

Consultation on changes needed to implement new arrangements for incremental gas transmission capacity (PARCAs)

Consultation Response

Energy UK is the trade association for the energy industry. We represent over 80 members made up of generators and gas and electricity suppliers of all kinds and sizes as well as other businesses operating in the energy industry. Together our members generate more than 90 per cent of the UK's total electricity output, supplying more than 26 million homes and investing in 2012 more than £11 billion in the British economy.

Energy UK welcomes the opportunity to provide comments to Ofgem's consultation however we are disappointed that it has taken so long for this consultation to be issued and that particular issues of concern to shippers and developers have not been fully addressed. In addition we are conscious that various methodology statements are still subject to consultation and finalisation so it is difficult to consider some of these licence issues in isolation from the methodologies and UNC modification decisions.

Energy UK offers some observations on the description of the PARCA process on page two of the consultation document.

- A PARCA will only consist of three phases if National Grid needs to undertake work to deliver the incremental capacity
- There will only be two phases? if the capacity requirement is met by substitution or from existing capability and allocated at the end of phase two.
- Phase two may cover work by both parties to secure planning approval, but it could just be one party or neither. A developer may be seeking to secure financing and / or successful participation in the capacity mechanism before proceeding to the allocation of capacity.

Question 1:

Do you agree with the intended drafting of each new licence definition?

Energy UK agrees that it is generally appropriate to refer to the definitions in the network code to ensure consistency of terminology.

With respect to the 24 month lead time the drafting of the definition seems to identify a day rather than a lead time. To determine it this appropriate further consideration need to be given to where these terms are referenced in the licence.

Energy UK would seek assurances that setting the lead time to 24 months as a fixed time rather than no longer than 24 months would not restrict the registration of capacity in a time period of less than 24 months if this is achievable and requested by the applicant.

Energy UK welcomes the lead time starting from the month following allocation rather than from the following October, this should allow projects to follow natural timescales rather than the focus being on delivery for October. In addition this may better reflect gas-fired generation projects timescales since generally such projects would prefer to commission during the summer months in preparation for full

commercial operation during the winter period. Indeed the Electricity capacity mechanism will also focus developers on achieving full commercial operation from October.

Question 2:

Do you agree with the proposals to adjust collected revenues to include PARCA termination amounts, but not in all circumstances ?

In principle it seems reasonable to link the possibility to adjust collected revenues to the recovery of the termination amount in the contract, however we are not convinced the proposed licence drafting achieves this and there could be circumstances in which the termination amount is recovered but further scrutiny would be appropriate before adjusting collected revenues.

The proposed drafting links the possibility of adjusting allowed revenues to the release of Funded Incremental Obligated (entry or exit) Capacity. Funded Incremental Obligated Capacity is released when National Grid undertakes work in order to release capacity, hence any capacity released through substitution or from existing capacity obligations is not captured by the definition of Funded Incremental Obligated so any Termination Amount recovered from the PARCA Applicant in such circumstances are not then reflected in allowed revenues but would form part of collected revenues. For example, in the event of substitution being used to fully deliver reserved capacity National Grid's costs will be minimal such that the Termination Amount should be reflected in collected revenue in its entirety and lead to a reduction in transportation charges. It is not self-evident that the drafting achieves this and we seek specific assurances from Ofgem that this is the case.

The PARCA contract currently does not allow National Grid to recover the Termination Amount from the PARCA applicant if it fails to secure planning through not using reasonable endeavours to do so. Discussions between industry, National Grid and Ofgem have debated what may constitute reasonable endeavours with current thinking being that this will be determined through a legal process. Depending on the level of the Termination Amount the PARCA applicant may consider it not to be worthwhile in pursuing a legal case to determine whether reasonable endeavours were used and may simply pay the Termination Amount. The implication of this is that National Grid did use reasonable endeavours, whereas this may not actually be the case, and National Grid costs, which may run to £ 10'sM would be passed through to allowed revenues and hence paid by all consumers. We consider it would be more appropriate in such circumstances, which we would expect to be infrequent, for Ofgem to assess on a case-by-case basis whether these costs should be passed to customers. In our view such a review would be consistent with Ofgem's wider statutory duties to protect the interests of consumers rather than allow a single PARCA Applicant to take this decision.

