**Modification 0738: Legal text commentary**

The following legal text is proposed for inclusion in Paragraph 1 of Part IIC Transition Rules in the Transition Document which sets out transitional provisions relating to the arrangements in TPB Section B (System Use and Capacity) of the Uniform Network Code.

A new paragraph 1.1.11 shall be inserted in Part IIC of the Transition Document as follows:

    1.1.11   Surrender of Incremental NTS Entry Capacity allocated in QSEC between 1 April 2017 and 30 September 2020

(a) A User who National Grid has determined has been Registered (as defined in TPD Section B 1.4(a)) as holding non-obligated Incremental NTS Entry Capacity at an Aggregated System Entry Point as a result of all invitations for Quarterly NTS Entry Capacity held in the period between 1 April 2017 and 30 September 2020 (the **Eligible Allocation**) may, no later than the end of the month following the month in which the Modification giving rise to this paragraph 1.1.11 is effective, make a single application to National Grid NTS in accordance with paragraph 1.1.11(b) below, for all or part of such Incremental NTS Entry Capacity to be surrendered.

(b) Any application made pursuant to paragraph (a).1.11(a) above must meet all of the following conditions failing which it shall be rejected:

    (i)   the application must specify the identity of the User;

    (ii)   the application must specify the Aggregated System Entry Point in respect of which the application is made;

    (iii)   the application must specify the first Day on which the Incremental NTS Entry Capacity at that Aggregated System Entry Point is to be surrendered, which must be the first day in a quarter (i.e. 1 January, 1 April, 1 July or 1 October in any year) and must be no less than one (1) calendar month following the receipt of the application by National Grid NTS;

    (iv)   the application must indicate the amount of the Incremental NTS Entry Capacity for which surrender is being sought as a daily reduction in kWh/Day at the specified Aggregate System Entry Point referred to in sub-paragraph (ii) above to apply uniformly at that Aggregated Supply Point (the **Incremental Surrender Amount**);

    (v)   the Incremental Surrender Amount must be no more than the quantity of Incremental NTS Entry Capacity in respect of an Eligible Allocation at the specified Aggregate System Entry Point;

(vi) that the result of the calculation set out at sub-paragraph (B) below is greater than the result of the calculation set out at sub-paragraph (A) below[1], where:

(1) the value of the full commitment made by that User at the specified Aggregate System Entry Point in respect of NTS Entry Capacity when that Incremental NTS Entry Capacity was allocated, which value shall be calculated by multiplying the relevant step price of the incremental Quarterly NTS Entry Capacity in the Eligible Allocation by the total amount of Incremental NTS Entry Capacity of the applicant User at the specified Aggregate System Entry Point within the Eligible Allocation; and

(2) the total amount that the User is expected to be liable to pay for the same amount of Incremental NTS Entry Capacity prior to the first Day on which surrender is being sought (based on the latest available indicative price for Incremental NTS Entry Capacity at the specified Aggregate System Entry Point published by National Grid NTS multiplied by the amount of such Incremental NTS Entry Capacity up to the relevant date). In the event that no published indicative price is available for any given Gas Year to which any amount of the Incremental Surrender Amount relates, National Grid NTS shall use the published indicative price which is closest in time for the Aggregate System Entry Point specified in paragraph 1.1.11(b)(ii).

(c) Following receipt of an application made in accordance with paragraph 1.1.11(a) above, National Grid NTS shall, within one (1) month after receiving the application, verify whether the application meets all of the conditions in paragraph 1.1.11(b) (including by carrying out the calculations referred to in paragraph 1.1.11(b)(vi)). If National Grid NTS determines that the application meets all of the conditions in paragraph 1.1.11(b), it shall inform the User and the User's rights with respect to the Incremental NTS Entry Capacity shall be reduced as follows with effect from the earliest date specified in the application pursuant to paragraph 1.1.11(b)(iii):

(i) where the User's NTS Entry Capacity which is Available[2] is greater than the Incremental Surrender Amount for every Day in a relevant quarter, by the requested Incremental Surrender Amount;

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[1] **Commentary:** Limb (1) of this calculation gives the total amount of the value of the incremental capacity at the time it was purchased by the applicant User. Limb (2) of this calculation gives the total value of the incremental capacity at the time of surrender application that it still held by the User following the surrender. The intention of the rule is that the total financial value of the user commitment (as measured in GBP) that was created at the time of the original allocation as determined by limb (1) will still be upheld. Rule (vi) ensures that the surrender cannot bring the value of user commitment down to below the value of (1).

[2] Available as defined in TPD Section B1.4(b)

(ii) where the User's NTS Entry Capacity which is Available is less that the Incremental Surrender Amount for any Day within a relevant quarter, by zero (0).[3]

and a transaction shall be made between National Grid NTS and the User such that each month the prevailing value of the Incremental Surrender Amount that has been successfully surrendered shall be netted off.

(d) If National Grid NTS has not provided a response within one (1) month after receiving the application, National Grid NTS shall be deemed to have rejected the application.

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[3] **Commentary:** This provision is included to ensure that the applicant User still holds the rights to the Surrender Amount – if the User has traded that capacity away then they cannot also surrender it.