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Date: 15 September 2022

Dear Ms Koolmees,

**Authority's decision on the Access Rules and Charging Methodology proposed by BBL Company including direction of approval pursuant to Standard Licence Conditions 10 and 11A of the gas interconnector Licence. Authority's decision to disapply articles 11.8, 12.6 and 13.6 of the UK Capacity Allocation Mechanism Network Code for BBL Company in relation to the Implicit Allocation Mechanism.**

BBL Company ("BBLC", "Licensee") sent its final version of Access Rules (also known as General Terms and Conditions) and Charging Methodology on 17 June 2022 to the Authority<sup>1</sup> for approval. These were submitted pursuant to Standard Licence Conditions ("SLC") 10 and 11A of the Gas Interconnector Licence ("the Licence").<sup>2</sup>

This decision letter and attached directions set out our decisions to:

- Approve BBLC's proposed Access Rule changes under SLC 11A on the basis that they meet the relevant Access Rules objectives (Annex 1);<sup>3</sup>

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<sup>1</sup> 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.

<sup>2</sup> The current version of the gas interconnector licence and SLCs can be found at [epr.ofgem.gov.uk](http://epr.ofgem.gov.uk)

<sup>3</sup> The "relevant Access Rules objectives" are set out in SLC 11A(5) of the Licence.

- Approve BBLC's proposed Charging Methodology changes under SLC 10 on the basis that they meet the relevant Charging Methodology objectives (Annex 2);<sup>4</sup> and
- Disapply articles 11.8, 12.6 and 13.6 of the Capacity Allocation Mechanism Network Code<sup>5</sup> ("CAM") for BBLC in relation to the Implicit Allocation Mechanism (Annex 3).

## **BBLC's proposal**

The changes proposed by BBLC are modifications to its Access Rules and Charging Methodology, which it submitted to Ofgem on 17 June 2022 and copies of these documents are available on BBLC's website.<sup>6</sup> BBLC also provided a Submission Report to Ofgem on 17 June 2022. The proposed changes to the Access Rules and Charging Methodology are:

- **Option to withdraw Capacity Allocation Mechanism standard capacity products** – would allow BBLC to withdraw some or all of its capacity products from the market, informing the market in a transparent and timely manner.
- **Introduction of Conditional Forward Flow Capacity** – Conditional Firm Forward Flow would be introduced and treated as interruptible products when certain criteria are met between 1 April and 30 September of each Gas Year.
- **An additional reprofiling service** – shippers with long-term booking contracts would have the option to convert summer capacity nomination rights into additional winter capacity.
- **Application of the Commodity Charge** – introduction of a daily commodity charge, which would be separate for Forward Flow and Reverse Flow products.
- **Addition of a Sanctions clause** – an introduction of a sanctions clause to BBLC's Access Rules.
- **Changes to Credit Control Protocol** – various changes, including the period within which a shipper has to provide additional security if required and an increase to the creditworthiness period.
- **Notification periods for Prisma products** - BBLC would change the notification period for CAM capacity products, in terms of available capacity and reserve price, to three days. This change would require a disapplication of CAM Articles 11.8, 12.6 and 13.6.

<sup>4</sup> The "relevant Charging Methodology objectives" are set out in SLC 10(4) of the Licence.

<sup>5</sup> 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.

<sup>6</sup> <https://www.bblcompany.com/about-bbl/consultations-implementation-information>

- **Technical capacity to be offered via Implicit Allocation Mechanism** - an increase in the maximum proportion of technical capacity allocated for sale through the implicit allocation mechanism to 90%.
- **Other minor changes** - documents submitted by BBLC also have several other minor changes, including those for clarificatory purposes.

## **BBLC's Industry Consultation**

The proposed changes were subject to a public consultation which took place from 14 April 2022 to 13 May 2022, 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 17 June 2022. One shipper provided a response, the specifics of which we consider in the 'Ofgem's view' section of this document.

