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Modification Proposals 195 & 195A: Introduction of Enduring NTS Exit Capacity Arrangements

Dear Julian,

This response is on behalf of RWE Npower plc and the GB business of RWE Supply & Trading GmbH (previously RWE Trading GmbH), collectively referred to below as RWE.

RWE supports implementation of Modification Proposals 195 and 195A but considers that 195 better facilitates the relevant objectives of the UNC.

In our response to 116V (and all its variants) we expressed support for 116A and qualified support for 116BV and 116CVV. We did not support 116V or 116VD. Since then however our view has changed and we now no longer support 116A or 116BV.

In the case of 116A this is because of the uncertainty associated with the ARCA commitment, and the fact that this relies on appealing ARCAs and relying on Ofgem's application of past precedents. We do not believe this is an appropriate basis to support the significant investment in gas fired power stations that is likely to be required over the next decade. Instead we believe that the user commitment and buy back framework established in National Grid NTS's (NG's) licence, and reflected in 195 and 195A, represents a more efficient and less risky alternative.

In the case of 116BV our support was qualified on the basis that if either 116A or 116CV were judged not to better facilitate the relevant objectives we would support 116BV. As the Authority did determine that 116CVV better facilitated the relevant objectives we now withdraw our support for 116BV.

In summary therefore of all of the proposals we support we rank them in the following order: 195, 195A 116 CVV. For the avoidance of doubt we do not support 116A, 116V, 116BV or 116VD.

Although RWE proposed 195 we very much regard it as being the collective effort of all the User participants at the Modification 166 Review Group. As such the proposal seeks to address the issues and concerns of all Users in relation to the Authority's decision to implement 116V, and to reflect on the findings of the Competition Commission's decision to allow E.On's appeal against that decision in part, which resulted in 116V being quashed.

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During the Review Group Users (both Shipper and DNO) and NG spent a significant amount of time carefully reconsidering all aspects of the enduring offtake arrangements and the results of this work have, we believe, been fairly encapsulated within 195. As such we believe it represents the most pragmatic and efficient solution to enduring exit reform and we are increasingly concerned that any further delay could adversely impact the future investment that is likely to be necessary in the NTS in support of new gas fired power stations, storage assets and DN load growth.

We understand why 195A has been raised as an alternative to 195 and were aware of E.On's intention to do this throughout the Review Group discussions. Whilst we support 195A, on balance we favour 195 for the following reasons.

Under 195A NG would be obliged to offer Daily Off-Peak NTS Exit (Flat) Capacity on all non peak days even if capacity was clearly not available, for example due to substitution. As such, in the event bids were received for such capacity NG would need to immediately issue a curtailment notice, which seems inefficient and could result in errors. Also we are concerned that under 195A if a User that does not typically acquire Daily Off-Peak NTS Exit (Flat) Capacity inadvertently overruns its level of NTS Exit (Flat) Capacity holdings on a Day, it will be exposed not just to an overrun charge but also to the cost of the proposed four year user commitment on its revised enduring holding (taking account of the overrun quantity), some of which may have been acquired without the need for such user commitment through the initial allocation process. However a User that does typically acquire Daily Off-Peak NTS Exit (Flat) Capacity would not face such a large user commitment, as the enduring capacity they would be required to apply for (on which the 4 year user commitment is based) would only be for the overrun quantity as they will have relinquished (or not been assigned) any enduring capacity in the initial application process.

Extent to which implementation of the proposed modification would better facilitate the relevant objectives compared to the current UNC arrangements.

Gas Transporter Licence Standard Special Condition A11.1

(a) the efficient and economic operation of the pipe-line system to which this licence relates;

Implementation of both 195 & 195A would remove the uncertainty of the current 'sunset clauses' and provide a degree of assurance of funding associated with a four year user commitment. Currently Shipper Users are required to sign an ARCA to secure incremental capacity where NG need to undertake network reinforcement and, unless overridden by Ofgem on appeal, fund the full cost of such reinforcement. ARCAs also allow NG a significant degree of flexibility to extend the delivery date without compensation. Also where no reinforcement is required Shipper Users can only book incremental capacity 6 months prior to commissioning, which brings with it a risk that capacity may not be available at the point they are able to book it. These factors represent an unacceptable degree of risk for Shipper Users seeking to invest in new gas fired power stations and storage facilities and the introduction of common capacity allocation processes, user commitment timeframes and buyback arrangements reduces this risk. At the same time it provides NG with a stable and efficient basis on which to undertake network investment which is equally well understood and applied by Ofgem, all Users and themselves.

Both proposals introduce flexibility in how Users can apply to increase or reduce their flat capacity requirements (to a greater extent than 116CVV). They also reduce the risk of NG making unnecessary network reinforcement by providing them with opportunities to delay or cancel planned network investment where it can reasonably be demonstrated that the User is not able to offtake gas through the capacity they have reserved.

Finally both proposals introduce wide ranging options by which NG can manage the NTS, and in

particular transportation constraints, more efficiently.

