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26<sup>th</sup> August 2008

**Reference No: DR01**

Dear Colleague

**Invitation Notice to participate in an auction for the  
Discretionary Release of System Entry Capacity**

Pursuant to TPD Section B2.1.14 of the Uniform Network Code, National Grid NTS invites you to participate in the Discretionary Release of System Entry Capacity ("**DRSEC**") auction in respect of the release of Discretionary System Entry Capacity for the period of **October 2008**.

The DRSEC auction will be conducted on **2nd September 2008** and will commence at 08:00 and close at 17:00 on that day. Any bid submitted in respect of the DRSEC auction may be withdrawn or amended until, but not after, 17:00 on that day.

A copy of the terms and conditions (the "Terms") for release of Discretionary System Entry Capacity is attached as Appendix 1 of this Invitation Notice. A User may only participate in the DRSEC auction following its acceptance of the Terms by no later than **16:00 on the 1st September 2008** and such acceptance must be communicated to National Grid NTS by facsimile to **The Capacity Auctions Team** at +44 (0)1926 65 6615 using the proforma contained in Appendix 2 of this Invitation Notice and stating the above reference number and your Gemini Shipper short code.

The Aggregate System Entry Points where Discretionary System Entry Capacity will be considered for release are:

<b>Easington</b>	<b>EA</b>
<b>Hatfield Moor Onshore</b>	<b>HM</b>
<b>Garton</b>	<b>GR</b>

Any capacity made available at the Aggregated System Entry points detailed above is subject to a reserve price. The reserve price is equal to the prevailing MSEC reserve price last published pursuant to Transportation Principal Document, Section B 2.2.1 (a) of Uniform Network Code.

For the DRSEC auction in respect of the period of **October 2008** the reserve prices are as follows:

<b>Easington</b>	<b>.0086 p/kWh/day</b>
<b>Hatfield Moor Onshore</b>	<b>.0027 p/kWh/day</b>
<b>Garton</b>	<b>.0091 p/kWh/day</b>

The DRSEC auction will be conducted in Gemini and any bids for Discretionary NTS Firm Entry Capacity shall be made using the **Deal>Capture>Create Bids** screen. Allocations in respect of successful bids will be made prior to the September RMTTSEC auction and no later than 17:00 on the 5<sup>th</sup> September 2008.

In accordance with Uniform Network Code, Transportation Principal Document, Section B 2.1.14(f)(ii) National Grid NTS will provide to Users the information described in such provision and this will be published no later than 17:00 on the 5<sup>th</sup> September 2008

Words and expressions which are capitalised but not defined in this Notice but which are defined in the Uniform Network Code shall have the meanings given to them in the Uniform Network Code.

Please note that this message is being sent by e-mail via the Joint Office of Gas Transporters and web-fax (business hours operational list). An Automated Notification Service (ANS) message will also be issued informing users that the invitation has been published.

If you have any queries regarding the DRSEC auction please call +44 (0)1926 65 4167. Alternatively if you have a query relating to this or any other long term auction you can e-mail the capacity team at [capacityauctions@uk.ngrid.com](mailto:capacityauctions@uk.ngrid.com)

If you have any queries pertaining to the Daily Auctions, please contact Sarah Magee on +44 (0)1926 654 055.

Yours sincerely

Mike Wassell  
Network Operations  
National Grid  
[Mike.J.Wassell@uk.ngrid.com](mailto:Mike.J.Wassell@uk.ngrid.com)

**REFERENCE NUMBER DR01**

**DISCRETIONARY RELEASE OF SYSTEM ENTRY CAPACITY AUCTION  
APPENDIX 1**

**TERMS AND CONDITIONS**

**relating to**

**DISCRETIONARY RELEASE OF NTS ENTRY CAPACITY**

## **TERMS AND CONDITIONS**

### **1. DEFINITIONS**

In these terms and conditions (these “**Terms**”) the following words have the meanings set out below:-

“**Auction Date**” means the date specified in the Auction Invitation on which the DRSEC auction will be conducted;

“**Auction Invitation Notice**” means the notice (bearing the same Reference Number as these Terms) which is issued by National Grid NTS inviting Users to participate in the Discretionary Release of NTS Entry Capacity Auction;

“**Bid**” shall have the meaning given in Clause 3.2;

“**Business Day**” means a Day beginning on a day other than a Saturday, a Sunday or a bank holiday in England and Wales;

“**Day**” means the period from 06:00 hours on one day until 06:00 hours on the following day;

“**Gemini**” means that part of the information exchange system identified as such and forming part of UK Link;

“**Month**” means the calendar month specified in the Auction Invitation Notice in respect of which Discretionary NTS Entry Capacity will be allocated, being October 2008;

“**Terms**” means these Terms and Conditions with the above Reference Number;

“**TPD**” means the Transportation Principal Document forming part of the Uniform Network Code; and

“Uniform Network Code” means the uniform network code as defined in Standard Special Condition A11(6) of National Grid NTS’s transporters licence, as such code may be amended from time to time in accordance with the terms thereof.

