

**CODE MODIFICATION PROPOSAL No 0262**  
**Treatment of Capacity affected by Force Majeure**  
**Version 1.0**

**Date:** 08/07/2009

**Proposed Implementation Date:**

**Urgency:** Non Urgent

## **1 The Modification Proposal**

### **a) Nature and Purpose of this Proposal**

*Where capitalised words and phrases are used within this Modification Proposal, those words and phrases shall usually have the meaning given within the Uniform Network Code (unless they are otherwise defined in this Modification Proposal). Key UNC defined terms used in this Modification Proposal are highlighted by an asterisk (\*) when first used. This Modification Proposal\*, as with all Modification Proposals, should be read in conjunction with the prevailing Uniform Network Code\* (UNC).*

#### **Background**

Under the current Uniform Network Code\* (UNC) arrangements where National Grid NTS issues a Force Majeure\* (FM) notice (UNC General Terms Section B General), National Grid NTS is relieved from its UNC requirement to make payment for any delay or failure in the performance of its obligations under the UNC.

In relation to NTS Entry Capacity and NTS Exit (Flat) Capacity such provisions relieve National Grid NTS of its obligation to buy back capacity where it is unable to meet its obligations as outlined within the FM notice, whilst Users\* remain liable for the full value of their Capacity holdings at the affected ASEP\* or NTS Exit Point\*. This Modification Proposal\* seeks to address the impact on Users at either an ASEP or NTS Exit point at which FM has been called which affects Users Capacity rights.

#### **Nature of the Proposal**

For the avoidance of doubt this Modification Proposal will only cover the treatment of capacity (both NTS Entry Capacity\* and NTS Exit (Flat) Capacity\*) at ASEPs and NTS Exit Points where FM has been called by National Grid NTS and Users are unable to utilise some or all of their registered capacity due to the FM declaration.

Please note that for the purposes of this Modification Proposal:

- Capacity will be used in proxy of both Firm NTS Entry Capacity and Firm NTS Exit (Flat) Capacity unless otherwise stated
- Network Point will be used in proxy of both ASEP and NTS Exit Point unless otherwise stated

National Grid NTS proposes that in these instances of FM that Users registered as holding Capacity\* at a Network Point will be issued with a FM Capacity Rebate.

### **Force Majeure Capacity Rebate**

The FM Capacity Rebate will be based on the amount by which the Capacity at the affected network point is to be reduced, as outlined in the FM notification, prorated between those Users registered as holding Capacity (excluding any impacts of Capacity acquired/sold via Capacity Trades) at the Network Point. The proration will be based on the Users registered capacity holdings at that point in time divided by the total capacity holdings at the Network Point multiplied by the FM amount.

The value of the FM Capacity Rebate will be the Weighted Average Price (p/kWh/day) of each specific Users registered Capacity holdings (excluding any impacts of Capacity acquired/sold via Capacity Trades) at the Network Point multiplied by the prorated Capacity quantity (kWh) for each day that the FM is in force.

The FM Capacity Rebate will be calculated monthly and invoiced via an Ad-hoc invoice issued in the same month, on a reasonable endeavours basis, as the relevant Capacity invoice applicable for the Users registered Capacity holdings on which the rebate is calculated. Please note that the Ad-hoc invoice will be issued after the relevant capacity invoice for the FM Rebate period.

For clarification Users will continue to retain full liability for all Capacity that they are registered as holding (i.e. Capacity that Users have acquired from National Grid NTS) at the affected Network Point and will be invoiced accordingly irrespective of the FM notification.

Please note that a Modification to the NTS Transportation Charging Methodology is not required to define the calculation of the FM rebates as they will be based on charges already calculated in accordance with the charging methodology i.e. capacity charges. The UNC will define the rebate and the Charging Methodology effectively already maps the charges that are rebated on to the relevant price control terms e.g. obligated/baseline capacity is TO whereas incremental and non obligated capacity is SO. The mapping of the FM rebates onto TO and SO actual revenue allows the consequential recalculation of other existing TO and SO charges.

