

To all interested parties and stakeholders,

Email: bogdan.kowalewicz@ofgem.gov.uk

Date: 19 April 2022

**Decision and direction further to National Grid Gas plc's request for Derogation under Special Condition 9.18 (Methodology to determine the release of Entry Capacity and Exit Capacity volumes) of its Gas Transporter Licence in respect of Milford Haven**

We<sup>1</sup> write further to National Grid Gas plc's ("NGG") application to Ofgem, dated 11 April 2022, requesting a derogation pursuant to Special Condition 9.18.16 of NGG's Gas Transporter Licence (the "Licence")<sup>2</sup> in respect of Milford Haven.

This letter sets out our decision to grant the requested derogation for NGG to consult on revisions to the Entry Capacity Release methodology ("ECR") for less than 28 days and to submit its report on the proposed revisions to us without an accompanying statement from an Independent Examiner, in accordance with Special Condition 9.18.16 of NGG's Licence. The direction, which appears annexed to this letter, will give effect to this derogation decision (subject to the conditions specified therein).

**Background**

Special Condition 9.18 of the Licence requires NGG to release obligated entry capacity in accordance with the ECR and sets out the requirements and process NGG must follow in reviewing and revising the ECR. NGG may only revise the ECR in accordance with Special Condition 9.18.11 unless a derogation from these requirements is applied for and granted under Special Condition 9.18.16.

NGG has identified the need to revise the ECR in the light of unprecedented and rapidly changing market conditions and has requested a derogation in respect of:

- i. Special Condition 9.18.11(b), which requires that before revising an ECR statement, the licensee (NGG) must consult for a period of not less than 28 days with the relevant parties referred to in paragraph 9.18.10(a), in this case Relevant Shippers<sup>3</sup> and any other interested parties; and

---

<sup>1</sup> References to the "Authority", "Ofgem", "we" and "our" are used interchangeably in this document to refer 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.

<sup>2</sup> National Grid Gas plc, Gas Transporter Licence, Special Conditions:  
<https://epr.ofgem.gov.uk/Content/Documents/National%20Grid%20Gas%20Plc%20-%20Special%20Conditions%20Consolidated%20-%20Current%20Version.pdf>

<sup>3</sup> 'Relevant Shipper' has the meaning given to the term in the Gas Transporter Licence: Standard Special Condition A3 (Definitions and Interpretation)  
<https://epr.ofgem.gov.uk/Content/Documents/Standard%20Special%20Condition%20-%20PART%20A%20Consolidated%20-%20Current%20Version.pdf>

- ii. Special Condition 9.18.11(d), which requires that before revising an ECR statement, the licensee (NGG) must submit to Ofgem, alongside its report, a statement from an Independent Examiner:
  - a. confirming that the Independent Examiner has carried out an examination, the scope and objectives of which were approved by Ofgem; and
  - b. giving an opinion on whether the capacity release methodology statement as revised would be consistent with the licensee's duties under the Gas Act 1986 and with the licensee's obligations under the Licence.

## **Market conditions**

NGG has identified the current geopolitical situation developing in Europe as having the potential to create a significant impact on the energy sector across the continent, including the UK. In its view, the unprecedented high gas prices and the desire of European countries to reduce dependency on Russian gas are leading to changes in strategies in relation to future sources of energy. The UK has a part to play in supporting Europe in transitional arrangements to the extent this is possible. This might mean that larger than anticipated quantities of Liquefied Natural Gas ("LNG") could be delivered to the UK shores this summer, with an intention of being transported to Europe via the interconnectors to Belgium and the Netherlands. Additionally, EU storage levels are close to historic lows and therefore the summer refill period has the potential to further increase demand on the interconnectors to help refill EU storage.

NGG believes the introduction of weekly entry capacity auctions in May 2022 may create a new market dynamic and this may increase the risks arising from releasing weekly capacity, in light of these geopolitical changes. NGG believes it needs to mitigate the potential consequences the release of weekly firm capacity may cause, and to consider whether this has the potential to also extend to the monthly auctions.

Changes to the Uniform Network Code ("UNC") will be implemented with effect from April 2022<sup>4</sup> and the first bid window when weekly capacity can be purchased will open on 20 May 2022.<sup>5</sup> This period is also when NGG has high levels of maintenance activity on the network to meet legislative requirements and to prepare for the following peak demand season.

Considering the geopolitical situation and market conditions outlined above, NGG is concerned about the ability of the National Transmission System ("NTS") to accommodate flows at close to historic highs or higher levels for prolonged periods during the summer 2022 period at its Milford Haven entry point. NGG therefore believes that it needs to act urgently to consider revisions to the ECR.

## **Derogation request**

In order to meet the tight timetables of the upcoming auctions, NGG has requested a derogation from the requirement to consult for 28 days in accordance with Special condition 9.18.11(b) and wants to reduce the consultation period to 7 days. NGG considers this 7 day period would still provide industry sufficient time to respond.

NGG also believes that the revisions it is considering are limited and straightforward. In NGG's opinion the change being considered is in line with its Licence and the Gas Act 1986 obligations and so has also requested a derogation from Special Condition 9.18.11(d) to submit its report to us without an accompanying statement from an Independent Examiner.

## **Our views**

---

<sup>4</sup> UNC752S - Introduction of Weekly Entry Capacity Auction (20 May 2021):  
<https://www.gasgovernance.co.uk/sites/default/files/ggf/book/2022-03/Notice%20of%20Implementation%200752S%20v2.0.pdf>

<sup>5</sup> This auction will offer capacity for the period 30th May 2022 to 5th June 2022.

