

Modification proposal:	Uniform Network Code (UNC) UNC290: To facilitate the release of Additional NTS Exit (Flat) Capacity at National Grid NTS' discretion		
Decision:	The Authority ¹ directs that UNC290 is made ²		
Target audience:	The Joint Office, Parties to the UNC and other interested parties		
Date of publication:	19 July 2010	Implementation Date:	To be confirmed by the Joint Office

Background to the modification proposal

On 19 January 2009, Ofgem approved UNC195AV which introduced reform of the booking arrangements for exit capacity from the National Transmission System (NTS)³, "exit reform". These new exit arrangements are for the use of capacity from 1 October 2012, and the new booking arrangements were implemented on 1 April 2009.

Under the new arrangements, users are registered as holding exit (flat) capacity in any of the following instances:

- The user accepts an offer made by National Grid Gas (NGG), following the user's ad-hoc application for enduring annual exit (flat) capacity;
- NGG accepts an application for enduring annual exit (flat) capacity or annual exit (flat) capacity, following any annual application windows;
- NGG enters into an Advanced Reservation of Capacity Agreement (ARCA) with a user to hold enduring annual exit (flat) capacity; or
- NGG accepts and allocates bids for daily or daily off-peak exit (flat) capacity.

Annual NTS Exit (Flat) Capacity will be made available to Users in Gas Year (Y) with an effective start date of 1 October in Gas Years Y+1, Y+2 or Y+3. Following implementation of UNC289⁴ the amount of Annual NTS Exit (Flat) capacity to be made available at each NTS Exit Point is the amount of Remaining Available NTS Exit (Flat) Capacity that is available for all Gas Days within the relevant Gas Year⁵. Remaining Available NTS Exit (Flat) Capacity is defined in the UNC as the amount of capacity (if any) by which the Baseline NTS Exit (Flat) Capacity for the Gas Year exceeds the aggregate amount of NTS Exit (Flat) Capacity registered at that time, as held by Users in relation to that Gas Year or Day⁶.

National Grid Gas NTS (NGG NTS) will allocate Annual NTS Exit (Flat) Capacity in full at each NTS Exit Point where the aggregate amount of Annual NTS Exit (Flat) Capacity applied for is less than or equal to the total amount of Annual NTS Exit (Flat) Capacity NGG NTS has released. Where the requests in aggregate exceed the amount of Annual NTS Exit (Flat) Capacity NGG NTS has released at an NTS Exit Point, applications will be pro rated. Quantities of NTS Exit (Flat) Capacity in excess of Baseline NTS Exit (Flat) Capacity can become available at certain NTS Exit Points. However there is currently no obligation or facility within the code for NGG NTS to release additional Annual NTS Exit (Flat) Capacity, above the unsold quantity, and as such satisfy a greater proportion of requests.

¹ The terms 'the Authority', 'Ofgem' and 'we' are used interchangeably in this document. Ofgem is the Office of the Gas and Electricity Markets Authority.

² This document is notice of the reasons for this decision as required by section 38A of the Gas Act 1986.

³ See the decision on UNC195AV published on 19 January 2009 on the Joint Office website www.gasgovernance.co.uk.

⁴ On 22 June 2010 the Authority directed implementation of UNC289 'To determine the amount of Annual NTS Exit (Flat) Capacity to be released where the quantity of unsold NTS Exit Capacity fluctuates within the Gas Year.' A copy of the decision is available on the Joint Office website.

⁵ UNC TPD B3.4(c).

⁶ UNC TPD B3.1.6(b)(ii).

The modification proposal

UNC290 was raised by NGG NTS in March 2010. UNC290 proposes that the UNC be amended to enable NGG NTS, at its absolute discretion, to release additional Annual NTS Exit (Flat) Capacity where the aggregate quantity applied for is greater than the Remaining Available NTS Exit (Flat) Capacity and therefore above Baseline NTS Exit (Flat) Capacity. Any such additional capacity will be applicable solely to the Gas Year for which it was applied; will be subject to the same price that would be applied if it was released as Remaining Available NTS Exit (Flat) Capacity; and will be included in respect of overruns and the calculation of Overrun Charges. NGG NTS considers that where it is able to release additional Annual NTS Exit (Flat) Capacity, implementation of the proposal would increase the efficiency of capacity use within the system.