The FM rebates would be mapped to the following licence terms;

- Standard Special Condition C8B 2(a); Definition of TORCOMt ~ TO revenue other than that collected through capacity charges
- Standard Special Condition C8C 2(a); Definition of RCOMt ~ SO revenue other than that collected through capacity and other Licence defined charges

FM rebates in regard to Capacity sales, which represent TO revenue, would be treated as TO revenue; this would result in increased TO Entry Commodity Charges and/or TO Exit charges.

FM rebates in regard to Capacity sales, which represent SO revenue, would be treated as SO revenue; this would result in increased SO Commodity Charges (Entry & Exit).

Where National Grid NTS issues an FM notification that triggers the requirement to issue a FM Capacity Rebate National Grid NTS shall inform all Users that such an instance of FM has occurred and the likely impact on charges via the NTS Quarterly Charge Setting Report issued via the Transmission Charging Methodology Forum.<sup>1</sup>

### **Capacity Buy-back FM Option/Forward**

At the earliest opportunity National Grid NTS will be obliged to invite offers from specific Users equivalent to each specific Users prorated FM quantity and Users will be obliged to offer that capacity to National Grid NTS at zero price. In the event that they don't reply by the end of the Option Window they will be deemed to have replied with an acceptance

Please note that if a User refuses to confirm the Option National Grid NTS will not be liable to issue the FM Rebate.

The invitation shall specify:

- the prorated FM quantity
- the FM period
- the number of exercisable days relating to the Option (this shall equal the number of days in the FM period)
- the period during which Users can confirm offers

And Options shall be exercised when:

- there is a constraint below the FM buy back level
- National Grid NTS does not make gas available for offtake at an NTS Exit Point

If the duration of the FM notification is extended National Grid NTS will be able to extend the FM Option/Forward accordingly.

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<sup>1</sup> The NTS Quarterly Charge Setting Report is published on the National Grid website at the following address;  
<http://www.nationalgrid.com/uk/Gas/Charges/Tools/>

For clarification all capacity bought back through this process shall feed into the Users Capacity entitlements and be considered in respect of calculating the Users Overrun Quantity\* and Neutrality Charges\*

For the avoidance of doubt any additional constraints beyond that declared under the FM notification will be subject to normal buyback principles unless covered by a further FM notification.

Please note that whilst a FM notification is in place National Grid NTS will not be obligated to make available any additional Capacity.

**b) Justification for Urgency and recommendation on the procedure and timetable to be followed (if applicable)**

Urgent Procedures are not requested

**c) Recommendation on whether this Proposal should proceed to the review procedures, the Development Phase, the Consultation Phase or be referred to a Workstream for discussion.**

As National Grid NTS has discussed this at the July Transmission Workstream we would like to suggest that this Modification Proposal be issued directly to consultation. National Grid NTS further suggests that were the consultation period to be extended by an additional 2 days that we would be able to answer any additional questions that the Industry may have at the August Transmission Workstream prior to the consultation period closing out.

**2 User Pays**

**a) Classification of the Proposal as User Pays or not and justification for classification**

No classification required as no costs anticipated.

**b) Identification of Users, proposed split of the recovery between Gas Transporters and Users for User Pays costs and justification**

None, no costs anticipated.

**c) Proposed charge(s) for application of Users Pays charges to Shippers**

None

**d) Proposed charge for inclusion in ACS – to be completed upon receipt of cost estimate from xoserve**

Not applicable

**3 Extent to which implementation of this Modification Proposal would better facilitate the achievement (for the purposes of each Transporter's Licence) of the Relevant Objectives**

National Grid NTS considers this Proposal would, if implemented, better facilitate the following Relevant Objectives as set out in its Gas Transporters Licence:

- 1(a) the efficient operation of the pipe-line system – The Proposal would introduce additional certainty into the UNC that will enable optimisation of Supply at an Entry Terminal under circumstances of Force Majeure affecting Capacity rights (whether or not such Force Majeure is agreed between parties)
- 1(d) so far as is consistent with sub paragraphs (a) to (c) the securing of effective competition (i) between relevant Shippers – This Proposal is likely to be fairer in the context of individual projects, hence encouraging future investment and improving effective competition between Shippers. The Proposal may also secure effective competition between Shippers by ensuring that players at single points would not be inappropriately or disproportionately affected by Force Majeure.

