soon as practicable and no later than **18 June 2015**. We ask the UNC Panel to inform us if they consider further time is necessary.

If you would like to discuss this letter please contact David McCrone on 0141 341 3993 or email [david.mccrone@ofgem.gov.uk](mailto:david.mccrone@ofgem.gov.uk) .

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Paul Branston', with a large, stylized flourish above the name.

**Paul Branston**

**Associate Partner, Costs & Outputs**

Signed on behalf of the Authority and authorised for that purpose