

Modification proposal:	<b>Uniform Network Code (UNC) UNC289: To determine the amount of Annual NTS Exit (Flat) Capacity to be released where the quantity of unsold NTS Exit Capacity fluctuates within the Gas Year</b>		
Decision:	The Authority <sup>1</sup> directs that UNC289 is made <sup>2</sup>		
Target audience:	The Joint Office, Parties to the UNC and other interested parties		
Date of publication:	22 June 2010	Implementation Date:	To be confirmed by the Joint Office

## Background to the modification proposal

On 19 January 2009, Ofgem approved UNC195AV which introduced reform of the booking arrangements for exit capacity from the National Transmission System (NTS)<sup>3</sup>, "exit reform". These new exit arrangements are for the use of capacity from 1 October 2012, and the new booking arrangements were implemented on 1 April 2009.

Under the new arrangements, users are registered as holding exit (flat) capacity in any of the following instances:

- The user accepts an offer made by National Grid Gas (NGG), following the user's ad-hoc application for enduring annual exit (flat) capacity;
- NGG accepts an application for enduring annual exit (flat) capacity or annual exit (flat) capacity, following any annual application windows;
- NGG enters into an Advanced Reservation of Capacity Agreement (ARCA) with a user to hold enduring annual exit (flat) capacity; or
- NGG accepts and allocates bids for daily or daily off-peak exit (flat) capacity.

Annual NTS Exit (Flat) capacity will be made available to Users in Gas Year (Y) with an effective start date of 1 October in Gas Years Y+1, Y+2 or Y+3. The amount of Annual NTS Exit (Flat) capacity to be made available for application in the window is the amount of Remaining Available NTS Exit (Flat) Capacity in respect of the relevant Gas Year<sup>4</sup>. The Remaining Available NTS Exit (Flat) Capacity is defined in the UNC as the amount of capacity (if any) by which the Baseline NTS Exit (Flat) Capacity for the Gas Year exceeds the aggregate amount of NTS Exit (Flat) Capacity registered at that time, as held by Users in relation to that Gas Year or Day<sup>5</sup>.

The proposer, National Grid Gas NTS (NGG NTS), has identified that because the new arrangements permit the increase and decrease of enduring annual NTS Exit (Flat) Capacity for periods with an effective start date other than 1 October each year (through processes outside of the Annual Application Window), the Remaining Available NTS Exit (Flat) Capacity may fluctuate within a given Gas Year. The proposer considers that this creates potential uncertainty about the amount of Annual NTS Exit (Flat) Capacity which can be made available to Users in the Annual Application Window and consequently could undermine the efficient operation of the pipeline system.

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

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

<sup>3</sup> See the decision on UNC195AV published on 19 January 2009 on the Joint Office website [www.gasgovernance.co.uk](http://www.gasgovernance.co.uk).

<sup>4</sup> UNC TPD B3.4(c).

<sup>5</sup> UNC TPD B3.1.6(b)(ii).

## **The modification proposal**

The proposer raised UNC289 in January 2010. UNC289 proposes that Annual NTS exit capacity should be released in the Annual Application Window only if it is available for all Gas Days within a Gas Year. Any capacity excluded from the Annual Application Window on this basis which remained unsold would be made available via the Daily Invitation process and could therefore be obtained by Users as Daily NTS Exit (Flat) Capacity.

In the proposer's opinion, clarifying the methodology to be applied in determining the amount of Annual NTS Exit (Flat) Capacity made available at the Annual Application Window, will provide Users with greater certainty about the volumes of capacity available. This would "aid Users when determining their application strategies". The proposer considers that failure to implement the proposal will potentially result in inefficiency due to "the lack of clarity around both the release mechanism and the quantity to be made available."

The proposer considers that UNC289 is a change/addition to the services provided by xoserve and should be considered as a User Pays Proposal. In the proposer's view, the change benefits all UNC parties and implementation costs should be split 50:50 between Shipper Users and Transporters. Total Shipper costs would be pro rated between Shipper Users based on their NTS Exit (Flat) Capacity holding as a proportion of the total NTS Exit (Flat) Capacity holdings held by all Shipper Users as of 1<sup>st</sup> October 2012. However, the Rough Order of Magnitude (ROM) estimate of the costs for xoserve<sup>6</sup> systems development work provided by the proposal indicates that implementation costs are zero.

## **UNC Panel<sup>7</sup> recommendation**

The Modification Panel considered UNC289 at its meeting on 22 April 2010. Of the eight voting members present, capable of casting nine votes, six votes were cast in favour of implementing UNC289. Therefore, the Panel recommended implementation of this modification.

