

**National Gas Transmission Comments (in red)**  
**on Energy UK Text For Inclusion in Workgroup Report**

**0848S - Alignment of Entry and Exit Capacity Constraint Management Provisions**

**Date:** 26 June 2023

**Organisation:** Energy UK

**Request for Text to be included within the Workgroup Report:**

This modification highlights a challenge to the accepted hierarchy of the governance framework being:

- Gas Act
- Licence
- UNC
- Other methodologies and statements.

It is understood that where there is an inconsistency with a higher document the 'rules' in the higher document prevail.

One challenge is that NGT's licence places a number of obligations on NGT with respect to the release of obligated capacity and to maintain and comply with capacity release methodology statements and system management principles statements. The licence extracts below are relevant and highlighted for emphasis.

**Special Condition 9.18** Methodology to determine the release of Entry Capacity and Exit Capacity volumes

Introduction

9.18.1 This condition places the following **obligations** on the licensee:

- a) **to release** Obligated Entry Capacity and **Obligated Exit Capacity**;
- b) to **maintain and comply with capacity release methodology statements**;
- c) to report to the Authority; and
- d) to publish the capacity release methodology statements.

9.18.2 This condition also sets out the process for the licensee to revise the capacity release methodology statements.

Part A: Release of Obligated Entry Capacity and Obligated Exit Capacity

9.18.3 The licensee must, unless the Authority otherwise directs, use reasonable endeavours to release **Obligated Entry Capacity** at each NTS Entry Point in all available Allocations up to the end of the day to which the capacity relates, in accordance with the provisions of Standard Special Condition A5 (Obligations as Regard Charging Methodology).

9.18.4 **The licensee must, unless the Authority otherwise directs, use reasonable endeavours to release Obligated Exit Capacity** at each NTS Exit Point in all available Allocations up to the end of the

day to which the capacity relates, in accordance with the provisions of Standard Special Condition A5 (Obligations as Regard Charging Methodology).

We note that the licence obligation to release Obligated Exit Capacity requires use of “reasonable endeavours” to do so. We believe that where an Exit capacity constraint is forecast to occur and other constraint management tools available to us have been deployed, though not alleviated the constraint fully, this is sufficient grounds upon which to withhold from sale certain quantities of Obligated Exit Capacity.

We believe that in this situation, we will have expended reasonable endeavours (use of other tools) and concluded it would not be efficient, nor economic, to release for sale Obligated Exit Capacity in excess of that which can be physically supported by the system.

On this basis, we do not believe that such action would be in conflict with SC 9.18.4.

9.18.7 The Exit Capacity release methodology statement must:

a) set out how the licensee decides whether to make Incremental Exit Capacity available for sale to Relevant Shippers and DN Operators;

b) set out where the licensee makes Incremental Exit Capacity available, how it decides what quantity to make available, and how much capacity is made available;

c) set out how the licensee offers for sale Obligated Exit Capacity to Relevant Shippers and DN Operators; and

d) incorporate the obligation set out in paragraph 9.18.4.

The modification does not address the hierarchy of documents in the gas market regulatory framework such that lower documents cannot take precedence over higher documents. Nor does it, in the event of a potential constraint, address the inconsistency between licence condition 9.18.1 and 9.18.4, namely complying with the ExCR and potentially withholding capacity and using reasonable endeavours to release obligated capacity in all allocations up to the end of gas day D.

In principle, we do not believe that it is the role of any UNC Modification Proposal to address / resolve perceived or actual inconsistency within our Licence.

Notwithstanding this principle, we do not agree that there is inconsistency between SC 9.18.1 and SC 9.18.4. This is on the basis that the SC 9.18.4 obligation to release Obligated Exit Capacity requires the use of reasonable endeavours to do so. The methodology employed for the release of Exit Capacity, as set out in the ExCR (which NGT is required to comply with under SC 9.18.1) set outs, in detail, how reasonable endeavours are then applied.

(the UNC is already inconsistent with licence in this respect as obligated capacity is only made available dayahead) UNC B3.5

Obligated Exit Capacity is made available as Day Ahead (from 05:00 D-7) and Within Day (to 02:00 D). In addition, this product can be bought in long-term auctions each July, for a subsequent gas year.

The key question is does the fact that the ExCR and SMPs are required by licence elevate their status above the UNC? If so, this makes large parts of section B irrelevant, leaving governance of the capacity release arrangements with limited or no role for shippers, no ability to raise change

proposals nor appeal a decision, which is at odds with all other parts of the Code. It also makes licence condition 9.18.4 irrelevant.