## 2. INTERPRETATION

### 2.1 In the Terms:

- (a) references to Clauses are references to the clauses of these Terms unless otherwise stated; and
- (b) the singular shall include the plural and vice versa.

### 2.2 The headings in these Terms have been inserted for convenience only and shall not affect their construction or interpretation.

### 2.3 Words and expressions which are capitalised but not defined in these Terms but which are defined in the Auction Invitation Notice or the Uniform Network Code shall have the meanings given to them in the Auction Invitation Notice or the Uniform Network Code.

## 3. BID SUBMISSIONS

### 3.1 These Terms and the Auction Invitation Notice detail and govern the process by which National Grid NTS may at its sole discretion release Discretionary NTS Entry Capacity pursuant to TPD Section B2.1.14.

### 3.2 An application for Discretionary NTS Entry Capacity (“**Bid**”) must be submitted by a User via the **Deal>Capture>Create Bids** screen in Gemini strictly in accordance with these Terms and the Auction Invitation Notice.

### 3.3 The User must accept these Terms in accordance with the Auction Invitation Notice before it may participate in the Discretionary Release of NTS Entry Capacity Auction.

### 3.4 Every Bid made shall be given a unique identifying reference number by Gemini.

**REFERENCE NUMBER DR01**

Such unique reference number shall be used to identify the relevant allocation in any allocation notification.

- 3.5 The User may submit Bids at any Aggregate System Entry Point specified in the Auction Invitation Notice for the Month.
- 3.6 The User may have, at any one time up to but not more than twenty (20) Bids in respect of each Aggregate System Entry Point for the Month.
- 3.7 Each Bid shall specify:
- a) The identity of the User;
  - b) The Aggregate System Entry Point;
  - c) The Month for which Discretionary NTS Entry Capacity is applied for;
  - d) The amount applied for, which shall not be less than a minimum eligible amount of 100,000kWh/Day;
  - e) The minimum amount which the User is willing to be allocated, which shall not be less than 100,000kWh/Day;
  - f) The bid price which the User is willing to pay by way of NTS Entry Capacity Charges, which shall not be less than the prevailing MSEC reserve price at the Aggregate System Entry Point at which the User has submitted a Bid.
- 3.8 A Bid:
- a) may not be submitted before 08:00 hours or after 17:00 hours on the Auction Date; and
  - b) may be withdrawn or amended until, but not after, 17:00 hours on the Auction Date.
- 3.9 National Grid NTS shall reject a Bid where:
- (a) the bid price is less than the reserve price;
  - (b) any requirements in Clause 3.7 above are not complied with;
- and National Grid NTS may reject a Bid in accordance with TPD Section V3.
- 3.10 Where the sum of :
- (a) the aggregate Capacity Charges payable by the User, were all the Discretionary NTS Entry Capacity applied for under the User's Bids to be allocated in full; and
  - (b) the User's Relevant Code Indebtedness at 17:00 on any Business Day on which

the Bids may be made;

exceeds 85% of the User's Code Credit Limit, National Grid NTS shall not later than five (5) Business Days after the Auction Date inform the User.

- 3.11 Following a notice under Clause 3.10, in the event the User does not within ten (10) Business Days of such notice provide adequate surety or security (in accordance with TPD Section V3.4, Bids submitted by the User shall be disregarded for the purposes of the DRSEC auction (and have no effect).