## **The Authority's decision**

The Authority has considered the issues raised by this proposal and the Final Modification Report (FMR) received on 18 May 2010. 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 FMR<sup>8</sup>. The Authority has concluded that:

1. implementation of the modification proposal will, as compared to the existing provisions of the UNC, better facilitate the achievement of the relevant objectives of the UNC<sup>9</sup>; and
2. directing that the modification be made is consistent with the Authority's principal objective and statutory duties<sup>10</sup>.

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<sup>6</sup> Xoserve are responsible for providing transportation transactional services on behalf of gas transportation network companies to gas Shipper companies.

<sup>7</sup> The UNC Panel is established and constituted from time to time pursuant to and in accordance with the UNC Modification Rules.

<sup>8</sup> UNC modification proposals, modification reports and representations can be viewed on the Joint Office of Gas Transporters website at [www.gasgovernance.com](http://www.gasgovernance.com)

<sup>9</sup> 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](http://epr.ofgem.gov.uk/document_fetch.php?documentid=6547)

<sup>10</sup> 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, as amended, most recently by the Energy Act 2010.

## **Reasons for the Authority's decision**

The proposer considers that the proposal would better facilitate achievement of relevant objectives (a) and (f). However, in our view, the proposal would only better facilitate achievement of relevant objective (f). We set out the reasons for our decision below.

*Relevant Objective (a): the efficient and economic operation of the pipeline system*

By specifying that the amount of Annual NTS Exit (Flat) Capacity made available through the Annual Application Window will be the amount of Remaining Available NTS Exit (Flat) Capacity available for the whole Gas Year, we recognise that the proposal will provide transparency and certainty regarding how NGG NTS will determine the quantity of Annual NTS Exit (Flat) Capacity available at the window. However neither the Final Modification Report nor the responses to the consultation make clear how the proposal would better facilitate achievement of the efficient and economic operation of the pipeline system or how failure to implement the proposal would be detrimental to this relevant objective.

One consultation respondent appeared to agree that the proposal would better facilitate achievement of relevant objective (a) but did not specify why this was the case. Among the other responses, none specifically mentioned relevant objective (a) in support of implementation. Shipper respondents did not reference the benefits identified by the proposer concerning their application strategies and did not identify a potential detriment to efficiency arising from failure to implement the proposal.

Where capacity is available for a period of less than 12 months in a given Gas Year (for example, as a consequence of a reduction in Enduring Annual NTS Exit (Flat) Capacity at an exit point with an effective start date other than 1 October), the proposal would specifically exclude capacity which could potentially be available for the majority of the Gas Year from allocation as Annual NTS Exit (Flat) Capacity. Under certain circumstances it may be possible that, by agreeing capacity buy-back options, NGG NTS could make this capacity available as Annual NTS Exit (Flat) Capacity, but the extent to which this may be the case will be dependent on the capacity circumstances at specific exit points. Since NGG NTS would only be expected to commit to quantities of Annual NTS Exit (Flat) Capacity which it is able to provide for the full Gas Year we consider that the proposal principally formalises the approach NGG NTS would adopt under the current arrangements. Any Capacity excluded from the Annual Application Window as a consequence of the proposal which remains unsold will continue to be made available to Users as Daily NTS Exit (Flat) Capacity via the Daily Invitation process. Therefore, because we do not consider that the proposal will impact the overall level of NTS Exit (Flat) Capacity available to Users and will not impact the efficiency with which capacity on the system is allocated, we do not consider that it will better facilitate achievement of relevant objective (a).

*Relevant Objective (f): so far as consistent with (a) to (e) the promotion of efficiency in the implementation and administration of the network code and/or the uniform network code*

In our view, the proposal will better facilitate achievement of the promotion of efficiency in the implementation and administration of the UNC. Under UNC TPD B3.4.2, NG NTS is required to make Remaining Available NTS Exit (Flat) Capacity available as Annual NTS Exit (Flat) Capacity at the Annual Application Window. The current arrangements do not

specify whether NTS Exit (Flat) Capacity which is available for a period of less than 12 months in a given Gas Year should be made available as Annual NTS Exit (Flat) Capacity. This creates uncertainty and a lack of transparency regarding the methodology adopted which has the potential to undermine the efficient administration of the UNC. By specifying that the amount of Annual NTS Exit (Flat) Capacity made available via the Annual Application Window will be the amount of Remaining Available NTS Exit (Flat) Capacity available for all Gas Days with the Gas Year, the proposal provides clarity and transparency which will aid the efficient administration of the UNC.

