Making a positive difference
for energy consumers

Jasper Stevens
Regulatory affairs

BBL Company
Postbus 225
9700 AE Groningen
The Netherlands

Email: Gas.TransmissionResponse@ofgem.gov.uk

Date: 29 September 2021

Dear Mr Stevens,

Approval of the Access Rules and Charging Methodology proposed by BBLC Company ("BBLC", "Licensee") including direction of approval pursuant to Standard Licence Conditions 10 and 11A of the gas interconnector Licence.

BBLC sent its final version of Access Rules, also called General Terms & Conditions, and Charging Methodology on 30 June 2021 to the Authority[1] for approval. These were submitted pursuant to Standard Licence Conditions ("SLC") 10 and 11A of the Gas Interconnector Licence ("the Licence").[2]

This decision letter and attached directions (Annex 1 and Annex 2) set out our approval of BBLC's Access Rules and Charging Methodology under SLC 10 and 11A on the basis that they meet the relevant Access Rules and Charging Methodology objectives.[3]

[1] References to the "Authority", "Ofgem", "we" and "our" are used interchangeably in this document. The Authority refers to GEMA, the Gas and Electricity Markets Authority. The Office of Gas and Electricity Markets (Ofgem) supports GEMA in its day to day work. This decision is made by or on behalf of GEMA.
[2] The current version of the gas interconnector licence and SLCs can be found at epr.ofgem.gov.uk
[3] The "relevant access rules objectives" are set out in SLC 11A(5) of the Licence; the "relevant Charging Methodology rules objectives" are set out in SLC 10(4) of the Licence.

Background

The changes proposed by BBLC are modifications to BBLC's General Terms & Conditions ("Access Rules") and Charging Methodology. In the consultation BBLC proposes several modifications to its Access Rules and Charging Methodology. BBLC say the modifications are proposed for the following reasons:

- To introduce new products,
- To respond to changing market circumstances,
- Other proposed modifications, mostly for clarification purposes.

BBLC submitted its Access Rules and Charging Methodology to Ofgem on 30 June 2021 and copies of these documents are available on BBLC's website.[4] BBLC also provided a Final Conclusions Report to Ofgem on 30 June 2021.

BBLC's proposal

The Access Rules set out the rules for obtaining and using capacity on the interconnection point at Bacton. BBLC says the main changes are:

- **Introduction of new product: Conditional Reverse Flow Firm product -** BBLC proposes to offer its reverse flow technical capacity as 'Conditional Firm' between October and March. This would mean that reverse flow capacity could be interrupted during this period if both the following conditions were met:
    - the BBLC pipeline is in the forward flow direction, and;
    - the GB gas market demand[5] for natural gas is greater than 285 mcm/d on the same day.

  In all other circumstances the capacity will be treated by BBLC as 'firm' capacity.

- **Introduction of new product: Balance of the Month -** this product would be introduced for both flow directions (only available via Implicit Allocation Mechanism). According to BBLC, this product will enable a shipper to buy BBLC capacity during a month for the remaining consecutive days of that month.

[4] https://www.bblcompany.com/about-bbl/consultations-implementation-information
[5] In their document BBLC referred to 'UK domestic gas demand'. It has since been clarified that this should refer to 'GB gas market demand' and BBLC have confirmed they will update this.

- **Introduction of new product: Booking incentives** – BBLC states this will enable BBLC and shippers to utilise capacity products in the most efficient way.

- **Response to changing market circumstances: Reserve prices -** BBLC proposes to introduce an option to adjust the reserve prices for the remainder of the auctions for quarterly capacity products during a gas year.

- **Response to changing market circumstances: Improvement to the availability of monthly capacity -** BBLC proposes to extend the availability of monthly capacity, by offering additional implicit allocation capacity after the monthly Prisma auction, independent of the implicit allocation capacity that has been sold in the period before the monthly Prisma auction. This would mean that after the monthly Prisma auction, BBLC would make 75% of the remainder of the capacity available for Implicit Allocation Mechanism shippers. Following consultation feedback, BBLC proposes to expand the implicit allocation products to include both buying and selling gas.

