

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) (b)to **maintain and comply with capacity release methodology statements**;
- c) to report to the Authority; and
- d) (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).

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.

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

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.

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-modified-capacity-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.

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/2023-05/0848%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

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

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 dayahead 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 it is different than entry as it has a direct impact on end consumers of gas.

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>

It also appears that Ofgem's position on demonstrating the probability and impact of constraint costs has changed since is 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-revisions-methodology-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.

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.

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.

Consumers more generally may face interruption to power supplies.