

Modification proposal:	<b>Uniform Network Code (UNC) 844: Enabling Direct Contractual Arrangements with Consumers for Demand Side Response (UNC844)</b>		
Decision:	The Authority <sup>1</sup> directs this modification <sup>2</sup> be made		
Target audience:	UNC Panel, Parties to the UNC and other interested parties		
Date of publication:	04 August 2023	Implementation date:	07 August 2023

## Background

Gas Demand Side Response (DSR) is a voluntary demand reduction scheme which is intended to reduce the likelihood, severity and duration of a gas supply emergency, in the event that one occurs, by providing a route for large consumers to receive greater financial compensation by voluntarily curtailing their demand, than if they were involuntarily curtailed during an emergency. Each year National Gas Transmission (NGT) issues an invitation to all Users<sup>3</sup> to offer DSR quantities for the next three Winter Periods.<sup>4</sup> The DSR arrangements take the form of distinct “option” and “exercise” stages with separate payments for each.<sup>5</sup> These “DSR options” would be exercised in the event that a Margins Notice or a Gas Balancing Notification was called in any of those Winter periods.<sup>6</sup>

As part of the UNC822 decision<sup>7</sup> made in October 2022, NGT were encouraged to explore ways to broaden DSR consumer participation and maximise the volume of gas DSR. NGT raised

<sup>1</sup> References to the “Authority”, “Ofgem”, “we” and “our” are used interchangeably in this document. The Authority refers to GEMA, the Gas and Electricity Markets Authority. The Office of Gas and Electricity Markets (Ofgem) supports GEMA in its day to day work. This decision is made by or on behalf of GEMA.

<sup>2</sup> This document is notice of the reasons for this decision as required by section 38A of the Gas Act 1986

<sup>3</sup> For the purposes of these Rules, references to a User includes a Relevant Shipper:

<https://www.gasgovernance.co.uk/sites/default/files/ggf/page/2022-11/20%20Modification%20Rules.pdf>

<sup>4</sup> A ‘Winter Period’ is defined as being the period from 1<sup>st</sup> November in any year up to and including 30 April in the following year.

<sup>5</sup> A “DSR Option”, as stated in the UNC TPD Section 7.1.2.(a) is defined as “a commitment from the Registered User of an eligible Supply Point to post DSR Market Offers in a particular Winter Period. “Exercise”, as stated in the UNC TPD Section 7.1.2.(d) is defined as the “acceptance of a DSR Market Offer (in accordance with paragraph 5 of Annex D-1) posted under a DSR Option”: <https://www.gasgovernance.co.uk/sites/default/files/ggf/page/2023-07/Transportation%20Principal%20Document%20%28Consolidated%2C%20printable%20version%29.pdf>

<sup>6</sup> A Margins Notice is a D-1 notification and a Gas Balancing Notification can be issued either within day or at D-1.

<sup>7</sup> UNC822 Decision Letter: <https://www.ofgem.gov.uk/publications/unc822-reform-gas-demand-side-response-arrangements-decision>

UNC835R 'Review of Gas Demand Side Response Arrangements'<sup>8</sup> to allow stakeholders to review the DSR arrangements and reforms to date.<sup>9</sup> Feedback from industrial consumers suggested that enabling direct contracting between NGT and consumers, for the purposes of DSR, could increase the level of consumer participation and DSR volumes.

### **The modification proposal**

On 12<sup>th</sup> April 2023, NGT ("the Proposer") raised UNC modification UNC844: 'Enabling Direct Contractual Arrangements with Consumers for Demand Side Response'.<sup>10</sup> UNC844 seeks to modify the UNC to enable the Proposer to enter into direct contractual arrangements with any Class 1 gas Consumer (consumers that are daily metered with an annual quantity of greater than 2 million therms)<sup>11</sup> for the purposes of procuring DSR. For the avoidance of doubt, consumers will be able to hold a DSR Option either with NGT or via their shipper. These changes will allow consumers to offer DSR with a lead-time of within-day, D-1 and D-5, on an 'option and exercise' basis (and allows the Proposer to accept these offers, make 'option and exercise' payments directly to the consumer and if necessary, exercise offers by instructing consumers to offtake gas).

