

UNC Workgroup 0501 Minutes
Treatment of Existing Entry Capacity Rights at the Bacton ASEP to
comply with EU Capacity Regulations
Tuesday 12 August 2014
Energy Networks Association, 52 Horseferry Road, London SW1P 2AF

Attendees

Bob Fletcher (Chair)	(BF)	Joint Office
Lorna Dupont	(LD)	Secretary
Alison Chamberlain	(AC)	National Grid NTS
Anna Shrigley	(AS)	ENI
Antony Miller	(AM)	Centrica Storage
Charles Ruffell*	(CR)	RWEst
Colin Williams	(CW)	National Grid NTS
David McCrone	(DM)	Ofgem
Francisco Goncalves	(FG)	Gazprom
Graham Jack	(GJ)	Centrica
Holden Hardcastle	(HH)	Centrica Energy
Isabelle-Agnes Magne*	(IAM)	GDF Suez
Jeff Chandler	(JC)	SSE
Julie Cox*	(JCx)	Energy UK
Kirsten Elliott-Smith	(KES)	Cornwall Energy
Laura Butterfield	(LB)	National Grid NTS
Lesley Ramsey	(LR)	National Grid NTS
Lisa Martin	(LMa)	Ofgem
Lucy Manning	(LM)	Interconnector UK
Malcolm Montgomery	(MM)	National Grid NTS
Marshall Hall	(MHa)	Oil & Gas UK
Matthew Hatch	(MH)	National Grid NTS
Rachel Turner	(RT)	BG International
Richard Fairholme	(RF)	E.ON UK
Richard Miller	(RM)	Ofgem

**via teleconference*

Copies of all papers are available at: <http://www.gasgovernance.co.uk/0501/120814>

The Workgroup Report is due to be presented at the UNC Modification Panel by 20 November 2014.

1. Introduction and Status Review**1.1 Review of Minutes**

BF reported that shortly after publication amendments had been made at the request of Ofgem, and the revised minutes had been published on the website on 24 July 2014.

The minutes of the previous meeting (11 July 2014) were accepted.

1.2 Review of Actions

0602: Perceived Potential Change of Product –

Part 1 - Ofgem to provide a legal view/interpretation of this modification (for consideration at the next meeting).

Part 2 – Where possible, parties to provide individual Bacton contractual evidence to Ofgem.

Update: How to best fulfil the different parts to this action was discussed at some length.

Reference was made to the current Ofgem consultation; it was recognised that it was not an ideal time to have a modification process running dependent on the licence change being approved, but there was no other practical choice under the circumstances.

RM believed that Part 1 could not be fulfilled without input provided under Part 2.

MHa pointed out that capacity holders had directed their efforts and information to the consultation process, which was now closed; and that the information they provided under this may assist Ofgem's views. DM thanked those parties that had responded to the consultation, and their responses were being followed up individually. LMa commented that Ofgem had received very limited content from a few parties, and suggested it would be helpful if others could respond to Ofgem with further information (Ofgem would be happy to arrange meetings to discuss) as it would be very difficult for Ofgem to form a view at present. LMa recognised it was rather a 'chicken and egg' situation and urged parties to talk to Ofgem regarding issues and concerns; based on the information received by Ofgem to date there appears to be no problem. No responses had made any reference to legacy contracts. Ofgem would like to understand what legacy contracts were believed to be in place and how they are perceived to be affected.

AS referred to information held on the National Grid website and comparisons that could be made; such as the sum of the sold capacity at Bacton exceeds the proposed baseline at Bacton UKCS for some periods following implementation of CAM. LMa believed that a key piece of information was missing – an understanding of the types of decisions that Shippers make when purchasing capacity.

GJ reiterated the concerns voiced at the previous meetings, and suggested that Ofgem should consider whether it was satisfied with Modification 0501 to the extent that, should it be brought in, it would not be open to legal challenge. LMa referred to the developments and uncertainties relating to Tariffs and asked if that was a reason for apparent reticence in not providing information to Ofgem. MHa was of the view that it was not legally sustainable to proceed with Modification 0501 because it abolishes the existing products and frustrates the original terms.

LMa referred to the coming into existence of IUK and BBL as additional entry points at the Bacton ASEP (some years after the UNC arrangements were brought in), and this did not seem to have been perceived as presenting fundamental change to any position.

MHa reiterated that the two new products proposed are fundamentally different to the product currently in existence.

AS observed that Upstream Shippers were more likely to make long term capacity bookings, rather than Interconnector Shippers who would be more interested in a short term basis only. It is a complex issue and difficult to speculate about the parties' original intentions/expectations when booking capacity, but the new modification should allow some flexibility to address the changes that have undermined the original basis and expectations otherwise the existing contracts may be legally frustrated.

MHa referred to the licence changes that were required to facilitate the changes proposed by the modification, and suggested that the legal basis for the licence changes needed to be addressed and clarified first, before addressing the modification.