Question 3:

Do you agree with the text which adds a new 'Part A' to Special Condition 5F?

In principle we support the transparency provisions that require publication of a request for a PARCA and how that request will be met. We have similar concerns to those outlined above regard in the use of the term Funded Incremental Obligated Capacity. A PARCA applicant will apply for long term capacity whether this is delivered through investment, substitution or other means will only be determined towards the end of Phase one. The licence currently only requires publication of PARCAs requiring Funded Incremental Obligated Capacity and does not identify the timeframe prior to reservation for publication. Clarity is required on which applications for PARCAs should be published and when.

Energy UK supports the removal of the permit arrangements but notes no clarification on the treatment of permits allowances with respect to part of a revenue year if the PARCA arrangements are implemented in full prior to April 2015. We also consider that references to the permit arrangements in other parts of the licence may need to be reviewed.

We also support the removal of the totex text which is no longer applicable.

In this part of the consultation document Ofgem notes that it does not intend to amend the current licence drafting regarding when it approves applications for capacity substitution. The basis of this is Ofgem's view that it should only approve allocating or substituting capacity once a user is ready to

take on a firm user commitment. Following our previous representations and discussions on this issue it is disappointing that Ofgem has maintained this position, we consider this fails to recognise the realities of project development and particularly interactions with the electricity market capacity mechanism. We consider it is in the interests of customers generally to have in place arrangements which do not risk stranding capacity nor increase project development costs which may ultimately be passed through to customers. These may arise where a party wishes to avoid the risk of capacity substitution being vetoed at a late stage in the project so that it makes the decision to make a user commitment prior to it being certain the project will go ahead. If the project does not go ahead it will need to pay the user commitment amount and National Grid will be obliged to deliver the capacity commercially and or physically which will prevent further substitution whilst the User Commitment persists, although some of the milestone information under the PARCA may limit physical investment by National Grid.

The PARCA arrangements were designed as a package to enable National Grid and project developers to work in parallel to meet the needs of both parties whilst only undertaking physical investment when there is assurance projects will actually proceed. In the context of the electricity capacity mechanism, the arrangements could allow capacity to be reserved for a new gas-fired generating project prior to a capacity mechanism auction with the user commitment only being made if the project was successful in the auction. However if the capacity is to be delivered by substitution then there remains a risk that it could be vetoed after the PARCA applicant has committed to delivering capacity via the capacity mechanism. Given the capacity mechanism penalty regime this may well be an unacceptable risk to project developers which could lead to them being forced to commit to capacity before a project goes ahead, which does not seem to be an efficient outcome and undermines the aims and principles of the PARCA arrangements.

There are a number of circumstances in which Ofgem could veto a substitution request, as outlined in special condition 5G.9. These being where the capacity release and substitution methodologies have not been followed or if the action would be inconsistent with the Licencee's duties under the Act or obligations in its licence. Whilst we take some comfort that the draft exit capacity release methodology does not include reserved capacity as substitutable capacity, there remains the risk that this may not form part of the final methodology statement and that compliance with licence obligations or duties under the Act could be widely interpreted by Ofgem leading it to veto a substitution application at a stage in a project when the developer will have committed substantial resources to secure planning permission.

Rather we consider it would be better if substitution were approved at the time of reservation with a mechanism by which it is reversed or amended should the project be terminated or an alternative delivery solution identified and we ask Ofgem to give this further consideration with the potential of delivering a better outcome for specific customers developing new projects and customers in general.

Question 4:

Do you agree with the text which adds a new 'Part A' to Special Condition 5G?

See comments to Question 3 above

Question 5

Do you agree with adding phase one as an excluded service?

Yes

Question 6:

Do you agree with the wording in Special Condition 11C?

Yes

Question 7:

Do you agree that the financial, lead time and stakeholder notification policy changes should be implemented to allow the introduction of PARCAs?

Subject to the comments above, yes. However it would be helpful to understand the timescale and further steps for the implementation of all the elements of the PARA package, including licence changes, methodology statements and UNC modification decision.

1 October 2014

Contact:

Julie Cox
Head of Gas Trading
Energy UK
Charles House
5-11 Regent Street
London
SW1Y 4LR
Tel: 020 7930 9390
julie.cox@energy-uk.org.uk