#### **4. BID ALLOCATION**

- 4.1 Discretionary NTS Entry Capacity in respect of an Aggregate System Entry Point will be allocated pursuant to Bids submitted in respect of the Month as follows:

- a) all Bids submitted in respect of the Month and Aggregate System Entry Point (excluding any Bid rejected pursuant to Clause 3.9) will be ranked in order of bid price with the highest price ranked first;
- b) Where National Grid NTS allocates Discretionary NTS Entry Capacity at an Aggregate System Entry Point it will allocate it to the highest bidder;
- c) subject to (d) and (e) below and the minimum amount criteria in Clause 3.7(d) and (e), where the amount of Discretionary NTS Entry Capacity applied for under a Bid exceeds any remaining unallocated Discretionary NTS Entry Capacity after allocation to higher priced Bids, the User will be allocated an amount equal to the remaining unallocated amount;
- d) subject to (c) above and the minimum amount criteria in Clause 3.7(d) and (e), where each of two or more Bids specify the same bid price, and the amount of Discretionary NTS Entry Capacity applied for exceeds any remaining unallocated Discretionary NTS Entry Capacity, the Bids will be allocated prorata to the amounts applied for in each such Bid;
- e) where the amount to be allocated in respect of a Bid pursuant to (c) or (d) above is less than the minimum amount criteria in Clause 3.7(d) and (e) the Bid will be disregarded (and of no effect).

- 4.2 Each User whose Bid is accepted will be registered as holding Discretionary NTS Entry Capacity (in the amount so allocated) for the Month in respect of the Aggregate System Entry Point.

## **5. PROVISION OF INFORMATION**

- 5.1 In accordance with TPD Section B2.1.14(f), National Grid NTS will inform each User of the Bid that has been accepted and in accordance with TPD Section B2.14.2 provide information to all Users in relation to Discretionary Release of NTS Entry Capacity.

## **6. PAYMENT**

In accordance with TPD Section B2.1.14 (c) and TPD Section S, each User will pay Capacity Charges for any Discretionary NTS Entry Capacity allocated to it following an acceptance of a Bid by National Grid NTS. Such payment will be made by way of an Invoice Document issued in the calendar month immediately following the Month.

## **7. WARRANTIES, REPRESENTATIONS AND UNDERTAKINGS**

- 7.1 Each User represents, warrants and undertakes to National Grid NTS that:
- (a) it is a User for the purposes of the Uniform Network Code;
  - (b) it has and will have full power and authority to execute, deliver; and perform all obligations under these Terms; and
  - (c) no limitation on its powers will be exceeded as a result of it entering into these Terms.

## **8. LIABILITY**

- 8.1 National Grid NTS and the User agree and acknowledge that the provisions of the Uniform Network Code shall apply in respect of any liability arising out of or in connection with the Discretionary Release of NTS Entry Capacity Auction.

## **9. NOTICES**



**REFERENCE NUMBER DR01**

- 9.1 A facsimile sent pursuant to the Auction Invitation Notice shall be deemed to have been received on completion of despatch by National Grid NTS provided that it receives a transmission report showing transmission in full without any error message.

**10. ENTIRE AGREEMENT**

- 10.1 The Terms and the Auction Invitation Notice shall be read as one and in conjunction with the Uniform Network Code constitute the entire agreement between National Grid NTS and the User thereunder with respect to the matters referred to herein and therein and shall prevail and supersede all prior agreements, understandings, statements, representations, commitments, warranties, and communications between National Grid NTS and the User with respect to such matters and neither National Grid NTS nor the User shall rely on or be bound by any of the foregoing not appearing in or incorporated by specific reference into these. Nothing in the Terms or the Auction Invitation Notice shall operate to exclude either National Grid NTS's or the User's liability to the other for fraudulent misrepresentation.
- 10.2 Where any provisions of these Terms conflict with the Uniform Network Code, these Terms shall apply.

**11. VARIATION AND WAIVER**

- 11.1 No variation of the Terms shall be effective unless made in writing and signed by or on behalf of both National Grid NTS and the User.
- 11.2 None of the provisions of these Terms shall be considered waived by National Grid NTS or the User unless such waiver is given in writing and signed by a duly authorised representative of the party making the waiver. No such waiver shall be a waiver of any past or future default or breach or modification of any term, provision, condition or covenant of these Terms unless and to the extent expressly set forth in such waiver.

**12. ASSIGNMENT**

12.1 Neither National Grid NTS nor the User may assign, trade or transfer any of its rights or obligations under these Terms without the prior written consent of the other party provided that National Grid NTS may novate or assign any of its rights or obligations to any company succeeding it with respect to its rights and obligations under the Uniform Network Code (or any successor document) without the consent of the User.

