

UNC Workgroup 0501 Minutes
Treatment of Existing Entry Capacity Rights at the Bacton ASEP to
comply with EU Capacity Regulations
Friday 11 July 2014
at Energy Networks Association, 52 Horseferry Road, London
SW1P 2AF

Attendees

| | | |
|-----------------------------|-------|-----------------------|
| Bob Fletcher (Chair) | (BF) | Joint Office |
| Mike Berrisford (Secretary) | (MB) | Joint Office |
| Anna Shrigley | (AS) | ENI |
| Charles Ruffell | (CR) | RWEst |
| Chris Shanley | (CS) | National Grid NTS |
| Francisco Goncalves | (FG) | Gazprom |
| Graham Jack | (GJ) | Centrica |
| Isabelle-Agnes Magne | (IAM) | GDF Suez |
| Julie Cox* | (JC) | Energy UK |
| Kevin Brown | (KB) | Petronas |
| Kirsten Elliott-Smith | (KES) | Cornwall Energy |
| Lesley Ramsey | (LR) | National Grid NTS |
| Lucy Manning | (LM) | Interconnector UK |
| Malcolm Montgomery | (MM) | National Grid NTS |
| Marie Clark* | (MC) | ScottishPower |
| Marshall Hall | (MHa) | Oil & Gas UK |
| Matthew Hatch | (MH) | National Grid NTS |
| Pavanjit Dhesi | (PD) | Interconnector UK |
| Peter Bolitho | (PB) | Waters Wye Associates |
| Phil Lucas | (PL) | National Grid NTS |
| Richard Fairholme* | (RF) | E.ON UK |
| Richard Miller | (RM) | Ofgem |

*via teleconference

Copies of all papers are available at: <http://www.gasgovernance.co.uk/0501/110714>

The Workgroup Report is due to be presented at the UNC Modification Panel by 20 November 2014.

1. Introduction and Status Review**1.1 Review of Minutes**

The minutes of the previous meeting (03 June 2014) were accepted.

1.2 Review of Actions

0601: With regards to *Aggregated User Quantity requested above baseline* – National Grid NTS (MH) to Consider what information can be signalled back to Shippers after the initial reallocation window.

Update: LM provided a brief overview of the 'Modification 501 slides for Workgroup' presentation during which she provided a brief explanation behind the rationale for the two (draft) National Grid letters ('Information on the Bacton Capacity Reallocation Invitation Process')

and 'Bacton Capacity Initial Reallocation Invitation Process – Invitation to participate in the Initial Capacity Reallocation of existing Registered NTS Entry Capacity at Bacton from 01 November 2015 onwards'. The latter of the two letters being specifically tailored to the individual Shipper concerned. **Closed**

0602: With regards to *Perceived Potential Change of Product* – Ofgem (DM) to provide a legal view/interpretation of this modification (for consideration at the next meeting).

Update: RM provided an overview of the Ofgem 'Treatment of existing contracts under CAM NC' presentation during which an extensive debate ensued around the fact that some parties believe that at a recent DECC/Ofgem Stakeholder meeting, Ofgem gave a commitment to provide an exhaustive legal view on the modification. RM acknowledged the misunderstanding and noted that the Ofgem presentation is as much as we can provide at that time, given that there has been no evidence presented by industry to make the case for terminating contracts at Bacton. Ofgem's presentation noted that there are a number of factors which need to be considered when coming to a view on whether existing contracts at Bacton can be terminated and it is for industry to review their contracts and provide evidence to make the case for terminating existing contracts.

The main issue that is causing the most concern amongst some parties relates to Bacton being an entry point which currently receives gas from both UKCS and from the continent via the interconnectors IUK and BBL whilst UNC501 would require existing holders of such Bacton capacity to decide which route their existing capacity would be assigned to. MHa noted that Bacton is the oldest entry point in the UK involving/utilising legal entry contracts (Non Code Contractual aspects) that both pre-date the Uniform Network Code and ENAs which also sit outside the Code. Of those parties voicing their concerns it is felt that seeking to change such existing contracts via the auspices of the UNC is fundamentally flawed and inappropriate. MHa strongly believed that the proposed approach impacts directly on English Law and as a consequence a challenge to the proposed EU Code changes should be made as soon as practicably possible via the approved ACER guidelines (and associated mechanisms) for seeking amendments to the European Codes that would negate the need to amend the existing contracts via the UNC route.

Responding, and for the avoidance of any doubt, RM confirmed that Ofgem has not sought an external view on this matter as the industry has not provided sufficient evidence to demonstrate such a view was needed. Additionally, he believes that for a water tight legal view to be given Ofgem would need access to the individual existing contracts which then brings into play concerns and issues around the confidentiality of such agreements. Regardless of this fact, Ofgem would still welcome any evidence that parties could provide to make a case, as it remains their intention to base their decision for the modification on the supporting evidence (Relevant Objectives, cost v's benefits v's risks assessments etc.) provided within the Final Modification Report.

