

3 April 2008

Mr. Julian Majdanski
UNC Panel Secretary
Joint Office of Gas Transporters
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Re: Modification Proposals 0195/0195A: “Introduction of Enduring NTS Exit Capacity Arrangements”

Dear Julian,

Thank you for the opportunity to comment on these modification proposals. Bord Gáis Networks (BGN) makes this response in its capacity as operator of the network downstream of Moffat. In our response below we consider these new proposals alongside the suite of Mod. 116 proposals that Ofgem is also reviewing as part of its decision process on NTS exit reforms.

General concerns over NTS exit reforms

Moffat is the key gas supply point for downstream networks supplying three jurisdictions: the Republic of Ireland, Northern Ireland and the Isle of Man with supply dependencies from the Moffat CSEP of 80%, 100% and 100% respectively. The importance of the gas market arrangements at Moffat cannot therefore be over-emphasised given the dependence of these three jurisdictions on gas.

BGN’s fundamental concern is that NTS shippers at Moffat are not best placed to signal forward NTS flat exit capacity requirements at Moffat, and make financial commitments 3-7 years out, as would be required under the “user commitment” model. Given the extremely high dependency of downstream gas and electricity consumers on NTS Exit Capacity availability and gas flows at Moffat it would be a concern to leave Moffat capacity booking processes solely in the hands of NTS shippers. It would clearly be difficult for all individual NTS shippers to make a reliable assessment of, and commitment to, the collective requirement for future Moffat capacity given the dynamic of competitive downstream markets. Ofgem, in its 2007 Mod.116 decision document, acknowledged the concerns identified by the downstream jurisdictions and expressed a keenness to assist in addressing them, noting that a “single party” concept for Moffat NTS exit capacity bookings was being

explored. However, neither the new Mods.195/195A nor the original Mods.116 accommodate this concept.

BGN are also concerned at the implications of the flexibility product, firstly because rules on product acquisition and usage are unworkable at multi-shipper offtakes having dependent downstream jurisdictions, such as Moffat. The flexibility product will also have adverse impacts both in terms of physical operations at Moffat and the potential additional costs imposed on the downstream markets, arising through the construction of rules which afford no certainty on the availability, price or exposure associated with the product. Further, we believe imposition of an exit flexibility product could serve to actually generate an artificial flexibility shortage as users seek to offset exposure by acquiring product quantities in excess of physical needs. From the recent analysis conducted by National Grid NTS we are not convinced that physical exit flexibility is or will become scarce, and in any event the acknowledged linkage with entry flexibility implies the need for a holistic, NTS-wide, approach to addressing this issue. We welcome the fact that the new Mods.195/195A do not extend the flexibility capacity concept to non-DN users.

Impacts at Moffat and downstream

With respect specifically to the impacts at Moffat and downstream, we remain of the view that there will be adverse effects relating to market prices, promotion of competition, security of supply and implementation costs. All of the exit reform modification proposals (with the exception of 116A) have significant adverse practical and efficiency implications for cross-border trade and downstream jurisdictions. We believe it is essential that any proposed modification should address directly the compatibility of NTS exit reforms with, and the impact on, cross border trade and downstream jurisdictions. This approach, we believe, would correspond more closely with the requirement under EC 1775 for close cooperation relating to trade across borders of different transmission systems.

Shortcomings of the modification proposals

Quite apart from our fundamental concerns over the “user commitment” model and the inclusion of the exit flexibility capacity product, we are disappointed that the proposed modifications do not address the practical and commercial considerations associated with making revised arrangements workable at multi-user exit points having dependent downstream jurisdictions, such as Moffat.

The existing capacity registration (or “ticket to ride”) process for NTS exit capacity booking at Moffat requires that GB shippers wishing to book capacity receive certification from their downstream counter-parties before booking, thus ensuring a match of NTS exit and BGN entry capacities at Moffat. The proposed exit reform modifications appear to ignore this established practice, creating a number of practical difficulties.