- **Other: Delete exhibit E&F of the General Terms and Conditions document -** BBLC states that these services are no longer used and therefore propose that these exhibits are deleted.

- **Other: Include a new paragraph within the Access Rules document about the Capacity Conversion Mechanism -** The Capacity Conversion Mechanism is mandatory under European 'CAM' Network Code. This Mechanism was consulted on 23 October 2017 and approved by Ofgem. According to BBLC, due to an oversight, it was not added to the Access Rules at the time. BBLC state that the proposed mechanism is identical to the text consulted and approved in 2017.

- **Other: several changes in the Credit Protocol –** BBLC state that these changes further align with the protocol of Gasunie Transport Services with whom BBLC operates in the TTF market area.

- **Changes related to Charging Methodology, ie. changes of the management of multipliers and reserve prices, including notice periods for publications**, editorial updating of Charging Methodology document, and also 'Harmomised Transmission

Tariff Structures for Gas Network Code (TAR NC)’ such as ‘Multipliers and seasonal factors’, ‘Risk premium’, ‘Tariff publication’, ‘Notification period CAM products’ and ‘Notification period Implicit Allocation products’.

- **Changes related to Capacity Allocation Mechanism Network Code (CAM)** such as ‘Capacity Conversion Service’, ‘Conditional Firm Reverse Flow Product’, ‘Balance of the Month Product’ and ‘Booking incentives’.

BBLC’s Industry Consultation

The proposed changes were subject to a public consultation which took place from 17 March 2021 to 14 April 2021, as required by SLC 10 (11)(a) and SLC 11A (6)(a) of the Licence. The consultation responses were sent to us by BBLC on 30 June 2021 as part of their Final Conclusion Report.

Seven shippers responded to the consultation (according to BBLC this represents approximately 15% of their shippers). BBLC considers that this demonstrates that the remaining shippers (more than 80%) have no notable concerns regarding the proposals.

Whilst shippers were generally supportive of the proposed changes to the Access Rules posed by BBLC, several shippers expressed concerns as below.

Four of the seven respondents were against the introduction of the **Conditional Reverse Flow Firm product**. One respondent said *"BBL’s Net Nomination Tool has only recently been approved and is intended to guarantee firm reverse flow capacity in situations where the pipeline cannot switch flow direction quickly enough (through third party nomination of any net flow differences)"*. A confidential response opposed this change saying it would expose shippers to unpredictable and unmanageable risks. They stated, "*We prefer to retain the current contract conditions where BBLC sells both Reverse Flow and Forward Flow capacity exclusively on a firm basis and where Interruptible Capacity is released only when all firm capacity is sold.*"

The same confidential response opposed the proposal to **change market circumstances** (enabling BBLC to adjust its multipliers during the year) as it would remove the price predictability and stability that the current contract provides to BBLC shippers. Another respondent commented that the proposal would *"create complexity for shippers in managing their portfolio and commercial strategies due to the uncertainty about capacity costs"*. They also urged BBLC (if the proposed change would be implemented) to provide clear indications of legitimate justifications that would trigger possible changes in multipliers, so that the market can assess the possibility of such changes to occur.

All seven shippers support the proposal for the introduction of **Balance of the Month** products[6] and generally supported offering additional implicit allocation capacity after the monthly Prisma auction. One respondent also suggested that implicit allocation products should be expanded to include both buying and selling gas. Following consultation feedback BBLC propose to expand the implicit allocation products to include both buying and selling gas.

With regards to the **proposed changes to the Charging Methodology related to reserve prices and multipliers and publication management**, seven stakeholders responded to BBLC's consultation expressing their views. Five were against BBLC's proposals, which we will address in the 'Ofgem's view' section of this document. One conditionally supported BBLC proposals, subject to removing seasonal factors from pricing methodology, and one was broadly supportive of BBLC's proposed changes.