The proposer considers that UNC290 is a change/addition to the services provided by xoserve and should be considered as a User Pays Proposal. In the proposer's view, the change benefits all UNC parties and implementation costs should be split 50:50 between Shipper Users and Transporters. Total Shipper costs would be pro rated between Shipper Users based on their NTS Exit (Flat) Capacity holding as a proportion of the total NTS Exit (Flat) Capacity holdings held by all Shipper Users as of 1st October 2012. However, the Rough Order of Magnitude (ROM) estimate of the costs for xoserve⁷ systems development work provided by the proposal indicates that implementation costs are zero.

UNC Panel⁸ recommendation

The Modification Panel considered UNC290 at its meeting on 20 May 2010. Of the nine voting members present, capable of casting ten votes, ten votes were cast in favour of implementing UNC290. Therefore, the Panel recommended implementation of this modification.

The Authority's decision

The Authority has considered the issues raised by this proposal and the Final Modification Report (FMR) received on 14 June 2010. The Authority has considered and taken into account the responses to the Joint Office's consultation on the modification proposal which are attached to the FMR⁹. The Authority has concluded that:

1. implementation of the modification proposal will, as compared to the existing provisions of the UNC, better facilitate the achievement of the relevant objectives of the UNC¹⁰; and
2. directing that the modification be made is consistent with the Authority's principal objective and statutory duties¹¹.

Reasons for the Authority's decision

Relevant Objective (a): the efficient and economic operation of the pipeline system

In our view, by allowing NGG NTS to release non-obligated Annual NTS Exit (Flat) Capacity in excess of Baseline NTS Exit (Flat) Capacity where it is available, the proposal will promote a more efficient use of existing NTS exit capability. Quantities of NTS Exit (Flat)

⁷ Xoserve are responsible for providing transportation transactional services on behalf of gas transportation network companies to gas Shipper companies.

⁸ The UNC Panel is established and constituted from time to time pursuant to and in accordance with the UNC Modification Rules.

⁹ UNC modification proposals, modification reports and representations can be viewed on the Joint Office of Gas Transporters website at www.gasgovernance.com

¹⁰ As set out in Standard Special Condition A11(1) of the Gas Transporters Licence, see: http://epr.ofgem.gov.uk/document_fetch.php?documentid=6547

¹¹ The Authority's statutory duties are wider than matters which the Panel must take into consideration and are detailed mainly in the Gas Act 1986, as amended, most recently by the Energy Act 2010.

Capacity in excess of Baseline NTS Exit (Flat) Capacity can become available at NTS ExitPoints as a consequence, for example, of Enduring NTS Exit (Flat) Capacity investment being delivered ahead of schedule, or under some circumstances, as a consequence of changes in capacity use in other parts of the NTS. In our view it is efficient that NGG NTS has the discretion to release any such capacity in response to demand where available.

The proposer and a majority of respondents to the consultation agreed with this view. One shipper respondent considered that it would not be appropriate to extend NGG NTS' discretion in respect of capacity release. We note that the proposal will not affect NGG NTS' obligation to release NTS Exit (Flat) Capacity up to baseline at each NTS Exit Point and so we do not consider that the proposal will undermine NGG NTS's obligations regards capacity release. We also consider that a degree of discretion in respect of capacity release is appropriate alongside the safeguards of baseline capacity obligations. A level of discretion allows NGG NTS the flexibility to respond to changing capacity needs. Without this discretion there is a danger that capacity becomes sterilised in locations where it is no longer needed.

Relevant Objective (c): so far as is consistent with sub-paragraphs (a) and (b), the efficient discharge of the licensee's obligations under this licence

The proposer considered that the proposal would better facilitate relevant objective (c) but did not specify which licence condition it would relate to. As holder of the Gas Transporter Licence in respect of the NTS (the "Licence") NGG NTS has an obligation¹² to release all NTS baseline exit flat capacity to gas shippers and DN operators in all available allocations up to the end of the day to which the capacity relates. NGG NTS also has a financial incentive under the Licence to release 'non-obligated' exit flat capacity over and above NTS baseline exit flat capacity¹³.

