

**PROPOSED LEGAL TEXT FOR INSERTION OF A NEW SECTION E INTO THE  
EUROPEAN INTERCONNECTION DOCUMENT**

**UNIFORM NETWORK CODE – EUROPEAN INTERCONNECTION DOCUMENT**

**SECTION E – RULES FOR THE RELEASE OF INCREMENTAL CAPACITY  
AT INTERCONNECTION POINTS**

**1 GENERAL**

**1.1 Introduction**

1.1.1 This section E provides a framework and rules to enable the release of incremental capacity at Interconnection Points.

**1.2 Interpretation**

1.2.1 For the purposes of this Document:

"**Amended CAM Code**" means Commission Regulation (EU) No [•] of [•] establishing a Network Code on Capacity Allocation Mechanisms in Gas Transmission Systems and repealing Commission Regulation EU No 984/2013;

"**Demand Indication Application Fee**" means the fee contemplated in paragraph 6;

"**under way**" for purposes of paragraph 8 of this Section E, means:

(a) in relation to NTS Entry Capacity, the period from the QSEC invitation letter to the allocation of QSEC; and

(b) in relation to NTS Exit Capacity, the period from the July window notification letter to the 30th September of the relevant Annual Yearly Auction.

**2 DEMAND ASSESSMENT**

**2.1 Biennial Process**

2.1.1 Interested parties may submit demand indications to National Grid NTS for a window period of 8 weeks, starting from the date that the Annual Yearly Auction opens, except in respect of the demand assessment window in 2017 which will commence from the date of entry into force of the Amended CAM Code.

2.1.2 The first demand indication window will take place in 2017 and subsequently must take place at least in odd numbered years.

2.1.3 Any interested party can submit a demand indication regardless of whether such party is a User.

- 2.1.4 Demand indications are non-binding and shall include the following information:
- (a) the two or more adjacent entry-exit systems between which demand for incremental capacity is expressed and the requested Direction;
  - (b) the Gas Years for which a demand for incremental capacity is expressed;
  - (c) the amount of capacity demanded between the respective entry-exit systems in each Gas Year (a range is permitted);
  - (d) information on non-binding demand indications which were or will be submitted to other transmission system operators, in case such indications are linked to each other, such as demand for capacities at several related Interconnection Points;
  - (e) whether the demand expressed is subject to any of the following conditions:
    - (i) demand is linked to demand at other Interconnection Points;
    - (ii) demand is linked to demand expressed across a number of different years;
    - (iii) demand is linked to a specific or minimum acceptable quantity; and
  - (f) contact details for the party.
- 2.1.5 National Grid NTS will confirm receipt of a demand indication within 2 Business Days of receipt.
- 2.1.6 Demand indications will be included in the demand assessment report contemplated in paragraph 2.1.11 where they are considered to be competent by National Grid NTS pursuant to paragraph 2.1.10.
- 2.1.7 The provisions of paragraph 2.2.3 shall apply where a demand indication is received outside of the window period referred to in paragraph 2.1.1.
- 2.1.8 National Grid NTS shall respond to demand indications within 16 weeks of the start of the Annual Yearly Auction, or in the case of demand indications to which paragraph 2.2.3 applies, within 8 weeks after receiving such demand indication.
- 2.1.9 The response in paragraph 2.1.8 shall provide at least the following information:
- (a) confirmation of whether the demand indication is competent (as per paragraph 2.10 below);
  - (b) subject to paragraph 2.1.9(c), confirmation that the demand indication will be considered in the ongoing demand assessment; and
  - (c) confirmation, and justification, of which demand assessment the indicated demand will be assessed in, if not assessed as contemplated in paragraph 2.1.9(b).

2.1.10 National Grid NTS will consider a demand indication to be competent where:

- (a) all the information required under paragraph 2.1.4 have been correctly and fully submitted; and
- (b) the Demand Indication Application Fee has been paid and is available to National Grid NTS in cleared funds.

2.1.11 A demand assessment report will be produced and published by National Grid NTS within 16 weeks of the start of the Annual Yearly Auction.

2.1.12 The demand assessment report contemplated in paragraph 2.1.11 shall take into account the following criteria:

- (a) whether the Community-wide Ten Year Network Development Plan (TYNDP) identifies a physical capacity gap whereby a specific region is undersupplied in a reasonable peak scenario and where offering incremental capacity at the Interconnection Point in question could close such gap; or a national development plan identifies a concrete and sustained physical transport requirement;
- (b) whether no yearly standard capacity product linking two adjacent entry-exit systems is available in the Annual Yearly Capacity Auction for the year in which incremental capacity could be offered for the first time and in the three subsequent years, because all the capacity has been contracted; and
- (c) whether interested parties submitted non-binding demand indications requesting incremental capacity for a sustained number of years and all other economically efficient means for maximising the availability of existing capacity are exhausted;