## **Ofgem's View**

SLC 10 (4) and SLC 11A (5) of the Licence requires the Access Rules and Charging Methodology to be objective, transparent, non-discriminatory and compliant with the relevant Access Rules and Charging Methodology objectives. EC 715/2009 ("Gas Regulation") continues to apply<sup>7</sup> as Retained EU Law.<sup>8</sup> Commission Regulation (EU) 2017/460 establishing a network code on harmonised transmission tariff structures for gas<sup>9</sup> ("TAR") and Commission Regulation (EU) 2017/459 establishing a network code on capacity allocation mechanisms in gas transmission systems ("CAM") also continue to apply as Retained EU Law.

### *Option to withdraw CAM standard capacity products*

The proposal would allow BBLC to withdraw some or all of its CAM standard capacity products from the market. BBLC considers that continuing to release forward or reverse flow capacity, which would allow shippers to nominate flows that cannot be accommodated by the physical assets, could lead to significant and potentially unsustainable costs for BBLC.

BBLC stated that its intention is to maximise the existing pipeline capability and firm capacity release. BBLC note that the quantity of capacity withdrawn will be limited to that

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<sup>7</sup> EC 715/2009 as amended by Electricity and Gas (Powers to Make Subordinate Legislation) (Amendment) (EU Exit) Regulations 2018 SI no.1286.

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

<sup>9</sup> As amended by Schedule 5 of UKSI 2019/531.

which BBLC considers necessary to ensure system integrity, safety, and efficient and economic network operation. In BBLC's view, the specifics of the updated terms are being clearly communicated to all shippers, so the alteration is both objective and transparent. BBLC have argued that the capacity will be offered in the same way to all shippers, so the proposed change is also non-discriminatory.

BBLC have provided the following information in support of demonstrating that the proposed alteration is compliant with existing legislation:

*"The EU Third Package Regulation 715/2009 defines the maximum amount of capacity to be made available for any defined time-period (the technical capacity) as not being a single fixed value but instead it is defined by reference to operational requirements and system integrity (safety) limits. The CAM Network Code refines this further by including operational efficiency, and the interconnector Licence Condition 11 takes this a step further by including the ability to restrict capacity where it is not economic or technically feasible to release it.  
[...] BBLC engineering assets do not facilitate rapid and frequent changes in flow direction. As a result, to enable BBLC to ensure system integrity, safety and efficient and economic network operation BBLC may have to withdraw some or all of its products from the market. As previously stated, such withdrawals will be kept to a minimum."*

The one consultation respondent stated that they were satisfied with BBLC's proposal, and underlying rationale, to optionally offer capacity.

The Authority considers that, as a merchant interconnector, BBLC should have the flexibility to decide the company's business model and product offering, as long as it remains compliant with the Licence objectives and legislative framework. We recognise the potential risk to the financial viability of BBLC should it be required to release capacity when it would compromise system integrity, safety or efficient network operation. We consider the proposal will allow BBLC to operate its interconnector in a manner that is consistent with its physical capabilities to ensure continued economical operation of the interconnector, and consequently operational efficiency and flexibility of the GB gas market. As such, we agree that the proposed change is compliant with the current CAM Network Code, the Trade and Cooperation Agreement,<sup>10</sup> the Licence<sup>11</sup> and the Licence objectives.

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<sup>10</sup> The Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part.

<sup>11</sup> Standard Licence Condition 13(2): 'Capacity Allocation'.

To be clear, BBLC must only withdraw its capacity products when it is necessary for system integrity, safety and efficient network operation. At all other times it must offer maximum technical capacity. The Authority may request evidence for the justification for the withdrawal of products which BBLC must provide if requested. The Authority would note that we do not consider Standard Condition 11 of the Licence will always be relevant to the proposed change, but this does not impact our decision.

### *Introduction of Conditional Forward Flow Capacity*

In 2021, BBLC introduced a Conditional Reverse Flow Firm product for the October to March period each year. BBLC now proposes to introduce an equivalent Conditional Forward Flow Firm product (Forward Flow is from the Netherlands to Great Britain ("GB")) between 01 April and 30 September each year. Between these dates, Conditional Forward Flow Firm standard capacity products will be treated as interruptible products when certain criteria are met.