We agree that the current market situation presents particular challenges to the release of capacity, especially at Milford Haven, and NGG has highlighted its concerns about the ability of the NTS to accommodate flows at close to historic highs or higher levels for prolonged periods during the summer period at its Milford Haven entry point. The introduction of weekly auctions to the UNC was progressed against a market background which did not reflect the situation that has developed in the past few weeks and we believe that NGG is right in considering whether this presents it with additional risks, and whether these may also apply to monthly auctions.

We believe that there is a need to consider any mitigations rapidly and we understand that NGG is not considering a major change in policy around capacity release but extending existing measures to mitigate risk, enabling it to maximise the amount of capacity it can release to accommodate the demand for higher LNG deliveries at Milford Haven that it has identified as being likely over the summer in 2022.

We understand that the revisions to the ECR being considered are not complex and represent an extension of existing approaches already in place. In our view interested parties will be able to respond to NGG's consultation in the proposed shorter timeframe and make their views known, and we therefore consider the shorter timeframe for consultation to be appropriate in this instance.

The non-complex nature of the potential revisions NGG is considering are an extension of current provisions in the ECR, which are consistent with NGG's licence and the Gas Act. Given the limited nature of the amendments being considered, we think that the requirement for an Independent Examiner to carry out an examination and give an opinion on the revisions to the ECR statement will not provide more assurance about the changes proposed, and we consider this requirement may be omitted.

### **Our decision**

We have reviewed NGG's derogation request letter submitted to us on 11 April 2022 and, in accordance with Special Condition 9.18.16, we have decided to grant the requested derogation to NGG to consult for less than 28 days on its proposed revisions to the ECR – but no less than 7 days as specified in our direction annexed to this letter – and submit its report to us without an accompanying statement from an Independent Examiner. The direction, which is issued in the Annex to this letter, will give effect to the derogation decision.

Please also note that this derogation decision does not fetter our discretion under Special Condition 9.18.12 of the Licence. That determination on the changes to the methodology will be made in the light of all relevant facts and circumstances including the feedback received through the consultation processes set out in Special Condition 9.18.11.

This letter constitutes notice for the purpose of section 38A of the Gas Act 1986 of the Authority's reasons for its decision to grant the derogation by direction, and a copy has been made available on our website.

If you have any questions concerning this decision and direction notice, please contact Bogdan Kowalewicz at [bogdan.kowalewicz@ofgem.gov.uk](mailto:bogdan.kowalewicz@ofgem.gov.uk).

**Adrian Richardson**

### **Head of Energy Security of Supply**

For and on behalf of the Gas and Electricity Markets Authority

## **ANNEX - Direction Notice**

To: The Company Secretary, National Grid Gas plc

### **Derogation by Direction issued to National Grid Gas plc by the Gas and Electricity Markets Authority pursuant to paragraph 9.18.16 of Special Condition 9.18 Part G of the Gas Transporter Licence in respect of the NTS and Milford Haven.**

1. This derogation by Direction is issued by the Gas and Electricity Markets Authority (the "Authority") under paragraph 9.18.16 of Special Condition 9.18 Part G of the Gas Transporter Licence in respect of the NTS (the "Licence"), granted or treated as granted under section 7 of the Gas Act 1986 (the "Act") to National Grid Gas plc (the "Licensee").
2. Paragraph 9.18.11(a) of Special Condition 9.18 provides that before revising a capacity release methodology statement, the Licensee must provide a copy of the proposed revisions to the Authority and to any interested party who asks for one;
3. Paragraph 9.18.11(b) of Special Condition 9.18 provides that before revising a capacity release methodology statement, the Licensee must consult for a period of not less than 28 days with the relevant parties referred to in paragraph 9.18.10(a).
4. Paragraph 9.18.11(d) of Special Condition 9.18 provides that before revising a capacity release methodology statement the licensee must submit to the Authority, alongside the report, a statement from an Independent Examiner:
  - i. confirming that the Independent Examiner has carried out an examination, the scope and objectives of which were approved by the Authority; and
  - ii. giving an opinion on whether the capacity release methodology statement as revised would be consistent with the licensee's duties under the Act and with the licensee's obligations under this licence.
5. Paragraph 9.18.16 of Special Condition 9.18 provides that the licensee may apply to the Authority for a derogation relieving the licensee of any of its obligations under this condition.
6. The Authority hereby directs under paragraph 9.18.11(b) of Special Condition 9.18 of the Licence as follows, that the Licensee must:

"consult for a period of not less than 7 days with the parties referred to in paragraph 9.18.10(a);"
7. The Authority hereby directs under paragraph 9.18.11(d) of Special Condition 9.18 of the Licence as follows, that the Licensee must:

"submit to the Authority, the report, without a statement from an Independent Examiner."
8. The considerations and reasons for the Authority's decision, in accordance with the Authority's duty under section 38A of the Act to give reasons, are set out in the Authority's decision letter to the Licensee, dated 19 April 2022.
9. The Direction shall take effect on and from 19 April 2022 and remain in effect for the period of the current review which NGG is undertaking in respect of Milford Haven, unless revoked earlier or varied in writing by the Authority.

10. The Authority may revoke or vary this direction upon reasonable notice in writing to the Licensee.

Dated: 19 April 2022

**Signed for and on behalf of the Authority**

**Adrian Richardson – Head of Energy Security of Supply**

**Authorised for that purpose by the Authority**