For example, the proposed rules for initial rights allocation provide for the appointment of a user agent to allocate initial rights at an exit point, subject to the agreement of all NTS shippers at that point. This undermines the existing practice by excluding downstream shippers from the process. We believe that the existing registration process should apply to initial rights allocation at Moffat.

As a mitigation against the adverse downstream impacts of exit reform, we have previously proposed, on behalf of two of the downstream jurisdictions, the introduction of a single party responsible for certain offtake bookings at Moffat, allowing capacity at the Moffat exit point to be purchased and guaranteed to downstream users over the long term (these have been

termed “SP arrangements”). Ofgem in its April 2007 Mod.116 decision document expressed its keenness to assist the downstream jurisdictions in addressing their concerns by exploring this and other options.

However, the detailed business rules for the modifications do not accommodate the single party concept, particularly with respect to overruns. The proposed overrun rules allow appointment of a single overrun user, responsible for all overrun charges at an exit point, subject to the agreement of all shippers at that point. This would be unworkable for a single party at Moffat on two counts; firstly, the single party would not be the sole capacity booker at Moffat, and would therefore be exposed to overruns arising through the actions of shippers offtaking gas at Moffat outside of the SP arrangements; secondly, any appointment of the SP as overrun user that might be necessary should be subject to the agreement of those GB shippers participating in the SP arrangements, rather than all GB shippers at Moffat.

We have previously raised these issues and put forward workable solutions, both in direct discussions with National Grid NTS and in the Review Group 166 forum. We remain concerned that, despite this, these important practical considerations have not been addressed in the new modifications.

Transparency

We believe that, given the fundamental nature of the proposed changes to the exit capacity regime, historical and forecast information on flat and flexibility capacity availability and usage should be made available, to facilitate a proper assessment of the likely impact of the changes at an exit point level. Thus far, the information made available by National Grid NTS is inadequate for this purpose.

Timing

We are also very concerned with the proposed timetable for Ofgem reaching a final decision on exit reforms in November 2008, which Ofgem itself describes as challenging, and the absence of a subsequent implementation timetable. Given the potentially far-reaching impacts of exit reform, we need a clear timetable allowing sufficient time to ensure we can put in place robust processes at and downstream of Moffat, and that the necessary changes to the GB regime can be made. Downstream jurisdictions have already signalled the need to conduct their own consultations and further GB consultations may be required if, for example, a Gas Act exemption is required to facilitate revised Moffat arrangements. Following this, substantial modifications to various legal documents will be needed, involving the downstream licences and Code, the Moffat Agency Agreement and the UNC itself.

Relative preferences for modification proposals

Based on the arguments set out above we differentiate our preferences based on categorisation of the proposals into three broad types; (1) existing exit regime (2) universal application of user commitment for flat capacity, flex capacity for DNs only and (3) universal application of user commitment for flat capacity, universal application of flex capacity.

Accordingly, our preferences are shown in the table overleaf.

Proposal	Proposal type	BGN position	Preference
0116A E.On	Existing exit regime	<ul style="list-style-type: none"> ▪ Supportive ▪ Better facilitates code relevant objectives 	1
0116CV British Gas Trading	Universal application of user commitment for flat capacity, flex capacity for DNs only	<ul style="list-style-type: none"> ▪ Not supportive ▪ Does not better facilitate code relevant objectives 	2
195 RWE			
195A E.On			
0116V National Grid NTS	Universal application of user commitment for flat capacity, universal application of flex capacity	<ul style="list-style-type: none"> ▪ Not supportive ▪ Does not better facilitate code relevant objectives 	–
0116BV RWE			
0116VD Scotia Gas Networks			

We would note however, that certain amendments to the existing proposals are required in the event that any of the Modification Proposals (other than 116A) is implemented, in order to facilitate the planning and operational processes necessary for the efficient onward transmission of gas downstream of Moffat. Certain of these are discussed in the earlier sections of this document and we would be happy to provide more detail as necessary.

I hope you find this response helpful.

Yours sincerely,

Avian Egan