



**Legal, Regulation and
Compliance**

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Tuesday, 28 July 2009

Stuart Cook
Director, Transmission
Ofgem
9 Millbank
London SW1P 9GE

By E-mail: stuart.cook@ofgem.gov.uk

Dear Stuart,

Re: Open letter, Informal consultation on National Grid Gas's National Transmission System Gas Transporter licence condition with respect to Entry Capacity Substitution

Thank you for the opportunity to comment on the open letter detailed above. This non-confidential response is on behalf of the Centrica group of companies excluding Centrica Storage Ltd and may be placed on the Ofgem website and in the Ofgem library.

In respect of Licence Condition 10 (Entry capacity substitution obligation), we have a number of concerns in respect of the drafting proposed.

During the development discussions, 11 options were debated which were narrowed down to 3 which were considered in detail. These were a mechanical approach, a two stage auction and an "option" approach. One common point which emerged from these discussions was the requirement for an element of discretion to be available when applying any substitution methodology. Further, there was a clear preference among participants for this discretion to be exercised by Ofgem rather than National Grid (NG) due to the risk of perverse incentives on NG in terms of interactions with buybacks.

With this in mind, we would recommend some amendments to the drafting of 10 (c) (iii):

- a) splitting the requirement to take account of reasonable and future demands out into a new clause (iv)
- b) The new clause (iv) would require NG to ensure that the methodology makes provision for a detailed submission to Ofgem in respect of any individual proposal for substitution. The submission would need to include the evidence (including the

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- reasonable and foreseeable future demands) which in NG's view make substitution of the planned amount of capacity an acceptable option at that ASEP
- c) A new clause (v) providing that if the Authority subsequently vetoes the substitution, NG will not give effect to it
 - d) A new clause (vi) providing that if the substitution is vetoed, then the decision and reasons for the decision will be published.

In our view, the new clause (vi) above would not impact the potential for any form of user commitment as if the Authority has vetoed the substitution, then the route for the provision of incremental capacity at that ASEP would be as funded obligated incremental capacity, obviously subject to meeting the usual criteria.

Given the potential exercise of discretion by NG implied by the current proposed drafting, we believe that if the text were to be implemented, it would be essential to provide proper transparency around the exercise of this discretion to help mitigate perverse incentives.

We trust these comments have been helpful, and I would be happy to discuss any points in more detail.

Kind regards,

Yours sincerely,

By e-mail

Alison Russell
Senior Regulation Manager, Upstream Energy