2.1.13 The demand assessment report shall include at least the following:

- (a) a conclusion on whether to initiate an incremental capacity project (i.e. whether to proceed to the design phase in paragraph 3);
- (b) the aggregated non-binding demand indications received during the latest demand indication window;
- (c) the aggregated non-binding demand indications that were received before the latest demand indication window was opened, and which have been rolled forward to be considered in the current demand assessment;
- (d) the aggregated non-binding demand indications that were received after the latest demand indication window closed, but which will be considered in the current demand assessment;
- (e) an assessment of the expected amount, Direction and duration of demand for incremental capacity at the common Interconnection Points with each adjacent entry-exit system or interconnectors;
- (f) a conclusion on whether, and for which interconnection points and which expected demand level, technical studies for incremental capacity projects will be conducted;

(g) provisional timelines for the implementing the incremental capacity project and conducting the technical studies and the consultation described in the design phase in paragraph 3;

(h) what fees, if any, will be applied; and

(i) the types and, where available, the aggregated size of conditional demand indications received.

2.1.14 [National Grid NTS shall use the standard templates for demand assessment reports as provided by ENTSOG.]

2.1.15 National Grid NTS shall publish point(s) of contact for the incremental capacity project and keep such details up to date as the project progresses.

## 2.2 Ad-hoc (open season) Process

2.2.1 A demand indication can be submitted by an interested party at any time outside the biennial demand assessment process in paragraph 2.1. The information provided in such demand indication will be the same as in paragraph 2.1.4.

2.2.2 Upon receiving a demand indication under this paragraph 2.2, National Grid NTS will confirm receipt to the relevant party within 2 Business Days.

2.2.3 If a demand indication is received outside the biennial demand assessment window in paragraph 2.1, then National Grid NTS shall, in order of preference:

(a) where possible, accept the demand indication (subject to competency) and incorporate the demand into any existing incremental capacity project at the Interconnection Point; or

(b) open an ad-hoc demand indication window, subject to agreement from other relevant TSOs and subject further to paragraph 2.2.4; and

(c) inform the applicant of when its demand can be considered if not considered pursuant to paragraph 2.2.3.(a) or 2.2.3(b), and provide justifications for why it cannot be considered under either paragraph 2.2.3(a) or 2.2.3(b)

2.2.4 National Grid NTS may not open an ad-hoc demand indication window if it is not of the opinion that the economic test in respect of such ad-hoc demand indication can be completed prior to the start of the next biennial demand assessment.

2.2.5 Ad-hoc demand indications will be considered for competency in accordance with paragraph 2.1.10.

2.2.6 An ad-hoc demand indication window pursuant to paragraph 2.2.3(b) will be opened for 8 weeks, unless otherwise specified by National Grid NTS.

2.2.7 The ad-hoc demand indication window will open by no later than the latter of:

(a) 5 Business Days after the initial competent ad-hoc demand indication is

received; and

(b) the earliest time acceptable to other relevant TSOs (that have been identified as relevant through the demand indication(s)).

2.2.8 Within 8 weeks of the closure of the ad-hoc demand indication window, National Grid NTS will produce and publish an ad-hoc demand assessment report.

2.2.9 The provisions of paragraphs 2.1.12, 2.1.13 and 2.1.14 shall apply mutatis mutandis to the content of the ad-hoc demand assessment report contemplated in paragraph 2.2.8.

### **3 DESIGN PHASE**

#### **3.1 Joint Consultation:**

3.1.1 The design phase in this paragraph 3 starts as soon as the relevant demand assessment report contemplated in paragraph 2.1.11 or 2.2.8 is published.

3.1.2 National Grid NTS and the Adjacent TSO(s) shall conduct a joint consultation on its proposals to deliver incremental capacity by no later than 12 weeks from the start of the design phase.

3.1.3 The duration of the consultation referred to in paragraph 3.1.2 shall be no less than 1 month and no greater than 2 months, and this shall be clearly specified in the consultation when it is issued.

3.1.4 The consultation shall cover at least the following elements:

(a) a description of the incremental capacity project, including a cost estimate;

(b) the offer levels (for bundled capacity products) at the Interconnection Point;

(c) the proposed allocation mechanism, including justification if an alternative/non auction allocation mechanism is proposed;

(d) provisional timelines for implementation of the incremental capacity project;

(e) general rules and conditions that a party must accept in order to participate and access capacity in the binding capacity allocation phase of the incremental capacity process, including any security/collateral to be provided and how possible delays in the provision of capacity or in the event of a disruption to the project are dealt with contractually;

(f) the f-factor;

(g) any additional demand indications received after the demand indication window closed; and

(h) whether the incremental capacity is likely to result in a sustained, significant decrease in the utilisation of other non-depreciated gas infrastructure in the same and adjacent entry-exit systems or along the same gas transport route.

