

Modification proposal:	Uniform Network Code (UNC) 139 / 139A: Amendments to UNC TPD OCS Process and Long Term Allocation of Capacity in the Transitional Period (UNC139 / 139A)		
Decision:	The Authority ¹ directs that the UNC139 proposal be made ²		
Target audience:	The Joint Office, Parties to the UNC and other interested parties		
Date of publication:	22 June 2007	Implementation Date:	To be confirmed by the Joint Office

Background to the modification proposal

Section B6 of the Uniform Network Code (UNC) sets out how Distribution Network Operators (DNOs) apply for offtake capacity rights or increases to their existing rights and how National Grid Gas NTS (NGG NTS) communicates the offtake capacity rights to DNOs following these applications.

The current arrangements allow DNOs to apply for offtake capacity rights, or increase their existing allocations of offtake capacity rights, by submitting an application to NGG NTS in the Application Window from 1 June to 31 July up to 4 years before the Gas Year in which they want the offtake capacity rights. Alternatively, if the DNO finds itself unable to comply with its licence it can apply to increase its offtake capacity rights after the Application Window.

Once NGG NTS has determined the allocations of offtake capacity applications resulting from the Application Window it issues to each DNO, by 30 September, an Offtake Capacity Statement (OCS). This states the amounts of flat and flexibility offtake capacity for that DNO for each of the Gas Years up to 30 September 2011 (this date was extended from 2010 as a result of the decision on UNC142 on 25 May 2007) as well as the assured offtake pressures.

The proposer considers that the current arrangements have a number of problems. The first is that the publication date of 30 September for offtake capacity rights beginning on 1 October does not provide DNOs with an opportunity to seek clarification or amendments from NGG NTS – as such, DNOs have to rely on other UNC provisions relating to short-term increases in offtake capacity through the Offtake Profile Notice (OPN) process. Furthermore, it is not clear when the application window is for DNOs applying to increase their offtake capacity rights when they are unable to comply with their own licence. An additional problem arises from confusion between the OCS process and other provisions in the UNC relating to long term demand forecasting.

The modification proposal

UNC139

Scotland Gas Networks and Southern Gas Networks (together "SGN") propose a number of changes to the UNC to deal with these apparent problems.

UNC139 has three components:

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.

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

- clarification that DNOs can apply to increase their offtake capacity rights when they are unable to comply with their own licence at any time outside the Application Window used for DNOs to apply for new capacity rights or increases to their offtake capacity rights
- a reduction in the Application Window by one week to end on 24 July so that NGG provides the initial OCS by 15 September. DNOs then have five business days within which to raise queries and NGG NTS has a further five business days to answer these and finalise the OCS by 30 September
- Additional text to clarify that section B of the UNC is not to be confused with section H, particularly that the information provided under section H should not be construed as an application under section B3 and that information provided by NGG NTS under section H should not be construed as an allocation under sections B6.2 and B6.3.

The proposer believes that UNC139 meets the relevant objective of so far as being consistent with sub-paragraph (a), the co-ordinated, efficient and economic operation of (i) the combined pipe-line system and (ii) the pipe-line system of one or more other relevant gas transporters.

UNC139A

RWE Trading raised an alternative to UNC139 in order to address the problems with the current arrangements. UNC139A is identical to UNC139 except for one aspect; UNC139A would require the OCS information which NGG NTS is required to publish by 30 September to be made available to all users and not just DNOs.

The proposer considers that UNC139A meets the following relevant objectives

- the efficient and economic operation of the pipe-line system to which this licence relates;
- so far as is consistent with sub-paragraph (a), the co-ordinated, efficient and economic operation of (i) the combined pipe-line system and (ii) the pipe-line system of one or more other relevant gas transporters;
- so far as is consistent with sub-paragraphs (a) and (b), the efficient discharge of the licensee's obligations under this licence;
- so far as is consistent with sub-paragraphs (a) to (c), the securing of effective competition (i) between relevant shippers; between relevant suppliers; and/or (iii) between DN operators and relevant shippers; and
- so far as is consistent with sub-paragraphs (a) to (e), the promotion of efficiency in the implementation and administration of the network code and/or the uniform network code.

UNC Panel³ recommendation

At the Modification Panel meeting held on 17 May 2007, of the ten voting members present, who were capable of casting ten votes, five votes were in favour of implementing UNC139 and five votes were in favour of implementing UNC139A. The panel did not recommend implementation of either UNC139 or UNC139A.

³ The UNC Panel is established and constituted from time to time pursuant to and in accordance with the UNC Modification Rules

Of the ten voting members present, who were capable of casting ten votes, five votes were in favour of implementing UNC139 in preference to UNC139A. Four votes were in favour of implementing UNC139A in preference to UNC139. The Panel, therefore, determined that, of the two proposals, UNC139 would better facilitate the relevant objectives.

The Authority's decision

The Authority has considered the issues raised by the modification proposal and the Final Modification Report (FMR) dated 19 June 2007. 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 FMR⁴. The Authority has concluded that:

- 1. implementation of the modification proposal UNC139A would not better facilitate the achievement of the relevant objectives of the UNC;**
- 2. implementation of the modification proposal UNC139 will better facilitate the achievement of the relevant objectives of the UNC⁵; and**
- 3. directing that the modification UNC139 be made is consistent with the Authority's principal objective and statutory duties⁶.**

Reasons for the Authority's decision

the efficient and economic operation of the pipe-line system to which this licence relates

One of the respondents states that both UNC139 and UNC139A remove uncertainty over the availability of offtake capacity and that dialogue between NGG NTS and DNOs after the Application Window and before the publication of the OCS should maximise usage of the NTS. Another respondent added that this should also allow for an optimal solution to be reached.