In addition, the Proposer will notify relevant registered Users and Gas Distribution Networks (GDNs) of any DSR Option that has been agreed between the consumer and the Proposer. On exercise, existing NGT procedure provides for the relevant GDN to be notified of any DSR within its network. The consumer is responsible for communicating to the shipper (potentially via the supplier) that its DSR option is being exercised.

Separately, the Proposer has developed and consulted on the standard conditions of contract between NGT and consumers for DSR.<sup>12</sup>

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<sup>8</sup> UNC835R: <https://www.gasgovernance.co.uk/0835>

<sup>9</sup> Reforms to DSR were made by UNC822: <https://www.ofgem.gov.uk/publications/unc822-reform-gas-demand-side-response-arrangements-decision> and UNC833: <https://www.ofgem.gov.uk/publications/unc833-and-dsr-methodology-decisions>

<sup>10</sup> UNC844: <https://www.gasgovernance.co.uk/0844>

<sup>11</sup> The definition for Class 1 consumers can be found in the UNC TPD Section G, 2.1.3.

<sup>12</sup> NGT's Gas DSR Consumer Contract Consultation Report: <https://www.nationalgas.com/electricity-transmission/document/143681/download>

## UNC Panel<sup>13</sup> recommendation

At the UNC Panel meeting on 20 July 2023, the UNC Panel voted unanimously that UNC844 would better facilitate the UNC objectives and the Panel therefore recommended its approval. The UNC Panel agreed that the modification would better facilitate UNC Relevant Objective (a) and Relevant Objective (b).

## Our decision

We have considered the issues raised by the modification proposal and the Final Modification Report (FMR) dated 21 July 2023. We have considered and taken into account the responses to the industry consultation on the modification proposal which are attached to the FMR.<sup>14</sup> We have concluded that:

- implementation of the modification proposal will better facilitate the achievement of the relevant objectives of the UNC;<sup>15</sup> and
- directing that the modification be made is consistent with our principal objective and statutory duties.<sup>16</sup>

## Reasons for our decision

We consider this modification proposal will better facilitate UNC Relevant Objective (a) and Relevant Objective (b) and will have no impact on the other Relevant Objectives.

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

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<sup>13</sup> The UNC Panel is established and constituted from time to time pursuant to and in accordance with the UNC Modification Rules.

<sup>14</sup> UNC modification proposals, modification reports and representations can be viewed on the Joint Office of Gas Transporters website at [www.gasgovernance.co.uk](http://www.gasgovernance.co.uk)

<sup>15</sup> As set out in Standard Special Condition A11(1) of the Gas Transporters Licence, see: <https://epr.ofgem.gov.uk/Content/Documents/Standard%20Special%20Condition%20-%20PART%20A%20Consolidated%20-%20Current%20Version.pdf>

<sup>16</sup> The Authority's statutory duties are wider than matters which the Panel must take into consideration and are detailed mainly in the Gas Act 1986.

The Proposer considers that this modification will have a positive impact on Relevant Objective (a) because it will encourage further participation in DSR, which would help to mitigate the risk of a potential supply shortage escalating into a Gas Deficit Emergency (GDE).<sup>17</sup> They also state that, should a GDE be declared and progress to Stage 2, then compulsory firm load shedding would result in disruption and inefficiency in the operation and use of the network, as some parties who would wish to be taking gas would be prevented from doing so.<sup>18</sup> Panel members and most consultation respondents agreed with this view.

We consider that this modification would better facilitate Relevant Objective (a) as the changes proposed will result in a more effective DSR tool and this could help mitigate the risk of a supply shortage escalating to a GDE. We consider that the introduction of direct contracting arrangements will provide more options for interested consumers to participate in the DSR market (as they will be able to participate via their shipper or directly with NGT). We think this will encourage greater participation, which could increase the potential DSR volumes received, and help NGT to meet a supply shortage in the event one occurred.