## 4 REGULATORY APPROVAL

### 4.1 Project Proposal

- 4.1.1 Following completion of the consultation process in paragraph 3 of this Section E, National Grid NTS and the relevant Adjacent TSO(s) shall prepare a joint project proposal for submission to the relevant national regulatory authorities and for publishing.
- 4.1.2 Subject to agreement by the relevant Adjacent TSO and provided that responses are submitted timeously, the responses to the consultation in paragraph 3 of this section E shall be published together with the project proposal, unless they have been marked as confidential by the responder.
- 4.1.3 The project proposal shall be submitted to the relevant national regulatory authorities by no later than the latter of:
- (a) 3 months following the end of the consultation process in paragraph 3; and
  - (b) the earliest time acceptable to the other relevant TSOs.
- 4.1.4 The project proposal shall include, at least, the following information:
- (a) all offer levels, reflecting the range of expected demand for incremental capacity at the relevant Interconnector Point(s);
  - (b) The general rules and conditions that a party must accept in order to participate and access capacity in the binding capacity allocation phase of the incremental capacity process, including any security/collateral to be provided and how possible delays in the provision of capacity or in the event of a disruption to the project are dealt with contractually;
  - (c) timelines for the implementation of the incremental capacity project, including any changes since the consultation, and measures to prevent delays and minimise the impact of delays;
  - (d) the parameters to be used in the economic test:
    - (i) the present value of binding commitments of network users for contracting capacity is derived from the following parameters:
      - (1) estimated reference price;
      - (2) potential auction premium;
      - (3) mandatory minimum premium;
    - (ii) the present value of the estimated increase in the allowed revenue of National Grid NTS; and
    - (iii) the f-factor;
  - (e) whether an exceptionally extended horizon for contracting capacity for an

additional period of up to 5 years beyond the allocation of up to 15 years after the start of operational use may be required;

(f) the proposed allocation mechanism and a where an alternative/non auction mechanism is proposed, its justification, including the conditional commitments allowed under such a mechanism.

(g) the payable price, calculated in accordance with paragraph 3.1.4(f).

## 4.2 Joint Notice

4.2.1 Upon publication of the relevant national regulatory authorities' decision on the incremental capacity project, National Grid NTS and the Adjacent TSO(s) shall prepare and publish, jointly, a notice of such decision and if the relevant national regulatory authorities have approved the incremental capacity project, the notice shall contain at least the following information:

(a) the information contained in the project proposal;

(b) the contract(s) relating to the capacity offered;

(c) the actual costs incurred by National Grid NTS in completing the design work and whether there is any corresponding adjustment in the Demand Indication Application Fee; and

(d) whether there is a need for reinforcement works.

4.2.2 National Grid NTS shall be under no obligation to issue a contract to a party who did not submit an accepted and competent demand indication.

4.2.3 The joint notice shall be published by no later than 2 months before the offer of incremental capacity in the Annual Yearly Auction. Following publication of the joint notice, the incremental capacity project will progress to the allocation phase, where incremental capacity will be allocated either via the standard auction allocation mechanism for Annual Yearly Auctions as contemplated in Section B of this Document or the alternative allocation mechanism as set out in the approved project proposal pursuant to paragraph 5.1.

## 5 ALLOCATION

### 5.1 Alternative Mechanism

5.1.1 The project proposal shall state the proposed allocation approach (being either auctions via the Annual Yearly Auction or an alternative mechanism). The rules for allocation via the alternative allocation mechanism will be contained within the project proposal (as required by paragraph 4.1.4(f)) for approval by national regulatory authorities on a case-by-case basis.

5.1.2 Following the approval of the relevant national regulatory authorities, the provisions contained in each approved project proposal shall be treated as incorporated into and forming part of the Code, and binding pursuant to this Section E.

## 6 DEMAND INDICATION FEE

- 6.1.1 A Demand Indication Application Fee will be required to achieve competency and will be payable by each party submitting a demand indication.
- 6.1.2 The Demand Indication Application Fee shall be equivalent in value to the PARCA Application Fee.
- 6.1.3 The Demand Indication Application Fee will be repaid in full to a party if:
  - (a) an incremental project is not initiated following publication of the demand assessment report; and
  - (b) the economic test for an incremental capacity project is positive.
- 6.1.4 The Demand Indication Application Fee will be retained by National Grid NTS if the economic test for an incremental capacity project is negative. For the avoidance of doubt, this includes circumstances where parties submit nil submissions in the economic test.
- 6.1.5 Where the Demand Indication Application Fee is retained by National Grid NTS, it will be reconciled against actual costs incurred by National Grid NTS in progressing the incremental capacity project.

## 7 IMPACT ON OTHER PROCESSES

- 7.1.1 The binding application phase of the incremental capacity process lasts from the opening of the reservation window to the completion of the economic test (at which stage capacity is reserved).
- 7.1.2 If the binding application phase of the incremental capacity process overlaps with another long term allocation process then National Grid NTS shall explicitly state which process the unsold capacity is available in.
- 7.1.3 If the binding application phase begins while there is another long term allocation process under way then the unsold capacity will already have been made available in the other process.
- 7.1.4 If the binding application phase begins while there is no other long term allocation process under way but is not completed by the time that another long term allocation process starts, then the unsold capacity shall not be included in the other long term allocation process if it has been identified by National Grid NTS as substitutable capacity for the incremental capacity project.