Transition Document Part IIC – Transitional Rules

Insert a new paragraph 18 as follows:

18 PERFORMANCE ASSURANCE

18.1   Introduction and Interpretation

18.1.1   This paragraph 18 establishes a temporary regime for monitoring DNOs' and Shipper Users' and (with effect from the time at which the Code is modified so as to impose obligations on Independent Gas Transporters with respect to the same) Independent Gas Transporters performance of LDZ Settlement Related Obligations (as defined in paragraph 18.1.3(a)).

18.1.2   This paragraph 18 shall cease to apply with effect from 1st October 2018[1], but such cessation shall not affect the rights and obligations of any Party (including rights and obligations in respect of amounts including interest payable by or to any Party) accrued under, or, under the Code in respect of, this Paragraph 18 up to such date, which shall continue to be enforceable notwithstanding such cessation.

18.1.3   For the purposes of this paragraph 18:

(a)   "**LDZ Settlement Related Obligations**" means, with respect to DNOs and Shipper Users, obligations under the Code (for the avoidance of doubt including obligations under the Code with respect to CSEP Supply Points and CSEP Supply Meter Points with effect from the time at which the Code is modified so as to include obligations with respect to the same[2]) the standard of performance of which (including any delays or failures in the performance of which) has, or may have, a material impact on the following matters:

(i)   the quantities of gas treated as offtaken from Local Distribution Zones;

(ii)   the quantities of gas treated as delivered at LDZ System Entry Points; or

(iii)   reconciliations and adjustments in respect of gas offtaken from Local Distribution Zones and/or delivered to LDZ System Entry Points;

and, with effect from such time, with respect to Independent Gas Transporters, such obligations to the extent that they are obligations imposed on Independent Gas Transporters by the Independent Gas Transporters Arrangements Document;

(b)   "**Performance Assurance Scheme**" means a scheme for monitoring and reporting on the performance by Shipper Users and DNOs and with effect from 1st October 2015) Independent Gas Transporters of LDZ Settlement Related Obligations;

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[1] So it ceases to apply at the end of 30th September – see GTC C 2.2.4(b)

[2] i.e on implementation of Modification 0440 Project Nexus.

(d)   "**ESPAR Guidelines**" means the document entitled "Guidelines for Energy Settlement Performance Assurance Regime" adopted by the UNC Committee for the purposes of this paragraph 18 by majority resolution[3], as such document is amended from time to time pursuant to this paragraph 18 and TPD Section V12 and its own terms, setting out:

(i)   the scope of the Performance Assurance Scheme, including requirements with respect to the establishment and maintenance of a register of risks associated with LDZ Settlement Related Obligations, and a registry of reports on DNO's, Shipper Users' and Independent Gas Transporters' collective and individual standards of performance with respect to specific LDZ Settlement Related Obligations;

(ii)   the manner in which (in addition to pursuant to this paragraph 18 and TPD Section V12) the ESPAR Document may be amended and provisions with respect to the estimation and establishment of User Pays Charges in respect of such amendments; and

(iii)   any other matters (consistent with paragraph 18.1.1(d)(i)) the Performance Assurance Committee decides and the Transporters agree should be included.

(f)   subject to paragraph 18.2.1, the **"Performance Assurance Committee"** or "**PAC**" is the Uniform Network Code Committee or any relevant sub-committee.

18.1.4   References in this paragraph 18 and in the ESPAR Document to the "Performance Assurance Framework Administrator" or "PAFA" shall be deemed to be references to the DNOs or, to the extent relevant, Independent Gas Transporters, acting though the Transporter's Agency.

18.1.5   In the event of any inconsistency between the provisions of this paragraph 18 and the terms of the ESPAR Guidelines, the terms of this paragraph 18 shall prevail and for the avoidance of doubt the ESPAR Document may not be amended so as to expand the scope of the Performance Assurance Scheme beyond the monitoring of, and reporting on, the performance of LDZ Settlement Related Obligations.

18.2   Performance Assurance Committee

18.2.1   Where this paragraph 18, TPD Section V12, or the ESPAR Guidelines provide for any decision to be taken by the PAC such decision shall be taken by the affirmative vote of a simple majority of the members of the UNC Committee or relevant Sub-committee (and subject to such other procedures as the UNC Committee may establish) save that any representative of National Grid NTS who is a member of the UNC Committee or any relevant Sub-committee will not vote on any such matter.

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[3] Normally the Transporters adopt Network Code Documents but the Proposal indicates that the ESPAR Guidance is the document annexed to the Final Modification Report. It is understood that this document is not being prepared by the transporters. Indeed the draft Guidance states that it is "Prepared and maintained by the UNCC". As the UNC Committee has the ability to change the PA Framework anyway it is suggested that the UNC Committee should be responsible for its initial adoption. It is anticipated that the first UNC Committee meeting after modification proposal implementation would adopt the ESPAR Guidance and establish the Performance Assurance Committee. If necessary to avoid delays this could be done in contemplation of the relevant provisions coming into force on implementation of Mod 506A.

18.2.2 Subject to paragraph 18.1.5 and any determination to the contrary by the UNC Committee, the PAC shall have the functions set out in the ESPAR Guidelines (including with respect to the modification of the ESPAR Guidelines) and shall conduct its affairs in accordance with such terms of reference as the UNC Committee shall determine shall apply to the proceedings of the PAC.

18.3 ESPAR Guidelines

18.3.1 Subject to paragraph 18.2, TPD Section V12 shall apply to the ESPAR Guidelines as if the ESPAR Guidelines were a "Document" and one of the "Documents" (in both cases as defined TPD by Section V12.1.1).

18.3.2 The Transporters shall, as soon as reasonably practicable, engage the Transporter Agency to comply on behalf of DNOs with those requirements of the ESPAR Guidelines expressed as being obligations of the Performance Assurance Framework Administrator or PAFA[4].

18.3.3 Shipper Users shall comply with those requirements of the ESPAR Guidelines expressed as applying to Users.

18.4 Independent Gas Transporters – IGTAD A1.7.1

18.4.1 With effect from 1st October 2015 the agreement which each Independent Gas Transporter is to enter into with the Agency Company pursuant to Section A1.7.1 of the Independent Gas Transporters Arrangements Document shall provide for the Agency Company to comply with those requirements of the ESPAR Guidelines which are expressed as being obligations of the Performance Assurance Framework Administrator or PAFA and relate to the LDZ Settlement Related Obligations of Independent Gas Transporters.

18.5 User Pays Charges

18.5.1 The engagement of the Transporter Agency by the Transporters pursuant to paragraph 18.3.2 and the activities by the Transporter Agency pursuant to such engagement will be performed as User Pays Services and Shipper Users shall pay (in accordance with Section S) User Pays Charges in respect of such User Pays Services as set out in the Agency Charging Statement.[5]

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[4] The Transporter Agency is not a party to the Code so the Code and subsidiary documents such as the ESPAR Guidelines cannot impose obligations directly upon it. Transporters will need to consider whether any sub-contracting of obligations under the ESPAR Guidelines is subject to procurement legislation.
[5] NB IF this provision is actually necessary (and I think not in light of TPD B1.7.8) then a comparable provision needs to be inserted in the text for Mod 506