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Dear Julian

EDF Energy Response to UNC Modification 0156 & 156A “Transfer and Trading of Capacity between ASEPs”

EDF Energy welcomes the opportunity to respond to this consultation, and support implementation of modification proposals 156 & 156A as a short term solution for this winter only. In terms of preference we prefer proposal 156A to proposal 156.

For clarity we believe that there are flaws with these proposals, however it is important that a solution is implemented ahead of this winter to ensure that the constraints at certain ASEPs are relieved and the UK's security of supply position is not threatened. We believe that any enduring proposals will require a significant amount of development by both NGG and the industry to address these flaws, to ensure that the transfer and trade process operates as intended.

We are however concerned with the process and lead times that have led to the raising of these proposals. We are concerned that changing the entry capacity baselines in April 2007 with little foresight or consultation on these adjustments has created a significant regulatory risk to the industry. We believe that this action alone will push Users into procuring long term entry capacity in an attempt to mitigate the risk from the regulator that baselines will be significantly changed again at the next Transmission Price Control Review (TPCR). Combined with the proposed substitution of entry capacity it appears that this will mean that there is no requirement for the trading and transfer of entry capacity, and that there will be no spare capacity to facilitate whatever requirements there may be. We would note that combined all of these proposed changes could significantly reduce the size of the short term entry capacity market, which does not appear consistent with the EC Directives to ensure access to prompt markets are not compromised and remain competitive.

The issues associated with these proposals have been further exasperated by the delay in producing and enacting the licence conditions that will require the facilitation of a trade and transfer mechanism. This uncertainty has created a significant regulatory (and financial) risk for NGG and Shippers. This risk could have been mitigated by producing the licence conditions earlier and by engaging with the industry at an earlier stage. We therefore welcome the work that NGG has undertaken in an attempt to mitigate this risk and hope that an enduring solution for this issue can be developed along with the rest of the industry.

In relation to the particular proposals we believe that these proposals will:

- Provide some clarity and comfort to Users that additional capacity is released at ASEPs for this winter where it is required.
- Ensure that import facilities such as Rough and Excelerate are not artificially constrained and thereby improving the UK's security of supply position
- Ensure that no advantage is provided to particular classes of Users, as all Users will be treated equally, regardless of their entry capacity portfolio.
- Provide a reasonably transparent process that will encourage the trading of unsold capacity between ASEPs
- Facilitate the efficient and economic operation of the pipeline system by ensuring that un-utilised capacity at an ASEP is not sterilised at that ASEP. This should therefore avoid gas being stranded offshore.

- Enable the efficient discharge of a licensee's obligations under its licence as it facilitates the transfer and trade of capacity within the constrained period.

In addition we believe that modification proposal 156A will:

- Secure effective competition between Users by introducing a two round auction process. This would enable price transparency and therefore price discovery. This will ensure that capacity is allocated to those that value it most and ensure that the value attached to it is based on economic fundamentals.

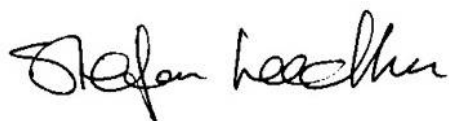
We would however question the volume of capacity that Users would surrender into this process, and the complexity and risk associated with it. In particular we note that both proposals essentially require a User to surrender capacity that they would then have to re-bid for if they wished to acquire it at an alternate ASEP. We believe that this would limit the amount of capacity that Users may wish to surrender, especially as they would have no certainty regarding the price that they would receive for it. We would further note that whilst the within zone allocation methods are reasonably simple and transparent, the out of zone allocation methods is both complex and opaque, especially when combined with the within zone method. Whilst we appreciate that this is essentially a quick fix for this winter, we believe that this could further discourage participation within this process.

We are also disappointed that the methodology statement required to support these proposals has also not been issued for consultation at the same time. These proposals are reliant on the acceptance of the methodology statement by Ofgem, which will determine the amount of capacity that is released by these proposals. It would appear that following the UNC Transmission Workstream on 19 July 2007 that the amount of capacity that will be available will be based on the maximum zonal capabilities and not the obligated baselines. This therefore suggests that these proposals will not facilitate the trading of unsold capacity, but will facilitate the trading of available capacity. It would further appear that the zonal maximum capacities are designed to ensure that NGG's buy back risk is maintained. This appears in contradiction to Ofgem's open letter on this issue, however we are not able to comment on this at this stage as the methodology statement is still not available.

EDF Energy however remains convinced that it is appropriate to have a trade and transfer process in place for this winter as a potential solution to any capacity constraints that may occur. We believe that despite the concerns associated with this proposal this should help to mitigate these constraints and so improve the UK's security of supply condition. We therefore remain supportive of these proposals but would encourage NGG to start developing an enduring regime with the industry to ensure that these concerns are addressed.

I hope you find these comments useful, and please contact me should you wish to discuss these comments further.

Yours sincerely

A handwritten signature in black ink, appearing to read "Stefan Leedham".

Stefan Leedham
Gas Market Analyst
Energy Regulation, Energy Branch.