Some consultation respondents noted the proposal requires consumers to notify their shipper if their offer is going to be exercised under a direct contracting arrangement. If the consumer does not notify their shipper in time, the shipper may be out of balance and exposed to scheduling and imbalance charges. Some consultation respondents suggested that NGT should be responsible for notifying shippers if a consumer's offer is to be exercised. Some Panel members also expressed similar views. A proposed self-governance code modification, UNC852, has now been raised that would require the Proposer to notify relevant shippers if DSR offers are exercised.<sup>19</sup>

We note the concerns raised by respondents. We also note that, by asking NGT to notify shippers, there is a risk that NGT will have to do this in its capacity as the Network Emergency Coordinator (NEC)<sup>20</sup>, where the control room may be operationally occupied in preventing an

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<sup>17</sup> A Gas Deficit Emergency is a Network Gas Supply Emergency which arises as a result of a supply/demand imbalance, a transportation constraint or a potential or actual breach of a Safety Monitor.

<sup>18</sup> Stage 2 of a Gas Deficit Emergency is outlined in the UNC TPD Section Q 3.2.2.

<sup>19</sup> UNC852: <https://www.gasgovernance.co.uk/0852>

<sup>20</sup> The NEC is responsible for coordinating actions across the affected parts of the gas network to take action to prevent, as far as possible, a supply emergency developing, and where it cannot be prevented, to take timely decisions in order to minimise the safety consequences.

incident escalating to a GDE. We suggest keeping these arrangements under review until there is clear evidence to suggest that alternative arrangements would be more efficient overall.

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

The Proposer considers that this modification will have a positive impact on Relevant Objective (b) as it would encourage uptake in DSR, thus mitigating against a GDE. The Proposer states that if a GDE occurred, in addition to firm load shedding on the NTS, Gas Distribution Networks (GDNs) may be given instructions to implement load shedding within their networks, resulting in disruption and inefficiency at the Local Distribution Zone (LDZ) level too. Panel members also shared the view that this modification reduces the likelihood of an escalation to a GDE that could spread to LDZs. The majority of consultation respondents agreed that the modification will have a positive impact on Relevant Objective (b). Some respondents noted concerns that the Proposer must provide timely notifications once DSR is triggered at a consumer's site to manage planning and management activities of GDNs. Some Panel members also shared this concern and asked for a plan (outside of this modification) detailing how communication with GDNs would take place. This plan is to be presented at the next Panel meeting.

We consider that this modification has a positive impact on Relevant Objective (b). We consider that the modification would enhance the DSR tool by reducing potential barriers to participation, with the aim of allowing more parties to participate. Increasing uptake of DSR may help the Proposer respond to a supply/demand imbalance and therefore reduce the likelihood or severity of a GDE. As a result, it may mitigate some of the consequences of a GDE, such as enforced load shedding at the national and distribution level, which would cause disruption to the operation of the pipe-line systems. In addition, we note that there is a specific obligation on NGT to notify DNOs when DSR is offered and exercised on their respective networks. This notification and the modification proposal should ensure the coordinated and efficient operation of the combined pipeline system. We also support the Panel's suggestion for NGT to deliver a plan (outside of this modification) to ensure relevant stakeholders are adequately informed of what communication procedures will be followed for GDNs in the event that DSR is called.

## **Further comments**

We note that the workgroup discussions and some consultation respondents mentioned compliance with Section 5 (1)(c) of the Gas Act and the EU Network Code on Gas Balancing of Transmission Networks ("Balancing Code").<sup>21</sup>

### Interaction with the Gas Act

Section 5(1)(c) of the Gas Act requires only licensed parties to arrange with a transporter for gas to be delivered, conveyed or taken out of a pipeline system.<sup>22</sup> The consumption and/or non-consumption of gas DSR is not a licensed activity. Gas is not delivered, conveyed or taken out of pipelines as a result of DSR. The arrangement with a gas transporter for gas to be delivered, conveyed or taken out of the pipelines remains the responsibility of the shipper. Thus, the transportation arrangement will continue to exist between a shipper and the relevant gas transporter, and a contract between NGT and a consumer will not alter this. Therefore, we consider that NGT can directly contract with consumers, for the purposes of DSR. Currently, Special Condition 9.22.3 of NGT's Licence requires that any party making a DSR Offer must be a party to the UNC. Separately, NGT has requested a derogation from Special Condition 9.22.3. We have approved NGT's request in our decision letter published on our website.