The stakeholders' arguments for supporting BBLC's proposed changes to the Charging Methodology were broad, generally allowing BBLC to respond *"to changing market circumstances"*.

The stakeholders' arguments against BBLC's proposed changes to the Charging Methodology related to reserve prices, multipliers and publication deadlines. The concerns may be summarised as reduction of price predictability for the shippers, and introduction of new commercial uncertainties, which would increase their operational and price risk and lower their commercial incentives to buy trade gas using BBLC's interconnector. Other concerns included that the changes would make BBLC involved in *"quazi trading of the gas market spreads between the UK and EU, potentially distracting from the core business"*.[7]

Four out of seven stakeholders, who responded to BBLC's consultation, supported **the introduction of additional Implicit Allocation monthly products** after Prisma auction has taken place, with 75% of the remaining available capacity for the applicable month being made available for Transmission Capacity Implicit Allocation. Three stakeholders didn't express their views.

[6] It is proposed that a Balance of the Month product is introduced for both flow directions (only available via Implicit Allocation Mechanism). This product will enable a shipper to buy BBLC capacity during a month for the remaining consecutive days of such month. BBLC states that the introduction of this new product follows requests from customers for such a service.
[7] From a confidential response to BBLC's consultation.

Ofgem's View

SLC 10 (4) and SLC 11A (5) of the Licence requires the Charging Methodology and Access Rules to be objective, transparent, non-discriminatory and compliant with the relevant access rules and charging methodology objectives. EC 715/2009, as amended by Electricity and Gas (Powers to Make Subordinate Legislation) (Amendment) (EU Exit) Regulations 2018 SI no.1286, continues to apply as retained EU law within the meaning of the European Union (Withdrawal) Act 2018.[8]

BBLC have confirmed that it considers that all the proposed changes to its Access Rules and Charging Methodology comply with its obligations under its Licence, particularly Articles 10 (4) and 11A (5) and meet the requirements of relevant EU legislation.

The **Conditional Firm** change complies with the CAM Network Code[9] as now incorporated in UK law by the European Union (Withdrawal) Act 2018 and the European Union (Withdrawal Agreement) Act 2020, as amended by Schedule 4 of the Gas (Security of Supply and Network Codes) (Amendment) (EU Exit) Regulations SI 2019/531. The CAM Network Code requires TSOs to maximise the available technical capacity of the pipeline. SLC 11A 4(a) stipulates that BBLC should make arrangements for maximising the available interconnector capacity which in the case of BBLC is forward flow capacity of 21.6 GWh/h and reverse flow capacity 7 GWh/h. BBLC states that the Conditional Firm product helps them to always offer bi-directional capacity, irrespective of the flow direction of the pipeline and as such it facilitates compliance with the CAM Network Code.

The offer of bi-directional capacity at all times, (i.e. cross border trades between GB and the Netherlands in both directions) will, according to BBLC, increase security of supply. If there is a security of supply alert in GB, BBLC will contribute to solving this by switching the pipeline if needed. Security of supply emergencies in GB are most likely to occur during the winter season where the BBLC pipeline is likely to be in the forward flow (to GB) direction.

With regards to the respondents' opposition to conditional firm, BBLC has outlined that the Conditional Reverse Flow Firm product will enable them to limit the use of the existing Net Nomination Tool product to address urgent unpredictable operational situations where nominations received on a day are against the flow direction of the pipeline.

---

[8] "Retained EU Law": Retained EU Law has the same meaning as that given by [section 6(7) of the European Union (Withdrawal) Act 2018.]

[9] COMMISSION REGULATION (EU) 2017/459 of 16 March 2017 establishing a network code on capacity allocation mechanisms in gas transmission systems has been retained in UK law with amendments made under schedule 4 of the Gas (Security of Supply and Network Codes) (Amendment) (EU Exit) Regulations 2019 No. 531.

As the thresholds for implementing the Conditional Firm product are clearly prescribed and documented, as well as being applied in the same way for all shippers, we believe these to be transparent, objective and non-discriminatory.