We do not agree that SC 9.18.4 is irrelevant. As stated previously, SC 9.18.4 sets out the obligation to use reasonable endeavours to release Obligated Exit Capacity. The ExCR (referred to in SC 9.18.1) sets out how reasonable endeavours are then applied.

Ofgem's decision letter in approving paragraph 162 in the ExCR does little to help understand these issues. <https://www.ofgem.gov.uk/publications/approval-modifiedcapacity-release-and-capacity-methodology-statements>

#### **Extracts from the decision letter:**

The Independent Examiner said that there is **limited evidence that withholding obligated capacity from the daily allocation processes where you foresee a constraint is economically efficient.**

We (Ofgem) note the clarifications you provided to stakeholders and the Independent Examiner with regard to withholding capacity from daily allocation when you foresee a constraint. You said that continuing to sell capacity into a constraint would increase constraint management costs significantly, with the cost ultimately passed on to consumers. You also said that this practice is covered by the System Management Principles, which have recently gone through industry consultation, and explained that you would in the first instance scale back interruptible capacity before considering any action related to firm capacity. **We expect that you will continue to act in compliance with your obligations.**

It is not clear what obligations this relates to, perhaps licence condition 9.18.4? But it is clear that this approval of a change to the ExCR does not formally constitute a derogation from licence condition 9.18.4.

Notwithstanding any specific narrative contained within its decision letter (referred to above), Ofgem nevertheless approved the changes to the ExCR that included the relevant paragraph (162) setting out the ability for NGT to withhold the release Obligated Exit Capacity in the circumstances identified.

As reiterated previously, we do not believe there to be inconsistency between SC 9.18.1 and SC 9.18.4. As per our statement to stakeholders and the Independent Examiner, the withholding of unsold Obligated Exit Capacity will only be actioned if other constraint management tools available to us have been deployed though not fully alleviated the constraint.

The wording of SC 9.18.4 requires NGT to use *reasonable endeavours* to release Obligated Exit Capacity. As we believe we *would* be using reasonable endeavours to release such (notwithstanding the fact that in certain exceptional circumstances it would not be efficient nor economic to release all such volumes) we do not believe that such action requires an explicit direction from the Authority as contemplated in SC 9.8.14.

Assessment against relevant objectives:

a) efficient and economic operation of the pipeline system. **None**

From NGT presentation to workgroup

<https://www.gasgovernance.co.uk/sites/default/files/ggf/book/202305/0848%2020230601%20Workgroup%20%281%29.pdf>

*From an operational perspective there would be no change if implemented as NGT operates, and will continue to operate, in accordance with the SMPS (and ExCR) in the management of Exit Capacity Constraints*

In the event that this Mod is not approved and the ability to withhold unsold Obligated Exit Capacity is no longer available as a tool in the management of a constraint, then alternative tools would need to be employed to alleviate a constraint situation, or used to a greater extent.

c) efficient discharge of the licensee's obligations - Depends on which licence conditions are considered, **negative** for licence condition 9.18.4

For the reasons set out above, we believe that the withhold of Obligated Exit Capacity in the specific circumstances identified is *not* contrary to SC 9.18.4 and therefore implementation of this Proposal would *not* have a negative impact on this objective.

d) Securing effective competition negative

The independent examiner saw limited evidence that withholding capacity as economically efficient.

Any customers, in particular direct connects, that have capacity withheld where a constraint is potential rather than actual at the day-ahead stage, may still choose to flow and incur overrun charges which would place them at a competitive disadvantage to other similar parties where capacity is not withheld.

If they choose not to flow they are similarly disadvantaged. So, this does not support competition. In this respect withholding capacity at exit is different than entry as it has a direct impact on end consumers of gas.

We do not believe that withholding Obligated Exit Capacity has a negative impact on the securing of effective competition. Every User has an equal opportunity to secure Obligated Exit Capacity ahead of and during any gas day and is informed of constraint situations and updates at the same time via ANS. The decision on whether, and when, to buy Obligated Exit capacity is of course a matter for each User to determine, based on their own commercial and operational strategy, risk appetite etc. There is opportunity to buy Obligated Exit Capacity each July (for future gas years) and from 15:00 D-1 to 02:00 on D. (In addition there is Off-Peak capacity released from D-1, though appreciate we are considering Firm capacity in this discussion.)

