



Ofgem’s Statutory Consultation – Proposed licence modifications to facilitate the implementation of the Capacity Allocation Mechanisms Network Code in Great Britain.

Eni UK Limited (hereinafter **eni**) welcomes the opportunity to participate in this consultation and provides its response as follows.

1. This letter seeks views on our proposals to modify Special Condition 1A and Special Condition 5F of the Gas Transporter Licence held by National Grid Gas Plc (NGG) in respect of the National Transmission System (NTS)

We note that the proposed modifications to NGG’s Gas Transporter Licence are premised upon Ofgem’s ‘minded-to’ position to split the Bacton ASEP into two new ASEPs (Bacton UKCS and Bacton IP) in order to implement The Network Code on Capacity Allocation Mechanisms in Gas Transmission Systems (CAM) at Interconnection Points only, rather than at all entry points. We agree that this is likely to be the simplest solution for implementing CAM in the United Kingdom.

However, **eni** is unable to support the proposed changes to split the Bacton ASEP into two new ASEPs unless and to the extent that the existing contractual rights of capacity holders at Bacton are preserved. The preservation of these rights is central to an equitably-implemented split given the radically different capacity environment that will exist at Bacton following the proposed split. A key tenet of such preservation is an ability to return capacity before the Bacton ASEP split is concluded. In addition, for any capacity held by an existing Bacton capacity holder following such split, the right to flexibly flow gas across the entire Bacton ASEP (Bacton UKCS and Bacton IP) must be preserved. **eni** has a number of concerns with the Bacton split implementation proposed by NGG in UNC0501 where existing long term capacity holders are given an arbitrary, one-off opportunity to split their capacity between the two new ASEPs for the remaining contract duration, and notwithstanding such nomination, may through a pro-ration regime, be allocated an entry capacity split that bears little resemblance to the nomination. Moreover UNC0501 does not respond at all to the challenge given in many responses to the previous consultations as to how to protect and preserve the rights of existing long term capacity holders and as such is a wholly inappropriate and inadequate response to the complexities of the Bacton split.

eni has engaged with Ofgem, NGG and the Industry Modification Workgroup in developing what we believe is a full and equitable solution to implementing the Bacton split through alternative UNC0501C; a solution which preserves value and flexibility for long term capacity holders in a new world where significant entry capacity access advantage has been secured for interconnectors and their users at



zero cost through the creation of an asset specific ASEP, sized precisely to match interconnector maximum technical capacities.

Whilst alternative UNC0501A allows for a full capacity return, **eni's** UNC0501C limits users to return capacity only up to a maximum proportion of their existing entry capacity at Bacton. The proportion will be defined once the Bacton ASEP obligated capacity split is confirmed by Ofgem after this consultation but would be 72.77% under the current proposal.

In addition, entry capacity which remains at the conclusion of the allocation process would continue to enjoy current Bacton ASEP flexibility through an aggregate overrun regime across the two new Bacton ASEPs and the provision of an entry capacity rebate when bundled products are purchased at the Bacton IP ASEP (to ensure that existing capacity holders are not forced to pay NGG entry charges twice where they purchase a bundled product to flexibly use their entry capacity as they would today).

eni considers both elements are required to fully restore the value of the original product. The original long term product gave rights over a certain proportion of the total Bacton ASEP obligated entry capacity and allowed gas to enter the NTS completely flexibly between all the entry points within the Bacton ASEP. Under the proposed split, 72.77% of that obligated capacity will be allocated to the new asset specific IP ASEP to precisely match the technical capacities of the interconnectors. This unique new entry capacity product, sized specifically for particular assets, would be allocated without any price signal. The price of capacity will be determined through future CAM auctions with interconnector users safe in the knowledge that there is no potential shortage of capacity to serve full asset flows and their capacity needs are further protected through having a dedicated ASEP. The price of this unique new 'asset-specific' ASEP product is demonstrably zero on initial allocation to the ASEP and, as such, existing long term holders must be treated equitably with respect to their proportion of the original obligated capacity that has been allocated to this unique new ASEP. A new product priced at zero on initial allocation is exactly equivalent to long term capacity holders handing back the capacity which then allows them to compete equitably for this unique new entry product. Thus, as a first option, long term holders must have the right to return up to this percentage of their long term capacity.

Further, to fully restore original value, capacity that remains after any return should continue to enjoy the flexibility as described above.

eni notes that in the current consultation Ofgem states that '*the consequences of handing back or terminating capacity contracts without penalty are significant*'.



What constitutes 'significant' is for Ofgem to justify but in meeting its duties Ofgem must consider the considerable competitive harm and value destruction that would be inflicted upon existing long term capacity holders through UNC0501. **eni** believes that in order to achieve compliance with relevant objectives and statutory duties in continuing to encourage appropriate long term investment signals then capacity hand-back for existing capacity holders is the only reasonable response to the fundamental change at the Bacton ASEP. In the absence of such a response, important reinforcing investment signals for the NGG are likely to be significantly and negatively impacted in future to the extent that users refrain from making long term capacity bookings owing to such poor treatment of existing capacity holders.

In the consultation document Ofgem also notes that in setting the obligated capacity at the IP ASEP to match the technical capacities of the interconnectors there may be insufficient capacity to meet demand at the UKCS ASEP. Substitution is highlighted as a method to then move unsold capacity away from the IP ASEP to the UKCS ASEP. Again this demonstrates the inequality of the IP ASEP being assigned its optimum obligated capacity without any price signal as, for the UKCS ASEP to then regain that capacity through substitution, a user would have to submit a price commitment through a QSEC bid meeting a significant investment threshold before capacity could be substituted across some 42 months later. This also assumes that no low cost retention reservation existed at the donor ASEP. In addition any potential substitution has to be confirmed by Ofgem and given the importance of interconnectors to the UK's Security of Supply Strategy DECC and Ofgem may choose to safeguard interconnector capacity instead. Actually a possible ad-hoc veto right for Ofgem is already provided for in NGG's current Entry Capacity Substitution Methodology Statement Consultation Draft in the event that the application of the substitution "*may reasonably put National Grid in breach of its obligations with respect to EU Regulations (in particular the obligation to offer bundled capacity at Interconnection Points as required by the Capacity Allocation Mechanisms)*"¹. In being assigned obligated, ASEP-specific capacity without cost, interconnectors and their users would be granted a competitive advantage over existing long term capacity holders, undermining established competitive principles enshrined in the entry capacity booking regime.

2. We welcome comments on the proposed drafting on changes to the gas Transporter Licence held by NGG in respect of the NTS

We would propose no change to the drafting.

¹ Paragraph 89 of ECS v5.2 and v6.1 at <http://www2.nationalgrid.com/UK/Industry-information/Gas-capacity-methodologies/Entry-Capacity-Substitution-Methodology-Statement/>