BBLC state that the introduction of the **Balance of the Month** product seeks to reflect and compete with existing services being offered by other market players within the gas flexibility market and therefore enable BBLC to compete more effectively and on equal terms in this market. BBLC considers that the proposed changes are fully compliant with all relevant European Legislation. BBLC's stated that all of their **booking incentive** products will be compliant with existing capacity which means they will be compliant with CAM Network Code.

On booking incentives only one shipper expressed concern. The confidential respondent did not support the proposal as they did not fully understand what the proposal was. We understand from BBLC that the shipper bookings incentives that BBLC intends to offer to the market are within BBLC's current product portfolio and charging methodology boundaries. BBLC now offers yearly, quarterly, monthly and daily/within-day products, and subject to Ofgem's approval BBLC's Balance of Month product will also be included.

We believe the Balance of the Month and booking incentive products to be clearly documented within the Access Rules and accept BBLC's statement that they will be applied in a non-discriminatory way. Therefore we accept that the introduction of these products meet the requirements of the Licence.

The compliance of the proposed change to the **availability of monthly capacity** is linked to Article 2(5) of CAM. It allows for non-UK regulatory authorities to decide not to apply Articles 8 to 37 of CAM where implicit allocation methods are applied. Article 3(6) of CAM, 'implicit allocation method' is defined as "*a capacity allocation method where, possibly by means of an auction, both transmission and a corresponding quantity of gas are allocated at the same time*". Under Articles 8(6) and (7) CAM describes that a proportion of capacity be reserved for allocation in shorter-term auctions.

BBLC considers that the proposed changes for the available capacity are fully compliant with CAM and still ensure that a proportion of capacity is reserved for allocation in shorter-term auctions. We are satisfied that the 75% limit on implicit allocation is a sufficient safeguard to protect the use of CAM allocation.

Implicit Allocation is currently BBLC's shippers most used mechanism for booking capacity within the BBLC pipeline. One shipper expressed concerns around implicit allocation. The shipper stated "*it may appear inefficient to set up new structures for the purpose of being able to book balance-of-the-month capacity*". BBLC is confident that the proposed changes will better facilitate the market and thereby will increase the cross-border trade opportunities for shippers. According to BBLC, the proposed changes also increase the availability of implicit allocation capacity after the monthly Prisma auction and thereby improve security of supply and maximise capacity sold to the market by offering additional implicit allocation capacity on a short-term basis.

BBLC have clarified that the additional capacity will, and can only, be offered in the situation where such capacity has not been sold out during the monthly Prisma auction and that it will only be used in the manner described in the Access Rules. We believe this to be transparent and objective, as well as non-discriminatory as capacity will be available for all shippers.

In terms of **deleting exhibits E&F** of the Access Rules relating to services that BBLC explain are no longer used; the addition of a **new paragraph within the Access Rules document about Capacity Conversion Mechanism**, on the basis that it is identical to the text previously consulted; and changes to the **Credit Protocol,** no consultation responses disagreed with these proposals and we agree these meet the requirements of the Licence.

With regards to the respondents' opposition to the management of **tariff multipliers and reserve prices**, including **Charging Methodology notice periods**, some shippers believe that it would remove transmission price predictability and stability, lead to significantly more uncertainty and complexity for trading activities of shippers. There were also concerns that this was a mechanism of quazi trading, effectively making BBLC a competitor of shippers, whilst BBLC's primary business is to provide *"excellent"* service as the pipeline operator. Addressing these views, BBLC states that these changes won't affect the existing contracts. BBLC also states that they are a non-revenue regulated merchant interconnector with no captive customers. BBLC has to compete with another interconnector and other sources of gas supply to Great Britain and European markets (eg. LNG, storage).