### **13. CONFIDENTIALITY**

13.1 Each of National Grid NTS and the User shall keep confidential and shall not disclose to any third party any information provided by the other party in connection with these Terms. Provided that:

- (a) this restriction shall not apply to any information which at the time of disclosure is in the public domain or thereafter comes into the public domain otherwise than as a consequence of a breach by National Grid NTS or the User of its obligations under this Clause 13;
- (b) nothing in these Terms shall prevent the disclosure of information to any government department or any governmental or regulatory agency having jurisdiction over either National Grid NTS or the User (including but not limited to the Gas and Electricity Markets Authority), or as required by law or any lawful subpoena or recognised stock exchange or other process in connection with any judicial arbitration or administrative proceeding, or where reasonably necessary to effect the purpose of these Terms;
- (c) nothing in these Terms shall prevent the disclosure by National Grid NTS to third parties of the relevant prices and quantities in relation to the DRSEC auction but only to the extent that such information is disclosed in aggregate with other Users' prices and quantities or in accordance with the Uniform Network Code; and
- (d) in the event disclosure to any third party is necessary in order to give effect to the purposes of these Terms or permissible under this Clause 13, the disclosing party shall use all reasonable endeavours to ensure that

such third party shall respect the confidentiality of such information and be bound by the terms of this Clause 13 as if a party thereto.

## **14 THIRD PARTY RIGHTS**

- 14.1 Subject to any rights which may accrue to any successor or permitted assign of National Grid NTS or the User, no provision of these Terms shall, or may, be construed as creating any rights enforceable by a third party and all third party rights as may be implied by law are hereby excluded to the fullest extent permitted by law from these Terms.

## **15. SEVERABILITY**

- 15.1 If any of these Terms or the Auction Invitation Notice shall be held to be illegal or unenforceable in whole or in part, under any enactment or rule of law, such provision or part shall to that extent be deemed not to form part of these Terms or the Auction Invitation Notice but the validity and enforceability of the remainder of the Terms and the Auction Invitation Notice shall not be affected.

## **16. GOVERNING LAW AND JURISDICTION**

- 16.1 The Terms and the Auction Invitation Notice shall be governed by and construed in accordance with English law, and National Grid NTS and the User hereby submit to the exclusive jurisdiction of the courts of England and Wales.

## **17. GEMINI**

- 17.1 National Grid NTS does not guarantee the availability of any part of Gemini (including without limitation screens or pages of and links thereto) and, accordingly, in the event of non-availability or any other communication failure National Grid NTS's sole responsibility shall be to put in place as soon as reasonably practicable such contingency arrangements as it shall in its sole discretion deem appropriate.
- 15.2 Without prejudice to the provisions of Clause 8, the User agrees and acknowledges that National Grid NTS shall not be liable for any loss (direct or indirect) arising from the non-availability of Gemini or any part thereof or otherwise arising from the User's

**REFERENCE NUMBER DR01**

use of Gemini (including but not limited to inability to access or use Gemini or any communication failure or breach of security or confidentiality) whether such loss arises in contract, tort (including negligence) or breach of statutory duty or howsoever arising.

**Appendix 2 – DRSEC Terms & Conditions Acceptance Fax Proforma**

Please note that this proforma is to be completed by any User wishing to participate in the Discretionary Release of System Entry Capacity (“**DRSEC**”) auction in respect of the release of Discretionary System Entry Capacity for the period of **October 2008**.

A User may only participate in the DRSEC auction following its acceptance of the Terms by no later than **16:00 on the 1<sup>st</sup> September 2008** and such acceptance must be communicated to National Grid NTS by completing this proforma and notifying **The Capacity Auctions Team** by facsimile at +44 (0)1926 65 6615.

Capacity Team, Warwick	TEL: +44 (0) 19 26 65 40 45	FAX: +44 (0) 19 26 65 66 15
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BA Code i.e. Gemini 3-Letter Code		DRSEC Transaction Period	01 Oct 08 to 31 Oct 08
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Shipper Name:	
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Shipper Name: “	”
I confirm that I am hereby providing fax details which confirm my acceptance of the Terms and conditions for the Discretionary Release of System Entry Capacity (“ <b>DRSEC</b> ”) auction in respect of the release of Discretionary System Entry Capacity for the period of <b>October 2008</b> .	

Shipper Name:	
Contact Name:	
Fax Number:	
Tel Number:	

Fax Originated By		Fax Received By	
Company		On Behalf Of	National Grid NTS
Signature		Signature	
Position		Position	
Date		Date	
TEL Number		TEL Number	+44 (0) 19 26 65 40 45
FAX Number		FAX Number	+44 (0) 19 26 65 66 15