

UNC Modification	At what stage is this document in the process?
<h1>UNC 0680VS:</h1> <h2>UNC Changes as a Consequence of 'no deal' United Kingdom Exit from the European Union</h2>	<div style="display: flex; flex-direction: column; align-items: flex-start;"> <div style="margin-bottom: 5px;">01 Modification</div> <div style="margin-bottom: 5px;">02 Workgroup Report</div> <div style="margin-bottom: 5px;">03 Draft Modification Report</div> <div style="margin-bottom: 5px;">04 Final Modification Report</div> </div>
<p>Purpose of Modification:</p> <p>A number of minor changes to the Uniform Network Code (UNC) are required as a consequence of United Kingdom (UK) withdrawal from the European Union (EU) which becomes effective from the time and date specified by the UK government. In principle, these changes modify existing references to EU regulations with reference to UK amendment regulations and where appropriate remove references to EU entities.</p>	
	<p>The Proposer recommends that this varied Modification should be:</p> <ul style="list-style-type: none"> • Considered by Panel for implementation.
	<p>High Impact: None</p>
	<p>Medium Impact: None</p>
	<p>Low Impact: All UNC signatories.</p>

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Timetable		
The Proposer recommends the following timetable:		
Initial consideration by Workgroup	28 February 2019 (Distribution Workgroup) 07 March 2019 (Transmission Workgroup)	
Workgroup Report presented to Panel	21 March 2019	
Consultation commences	21 March 2019	
Consultation Close-out for representations	11 April 2019	
Final Modification Report available for Panel	01 November 2019	
Modification Panel decision	The later of: <ul style="list-style-type: none"> 19 December 2019; and the Modification Panel meeting subsequent to establishment of certainty that the relevant European Union (Withdrawal) Act 2018 Statutory Instruments will take effect. 	

 Any questions?

Contact:
Joint Office of Gas Transporters

 enquiries@gasgovernance.co.uk

 0121 288 2107

Proposer:
Phil Lucas
National Grid NTS

 phil.lucas@nationalgrid.com

 01926 653546

Transporter:
National Grid NTS

Systems Provider:
Xoserve

 UKLink@xoserve.com

1 Summary

What

The UNC contains a small number of references to EU Regulations and EU entities (noted as authorities for, or sources of information related to, certain UNC provisions) which are no longer applicable in, or have no impact upon, the UK after the date of UK withdrawal from the EU, as on that date the UK could exit the EU without entering into a withdrawal agreement.

Why

Following a referendum in June 2016, the UK government notified its intention to leave the EU in March 2017, this departure becoming effective from the time and date specified by the UK government ('Exit Day'). In absence of agreements concerning the UK's withdrawal from the EU and future trade and political relationship with the EU ('no deal'), from Exit Day EU Regulations will no longer be directly applicable in the UK and EU entities will no longer have a part to play in the creation of UK policy and legislation. However, the principle approach specified in the European Union (Withdrawal) Act 2018 is to incorporate EU law (existing immediately prior to Exit Day) into UK law and the UK Government has published statutory instruments with the aim of correcting or removing inoperable provisions of EU Regulations, relevant to the gas industry, such that they reflect the UK no longer being an EU member state.

Consequently, in the UNC existing references to EU Regulations require revision and it is no longer necessary (in specific contexts) to refer to EU entities.

How

It is proposed to modify existing references to EU regulations with appropriate references to UK amendment regulations and, in some contexts, remove EU entities in the UNC.

2 Governance

Justification for Self-Governance

The Modification Panel determined on 21 February 2019 that Self-Governance procedures should apply because the changes proposed are unlikely to have a material effect on competition in the shipping, transportation or supply of gas conveyed through pipes or any commercial activities connected with the shipping, transportation or supply of gas conveyed through pipes. This is because this change is limited to correction of certain references in the UNC to legal rules and relevant authorities.

The change proposed is also unlikely to discriminate between different classes of parties to the Uniform Network Code/relevant gas transporters, gas shippers or DN operators. This is because the changes will have the same impact on all parties to the UNC.

The Proposal represents a minimum level of change required to maintain the operability of the prevailing UNC arrangements following Exit Day.

As set out above the changes proposed in this varied Modification are not considered material, therefore this Modification should continue from the point it has reached in the Modification Rules.

Requested Next Steps

This varied Modification should:

- be considered a non-material change
- be considered by the Modification Panel on 01 November 2019 and implementation at the appropriate time (i.e. subsequent to establishment of certainty that the relevant European Union (Withdrawal) Act 2018 Statutory Instruments will take effect).