(b) so far as is consistent with sub-paragraph (a), the coordinated, efficient and economical operation of (i) the combined pipe-line system, and/ or (ii) the pipe-line system of one or more other relevant gas transporters;

Both proposals fulfil this objective by recognising the interactions that exist for DNO Users between NTS Exit (Flat) Capacity, NTS Exit (Flexibility) Capacity (currently known as NTS Offtake (Flexibility) Capacity) and Assured Offtake Pressure. DNO Users will have a limited window at the end of the allocation process during which they can adjust their NTS Exit (Flat) Capacity bookings if they are unable to secure the NTS Exit (Flexibility) Capacity or Assured Offtake Pressure requested from NG under the OCS process, and this will help to prevent inefficient allocation of capacity on DN and NTS networks.

(c) so far as is consistent with sub-paragraphs (a) and (b), the efficient discharge of the licensee's obligations under this licence;

The enduring offtake arrangements proposed in 195 and 195A are consistent with the licence conditions introduced into NG's licence under TPCR, both in the transitional and enduring periods. Licence conditions which specifically relate to NTS Exit (Flexibility) Capacity can be applied just to DNO Users in the enduring period, however these may well have expired by the time enduring offtake arrangements are implemented.

195 and 195A also tie in with NG's licence obligation to substitute unsold baseline capacity by providing a common framework for application and relinquishment of enduring capacity, and a defined process for application outside the annual window against which NG can comply with their obligations. They also tie in with the licence condition relating project permits.

(d) so far as is consistent with sub-paragraphs (a) to (c) the securing of effective competition:

(i) between relevant shippers;

(ii) between relevant suppliers; and/or

(iii) between DN operators (who have entered into transportation arrangements with other relevant gas transporters) and relevant shippers;

Both proposals would introduce common booking arrangements for NTS Exit (Flat) Capacity for all Users and would extend them with the same opportunities to relinquish such capacity in the event NG seek to buy it back in order to resolve a transportation constraint. Similarly both proposals provide for information regarding capacity allocation and linepack/flexibility usage to be transparent to all Users, thus ensuring symmetry of information exists.

They also allow Shipper Users to appoint an Exit Capacity Booking Agent and/or an Overrun User at NTS Supply Points and CSEPs, which should ensure that capacity and any overruns are allocated equitably to the relevant parties at that offtake. This has been of particular concern at storage facilities and interconnectors, where the operators are keen to ensure that users of the capacity and downstream capacity holders can compete fairly on equal terms.

(e) so far as is consistent with sub-paragraphs (a) to (d), the provision of reasonable economic incentives for relevant suppliers to secure that the domestic customer supply security standards (within the meaning of paragraph 4 of standard condition 32A (Security of Supply – Domestic Customers) of the

standard conditions of Gas Suppliers' licences) are satisfied as respects the availability of gas to their domestic customers; and

As neither proposal impacts cashout we do not think they will have an impact on this objective.

(f) so far as is consistent with sub-paragraphs (a) to (e), the promotion of efficiency in the implementation and administration of the network code and/or the uniform network code.

We do not think either of these proposals will have an impact on this objective.

The implications of implementing the Modification Proposal on security of supply, operation of the Total System and industry fragmentation

Both these proposals are expected to be beneficial for security of supply and operation of the Total System as they will provide clear and common arrangements for the allocation of NTS Exit (Flat) Capacity, which align with NG's licence obligations and incentives to make capacity available.

They also introduce wide ranging options by which NG can manage the NTS, and maintain the flexible OCS arrangements which NG and DNOs currently use to effectively manage within day gas flows and linepack between their respective networks.

The implications for Transporters and each Transporter of implementing the Modification Proposal, including

a) implications for operation of the System:

To the extent that implementation would promote economic and efficient investment in the System, the operation of the System would be expected to benefit. Implementation would also give NG a wider range of system management tools to better manage any transportation constraint.

b) development and capital cost and operating cost implications:

We do not expect these costs to be substantial as DNs will use capacity booking processes which are largely the same as those they use currently, and NG will be able to replicate a lot of the functionality used for capacity booking, allocation release and substitution currently used at entry. However, we would expect these issues to be further consulted upon as part of an Impact Assessment.

c) extent to which it is appropriate to recover the costs, and proposal for the most appropriate way to recover the costs:

We understand from the DN sales debate that the costs to transporters of implementing enduring offtake reform is to be met by themselves, and not passed on to customers.

d) analysis of the consequences (if any) this proposal would have on price regulation:

Both proposals tie in with the price regulation and incentive framework established under TPCR and should require minimal change to current transmission charging. DNs will have to amend their charging methodologies in such a way as to recover the cost of the NTS Exit (Flat) Capacity charges they pay to NG from customers connected to their networks, but the proposals are merely reflecting the licence obligations in this regard.

The consequence of implementing the Modification Proposal on the level of contractual risk of each Transporter under the Code as modified by the Modification Proposal

Both proposals will reduce the level of contractual risk faced by transporters under the UNC by establishing a clear and unambiguous basis for exit capacity release to all User based on the principle of greater user commitment.

However by introducing exit capacity buyback provisions within the confines of NG's licence obligations they will also increase contractual risk for NG.