A majority of respondents to the consultation agreed that the proposal would better facilitate relevant objective (f). One respondent considered that the proposal was unclear about how a request for ad-hoc capacity which was subject to a demonstration date, and which would therefore exceed Baseline NTS Exit (Flat) Capacity, would be treated, i.e. would any Remaining Available NTS Exit (Flat) Capacity be made available as Annual NTS Exit (Flat) Capacity before the demonstration criteria is satisfied and the capacity considered 'reserved for registration'. We recognise the importance of NGG NTS providing clarity on this issue, but it is not material to our decision whether to implement the proposal. Following implementation of the proposal, if an ad-hoc request for capacity caused baseline capacity to be exceeded at a given exit point at any time in a given Gas Year, we anticipate that no Annual NTS Exit (Flat) Capacity would be made available via the Annual Application Window in respect of the whole of that Gas Year at that exit point. We anticipate that for Gas Years prior to the Gas Year in which the ad-hoc capacity in excess of baseline is required, Remaining Available NTS Exit (Flat) Capacity would be made available as Annual NTS Exit (Flat) at the Annual Application Window.

#### *Implementation Costs and Funding*

NGG NTS considers that the proposal represents a change/addition to the services provided by xoserve and should be considered a User Pays Proposal. We consider that in clarifying the rules applying to the determination of Annual NTS Exit (Flat) Capacity it is possible that the proposal represents a change to the current operation of the service, but we do not agree that the proposal represents an additional service. For this reason we accept that the proposal is a User Pays Proposal, but we note that this is a marginal decision and we consider that the proposer could have made a fuller justification in support of the proposal being User Pays.

NGG NTS consider that any implementation costs associated with the proposal should be split 50:50 between Shipper Users and Transporters. We do not agree with this view. NGG NTS has an obligation under the UNC to make Remaining Available NTS Exit (Flat) Capacity available as Annual NTS Exit (Flat) Capacity at the Annual Application Window. This is consistent with the reform of booking arrangements for exit capacity introduced as part of Exit Reform. In our view the proposal will enable NGG NTS to more effectively discharge this obligation but we do not consider that the proposal offers an additional service to Shipper Users. For this reason we consider that any implementation costs incurred should be funded by NGG NTS.

One consultation respondent agreed with the proposed implementation cost split. This response was contingent on implementing any required changes at zero cost. Those not supporting the split considered that the proposal relates to Exit Reform and that, since NGG NTS has received funding to implement Exit Reform, it should fully fund any costs arising from the proposal. One shipper commented that, should the 50:50 split be considered appropriate, it did not consider that recovery of shipper costs based on their NTS Exit (Flat) Capacity holdings as a proportion of the total NTS Exit (Flat) Capacity

holdings held by all shippers as of the 1<sup>st</sup> October 2012 is appropriate. This respondent also considered that a cost recovery mechanism which allocated costs on the basis of transactions in the 2010 Annual Application Window would better meet the User Pays principle.

#### *Agency Charging Statement*

Alongside the proposal, NGG NTS submitted a revised copy of the Agency Charging Statement (ACS). The ACS is the charging methodology which outlines the scope and cost of the user pays services which xoserve provides. It has been updated with the proposed cost allocation set out in the FMR. For the reasons set out above we accept that it is appropriate that the proposal is considered a User Pays Proposal, but because we do not agree with the proposed 50:50 split of any implementation costs we have decided not to approve NGG NTS's proposed revision of the ACS.

NGG NTS does not anticipate that any implementation costs will arise in respect of the proposal, so we do not consider that our decision to reject the ACS amendment will impact implementation of the proposal. From the information provided we agree that implementation costs seem unlikely to arise and so we further consider that a revision of the ACS may not be necessary at this stage. In the event that any implementation costs are incurred we consider that it would be appropriate for NGG NTS to meet these costs.

#### **Decision notice**

In accordance with Standard Special Condition A11 of the Gas Transporters Licence, the Authority, hereby directs that modification *UNC289: To determine the amount of Annual NTS Exit (Flat) Capacity to be released where the quantity of unsold NTS Exit Capacity fluctuates within the Gas Year* be made.

Pursuant to Standard Special Condition A15 of the Gas Transporters Licence, the Authority hereby directs that the proposed changes to the ACS submitted in connection with modification UNC 289 should not be made.

**Stuart Cook**

**Senior Partner - Transmission & Governance**

Signed on behalf of the Authority and authorised for that purpose