3 Why Change?

The UNC contains a small number of references to EU regulations and EU entities noted as authorities for, or sources of information related to, UNC provisions. These were introduced as a consequence of the integration of the UK into the EU Internal Energy Market (IEM) and more specifically in order to comply with a number of EU regulations which were directly applicable in UK Law including:

- Regulation 715/2009 on '*conditions for access to the natural gas transmission networks*'
- Regulation 2017/459 on '*establishing a Network Code on Capacity Allocation Mechanisms in Gas Transmission Systems*';
- Regulation 312/2014 on '*establishing a Network Code on Gas Balancing of Transmission Networks*';
- Regulation 2015/703 on '*establishing a network code on interoperability and data exchange rules*'; and
- Regulation 2017/460 on '*establishing a network code on harmonised transmission tariff structures for gas*'

Following the outcome of a referendum on UK membership of the EU on 23 June 2016, the UK government notified its intention to leave the EU (as permitted by Article 50 of the Treaty on European Union). The UK's departure from the EU will become effective from Exit Day. In a no deal scenario from this date EU regulations will no longer be directly applicable in the UK and EU entities will no longer have a part to play in the creation of UK policy nor domestic legislation.

However, the principle approach specified in the European Union (Withdrawal) Act 2018 is to incorporate EU law (existing immediately prior to Exit Day) into UK law (effective from Exit Day) and the UK Government has published statutory instruments with the aim correcting or removing inoperable provisions of EU Regulations as a consequence of the UK longer being an EU member state. Accordingly, the rules for operation of the UK Gas Transmission Systems specified within the relevant EU regulations will be set out in UK legislation in the form of Retained EU Law (i.e. including EU regulations having effect immediately before Exit day¹) and the relevant statutory instruments.

On this basis, references to EU regulations in the UNC need to be modified and supplemented with references to the relevant UK statutory instruments. Further, it is not necessary nor appropriate for the UNC to refer to specific EU entities from Exit Day as they will no longer have a role to play in the operation of UK Gas Transmission Systems.

¹ See *European Union (Withdrawal) Act 2018, Section 3 'incorporation of direct EU legislation'*

Consistent with the principles in the European Union (Withdrawal) Act 2018 and changes proposed to be made to the Transporter Licence², legally binding decisions made up until Exit Day by the Agency for the Co-operation of Energy Regulators (ACER) and/or European Commission will continue to apply in the UK.

If these changes are not made, the UNC will contain inappropriate references to EU regulations (in isolation) rather than correct reference to EU regulations modified by UK legislation and refer to EU entities that have no direct role in the operation of the Total System in GB.

Should a Withdrawal Agreement between the UK and the EU be concluded and take effect from Exit Day, this Modification will no longer be required.

4 Code Specific Matters

Reference Documents

[European Union \(Withdrawal\) Act 2018](#)

[The Electricity and Gas etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019](#)

Statutory Instrument covering Regulation 715/2009 'Gas Regulation'

[The Gas \(Security of Supply and Network Codes\) \(Amendment\) \(EU Exit\) Regulations 2019](#)

Statutory Instrument covering Regulation 2017/459 'CAM', Regulation 312/2014 'BAL', Regulation 2015/703 'INT' Regulation 2017/460 'TAR' and Regulation 2017/1938 'SoS')

Special meeting of the European Council (Art. 50), 25/11/2018:

<https://www.consilium.europa.eu/en/meetings/european-council/2018/11/25/>

Knowledge/Skills

Knowledge of Brexit principles.

5 Solution

It is proposed that the following changes are made to the specified sections of the UNC:

General Terms

Section	Current UNC Text	Summary / Purpose	Proposal
MODIFICATION RULES			
2	INTERPRETATION		
2.1	Defined terms		

² See https://www.ofgem.gov.uk/publications-and-updates/statutory-consultation-licence-modifications-event-uk-leaves-eu-without-deal?utm_medium=email&utm_source=dotMailer&utm_campaign=Daily-Alert_14-01-2019&utm_content=Statutory+consultation+on+licence+modifications+in+the+event+the+UK+leaves+the+EU+without+a+deal&dm_i=1QCB,62KUP,NH6XDG,NTXAR,1