### Balancing Code interaction – Article 8(5) and Article 8(6)

Some consultation respondents raised concern over Relevant Objective (g) "*Compliance with the Regulation and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators*" and whether the modification proposal is compliant with the Balancing Code.

Article 8(5) of the Balancing Code states that balancing services can only be used for one year, unless otherwise decided by the relevant National Regulatory Authority. As part of

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<sup>21</sup> Commission Regulation (EU) No 312/2014 of 26 March 2014 establishing a Network Code on Gas Balancing of Transmission Networks, now incorporated in UK law by the European Union (Withdrawal) Act 2018 and the European Union (Withdrawal Agreement) Act 2020, as amended by Schedule 2 of the Gas (Security of Supply and Network Codes) (Amendment) (EU Exit) Regulations SI 2019/531: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014R0312>

<sup>22</sup> Gas Act 1986 Section 5(1)c: <https://www.legislation.gov.uk/ukpga/1986/44/section/5>

UNC822 which was implemented in October 2022, shippers could submit offers for Winter 2022/2023 as well as for the subsequent two Winter Periods. Our approval of UNC822 accepted DSR's multi-year procurement approach. We note that whilst DSR is a balancing service, it is also a pre-emergency tool that NGT is required to procure (via Special Condition 9.22 of its Licence). We therefore approve the use of a multi-year approach for DSR. We consider this would provide consumers with more revenue certainty and potentially increase participation and volumes, thereby making it a stronger pre-emergency tool. We encourage NGT to keep this under review and see if the multi-year approach is indeed useful and encouraging participation.

Article 8(6) of the Balancing Code requires the Transmission System Operator (TSO) to annually review its use of balancing services and evaluate whether short-term standardised products could better meet its requirements next year. There were some concerns about how the annual review of balancing services is conducted by the Proposer and how multi-year DSR activities are accounted for. NGT has confirmed that the assessment process for the annual DSR option tender constitutes the means by which this annual review is undertaken, whereby NGT will decide (subject to the threshold for Ofgem referral) the aggregate DSR quantity and amount of option fees that it wishes to accept for the forthcoming winter. Within this, if NGT already has some DSR contracted for future years, it would take that into account when deciding on the allocation from a particular tender. Furthermore, NGT is required to procure DSR (via Special Condition 9.22 of its Licence). The value of DSR is for coverage against days when high demand coincides with supply problems which are not forecastable months in advance. In these scenarios, short-term standardised products may not be able to provide the necessary response. NGT has confirmed that, when undertaking its annual review described above, it would almost certainly procure DSR due to this uncertainty associated with Winter, as DSR is a pre-emergency tool used to mitigate against this risk.

### **Changes to the Gas DSR Methodology and Licence Derogations**

As part of this modification, the Proposer has identified the need to make similar changes and further updates to the Gas DSR Methodology, as well as the need to derogate from some of the Proposer's Licence conditions. This ensures that the Gas DSR Methodology remains consistent with the changes proposed in UNC844 and UNC845. The Proposer has also requested several derogations from Special Condition 9.22.3 of NGT's Licence. This will enable

UNC844 to be implemented in time for the upcoming DSR Options Invitation to Offer process (which starts no later than 31 August 2023). We have published our decision on the proposed changes to the DSR Methodology and Licence derogations today on our website. In addition, the Proposer has also developed and consulted on the standard conditions of contract between NGT and consumers for DSR.<sup>23</sup>

### **Decision notice**

In accordance with Standard Special Condition A11 of the Gas Transporters Licence, the Authority has decided that modification proposal UNC844: "Enabling Direct Contractual Arrangements with Consumers for Demand Side Response" be made.

**Maryam Khan**

**Head of GSO Regulation – Energy Systems Management and Security**

Signed on behalf of the Authority and authorised for that purpose

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<sup>23</sup> NGT's Gas DSR Consumer Contract Consultation Report: <https://www.nationalgas.com/electricity-transmission/document/143681/download>