

CODE MODIFICATION PROPOSAL No 0262
Treatment of Capacity affected by Force Majeure
Version 4.0

Date: 18/08/2009

Proposed Implementation Date: 01/10/09

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 Annual 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 Aggregated System Entry Point (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 (that is Quarterly NTS Entry Capacity*, Monthly NTS Entry Capacity* and Annual NTS Exit (Flat) Capacity*) at ASEPs and NTS Exit Points where FM has been called by National Grid NTS and the User(s) are unable to utilise some or all of their registered Capacity as a result of the FM declaration.

For clarification as a consequence of the proposal TPD section J3.6 will no longer apply to NTS Exit Points* and will be modified accordingly.

Please note that for the purposes of this Modification Proposal:

- Capacity will be used in proxy of Firm Quarterly NTS Entry Capacity, Monthly NTS Entry Capacity and Firm Annual NTS Exit (Flat) Capacity unless otherwise stated
- NTS System 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 Firm Capacity* at a NTS System Point will be issued with a FM Rebate.

For the avoidance of doubt where a FM Notification (affecting Capacity) is in place on the date that the modification proposal is implemented the FM Rebate will only be applied from that implementation date i.e. it will not be applied retrospectively.

Force Majeure Rebate

The FM Rebate will be based on the amount by which the Capacity at the affected NTS System Point is to be reduced, as outlined in the FM notification (the FM Amount), prorated between those Users Registered as holding Capacity (excluding any impacts of Capacity acquired/sold via Capacity Transfers*) at the NTS System Point. The proration will be based on the Users Registered Capacity Holdings (for the purposes of this modification proposal Registered Capacity Holdings will mean NTS Entry Capacity acquired through the Annual and Rolling Monthly NTS Entry Capacity Auctions and/or Annual NTS Exit (Flat) Capacity) at that point in time divided by the total amount of Capacity held at the NTS System Point multiplied by an Adjusted Force Majeure Amount. An Adjusted FM Amount will mean the FM Amount as outlined within the FM Notification minus any Unsold Capacity and any Capacity allocated on the day of the FM Notification.

The value of the FM Rebate will be the Weighted Average Price (p/kWh/day) of each specific User's Registered Capacity Holdings (excluding any impacts of Capacity acquired/sold via Capacity Transfers) at the NTS System Point multiplied by the prorated Capacity quantity (kWh) for each day that the FM is in force. For clarification the Weighted Average Price at an ASEP will be calculated for each individual User as follows:

Sum of each successful Capacity bid quantity * bid price / the registered holding of the User

Note: at an NTS Exit Point (for Annual NTS Exit (Flat) Capacity) the WAP will equal the actual price for that month.

The FM 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 User's 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 each month

included within 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 NTS System 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 rebate as it 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 rebate 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.

An FM rebate would be mapped to one of 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

An FM rebate 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.

An FM rebate 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 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.¹

Capacity Management Agreements* - Force Majeure Option Agreement/Force Majeure Forward Agreement

For the purposes of this modification proposal a Force Majeure Option Agreement will be a Capacity Management Agreement* that National Grid

¹ 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/>

NTS will enact on the National Grid NTS' system on behalf of a User or Users. For the avoidance of doubt this process will not require the User(s) to undertake any actions on National Grid NTS' systems nor a Force Majeure Option Agreement acceptance process from National Grid NTS.

National Grid NTS will, within 2 business days of a Force Majeure notice affecting Capacity rights being issued, at an NTS System Point, update it's systems on behalf of each User at that NTS System Point, with the details of the Force Majeure Option Agreement. This will include:

- The NTS System Point
- The duration of the Force Majeure Option Agreement as stated within the FM notice (Please note that National Grid NTS will only be able to exercise a Force Majeure Option Agreement where a FM notice is in place at the relevant NTS System Point)
- The Premium (which will be zero) and Executable number of days
- The maximum quantity of Firm Capacity (this quantity will equal the Users prorated amount of the quantity outlined within the Force Majeure Notification) that must be surrendered by a User when the Force Majeure Option Agreement is exercised
- The price that National Grid NTS will pay for the surrender of Firm Capacity on the exercise of the Force Majeure Option Agreement, which in all cases will be zero

Once National Grid NTS has updated the relevant systems it will provide the details to the relevant User or Users.

The Force Majeure Option Agreement may be exercised when:

- there is a constraint at the NTS System Point
- National Grid NTS does not make gas available for offtake at an NTS Exit Point

National Grid NTS will also consider the use of a Force Majeure Forward Agreement where it deems it to be appropriate and has agreed to do so with the affected Users at the NTS System Point. For the purposes of this modification proposal a Force Majeure Forward Agreement will be a Capacity Management Agreement* that National Grid NTS will enact on its system on behalf of a User or Users.

For clarification the use of a Force Majeure Forward Agreement would be supported by the issue of a set of Terms and Conditions (which for the purposes of this modification proposal will include the business rules applicable to the Force Majeure Forward Agreement).

Where the period of time covered by the FM Notification is extended or

reduced National Grid NTS will ensure that its system reflects this change (either through amending the existing or the creation of new FM Option Agreement / Force Majeure Forward Agreement).

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*.

For the avoidance of doubt any additional constraints beyond that declared under the FM Notification at an ASEP will be subject to normal buyback principles unless covered by a further FM Notification. Similarly where gas is not made available at an NTS Exit Point and is not covered by a Force Majeure notice existing UNC rules will be applied.

Please note that whilst a FM Notification is in place National Grid NTS will not be obligated to make available any additional Firm Capacity at that NTS System Point.

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.

National Grid NTS has discussed this at the July and August Transmission Workstreams we would like to suggest that this Modification Proposal be issued directly to consultation. National Grid NTS further suggests that the consultation period be reduced by 2 days to allow consideration by the Modification Panel on the 17th September.

2 User Pays

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

National Grid NTS believes that there are no xoserve systems or services impact and therefore there will be non requirement to recover costs through the Users Pays Arrangements, this mod is therefore not a User Pays Proposal.

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

N/A

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

N/A

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

N/A

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). The proposal will also provide additional clarity to Users in relation to the Planning process at an NTS Exit Point where Force Majeure has been notified.
- 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 promote greater equality in the treatment 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 Users at a single NTS System Point 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

N/A

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 and clarity at an NTS Exit Point under the 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:**

N/A.

- 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)**

n/a

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

National Grid NTS believes that implementation may provide rebates to Users that can be balanced against their continuing operating costs in the event of a Capacity related Force Majeure. There might also be an impact on NTS Commodity Charges.

- 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**

National Grid NTS believe that the payment of a Force Majeur rebate would offset the contractual risk that Users would face where Force Majeure has been called

- 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 operating at a single NTS System 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 NTS 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)

N/A

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

N/A

14 Any other matter the Proposer considers needs to be addressed

N/A

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

Proposal submitted to Mod Panel	20 August
Proposal issued for consultation	21 August
Closeout for representations	9 September
Modification Panel decide upon recommendation	17 September
FMR submitted to Ofgem	18 September
Proposed implementation date	1 October

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) TPD Section B – System Use and Capacity, TPD Section J – Exit Requirements

Proposer's Representative

Fergus Healy

Proposer

National Grid NTS