In terms of the TAR Network Code,[10] On 18 January 2019 the Authority made a decision to derogate BBLC from several Articles of Commission Regulation (EU) 2017/460, which established a network code on harmonised tariff structures for gas transmission (TAR) and is now incorporated in UK law by the European Union (Withdrawal) Act 2018 and the European Union (Withdrawal Agreement) Act 2020, as amended by Schedule 5 of the Gas (Security of Supply and Network Codes) (Amendment) (EU Exit) Regulations SI 2019/531.

[10] As amended by Sch 5 of UKSI 2019/531.

BBLC believes that the changes to the Charging Methodology proposed will allow BBLC to respond quickly and competitively to changing market circumstances. We have not identified anything in the changes to the Charging Methodology proposed by BBLC that raised our concerns with BBLC meeting their current obligations under TAR and also meeting the general TAR objectives of contributing to market integration, enhancing security of gas supply and promoting interconnection between gas networks.

In our view, BBLC's tariff setting flexibility proposed in Charging Methodology will promote the use of interconnectors, in line with Article 6 (1) of CAM.

We have carefully considered the views provided by all of the consultation responses. BBLC have confirmed that if a change in multiplier is announced for a certain capacity product and a certain period, this change will only be applicable for contract bookings made by shippers *after* this announcement. Tariffs of existing contract bookings (i.e. those made by shippers prior to the announcement) will not be changed and will remain in force. This gives shippers stability and certainty of a transmission price when they make bookings. The notification periods will now be aligned with other transporters' notification periods.

One shipper responded to the consultation stating that such change would make BBLC involved in *"quazi trading of the gas market spreads between the UK and EU, potentially distracting from the core business"*.[11] We believe that these changes will provide BBLC with latitude to respond to market conditions to enable them to compete with other gas flexibility providers.

We accept BBLC's argument that the tariff is fixed at the time of booking and that adjustments to tariffs are bound by notification periods within BBLC's Charging Methodology, and therefore consider these to be transparent and objective. The proposed changes will be applied to all shippers consistently and therefore we believe these changes are also non-discriminatory and do meet the requirements of the Licence.

The Authority's decision

The Authority considers the proposed Access Rules and Charging Methodology to be transparent, non-discriminatory, objective, and compliant with any relevant legally binding decision of the European Commission and/or the Agency. We expect BBLC to keep its Access Rules and Charging Methodology under review.

---

[11] From a confidential response to BBLC's consultation.

Directions issued in accordance with SLC 10 (14) and SLC 11A (14) of the Licence to this effect can be found in Annex 1 and Annex 2.

Publication

In accordance with SLC 10 (15) and SLC 11A (15) of the Licence, BBLC is required to publish (at least on its website) the approved Charging Methodology and Access Rules 28 days prior to their coming into effect (the Publication Period), unless the Authority directs otherwise.

If you have any questions relating to this decision, please contact Gas.TransmissionResponse@ofgem.gov.uk.

Yours Sincerely

David O'Neill
Head of Gas Markets and Systems, ESMS
Signed on behalf of the Authority and authorised for that purpose

ANNEX 1 - Ofgem Direction

Direction issued to BBL Company pursuant to Standard Licence Condition 11A (Approval of terms for access to the licensee's interconnector) paragraph 14 of its Gas Interconnector Licence

1. This Direction is issued by the Gas and Electricity Markets Authority (the "Authority") pursuant to Standard Licence Condition 11A ("SLC 11A") paragraph 14 of the Gas Interconnector Licence ("the Licence") granted or treated as granted under section 7ZA of the Gas Act 1986 ("the Act") to BBLC Company ("BBLC" or "the Licensee").

2. SLC 11A paragraph 9 requires the Licensee to review its Access Rules at least once each calendar year and make such modifications to the Access Rules as may be needed for the purpose of ensuring that the Access Rules better achieve the relevant Access Rules objectives.

3. SLC 11A paragraph 5 require that the Access Rules be objective, transparent, non-discriminatory, and compliant with the Regulation (EC) 715/2009, which continues to apply as retained EU law (on conditions for access to the national gas transmission networks) and any relevant legally binding decision of the European Commission and/or the Agency (collectively the "relevant Access Rules objectives").