Other views from the consultation thought that the increased time pressure to conclude each of the different elements of the proposed OCS process in UNC139 and UNC139A could negatively impact on the operation of the pipe-line system.

Ofgem considers that the possibility for a formal dialogue to take place between DNOs and NGG NTS before finalising the OCS process should allow for any issues to be resolved regarding DNOs' offtake allowances. This should allow for a better solution to be attained regarding the DNOs' offtake and use of the NTS as any iterations from the initial OCS position should encompass the views of the DNOs and NGG NTS for offtake capacity allocations which better reflect the DNOs' requirements within the constraints which NGG NTS operate the NTS. However, we are also aware that the compressing of the Application Window and reduced time in which NGG NTS has to determine its indicative OCS could negatively impact on DNOs' applications for offtake capacity and on NGG NTS's ability to decide on these applications. However, as the Application Window and the time in which NGG NTS decides on the offtake allocations are both currently two months in duration then a reduction of each by one week should not be too onerous. The reduced

⁴ UNC modification proposals, modification reports and representations can be viewed on the Joint Office of Gas Transporters website at www.gasgovernance.com

⁵ As set out in Standard Special Condition A11(1) of the Gas Transporters Licence, see: http://epr.ofgem.gov.uk/document_fetch.php?documentid=6547

⁶ 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.

time periods do not appear to be that onerous as some of those respondents which raised this particular timing concern thought that it would be outweighed by the benefits from the dialogue. Ofgem agrees that the benefits from these formal dialogues should outweigh the disadvantages of time pressure.

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

One of the respondents noted that the formal dialogue between NGG NTS and DNOs, inherent in UNC139 and UNC139A, would also better facilitate this objective for similar reasons as noted above. Similar drawbacks were raised regarding the increased time pressures on DNOs and NGG NTS.

Ofgem, reiterates the points made under the previous relevant objective and for similar reasons finds that UNC139 and UNC139A would better facilitate the co-ordinated, efficient and economic operation of the combined pipe-line system.

so far is consistent with sub-paragraphs (a) to (c), the 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

A number of respondents thought that one advantage of UNC139A over UNC139 was that publication of OCS data to all users would be useful in developing strategies in how to use and acquire offtake capacity products in the enduring offtake regime. UNC116V introduced the enduring offtake regime which allows users to signal and register their long-term requirements of NTS offtake capacity with the aim of treating all users on the NTS equally. One respondent stated that this advantage would assist in securing effective competition between DNOs and shippers.

Some respondents considered that there are discrimination issues with UNC139A since it applies to DNOs only.

Ofgem considers that there is value to the market from the publication of information, especially regarding that of monopoly businesses, such as the DNOs. The provision of relevant information should allow market participants to make better informed decisions and so allow them to compete more effectively in the market. However, the publication of such information should not be discriminatory. Ofgem has sympathy with the intention of UNC139A, however, we consider that the application of UNC139A to the publication of information relating to offtakes from only DNOs has the potential to discriminate since other offtake users are not required to have their equivalent offtake information published. This is potentially problematic as all users will be competing for the same offtake products, in the enduring regime. For this reason we do not consider that UNC139A would further the objective of securing effective competition between DNOs and relevant shippers.

So far is consistent with sub-paragraphs (a) to (e), the promotion of efficiency in the implementation and administration of the network code and/or the uniform network code

One respondent citing the benefits of dialogue as featured in UNC139 and UNC139A considered that this would also extend to better facilitating this relevant objective.

However, a few respondents were concerned with the lack of clarity of detail in the UNC139A proposal.

Ofgem, agrees that the formal dialogue envisaged in UNC139 and UNC139A should promote the efficiency of implementing the UNC as it could reduce the need for DNOs to go through the OPN process to obtain short term increases in offtake capacity. Additionally, the clarity the proposals give on when a DNO can apply for new or increased offtake capacity outside the Application Window, and the distinction between the OCS process and that outlined in section H2 of the UNC, should also further this objective.

The original UNC139 proposal aimed to address a number of issues including:

- lack of information provided to DNO users to help understand constraints or the maximum level of capacity available
- lack of opportunity in OCS process to seek clarification from NGG NTS
- lack of opportunity in OCS process to amend offtake requests or allocations
- lack of opportunity in OCS process to apply to increase offtake more than one year ahead, for DNOs to comply with relevant conditions in licence
- confusion between arrangements in sections B and H of the UNC
- lack of opportunity to have dialogue other than during the Application Window
- lack of opportunity in OCS process to submit for capacity applications outside Application Window
- lack of timescale for NGG NTS to respond to applications for increases in offtake for DNOs to comply with relevant conditions in licence.

Ofgem notes that the legal text in the FMR does not address the issues relating to the lack of opportunity to have dialogue other than during the Application Window and the lack of information provided to DNO users. However, despite these points not being addressed in the final legal text we still consider that UNC139 in its current form better facilitates the relevant objectives.

In summary, Ofgem supports, in principle, making relevant information available to all users for the promotion of competition, however, the potential for discrimination in proposal UNC139A means that we consider that it would not better facilitate the relevant objective relating to securing of effective competition between DNOs and relevant shippers.

Decision notice

In accordance with Standard Special Condition A11 of the Gas Transporters Licence, the Authority, hereby directs that modification proposal UNC139:

Amendments to UNC TPD OCS Process and Long Term Allocation of Capacity in the Transitional Period be made.



Robert Hull
Director of Transmission

Signed on behalf of the Authority and authorised for that purpose.