**4 The implications of implementing this Modification Proposal on security of supply, operation of the Total System and industry fragmentation**

Not applicable

**5 The implications for Transporters and each Transporter of implementing this Modification Proposal, including:**

**a) The implications for operation of the System:**

National Grid NTS believes that the operation of the system\* would not be adversely affected, this Proposal seeks to introduce additional certainty into the UNC that will enable optimisation of Supply at an Entry Terminal under circumstances of Force Majeure.

**b) The development and capital cost and operating cost implications:**

No cost implications have been identified

**c) Whether it is appropriate to recover all or any of the costs and, if so, a proposal for the most appropriate way for these costs to be recovered:**

Not applicable.

**d) The consequence (if any) on the level of contractual risk of each Transporter under the Uniform Network Code of the Individual Network Codes proposed to be modified by this Modification Proposal**

No such consequences have been identified.

**6 The extent to which the implementation is required to enable each Transporter to facilitate compliance with a safety notice from the Health and Safety Executive pursuant to Standard Condition A11 (14) (Transporters Only)**

Not applicable.

**7 The development implications and other implications for the UK Link System of the Transporter, related computer systems of each Transporter and related computer systems of Users**

No such implications are anticipated at this moment in time

**8 The implications for Users of implementing the Modification Proposal, including:**

**a) The administrative and operational implications (including impact upon manual processes and procedures)**

National Grid NTS believes that there may be a number of administrative implications for National Grid NTS due to the manual processes that will be involved in calculating and issuing the Force Majeure Rebate.

**b) The development and capital cost and operating cost implications**

National Grid NTS believe there are no development, capital or operating cost implications.

**c) The consequence (if any) on the level of contractual risk of Users under the Uniform Network Code of the Individual Network Codes proposed to be modified by this Modification Proposal**

No consequences on the level of contractual risk have been identified.

**9 The implications of the implementation for other relevant persons (including, but without limitation, Users, Connected System Operators, Consumers, Terminal Operators, Storage Operators, Suppliers and producers and, to the extent not so otherwise addressed, any Non-Code Party)**

No consequences on the implementation for other relevant persons have been identified.

**10 Consequences on the legislative and regulatory obligations and contractual relationships of the Transporters**

National Grid NTS has not identified any such consequences.

**11 Analysis of any advantages or disadvantages of implementation of the Modification Proposal not otherwise identified in paragraphs 2 to 10 above**

### **Advantages**

- Users at single points would not be inappropriately or disproportionately affected by Force Majeure.
- Users will have a greater degree of certainty with regards to their treatment once Force Majeure has been called

### **Disadvantages**

- Users may see an increase in their Commodity charges.

**12 Summary of representations received as a result of consultation by the Proposer (to the extent that the import of those representations are not reflected elsewhere in this Proposal)**

Not applicable

**13 Detail of all other representations received and considered by the Proposer**

Not applicable

**14 Any other matter the Proposer considers needs to be addressed**

Not applicable

**15 Recommendations on the time scale for the implementation of the whole or any part of this Modification Proposal**

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| Proposal submitted to Mod Panel               | July 16 |
| Proposal issued for consultation              | July 16 |
| Proposal discussed at Transmission Workstream | Aug 06  |
| Closeout for representations                  | Aug 11  |
| Modification Panel decide upon recommendation | Aug 20  |
| FMR submitted to Ofgem                        | Aug 21  |
| Proposed implementation date                  | Oct 01  |

**16 Comments on Suggested Text**

To be advised

**17 Suggested Text**

To be advised

### **Code Concerned, sections and paragraphs**

Uniform Network Code

Transportation Principal Document

**Section(s)** Section B – System Use and Capacity

**Proposer's Representative**

Fergus Healy (National Grid NTS)

**Proposer**

National Grid NTS