	“ Regulation ” means Regulation 2009/715/EC of the European Parliament and of the Council of 13 July 2009 (as amended from time to time) concerning conditions for access to the national gas transmission networks;	Defines the principle Internal Energy Market Regulation.	Supplement ‘EU Retained Law’ EU Regulation with reference to The Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019.
		<i>Sets scope of decisions that are relevant i.e. limits definition to those decisions made up until Exit Day.</i>	Add new definition: “ legally binding decisions of the European Commission and/or the Agency for the Cooperation of Energy Regulators ”
		<i>Sets scope of EU rules that are binding i.e. as defined in the European Union (Withdrawal) Act 2018</i>	Add new definition “ Retained EU law ”
GTC – INTERPRETATION			
1	DEFINED TERMS		
	In addition to terms defined elsewhere in the Code, the following terms and expressions are used with the following meanings in the Code:		
	“ Recognised Standard ” means any technical, engineering or other standard, issued or published by any governmental body or professional or other institution, and generally recognised as applying to the gas industry in the United Kingdom or the European Union, as from time to time applicable;	Who may set engineering policy/standards	Remove reference to EU as no longer source of Recognised Standards
TRANSITION DOCUMENT [PART IIC – TRANSITIONAL RULES]			
		<i>Clarifies that for Auction Year 2019/20 the relevant Auction Calendar will be published by ENTSOG.</i>	Add terms to address publication of the Auction Calendar (EID Section B2.1.4(g)) for Auction Year 2019/20

European Interconnection Document (EID)

Section	UNC Text	Summary / Purpose	Proposal
SECTION A – GENERAL			
2.5	Other interpretation		
2.5.1	In this Document:		
(a)	“ ENTSOG ” means the European Network of Transmission System Operators for Gas, an ‘Association Internationale Sans But Lucratif’ established under Belgian law;	Definition of ENTSOG	Delete definition.
SECTION B – CAPACITY			
2.1.4	For the purposes of this Document:		
(g)	the “ Auction Calendar ” in relation to an Auction Year is the auction calendar published by ENTSOG for that Auction Year;	Reference for setting of Auction timings and frequency	Replace with “...published by National Grid...” as ENTSOG will no longer publish Auction Calendar in respect of UK.
SECTION E – RULES FOR THE RELEASE OF INCREMENTAL CAPACITY 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;	Defines the Capacity Allocation Mechanism Regulation	Supplement “EU Retained Law” EU Regulation with reference to The Gas (Security of Supply and Network Codes) (Amendment) (EU Exit) Regulations 2019. Delete “Amended” as no longer necessary and reflect in occurrences of “Amended CAM Code.
	“ Tariff Code ” means Commission Regulation (EU) establishing a network code on harmonised transmission tariff structures for gas;	Defines the Tariff setting Regulation	Supplement “EU Retained Law” EU Regulation with reference to The Gas (Security of Supply and Network Codes) (Amendment) (EU Exit) Regulations 2019.
2	DEMAND ASSESSMENT		
2.1	Biennial Process		
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;	Mandates consideration of Community- wide Ten Year Network Development Plan when undertaking the demand assessment report	Re-word provision to match intent of Schedule 4 para 18(6) of the Security of Supply and Network Codes) (Amendment) (EU Exit) Regulations 2019
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.	Reference for demand assessment reports to be in format provided by ENTSOG	Remove reference to ENTSOG limiting format to that published by National Grid.

6 Impacts & Other Considerations

Does this modification impact a Significant Code Review (SCR) or other significant industry change projects, if so, how?

None

Consumer Impacts

None – implementation is not expected to have any impacts on consumers.

Cross Code Impacts

It is understood that other energy Codes will require revision as a consequence of the UK's exit from the EU in a no deal scenario. However, this Modification is not dependant on the other energy Codes therefore joint Workgroups are not requested.

EU Code Impacts

The EU energy codes identified in Section 3 (above) will only be applicable in the UK to the extent that they form part of Retained EU Law hence the requirement to revise the references in UNC to EU Regulations.

Central Systems Impacts

None. Implementation would not result in the need for any changes to the way in which the central systems operate and process the relevant information to facilitate the ongoing operation of the GB market.

7 Relevant Objectives

Impact of the modification on the Relevant Objectives:

Relevant Objective	Identified impact
a) Efficient and economic operation of the pipe-line system.	None
b) 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.	None
c) Efficient discharge of the licensee's obligations.	None
d) Securing of effective competition: (i) between relevant shippers; (ii) between relevant suppliers; and/or (iii) between DN operators (who have entered into transportation arrangements with other relevant gas transporters) and relevant shippers.	None
e) Provision of reasonable economic incentives for relevant suppliers to secure that the domestic customer supply security standards... are satisfied as respects the availability of gas to their domestic customers.	None
f) Promotion of efficiency in the implementation and administration of the Code.	Positive
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.	None

Relevant Objective f): Promotion of efficiency in the implementation and administration of the Code.

