

**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 (as defined in the Amended CAM Code) at Interconnection Points.

**1.2 Interpretation**

- 1.2.1 For the purposes of this Document:

"**Amended CAM Code**" means Commission Regulation (EU) establishing a Network Code on Capacity Allocation Mechanisms in Gas Transmission Systems and repealing Commission Regulation EU No 984/2013, as amended from time to time;

"**DIA Fee**" means the fee contemplated in paragraph 6;

"**Tariff Code**" means Commission Regulation (EU) establishing a network code on harmonised transmission tariff structures for gas;

"**under way**" for purposes of paragraph 7 of this Section E, means:

- (a) in relation to NTS Entry Capacity, the period from the QSEC invitation letter to the allocation of QSEC;
- (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; and
- (c) in relation to Interconnection Point Capacity, the period between the date of publication of the relevant Annual Yearly Auction information and the date of allocation of Interconnection Point Capacity in the relevant Annual Yearly Auction.

**1.3 Inconsistency with provisions of TPD Section B and Section Y**

- 1.3.1 In the event of any inconsistency between the provisions of this Section E and the provisions of TPD Section B and Section Y in relation to the release of incremental capacity at Interconnection Points, the provisions of this Section E shall prevail to the extent of such inconsistency.

**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 demand indication 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 DIA 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 (as required by EU Gas Regulation (EC) 715/2009) 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 (as defined in the Ameded CAM Code) 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;
- (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 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 follow the standard templates for demand assessment reports as provided by ENTSOG or any other format that National Grid NTS may publish from time to time.

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 window period in paragraph 2.1.1. 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 period in paragraph 2.1.1, 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 TSO(s) 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 open an ad-hoc demand indication window provided that it is of the opinion that the economic test (as defined in the Amended CAM Code) 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 TSO(s) (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 contemplated 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 relevant 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 paper 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 of capacity (as defined in the Amended CAM Code) at the Interconnection Point;
- (c) the proposed alternative allocation mechanism (as defined in the Amended CAM Code), including justification for such proposed mechanism;
- (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 (as defined in the Amended CAM Code), 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) where a fixed price approach is followed, the elements of IND and RP (as defined in the Tariff Code), will be provided:
  - (i) IND is the chosen index; and
  - (ii) RP is the risk premium to be applied;
- (g) the f-factor component of the economic test;
- (h) any additional demand indications received after the demand indication window closed; and
- (i) 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 (if relevant) the relevant Adjacent TSO(s) shall prepare a joint project proposal for submission to the Authority and any other relevant national regulatory authorities and shall also publish the project proposal.
- 4.1.2 Subject to agreement by the relevant Adjacent TSO(s) and provided that responses are submitted in a timely manner, 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 responding party.
- 4.1.3 The project proposal shall be submitted to the Authority and any other 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 TSO(s).

- 4.1.4 The project proposal shall include, at least, the following information:
- (a) all offer levels of capacity, 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 (where relevant):
      - (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 alternative allocation mechanism and its justification, including the conditional commitments allowed under such a mechanism;
  - (g) where a fixed price approach is followed, the elements of IND and RP, will be provided:
    - (i) IND is the chosen index; and
    - (ii) RP is the risk premium to be applied.

## 4.2 Joint Notice

- 4.2.1 Upon publication of the Authority and any other relevant national regulatory authorities' decision on the incremental capacity project, National Grid NTS and the relevant Adjacent TSO(s) shall prepare and publish, jointly, a notice of such decision and if the Authority and any other 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 as per paragraph 4.1.4;
  - (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 DIA Fee; and
  - (d) whether there is a need for reinforcement works.
- 4.2.2 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.
- 4.2.3 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.

## **5 ALLOCATION**

### **5.1 Alternative Mechanism**

- 5.1.1 The project proposal shall state the proposed alternative allocation 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 the Authority and any other relevant national regulatory authorities on a case-by-case basis.
- 5.1.2 Following the approval of the Authority and any other relevant national regulatory authorities, the provisions contained in each allocation section of the relevant 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 APPLICATION FEE**

- 6.1.1 A DIA Fee will be required to achieve competency and will be payable by each party submitting a demand indication.
- 6.1.2 The DIA Fee shall be equivalent in value to the PARCA Application Fee.
- 6.1.3 The DIA Fee will be repaid in full to a party if:
- (a) an incremental project is not initiated following publication of the demand assessment report contemplated in paragraph 2.1.11 or 2.2.8; or
  - (b) the economic test for an incremental capacity project is positive.
- 6.1.4 The DIA 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 do not submit binding reservations that could be considered in an economic test.



- 6.1.5 Where the DIA 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 LONG TERM ALLOCATION PROCESSES**

- 7.1.1 The binding application phase of the incremental capacity process lasts from the start of the reservation period (as set out in the relevant approved project proposal) 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 the quantity of unsold capacity (including substitutable capacity) available in each process.
- 7.1.3 If the binding application phase begins while there is another long term allocation process under way then the unsold capacity (including substitutable capacity) will already have been prioritised 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 that could potentially be reserved through the incremental capacity project.