If between 01 April and 30 September, the BBLC pipeline is in the Reverse Flow direction and the GB market gas demand<sup>12</sup> is lower than the figure published on BBLC's website, Forward Flow Nominations may be interrupted when the sum total of shipper Forward Flow Nominations is higher than the sum total of shipper Reverse Flow Nominations. The GB market gas demand figure will be applicable for the period April through to September and will be published on the BBLC website before 01 March each year.

BBLC consider this to be transparent and objective as the threshold will be published by BBLC before 01 March each year and the GB gas demand forecast is published by National Grid Gas on a daily basis. BBLC also state this will be offered in the same manner to all shippers and is compliant with all relevant European legislation. The consultation respondent understands and agrees with the rationale for extending the Conditional Reserve Flow product to Forward flow.

Ofgem fully considered the Conditional Reserve Flow Firm product in 2021<sup>13</sup> before approving the proposal. We consider that our view is still accurate and that this proposal is transparent, objective, non-discriminatory and compliant with legislation.

In order to ensure continued objectivity of both the Conditional Reserve Flow Firm and Conditional Forward Flow Firm products, Ofgem requests that BBLC provides the thresholds

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<sup>12</sup> 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.

<sup>13</sup> <https://www.ofgem.gov.uk/publications/decision-proposed-modifications-bbl-companys-charging-methodology-and-access-rules>

for each product to Ofgem, alongside the rationale for the thresholds, by 01 August (for Reverse) and 01 February (for Forward) of each year.

### *An additional reprofiling service*

BBLC proposes to offer an additional reprofiling service which will enable shippers that currently hold pre-CAM Network Code long-term forward flow capacity contracts, with a termination date that is after 31 December 2022, to have the option to convert the capacity nomination rights into additional forward flow winter capacity.

BBLC have noted that the service can only be used when prescribed criteria are met, the changes are made clear to all shippers and will be applied in the same way to all shippers that currently hold 2008 pre-CAM Network Code open season capacity. They consider that the proposed change is thus objective, transparent and non-discriminatory. BBLC also considers that the reprofiling service is compliant with all relevant European Legislation, specifically that the service does not restrict the amount of technical capacity to shippers as required by the CAM Network Code and that it does not contradict the rules of interoperability within the Interoperability Network Code.

BBLC also notes that this service ensures that BBLC is able to offer additional capacity in the winter period for flows to GB, when GB security of supply emergencies are more likely, thus increasing GB security of supply.

The consultation respondent was supportive of the new reprofiling service. They questioned the need for the short window of opportunity for the reprofiling applications (1 January to 28 February) and proposed that the window could be linked to a number of days prior to the relevant Prisma auction.

Ofgem agrees that this service is transparent and objective given the criteria and process for reprofiling capacity and is offered to all shippers that hold capacity that meets the criteria. We note that this is a voluntary service and note the potential benefits to GB security of supply. We have not identified any compliance concerns with legislation with respect to this proposed change.

We note that BBLC hasn't changed the window for reprofiling as it considers the current window to be sufficient. We consider that it is appropriate for BBLC to decide when the window should be open and that two months provides sufficient time for shippers to decide whether to utilise this service.

## *Application of the Commodity Charge*

BBLC proposes to introduce daily commodity charges which will follow more closely the pricing developments on the European electricity and gas markets. BBLC also proposes to have separate commodity charges for Forward Flow and Reverse Flow products. BBLC's proposed changes would also enable it to vary the gas price component of the commodity charge to take into account market circumstances, although the gas price component of the commodity tariffs calculation would currently remain unchanged. BBLC would be able to introduce a variable gas price component after informing the market in a transparent and timely manner and would publish the appropriate price index to be used.