This Modification will facilitate promotion of efficiency by ensuring that references in the UNC to EU Regulations are appropriately described including reference to the applicable statutory instruments. Further, those EU institutions which will no longer influence UNC terms (applicable in GB) will be removed. These two

changes will eliminate any ambiguity which would prevail if these changes were not made and thereby promote efficiency in the implementation of the Code.

8 Implementation

No implementation costs are associated with this Modification.

No implementation timescales are proposed, although implementation of this varied Modification would be sought as soon as practicable following UK's exit from the EU. However, implementation is specifically dependent upon the implementation of The Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019 and The Gas (Security of Supply and Network Codes) (Amendment) (EU Exit) Regulations 2019.

9 Legal Text

Text Commentary

See section 5

Text

General

Modification Rules

Amend paragraph 2.1 as follows:

“**Regulation**” means Regulation 2009/715/EC of the European Parliament and of the Council of 13 July 2009 ~~(as amended from time to time)~~ concerning conditions for access to the national gas transmission networks (as a component of Retained EU Law) as amended by Schedule 2 of The Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019;

Insert the following new definitions in paragraph 2.1:

“legally binding decisions of the European Commission and/or the Agency for the Cooperation of Energy Regulators” means any relevant legally binding decisions of the European Commission and/or the Agency, but a binding decision does not include a decision that is not, or so much of a decision as is not, Retained EU Law;

“Retained EU Law” has the same meaning as that given by section 6(7) of the European Union (Withdrawal) Act 2018;

Transition Document: Part IIC – Transitional Rules

Insert new paragraph 24 as follows:

24 AUCTION CALENDAR PUBLICATION

24.1 The Auction Calendar for the Auction Year commencing 1 March 2019 shall be published by the European Network of Transmission System Operators for Gas (ENTSOG) and the Auction Calendar for every subsequent Auction Year shall be published by National Grid NTS.

GTC - Interpretation

Amend the Defined Terms as follows:

“**Recognised Standard**” means any technical, engineering or other standard, issued or published by any governmental body or professional or other institution, and generally recognised as applying to the gas industry in the United Kingdom ~~or the European Union~~, as from time to time applicable;

European Interconnection Document

Section A – General

Delete paragraph 2.5.1(a)

Section B – Capacity

Amend paragraph 2.1.4(g) as follows:

the “**Auction Calendar**” in relation to an Auction Year is the auction calendar published by ENTSOG National Grid NTS for that Auction Year;

Section E – Rules for the Release of Incremental Capacity at Interconnection Points

Amend paragraph 1.1.1 as follows:

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.

Amend definitions in paragraph 1.2.1 as follows:

“**Amended CAM Code**” means Commission Regulation ~~{EU} No 2017/459~~ 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 (as a component of Retained EU Law) as amended by Schedule 4 of The Gas (Security of Supply and Network Codes) (Amendment) (EU Exit) Regulations 2019;~~

“**Tariff Code**” means Commission Regulation ~~{EU} No 2017/460~~ establishing a network code on harmonised transmission tariff structures for gas ~~(as a component of Retained EU Law) as amended by Schedule 5 of The Gas (Security of Supply and Network Codes) (Amendment) (EU Exit) Regulations 2019;~~

Amend paragraph 2.1.1 as follows:

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.

Amend paragraph 2.1.12(a) as follows:

~~whether the Community-wide Ten Year Network Development Plan (as required by EU Gas Regulation (EC) 715/2009) the obligation on any concerned non-UK TSOs to take into account whether the Union-wide 10-year network development plan~~ 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 the~~ gap; or ~~any UK network development plan or~~ national network development plan relevant to a concerned non-UK TSO identifies a concrete and sustained physical transport requirement;

Amend paragraph 2.1.14:

~~National Grid NTS shall follow the standard templates for The~~ demand assessment reports ~~as provided by ENTSOG or shall be in~~ any ~~other~~ format that National Grid NTS may publish from time to time.

Amend paragraph 2.2.4 as follows:

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.

Amend paragraph 3.1.4(b) as follows:

the offer levels of capacity (as defined in the Amended CAM Code) at the Interconnection Point;

Amend paragraph 3.1.4(c) as follows:

the proposed alternative allocation mechanism (as defined in the Amended CAM Code), including justification for such proposed mechanism;

Amend paragraph 3.1.4(e) as follows:

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;

10 Recommendations

Proposer's Recommendation to Panel

Panel is asked to:

- Determine whether the varied modification should be implemented or not at the appropriate time.