

23rd September 2013

Anjali Mehta, Senior Economist
Ofgem
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Re: Gas Security of Supply Significant Code Review – Updated Proposed Final Decision

Dear Anjali

Gaslink has reviewed the documents published on 23rd July 2013 concerning the Gas Security of Supply Significant Code Review (the Gas SCR) and, in its capacity as operator of the network downstream of Moffat, wishes to make the following points concerning the treatment of interconnectors under the proposals and the degree of consultation on this issue.

Treatment of interconnectors

We note that Ofgem apparently intends that interconnectors should not be included in arrangements for DSR payments in respect of involuntary interruption. We ask that Ofgem reconsiders this position, as we believe that the exclusion of the Moffat interconnector from proposed arrangements would be unduly discriminatory and would create cross-subsidy, thereby unduly distorting competition in contravention of the requirements of Regulation 994/2010¹. We return to these points below.

Insufficient consultation

We also believe there has been insufficient consultation under the Gas SCR on the specific issue of the treatment of interconnectors, and in particular the Moffat interconnector which is unique in GB in comprising an interconnector facility through which gas can only physically flow in export mode. Within the Gas SCR documentation the first references we can find to the treatment of interconnectors are contained in the Proposed Business Rules and Proposed UNC Drafting published on 31st July 2012. By this time the Gas SCR had been running for more than 18 months. The business rule references² were in the form of bald statements with no explanation of the underlying rationale:

“Storage and interconnector users will not be entitled to DSR payments.”

“DSR payments will not be made to storage curtailment or to interconnector curtailment.”

¹ REGULATION (EU) No 994/2010 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 20 October 2010 concerning measures to safeguard security of gas supply and repealing Council Directive 2004/67/EC

² Gas Security of Supply Significant Code Review, Business Rules, Published 31/07/2012, 4th bullet p2 and paragraph 1.8 p5

Furthermore, no discussion of the issue or justification of the approach was provided in the accompanying primary documents – the Proposed Final Decision document itself, and the Impact Assessment. Gaslink responded to the Proposed Final Decision consultation on 24th October 2012 drawing these points to Ofgem’s attention. A response was provided in the form of a brief paragraph within Ofgem’s Responses Document published on 23rd July 2013:

“2.74. We note the views that interconnector users should be subject to payments for involuntary interruption. DSR payments are intended to be made to end-consumers in recognition of involuntary DSR services. Additionally, we do not have legal vires that extend beyond GB, and so DSR payments cannot be made to consumers in other markets. As a result, interconnectors and storage sites are not included in arrangements for DSR payments in respect of involuntary interruption.”

Again, the primary document – the Updated Proposed Final decision letter – contained no mention or consideration of the issue, or justification for the proposed approach.

We find the consultation to date on this important matter to be insufficient and we ask Ofgem to give a more detailed consideration to the issues surrounding the treatment of interconnectors. Below we outline our view of the key points for consideration.

Points for consideration

Cross-subsidy and undue discrimination

The proposed exclusion of interconnectors from DSR payments will result in cross-subsidy if load shedding at Moffat and other NTS exit points actually occurs. Moffat shippers, if short, will be exposed to cash-out payments which would, via balancing neutrality, contribute to funding DSR payments for *other* exit points, whilst no such payments would be made in respect of Moffat, regardless of the level of involuntary curtailment.

The arrangements would therefore unduly discriminate as between the exit points at which DSR payments are and are not applied and further, this would unduly distort competition. These features are not in accordance with the requirements of Regulation 994/2010, in particular Article 3.6:

6. The measures to ensure the security of supply contained in the Preventive Action Plans and in the Emergency Plans shall be clearly defined, transparent, proportionate, non-discriminatory and verifiable, shall not unduly distort competition and the effective functioning of the internal market in gas and shall not endanger the security of gas supply of other Member States or of the Union as a whole.

Cross-subsidy could arguably be avoided if Moffat flows received the highest priority of all NTS exit points during an emergency, but this would seem to run counter to the spirit of solidarity in coordinating emergency plans and responses envisaged by Regulation 994/2010, and indeed would be at variance with the emergency plans and procedures currently in place.³

³ The Preventative Action Plan, the Emergency Plan and the Emergency Procedures developed in accordance with the requirements of Regulation 994/2010 envisage involvement of the Moffat exit point in firm load-shedding arrangements.

Accommodation of Moffat and similar exit points in the arrangements

Ofgem's stated reasons for exclusion of interconnectors and storage sites from the arrangements for DSR payments are:

1. DSR payments are intended to be made to end-consumers in recognition of involuntary DSR services.
2. Ofgem does not have legal vires that extend beyond GB, and so DSR payments cannot be made to consumers in other markets.

In our view a deeper analysis of the situation and the possible approaches is required. It might be considered that bi-directional/import only interconnectors and storage sites might be in import mode during an emergency, and would not therefore be subject to the involuntary firm load-shedding arrangements.

This is clearly not the case at Moffat, an export only facility for which firm load-shedding is explicitly provided for in the Emergency Procedures. If the procedures were activated, Moffat would provide "involuntary DSR services" but under the proposed arrangements there would be no "recognition" via DSR payments.

There is clearly a VoLL in the event of firm load-shedding at Moffat, and the arrangements should recognise this, regardless of the fact that the ultimate consumers are downstream of the NTS exit point. Ofgem has vires to set rules at Moffat which financially impact on downstream consumers beyond GB, and therefore has both the means and responsibility to develop an equitable approach that avoids the failings of the current proposals and properly accommodates exit points such as Moffat.

Interconnector participation in DSR tender

We also believe that the Gas SCR arrangements should provide the capability for interconnector exit points such as Moffat to participate in the proposed DSR tender process. The document "Demand-Side Response Tender Consultation" also published on 23rd July 2013 appears to be silent on this issue. As with DSR payments we would ask Ofgem to carefully consider how interconnectors such as Moffat might participate in the DSR tender arrangements. However, we would note that any involuntary curtailment at Moffat should still be subject to DSR payments as discussed above, irrespective of the voluntary DSR eligibility criteria that might be developed.

We would like to meet and discuss these issues with Ofgem, preferably before the DSR tender consultation closes so that we can incorporate any outputs from our meeting in our response.

I look forward to hearing from you.

Yours sincerely

 23/09/2013

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Gaslink