BBLC states that recent unprecedented high, and volatile, electricity and gas prices have shown that it is no longer sustainable for BBLC to maintain a yearly fixed commodity charge. The consultation respondent understands and agrees with the proposal for the commodity charge to be determined on a more flexible basis for BBLC. However, it notes that it was disappointed that the current approved annual commodity charge methodology was unilaterally replaced with a daily commodity charge when BBLC did not have the vires to do so, and states that the risk should have been borne by BBLC until the Access Rules and the Charging Methodology had been approved by the regulator. The respondent also stated that it is highly preferable for more stability and a greater notice period for the publication of charges.

It is the Authority's view that the proposed change is transparent, non-discriminatory and compliant with the Licence requirements. We understand that the recent and ongoing volatility in electricity and gas prices may make the setting and maintenance of an annual fixed commodity charge untenable for interconnectors.

We have taken into account the concerns and objections raised by the respondent to the consultation. We expect BBLC to review the need for short charging periods at least once a year, to allow for a return to longer charging periods if price volatility reduces in the future. Furthermore, to ensure that the proposed change is objective whilst also allowing BBLC to maintain a flexible business model, the Authority will require BBLC to inform us of any proposed changes to its calculation method.

Ofgem would also like to remind BBLC that they must remain compliant with the requirements stipulated in the Gas Interconnector licence, such as the process that must be followed to make changes to its Access Rules and Charging Methodology.

### *Addition of a Sanctions clause*

BBLC proposes to add a new sanction clause to its Access Rules for each of its shippers and their subsidiaries. The consultation respondent noted that the drafting had a one-sided approach and that the clause should be developed to incorporate the obligations of both shippers and BBLC. They also suggest a change to one of the definitions and asked for elaboration on the intention of the paragraph relating to the shipper's subsidiaries.

Following this response, BBLC updated the drafting so that a part of the sanction clause also applies to BBLC and updated the definition as appropriate for its clause. BBLC also provided further clarification that it wants to ensure compliance with the sanction's obligations in regard to the relevant shipper, subcontractors or assignees. For that purpose, BBLC asks the shipper to 'pass through' the obligations to relevant third parties.

Ofgem acknowledges the purpose of the sanctions clause and notes that BBLC has updated the drafting to apply part of it to BBLC as well as the shippers. We consider the clause to be a prudent addition to the Access Rules and consider it to meet the Licence obligations.

### *Changes to Credit Control Protocol*

BBLC proposes that shippers will have to provide additional security within five working days if the current credit that the shipper has provided is insufficient to cover the exposure under its contract(s). It also proposes to increase the creditworthiness period from three to four months, as well as changes to its Bank Guarantee and Security Deposit agreement.

The consultation respondent understood the requirement to amend the creditworthiness period and proposed several amendments to the Bank Guarantee and Security Deposit agreement, which BBLC has incorporated into the final proposal. The respondent stated that the five working day period to provide additional security would be extremely tight to fulfil. BBLC responded to this by stating that this change is needed given the increasing dynamics of monthly Prisma auctions related to short-term capacity products. They note that recent auctions have involved multiple auction rounds over a period of weeks with increasing bid values resulting in increasing shipper security requirements over shorter time periods. BBLC considers that the proposed five working day period is aligned with these market conditions.

The consultation respondent also suggested that Clause 7 should be amended so that if the interest rate is below zero, then the interest amount paid by the Obligor shall be deemed to be zero. BBLC has decided not to make this change and instead considers it appropriate



that the text remains unchanged so that shippers are charged a negative interest cost in the event that such costs are levied on BBLC.

It is the Authority's view that these changes are transparent, objective, non-discriminatory and meet the Licence obligations. We note the consultation respondent's concern on both the five working days for additional security and negative interest rates. However, we consider these measures to be prudent under current market conditions and the increasing bid values over short periods in Prisma auctions.

