

Modification proposal:	Uniform Network Code (UNC) 105: Commercial arrangements for combined DN Exit/Entry points		
Decision:	The Authority ¹ directs that this proposal be made ²		
Target audience:	The Joint Office, Parties to the UNC and other interested parties		
Date of publication:	9 October 2006	Implementation Date:	To be confirmed by the Joint Office

Background to the modification proposal

Existing entry points connected to the Gas Distribution Networks (GDNs) are deemed to be National Transmission System (NTS) entry points for the purposes of the commercial and regulatory framework. Entry capacity for these entry points is sold by National Grid Gas NTS (NGG NTS) in accordance with the Uniform Network Code (UNC) and under the framework of NGG NTS' gas transporter licence. The Offtake Arrangements Document (OAD) of the UNC governs the arrangements between NGG NTS and the GDNs for making capacity available at these entry points.

It is not clear that these arrangements provide an appropriate long term commercial and regulatory framework for GDN entry points. This issue has recently become more important given the requests from new gas storage operators wanting to connect their facilities to the GDNs.

In order to address this issue, Ofgem is undertaking a consultation³ to establish new long term entry arrangements for connecting to the GDN. Given that any such arrangement is unlikely to be implemented before October 2007, Ofgem also consulted on introducing interim arrangements to allow Ineos Chlor's storage facility at Holford to commence commercial operations in October 2006. Ineos Chlor took over the operations of the salt cavity, which is connected to a NGG GDN at Warburton in November 2005. Up until then, NGG had been leasing the site for diurnal storage purposes.

In the consultation, Ofgem proposed that in line with existing GDN connected entry points, Holford would be deemed an NTS entry point although the provision of entry rights would be on an interruptible basis. The interim arrangement would be time limited and would cease to have effect once the long term arrangements are implemented.

In their response to the Ofgem consultation on interim arrangements, NGG NTS and National Grid Distribution (NGD) put forward a joint proposal that would provide Ineos Chlor with interruptible entry capacity rights for a limited period of time. But rather than deeming the entry point to be an NTS one as Ofgem had proposed, they argued that Holford could instead be treated as a GDN connected entry point.

The modification proposal

Following their response to the above consultation NGD raised modification proposal 105 on 9 August 2006 in order to introduce new interim arrangements for Ineos Chlor. The purpose of the modification proposal is to give entry capacity rights to flow gas onto the network and shippers access to trade at the National Balancing Point (NBP) without the

¹ The terms 'the Authority', 'Ofgem' and 'we' are used interchangeably in this document. Ofgem is the Office of the Gas and Electricity Markets Authority.

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

³ New entry arrangements for connecting to the gas distribution network, July 2006

need to deem the entry point to be NTS connected. The point will instead be treated as a GDN connected entry point in recognition of where the point is physically connected.

The modification would work by allowing System Entry Points connecting to the GDN, that are not already specified in the NTS's Licence Capacity Statements to be excluded from being deemed to have used the NTS. However, as the connection would still be categorised as a System Entry Point, gas entering the GDN would be still be allocated to a shipper and would still be available for trade at the NBP.

UNC Panel⁴ recommendation

At its meeting of 21 September 2006 the UNC Modification Panel voted by panel majority to recommend the implementation of this proposal.

The Authority's decision

The Authority has considered the issues raised by the modification proposal and the Final Modification Report (FMR) dated 21 September 2006. The Authority has considered and taken into account the responses to the Joint Office's consultation on the modification proposal which are attached to the FMR⁵. The Authority has concluded that:

1. implementation of the modification proposal will better facilitate the achievement of the relevant objectives of the UNC⁶; and
2. directing that the modification be made is consistent with the Authority's principal objective and statutory duties⁷.

Reasons for the Authority's decision

There were nine responses to this proposal, and all but one supported its implementation. Five respondents supported the proposer's view that the modification would further the relevant objectives of the UNC. They considered that facilitating an efficient and economic pipe-line system and securing effective competition between shipper and suppliers would be better served by the proposal. In contrast, the sole respondent who opposed the proposal doubted whether it would facilitate the relevant objectives, adding that it could in fact harm them.