In terms of a day-ahead constraint being potential or actual, and Users' response to this; a constraint situation is declared where we project that safe operating pressures will be breached in a part (or parts) of the network, based on supply, demand and other prevailing view information, such as asset availability. We will at this point have already applied any feasible operational strategic tools such as system reconfiguration, to try and alleviate the situation. As discussed at the Exit webinar (16<sup>th</sup> December 2022), Users may choose to overrun in this situation though clearly this may lead to an increased level of consequential commercial actions/costs and

potentially warrant a post-event review of the contributory circumstances. As and when any constraint is alleviated, capacity restrictions will be lifted wherever possible.

Lack of clarity over the timing of notifications of withholding firm dayahead capacity also impacts competition between shippers providing gas to gas fired generation as the dayahead timescales with respect to the electricity market are not considered.

<https://www.nationalgas.com/document/142171/download>

We appreciate that there is not complete alignment currently between the gas and electricity operating codes. This is an opportunity recognised by the EGRIT (Electricity and Gas Resilience Interactions Task Group) which is undertaking some work in this area.

The timing of any pre-emergency tools in a constraint situation is primarily designed to safeguard safe operations on the gas network. A significant amount of liaison and work has been undertaken between ESO and GSO in the past year to assure that no action we take is overly impactful to the electricity system, and with the overall aim of protecting safe operations and domestic consumers of energy. This point was also discussed during the 16<sup>th</sup> December 2022 Exit webinar.

It also appears that Ofgem's position on demonstrating the probability and impact of constraint costs has changed since it approved the ExCR change many years ago. This is identified in its recent decision with respect to limiting the release of capacity at Milford Haven

<https://www.ofgem.gov.uk/publications/decision-proposed-revisionsmethodology-statements-held-national-gas-transmission-plc>

*Ofgem is of the opinion that NGT have not sufficiently demonstrated that high capacity constraint costs are likely as informed by a probability assessment, nor that the impact of withholding capacity would be less damaging to the GB market and GB consumers*

f) promotion of efficiency in the implementation and administration of the code **negative**

Aligning the UNC with the ExCR and SMPS undermines the status of the code in the governance hierarchy.

Our Proposal seeks to address an inconsistency in the UNC. Equivalent provisions allowing for the withholding of obligated capacity to manage a forecast constraint exist in prevailing versions of the ECR and the ExCR. Despite this, the UNC currently *only* reflects this in the context of Entry. We believe it is entirely logical and appropriate for UNC provisions relating to Exit to be modified in the manner proposed, to achieve consistency with UNC arrangements for Entry.

Impact of the change on consumer benefit areas

Lower bills than would otherwise be the case - **uncertain**

It is not self-evident that withholding the sale of firm capacity dayahead in the event of a potential constraint will impact costs to consumers. The revenue foregone by not selling capacity may exceed constraint costs or there may be no constraint costs if the anticipated constraint assessed dayahead does not emerge. There may also be overrun revenue to consider.

We agree that there is uncertainty in term of the total impact on consumer bills - to date we have not had an Exit constraint on the network that has required the use of Locational Actions or Buy Backs. We do believe though that selling capacity into a constraint situation would lead to a greater correction required through commercial actions, and based on Entry constraint management experience, these would likely be at a premium to market pricing. In the most recent Entry Capacity constraint (18<sup>th</sup> January at Milford Haven), Locational Buys were on average taken at 146% of SAP.

Improved quality of service - **none**

NGT clearly states that this proposal will not affect its actions. Direct connects as consumers may face greater uncertainty over the release of exit capacity and therefore receive a lower level of service.

As recognised by Energy UK, implementation of this proposal would not change our approach in these circumstances hence we are unclear how implementation would result in a *lower* level of service compared with that provided under the prevailing UNC terms. Our suggestion of a positive impact on the quality of service provided to Consumers was predicated upon enhanced clarity in the UNC, this being a published document available for all parties (including consumers) to view, therefore enhancing Consumers' awareness of the approach taken by NGT to constraints at Exit (i.e. enhanced awareness of the circumstances in which NGT would withhold the release of Exit capacity).

Consumers more generally may face interruption to power supplies.

We are unclear how, or why, the implementation of this Proposal would directly impact the likelihood (or otherwise) of consumers facing interruption to power supplies given there would be no change to our operational approach in these circumstances.