#### *Notification periods for Prisma products*

BBLC propose to change the notification period for CAM capacity products in the annual, quarterly and monthly auctions for both available capacity and the accompanying reserve price to three days. To facilitate this, BBLC is seeking approval from Ofgem for disapplication of CAM Articles 11.8, 12.6 and 13.6.<sup>14</sup> BBLC do not propose to make any changes to the notification periods for day ahead or within day auctions. BBLC state that the dynamics of the European energy market have increased dramatically and this is reflected in rapidly changing commodity prices at both the TTF and NBP hubs. BBLC considers that the notification periods prescribed within CAM do not align with shipper needs nor the business model of BBLC as a merchant interconnector operator and wishes to facilitate the market and enable cross border trade as far as possible.

The consultation respondent stated that it is highly preferable for more stability and a greater notice period for the publication of charges.

As BBLC operates as a merchant interconnector with no captive customer base, competing with another interconnector and other methods of gas supply (piped gas, LNG), it is the Authority's view that BBLC should be allowed to plan its operations to capture market opportunities. Different capacity products provide choice. We note the consultation respondent stated that more stability and a greater notice period would be highly preferable. However, in our view, BBLC should be given this flexibility in structuring their product offering and we consider three days to provide shippers with sufficient time to effectively manage their capacity bookings.

It is our view that shippers have the opportunity to adjust their operations to BBLC's new notification period by procuring capacity from BBLC in the longer term (in which case shippers won't be affected by this change). The proposed change will be applied to all shippers consistently. Thus, it is the Authority's view, that the proposed change is

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<sup>14</sup> BBLC has previously been derogated from Article 29(a) and 29(b)(i) of TAR NC.

objective, transparent, non-discriminatory and compliant with relevant legislation. Furthermore, by making longer-term booking of gas transmission capacity more attractive, it may also contribute to increased stability of the market and enhanced security of gas supply. The change is likely to lead to a more stable competitive environment.

In order to facilitate this change, we have decided it would be appropriate to disapply Articles 11.8, 12.6 and 13.6 of CAM for the same reasons detailed above. A direction has been published alongside this letter (Annex 3).

#### *Technical capacity to be offered via Implicit Allocation Mechanism*

BBLC proposes to increase the maximum available technical capacity via Implicit Allocation to 90% for capacity products up to and including the fifth Gas Year. From the sixth Gas Year onwards BBLC will offer a maximum of 80% of the available technical capacity via Implicit Allocation. After the monthly Prisma auction has taken place, BBLC will offer an additional maximum of 90% of the remaining available capacity for Transmission Capacity Implicit Allocation that is available for the applicable month.

The consultation respondent supports the increase to the Implicit Allocation capacity offering to 90% of technical capacity.

It's the Authority's view that the proposed change is objective, transparent, non-discriminatory and compliant with relevant legislation. The proposed change continues to meet the obligations of Article 8 of CAM to set aside a proportion of capacity from the Annual auction.<sup>15</sup> The change will also likely increase the attractiveness of using BBLC transmission capacity, adding to the flexibility in shippers' ability to respond to the changing market conditions. Therefore, the proposed change is likely to be beneficial to consumers.

#### *Other minor changes*

The charging methodology and supplementary documents submitted by BBLC also have several other minor changes, for example, the phrasing of some sentences for clarificatory purposes. We note that the primary impact of these changes is to clarify information already provided and support making changes to the documents to ensure they continue to be clear and transparent.

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<sup>15</sup> Article 8(7) of CAM NC: (a) an amount at least equal to 10% of the existing technical capacity shall be offered no earlier than in the annual yearly capacity auction held in accordance with the auction calendar during the fifth gas year preceding the start of the relevant gas year; and (b) a further amount at least equal to 10% of the existing technical capacity shall first be offered no earlier than the annual quarterly capacity auction held in accordance with the auction calendar during the gas year preceding the start of the relevant gas year.

Aside from those changes proposed by BBLC, the Authority would also request that references in Exhibit G and elsewhere to 'UK domestic gas demand' should be replaced with 'GB gas market demand' for clarity.

### **The Authority's decision**

The Authority considers the proposed changes to Access Rules and Charging Methodology referred to above 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.

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.