Because the proposal relates to capacity over and above baseline, technically it cannot be said to facilitate the release of baseline capacity, and because the Licence condition relating 'non-obligated' capacity is an incentive rather than an obligation, technically the proposal cannot be said to better facilitate the efficient discharge of the licensee's licence 'obligations'. However, by facilitating the release of additional Annual NTS Exit (Flat) Capacity the proposal will better enable NGG NTS to meet User demand for Exit Capacity. In our view this is in keeping with the spirit of the licence conditions concerning capacity release and therefore on balance we do think the proposal is compatible with the efficient discharge of the licensee's licence obligations.

Relevant Objective (d): so far as is consistent with sub-paragraphs (a) to (c), the securing of effective competition between relevant shippers, suppliers and DN operators

The proposer did not consider that the proposal would better facilitate effective competition. A majority of respondents to the consultation agreed with this view. One shipper respondent considered that the potential discretionary release of Annual NTS Exit (Flat) Capacity would undermine regulatory and commercial certainty which would be detrimental to competition in the gas wholesale market.

In our view the proposal has the potential to better facilitate competition between shippers. Additional Annual NTS Exit (Flat) Capacity available for release as a consequence of the proposal will be capacity released in response to User demand. Where such capacity is prevented from being released this has the potential to inhibit the ability of shippers to meet customer demand. By providing NGG NTS with the discretion to release additional Annual NTS Exit (Flat) Capacity in response to User demand we consider that the proposal has the potential to provide shippers with greater commercial flexibility. We disagree that the proposal has the potential to undermine competition in the gas wholesale market. Any

¹² Gas Transporters Licence, Special Condition Part C8E (3)

¹³ Gas Transporters Licence, Special Condition Part C8E (1)(f)

additional capacity made available as a consequence of the proposal is likely to be small in comparison to the overall system capacity and is unlikely to have a destabilising effect on the exit capacity regime. We further note that the provision of variable quantities of short term NTS Exit (Flat) Capacity is a feature of the Daily NTS Exit (Flat) Capacity and Daily NTS Off-peak Exit (Flat) Capacity products. Rather than producing instability, the release of these products is important to shippers seeking to fine tune their short term capacity positions.

Implementation Costs and Funding

By permitting NGG NTS to release additional Annual NTS Exit (Flat) Capacity to meet additional User demand, we agree with the proposer that the proposal represents a change/addition to the services provided by xoserve and should be considered as User Pays.

NGG NTS has a licence obligation to release all NTS baseline exit flat capacity. Since the proposal will permit NGG NTS to release Annual NTS Exit (Flat) Capacity in excess of baseline where it is available, we consider that the proposal offers an additional service which has the potential to benefit Shipper Users. Shipper responses were not clear on the value that they placed on this additional service, mainly because the costs of the service are expected to be zero. Therefore, while we agree that a split of any implementation costs between Shipper Users and Transporters would be appropriate we remain to be convinced that a 50:50 split would be appropriate. Further, in the event that implementation costs are realised we are not convinced that it would be appropriate for Shipper costs to be pro-rated between Shipper Users based on their NTS Exit (Flat) Capacity holding as a proportion of the total NTS Exit (Flat) Capacity holdings held by all Shipper Users as of 1st October 2012. It is important that any cost recovery mechanism strikes an appropriate balance between complexity and cost reflectivity, but we are not convinced that NGG NTS' proposal would adequately target implementation costs at those utilising the service or reflect the value that parties place on it.

Alongside the proposal, NGG NTS submitted a revised copy of the Agency Charging Statement (ACS), updated with the proposed cost allocation set out in the FMR. For the reasons set out above we have decided not to approve NGG NTS' proposed revision of the ACS at this stage. NGG NTS does not anticipate that any implementation costs will arise in respect of the proposal, so we do not consider that our decision to reject the ACS will impact the implementation of the proposal. In the event that any implementation costs are incurred we consider that it would be appropriate for NGG NTS to re-submit the ACS with a proposed apportionment of implementation costs.

Decision notice

In accordance with Standard Special Condition A11 of the Gas Transporters Licence, the Authority hereby directs that modification UNC 290: To facilitate the release of Additional NTS Exit (Flat) Capacity at National Grid NTS' discretion' be made.

Pursuant to Standard Special Condition A15 of the Gas Transporters Licence, the Authority hereby directs that the proposed changes to the ACS submitted in connection with modification UNC 290 should not be made.

Stuart Cook

Senior Partner - Transmission & Governance

Signed on behalf of the Authority and authorised for that purpose