The high level indication of the areas of the UK Link System likely to be affected, together with the development implications and other implications for the UK Link Systems and related computer systems of each Transporter and Users

The UK Link System is expected to require change to reflect the exit capacity release, transfer and buyback aspects of these proposals but we would expect these changes to be similar to those which would be associated with Modification Proposal 0116CVV. The UK Link System may also need to be changed to facilitate the publication of flexibility and linepack information. However, as publication of this information will be via NG's website this may be where most development work is required.

The implications of implementing the Modification Proposal for Users, including administrative and operational costs and level of contractual risk

Administrative and operational costs under either proposal are not expected to increase significantly except where Shipper Users choose to acquire their capacity requirements largely on a daily basis. Whilst the level of user commitment is likely to be higher under the enduring arrangements (assuming Ofgem follow past ARCA appeal precedents) we believe the level of contractual risk for Shipper Users will reduce under these proposals. This is due to the uncertainties arising from any ARCA appeal, the risk of capacity no longer being available 6 months prior to commissioning and the considerable flexibility NG have to delay making capacity available (without adequate compensation) that exist under current generic ARCA terms.

The implications of implementing the Modification Proposal for Terminal Operators, Consumers, Connected System Operators, Suppliers, producers and, any Non Code Party

We do not think either of these proposals will negatively impact any of the above parties. The provisions within them which provide for Exit Capacity Booking Agent's, Overrun User's, daily interruptible capacity release and capacity transfer/assignment are more than sufficient to ensure suppliers, consumers and connected system operators (particularly in relation to interconnectors) are able to ensure capacity is not inappropriately withheld.

The proposals will also ensure that Non Code Parties are able to reserve capacity on terms similar to those applicable to any User under the UNC.

Consequences on the legislative and regulatory obligations and contractual relationships of each Transporter and each User and Non Code Party of implementing the Modification Proposal

Both proposals are aligned with NG's and DN's licence conditions and the framework for DN interruption reform introduced as part of Modification 90.

Mod 195A might be said to be more consistent with EU Gas Regulation 1775 although this is open to considerable legal interpretation.

Both proposals may require NG to make changes to its Safety Case in relation to Stage 1 of a Gas Supply Emergency.

Analysis of any advantages or disadvantages of implementation of the Modification Proposal

We have identified the following advantages:

Both proposals:

- Provide an enduring set of Exit Arrangements that would enable parties to plan for new NTS Supply Points, or capacity increases at existing NTS Supply Points or Offtakes with greater confidence.
- Provide all Users with the ability to place a value of short term capacity release and buyback
- Provide NG with a wider range of system management tools to better manage the NTS in a safe, economic and efficient manner.
- Provide Users with aggregated information in respect of capacity applications and bookings to better inform User intentions in respect of future use of the NTS
- Make transparent the extent of zonal linepack and flexibility usage such that all market participants can evaluate the impact these parameters have on the efficiency of the System, and can better manage their position in light of this information.
- Provide Shipper Users with the opportunity to appoint an Exit Capacity Booking Agent and/or Overrun User, thus allowing interconnector and storage operators to protect the integrity of competition in downstream supply markets and at storage facilities.

Mod 195A may:

- Better addresses the concerns set out in the Competition Commission decision and handing-down statement than 195

We have identified the following disadvantages:

Mod 195 may reduce the opportunities of true off-peak users to secure interruptible capacity in the event NG interprets its statutory and licence obligations to release such capacity conservatively.

Mod 195A creates a greater financial consequence of overrun on Shipper Users who typically do not rely on Daily Off-Peak NTS Exit (Flat) Capacity compared with those that do.

The extent to which the implementation is required to enable each Transporter to facilitate compliance with safety or other legislation

Implementation of either proposal is not required to enable each Transporter to facilitate compliance with safety or other legislation.

The extent to which the implementation is required having regard to any proposed change in the methodology established under paragraph 5 of Condition A4 or the statement furnished by each Transporter under paragraph 1 of Condition 4 of the Transporter's Licence

Implementation of either proposal is not required having regard to any proposed change in the methodology established under paragraph 5 of Condition A4 or the statement furnished by each

Transporter under paragraph 1 of Condition 4 of the Transporter's Licence.

Programme for works required as a consequence of implementing the Modification Proposal

No programme of works has been identified as a consequence of implementing either Modification Proposal.

Proposed implementation timetable (including timetable for any necessary information systems changes)

Both proposals recommend an implementation date of 1 April 2008 such that enduring offtake arrangements can take effect from the expiry of the transitional period in 1st October 2011. However, both proposals provided for the effective date to be delayed a year in the event Modification Proposal 198 is approved. The implementation date will need to be revised in line with Ofgem's timescales for reconsidering Modification Proposal 116V (and all its variants) and NG's lead time for any system changes that are required.

Implications of implementing this Modification Proposal upon existing Code Standards of Service

No implications of implementing either Modification Proposal upon existing Code Standards of Service have been identified.

Further Comments/Summary

We have no further comments to make.

Yours sincerely,

Steve Rose
Economic Regulation

Sent by e-mail and therefore not signed