MHa understood why Bacton needed to be split due to the EU CAM Regulation but reiterated that the single Bacton ASEP ceases and is replaced by two very different ones, the contracts associated with the single Bacton ASEP are then frustrated – and cannot simply reallocate

existing obligations to the other two. It frustrated the existing capacity contracts; and issues with Tariffs just exacerbate the primary concerns. AS added that parties had expected the contracts to remain for the duration of the capacity so that it could be used for all the sub terminals at Bacton; under the proposed changes of Modification 0501 this will no longer be possible and capacity could possibly be allocated to where it is not wanted by the Shipper. The capacity was bought because it was expected to be used in a certain way.

AM believed that the Workgroup needed to understand the contractual law issues with a preliminary view from Ofgem before any progress can be made. MHa referred back to Ofgem's consultation, which would probably have covered everything except to conclude that frustration of contract has occurred. An intrinsic part of the capacity's value when bought has subsequently disappeared.

When asked about Modification 0501A, Ofgem declined to give a view while modifications were in development.

BF summarised that the action should be reviewed again at the next meeting, assuming the provision/acquisition and assessment of any other pertinent information in the meantime.

Carried forward

2. Discussion

Charging Issues

CW pointed out additional issues that may need to be addressed in respect of Modification 501A and charging. The impact on commodity needs to be considered before contemplating the return of capacity. In addition this needs to consider the compatibility with the price setting timelines as there is an interaction. The degree of volatility being introduced should also be considered. LB confirmed that the reallocation process timeline should be considered for Modification 0501A.

Additions to Modification 0501

LR gave a short presentation, drawing attention to a proposed revision to Modification 0501 (to include the requirement for existing capacity trades to be recreated at the two new points, plus a default reallocation in the event of inability of the parties involved to agree transfer proportions at the two new points). GJ questioned if this was legally enforceable, and whether National Grid would have the right to impose this on parties. MH confirmed that National Grid Gas and the primary holder of the capacity were the contracting parties. Where Shippers had entered into a trade then this was between the primary holder and the secondary trade party and hoped that Shippers would ensure that the default mechanism proposed would not be triggered. MHa reiterated that Ofgem needed to establish if it was legally sustainable to proceed with Modification 0501.

LR reminded the processes at Bacton that would be suspended whilst the reallocation process was proceeding, adding that thought was being given to capacity trades being suspended from the modification implementation date.

MH advised that Modification 0501A would need to also be reviewed by Xoserve and National Grid IS to assess what (if any) system changes might be required.

Modification 0501 will be revised to take account of the proposed changes relating to trades.

Modification 0501A

BF advised that this was to be considered at the August UNC Modification Panel. It had been introduced at last week's EU Workgroup meeting.

General comments

MHa suggested that the rate at which capacity comes back and is made available for bundling at Bacton could be key for the Panel to consider. An accelerated rate of bundling might be seen as an advantage of 0501A over 0501, for the world beyond 2018.

It was considered that an ability to terminate might accelerate bundling faster.

There may be an impact(s) on the commodity charge if capacity is returned with Modification 0501A. MHa commented that Ofgem's Gas Transmission Charging Review (GTCR) was meant to be addressing some of these issues.

Noting that Shippers will bear the costs and will want flows in the right place, AS reiterated the need for fair arrangements in splitting capacity and how it will be used in the future.

CW referred back to charging impacts. The impact(s) may be small but is dependent on timing arrangements, and gave an example to illustrate the potential significance. Timing options were briefly discussed.

MM asked GJ what is the price of any returned capacity. GJ confirmed that the price would be the same as the WAP that is used to allocate the capacity to the new ASEPS.

3. Legal Text

Provision of the text for the Workgroup to review was discussed. National Grid NTS will be preparing text for both Modifications 0501 and 0501A. MH anticipated having text ready for review at the next meeting, on 16 September 2014.

4. Workgroup Report

The Workgroup Report is due to be presented at the UNC Modification Panel by 20 November 2014.

5. Any Other Business

None.

6. Diary Planning

The following meetings are scheduled to take place during 2014.

Date	Location
Tuesday 16 September 2014 European Workgroups Day: 0500 and 0501	10:00 31 Homer Road, Solihull B91 3LT
Monday 29 September 2014 European Workgroups Day: 0500 and 0501	10:00 31 Homer Road, Solihull B91 3LT
Wednesday 08 October 2014 European Workgroups Day: 0500 and 0501	ENA, 6 th Floor, Dean Bradley House, 52 Horseferry Road, London SW1P 2AF

Tuesday 21 October 2014 European Workgroups Day: 0500 and 0501	ENA, 6 th Floor, Dean Bradley House, 52 Horseferry Road, London SW1P 2AF
Wednesday 05 November 2014 European Workgroups Day: 0500 and 0501	ENA, 6 th Floor, Dean Bradley House, 52 Horseferry Road, London SW1P 2AF

Action Table

Action Ref	Meeting Date	Minute Ref	Action	Owner	Status Update
0602	03/06/14	2.0	<p><i>Perceived Potential Change of Product –</i></p> <p><i>Part 1 - Ofgem to provide a legal view/interpretation of this modification should additional information/analysis be provided to inform a view</i></p> <p><i>Part 2 – Where possible parties to provide individual Bacton contractual evidence to Ofgem.</i></p>	<p>Ofgem (DM)</p> <p>All parties</p>	<p>Updates to be provided at September meeting.</p> <p>Carried forward</p>