The Authority has decided in accordance with Article 2(5) to dis-apply Articles 11.8, 12.6 and 13.6 of CAM in relation to the publication of capacity ahead of the PRISMA Annual, Quarterly and Monthly capacity auctions respectively. A direction issued in accordance with Article 2(5) to this effect can be found in Annex 3.

### **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 statement and Access Rules 28 days prior to them coming into effect (the Publication Period), unless the Authority directs otherwise.

If you have any questions relating to this decision, please contact [energy.securityofsupply@ofgem.gov.uk](mailto:energy.securityofsupply@ofgem.gov.uk).

Yours Sincerely

Dr Adrian Richardson

**Head of Energy Security of Supply, 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 BBL 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 11 requires 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 9, on 17 June 2022, the Licensee submitted its Access Rules to the Authority for approval.
7. The Authority hereby directs, pursuant to SLC 11A paragraph 14, 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 28 days prior to coming into effect.

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: 15 September 2022

Dr Adrian Richardson

**Head of Energy Security of Supply, ESMS**

**Signed 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 Condition 10 ("SLC 10") 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 BBL 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 11 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 9 on 17 June 2022, the Licensee submitted its charging methodology to the Authority for approval.
7. The Authority hereby directs, pursuant to SLC 10 paragraph 14, 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 28 days prior to coming into effect.

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: 15 September 2022

Dr Adrian Richardson

**Head of Energy Security of Supply, ESMS**

**Signed on behalf of the Authority**

### **ANNEX 3 – Ofgem Direction**

#### **Direction issued to BBL Company pursuant to Article 2 paragraph 5 of the Capacity Allocation Mechanisms Code<sup>16</sup> disapplying Articles 11.8, 12.6 and 13.6 of that regulation in relation to the Implicit Allocation Mechanism.**

1. This Direction is issued by the Gas and Electricity Markets Authority (the “Authority”) pursuant to Article 2(5) of the Capacity Allocations Mechanism establishing a Capacity Allocation Mechanisms Code (“CAM”) in relation to the proposal by BBL Company (“BBLC”) or “the Licensee”) to reduce the lead time for publishing BBLC capacity on the PRISMA platform.
2. Articles 8 to 37 of CAM define the process through which capacity is generally expected to be allocated at an Interconnection Point.
3. Article 2(5) of CAM allows National Regulatory Authorities to disapply Articles 8 to 37 of CAM where “implicit allocation methods” are applied. Under article 3(6) of CAM, “implicit allocation method” is defined as “a capacity allocation method where, possibly by means of an auction, both transmission capacity and a corresponding quantity of gas are allocated at the same time”.
4. On 17 June 2022 BBLC requested that the Authority issue a direction under Article 2(5) of CAM to disapply Articles 11.8, 12.6 and 13.6 of CAM in relation to an Implicit Allocation Mechanism established under its proposed changes to its Access Rules.
5. The Authority has concluded that BBLC’s Implicit Allocation Mechanism satisfies the definition of an implicit allocation method under Article 3(6) of CAM. Having regard to our principal objective and the purpose of CAM and the related Regulation (EC) 715/2009<sup>17</sup> on conditions for access to the natural gas transmission networks the Authority considers it appropriate to issue a direction disapplying Articles 11.8, 12.6 and 13.6 of CAM in relation to the Implicit Allocation Mechanism.
6. The Authority hereby directs that, pursuant to Article 2(5) of CAM, Articles 11.8, 12.6 and 13.6 are disappplied in relation to the Implicit Allocation Mechanism.

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<sup>16</sup> 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.

<sup>17</sup> 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. “Retained EU Law”: Retained EU Law has the same meaning as that given by [section 6\(7\) of the European Union \(Withdrawal\) Act 2018](#).



7. This Direction shall come into effect at the beginning of the Gas Day 28 days after the date of this notice. This Direction shall remain in effect until the Authority revokes or varies the Direction in writing upon reasonable notice.

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

Dated: 15 September 2022

Dr Adrian Richardson

**Head of Energy Security of Supply, ESMS**

**Signed on behalf of the Authority**