RM also advised that he is very doubtful that ACER or the European Commission would approve changes to the EU Codes when it is clear that not all available avenues have been investigated and considered. In his opinion, the GB market is some way off going back to ACER or the Commission on this matter as he sees developing 0501 (or any alternative modification) has further merit, especially when bearing in mind that any alternative modification proposal could look to consider the termination or renegotiation of existing contractual arrangements within it.

RM noted that existing enduring exit capacity products are not CAM compliant and so these need to be terminated, whilst existing quarterly entry capacity products are CAM compliant and so do not need to be terminated for CAM compliance, hence the different treatment is based on different circumstances. It was also suggested that the capacity reset aspects of the argument for going back to ACER or the Commission would remove the need for 0501 as it cannot address the Non Code Contractual considerations. Additional concerns around Substitution Methodology and potential technical capacity sterilisation impacts on the IPs were voiced.

GJ was of the view that where implementation of EU Law has a major impact on the equivalent English Law and GB market conditions such as in the case of a unique site such as Bacton, then Ofgem should be prepared to consider other options that are potentially available to them to address major industry concerns. RM noted that industry has the power to raise modifications to the UNC or alternatives to UNC modifications already raised to address the concerns of industry.

In looking to what is to the best way forward for this outstanding action, it was agreed that the action should be amended and carried forward. RM commented that in the absence of industry evidence, he doubts Ofgem would be in a position to seek a legal view and should parties hold evidence to be able to terminate existing capacity contracts at Bacton, it should be provided to Ofgem.

0603: With regards to *Tariff Code developments* – National Grid NTS (MM) to consider potential effects of a payable/floating price on this modification specifically relating to the use of WAP.

Update: MM provided a brief overview that the ‘Action 603: Tariff Code Developments – Consider potential effects of a payable/floating price on this modification specifically relating to WAP’ presentation explaining that it is also relevant for outstanding action 0604 as well.

When asked, MM confirmed that the principle assumption is that the floating price would apply to Interconnector Points. **Closed**

0604: With regards to *Bacton Auction Premiums* – National Grid NTS (MM) to identify if Bacton has cleared above the reserve price in previous auctions.

Update: Please refer to action 0603 above. **Closed**

2. Discussion

In light of discussion elsewhere in the meeting, further consideration of this item was deferred.

3. Legal Text

MH requested that the August Panel should be asked to request formal legal text for the modification. Further consideration of the legal text was deferred.

4. Workgroup Report

When asked, MH confirmed that National Grid NTS does not propose amending the modification at this time. BF reminded those present that should someone wish to raise an alternative modification to be considered at the 21 August Panel meeting this would need to be completed by 08 August at the latest.

Further consideration of the Workgroup Report was deferred.

5. Any Other Business

None.

6. Diary Planning

The following meetings are scheduled to take place during 2014.

| Date | Location |
|---------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| Tuesday 12 August 2014 European Workgroups Day: 0493, 0500 and 0501 | ENA, 6 th Floor, Dean Bradley House, 52 Horseferry Road, London SW1P 2AF |
| Tuesday 16 September 2014 European Workgroups Day: | 31 Homer Road, Solihull B91 3LT |

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|---------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|
| 0493, 0500 and 0501 | |
| Wednesday 08 October 2014 European Workgroups Day: 0493, 0500 and 0501 | ENA, 6 th Floor, Dean Bradley House, 52 Horseferry Road, London SW1P 2AF |
| Tuesday 21 October 2014 European Workgroups Day: 0493, 0500 and 0501 | ENA, 6 th Floor, Dean Bradley House, 52 Horseferry Road, London SW1P 2AF |
| Wednesday 05 November 2014 European Workgroups Day: 0493, 0500 and 0501 | ENA, 6 th Floor, Dean Bradley House, 52 Horseferry Road, London SW1P 2AF |

Action Table

| Action Ref | Meeting Date | Minute Ref | Action | Owner | Status Update |
|------------|--------------|------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|----------------------------------------------------------------------------|
| 0601 | 03/06/14 | 2.0 | <i>Aggregated User Quantity requested above baseline</i> - Consider what information can be signalled back to Shippers after the initial reallocation window. | National Grid NTS (MH) | Update provided. Closed |
| 0602 | 03/06/14 | 2.0 | <i>Perceived Potential Change of Product – Part 1</i> - Ofgem to provide a legal view/interpretation of this modification (for consideration at the next meeting). Part 2 – where possible parties to provide individual Bacton contractual evidence to Ofgem. | Ofgem (DM) | Update to be provided. Carried Forward Update to be provided. |
| 0603 | 03/06/14 | 2.0 | <i>Tariff Code developments</i> - Consider potential effects of a payable/floating price on this modification specifically relating to the use of WAP. | National Grid NTS (MM) | Update provided. Closed |
| 0604 | 03/06/14 | 2.0 | <i>Bacton Auction Premiums</i> - Identify if Bacton has cleared above the reserve price in previous auctions. | National Grid NTS (MM) | Update provided. Closed |