4. Having regard to the relevant Access Rules objectives set out in SLC 11A paragraph 5, the Authority considers that BBLC's proposed Access Rules meet the relevant Access Rules objectives.

5. SLC 11A paragraph 6 require the licensee to take all reasonable steps to ensure that all persons, including those in any other relevant neighbouring State who shares the interconnection with the United Kingdom and who may have a direct interest in the Access Rules, are consulted and allow them a period of not less than 28 days within which to make written representations. The Licensee must also furnish the Authority with a report setting out the terms originally proposed in the Access Rules, the representations, if any, made by interested persons and any change in the terms of the Access Rules intended as a consequence of such representations.

6. In accordance with SLC 11A paragraph 2, on 30 June 2021, the Licensee submitted its Access Rules to the Authority for approval.

7. The Authority hereby directs, pursuant to SLC 11A paragraph 8, that the Licensee's proposed Access Rules are approved.

8. Pursuant to SLC 11A paragraph 15, the Authority directs that the Access Rules be published without undue delay and shall not come into effect earlier than 28 days after publication.

9. This Direction shall remain in effect until the Authority revokes or varies the Direction in writing upon reasonable notice.

10. This direction constitutes notice of the Authority's reasons for the decision pursuant to section 38A of the Act.

Dated: 29 September 2021

David O'Neill
Head of Gas Markets and Systems
Duly authorised on behalf of the Authority

ANNEX 2 - Ofgem Direction

Direction issued to BBL Company pursuant to Standard Licence Conditions 10 (Approval of charging methodology to the licensee's interconnector) paragraph 14 of its Gas Interconnector Licence

1. This Direction is issued by the Gas and Electricity Markets Authority (the "Authority") pursuant to Standard Licence Conditions 10 ("SLC10") paragraph 14 of the Gas Interconnector Licence ("the Licence") granted or treated as granted under section 7ZA of the Gas Act 1986 ("the Act") to BBLC Company ("BBLC" or "the Licensee").

2. SLC 10 paragraph 9 requires the Licensee to review its charging methodology at least once each calendar year and make such modifications to the charging methodology as may be needed for the purpose of ensuring that the charging methodology better achieve the relevant charging methodology objectives.

3. SLC 10 paragraph 4 requires that the charging methodology be objective, transparent, non-discriminatory, and compliant with the Regulation (EC) 715/2009, which continues to apply as retained EU law (on conditions for access to the national gas transmission networks) and any relevant legally binding decision of the European Commission and/or the Agency (collectively the "relevant charging methodology objectives").

4. Having regard to the relevant charging methodology objectives set out in SLC 10 paragraph 4, the Authority considers that BBLC's proposed charging methodology meet the relevant charging methodology objectives.

5. SLC 10 paragraph 5 requires the licensee to take all reasonable steps to ensure that all persons, including those in any other relevant neighbouring States who shares the interconnection with the United Kingdom and who may have a direct interest in the charging methodology, are consulted and allow them a period of not less than 28 days within which to make written representations. The Licensee must also furnish the Authority with a report setting out the terms originally proposed in the charging methodology, the representations, if any, made by interested persons and any change in the terms of the charging methodology intended as a consequence of such representations.

6. In accordance with SLC 10 paragraph 2 on 30 June 2021, the Licensee submitted its charging methodology to the Authority for approval.

7. The Authority hereby directs, pursuant to SLC 10 paragraph 8, that the Licensee's proposed charging methodology is approved.

8. Pursuant to SLC 10 paragraph 15, the Authority directs that the charging methodology be published without undue delay and shall not come into effect earlier than 28 days after publication.

9. This Direction shall remain in effect until the Authority revokes or varies the Direction in writing upon reasonable notice.

10. This direction constitutes notice of the Authority's reasons for the decision pursuant to section 38A of the Act.

Dated: 29 September 2021

David O'Neill
Head of Gas Markets and Systems
Duly authorised on behalf of the Authority