A number of respondents agreed with the transitional nature of the proposal, in that it would only apply until October 2007, when the long term arrangements governing GDN connected entry points are expected to be implemented. Three respondents however, opposed the setting in code of an October 2007 expiration date for the interim arrangements. They instead suggested that the arrangements should continue to carry on until superseded by the long term arrangements in the event of a delay to implementing the long term arrangements beyond 1 October 2007.

We agree with the majority view of respondents and the recommendation of the UNC Modification Panel that this proposal should be implemented. The proposal is simple to

⁴ The UNC Panel is established and constituted from time to time pursuant to and in accordance with the UNC Modification Rules

⁵ UNC Modification proposals, Modification Reports and Representations can be viewed on the Joint Office of Gas Transporters website at www.gasgovernance.com

⁶ As set out in Standard Special Condition A11(1) of the Gas Transporters Licence, see: http://62.173.69.60/document_fetch.php?documentid=6547

⁷The Authority's statutory duties are wider than matters which the Panel must take into consideration and are detailed mainly in the Gas Act 1986.

implement and will enable the Ineos Chlor storage facility to be operational in advance of this winter.

We consider that this modification proposal better facilitates the relevant objectives (a) and (d) of the UNC.

Standard Special Condition A11 (1) (a) – the efficient and economic operation of the pipe-line system to which this licence relates

We concur with the views of the proposer and those respondents who stated that the proposal would better facilitate the efficient and economic operation of the GDN's pipe line system. The proposal would have the potential to deliver an additional source of gas onto the distribution network during periods of high demand by using existing transportation assets at marginal cost.

Some respondents expressed their concerns that failing to implement the proposal could have security of supply implications, during what they perceived could be a tight winter. As such, they believed that implementing the proposal would enable the storage facility to meet its operational starting date in advance of the winter months thereby assisting to alleviate any potential demand/supply imbalance for gas that may arise. Although the proposer suggested that there would be no effect on security of supply, we would agree with those respondents who suggested that its implementation should be beneficial, by bringing gas onto the system when the need is greatest.

Given the potential role that storage facilities can play in alleviating system constraints, the implementation of any interim arrangement should be done in a timely manner that will enable Ineos Chlor to commence operations ahead of the forthcoming winter. This proposal would facilitate Ineos Chlor's planned start up date of October 2006 because deeming the point to be GDN rather than NTS connected would be less complex and as a result quicker to implement as it would only necessitate a modification to the UNC. In contrast, the provision of NTS entry capacity rights would entail additional amendments, i.e. need to amend the NTS licence, which could delay the start of operations at the storage facility.

The sole respondent to oppose the modification proposal expressed concern for a number of reasons. This included amongst other things, the applicability of the proposal extending to not only the Holford entry point but to any other new GDN entry point that emerges during the interim period. This created, the respondent added, a degree of uncertainty as to how many GDN entry points could potentially fall under these arrangements. This particular concern extended to the possibility that existing GDN entry points could decide to disapply the deemed NTS regime in favour of the new arrangements if it was judged to be beneficial. While we acknowledge that the proposal will treat new GDN connected entry points in a different manner to existing GDN points during the interim period, arrangements for all GDN entry points are expected to change by October 2007.

Standard Special Condition A11 (1) (d)-securing of effective competition between shippers and suppliers

We agree that this modification proposal would allow for the offtake and short term storage of gas on the GDN thereby providing shippers with an additional tool for balancing their portfolios. The gas will be tradable at the NBP which should promote

shipper competition. As such, we agree that the proposal would assist in securing effective competition between relevant shippers and suppliers.

We consider that directing the implementation of this proposal will be consistent with the Authority's principle objective of protecting consumers' interests, where possible by promoting effective competition. It is also consistent with its duty to have regard to the need to secure that, so far as it is economical to meet them, all reasonable demands for gas are met.

This decision does not fetter our discretion with respect to the outcome of Ofgem's consultation on long term GDN entry arrangements.

Decision notice

In accordance with Standard Special Condition A11 of the Gas Transporters Licence, the Authority, hereby directs that modification proposal UNC105: '*Commercial arrangements for combined DN Exit/Entry points*' be made.

Yours sincerely

Joanna Whittington
Director, Gas Distribution

Signed on behalf of the Authority and authorised for that purpose