

Mr. Bob Fletcher  
UNC Panel Secretary  
Joint Office of Gas Transporters  
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Dear Bob,

**RE: Modification proposal 0349: Introduction of a Force Majeure Capacity Management Arrangement**

Thank you for the opportunity to respond to this consultation. British Gas Trading (BGT) does not support its implementation.

In summary, BGT has some sympathy with the element of this proposal which seeks to apportion, between shippers and National Grid, the revenue costs associated with a force majeure (FM) event which constrains entry capacity at an ASEP. However, we do not believe it is appropriate for the effects of 0349 to be applied to a prevailing event. We would liken this to taking out an insurance policy to cover an event that has already occurred and to this extent we would consider the proposal to incorporate an element of retrospection.

BGT agrees with the proposer that the way entry FM events are managed at present is flawed. We believe that, compared to the scope of what is generally acceptable as FM under other industry contracts e.g. wholesale gas supply agreements, National Grid is afforded excessive latitude to claim FM under the UNC. We also believe that when National Grid does claim FM, the extent of the relief afforded to it in respect of its obligations is beyond what may be considered reasonable. Indeed, proposal 0349 raises the possibility that there may be a perception that current arrangements provide an incentive to National Grid to call FM; this is a view we would not argue with.

We have carefully considered which party(ies) are best placed to carry the risk of FM under the UNC, at lowest cost. We have concluded that were this risk to be carried solely by National Grid, we would in the longer term expect this to be reflected as a risk premium in National Grid's cost of capital. Whilst this may be a solution for consideration as part of detailed price control discussions, we believe that current licence and UNC arrangements do not facilitate this.

A further option would be complete socialisation of these costs via shippers, where the assumption should be that consumers will ultimately pay. Our reading of Ofgem's decision on proposal 0262 is that Ofgem is not averse to the principle of shippers (therefore consumers) picking up at least some of the cost of entry FM events. We agree that this is probably an appropriate way forward, but only for events that have yet to occur.

In support of this position, we would refer again to Ofgem's decision letter on proposal 0262. In that letter, Ofgem states that there is the potential for efficient shippers to hold (or, we believe, at least to have considered taking out) some form of insurance against capacity constraint events at ASEPs in which they have an interest, with the cost of this already having been reflected as a premium in their pricing. Noting that a key focus for this proposal is the current constraint at the Milford Haven (MH) ASEP/pipeline, we can confirm that as a shipper which does not hold entry capacity at that ASEP, we have no recourse to any insurance product (even when considered in the loosest sense) in respect of any costs arising from the ongoing MH constraint.

Further, there will be certain of our customers for whom we will not be able to recover additional costs e.g. those on fixed or capped price supply arrangements, and in any event the magnitude of the costs arising from the MH FM are uncertain (e.g. the industry is still awaiting a decision on whether planning consent will be granted in respect of the Tirley AGI, and even if it is, an uncertain build period). We therefore believe that this proposal gives rise to the potential for cross subsidies between shippers who may be able to recover costs and those who may not; a situation which we view as harmful to competition between shippers.

We are also mindful of Ofgem's recent decisions on proposals 0317, 0317A and 0327, all dealing with principles of certainty and fairness in the apportionment of unallocated gas costs. In that instance, when deciding upon the element of 317A and 327 which dealt with a reconciliation once the AUGS was published, Ofgem was extremely mindful of the impacts of exposing shippers to unknown costs, even where shippers would be aware in advance that there would be some costs coming their way. We believe that there are strong parallels between those decisions and proposal 0349.

This being the case, we would only be able to support an arrangement such as that proposed by 0349 were it to be implemented in such a way as to present fairer allocation of risk than that currently proposed. Most specifically, this would mean that such arrangements should apply to FM events that are yet to occur, where all shippers are afforded equal opportunity to assess the risks of future FM events, and their exposure to such events, and price that in accordingly.

Please contact me if you would like to discuss this response.

Yours sincerely,

Chris Wright  
**Commercial Manager**