Making a positive difference
for energy consumers

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Dear Stephen

Approval of trilateral agreement under the gas interconnector licence

Background

The final report of the European Commission's sector inquiry into competition in gas and electricity markets (published in January 2007) noted (amongst other things) the lack of effective competition in European markets.[1]

In response, a suite of legally binding European Union (EU) legislation, referred to as the Third Package, on European electricity and gas markets was introduced and adopted on 13 July 2009.[2] The Third Package was transposed into law in Great Britain (GB) by regulations that came into force on 10 November 2011.

The Third Package creates a new legal framework to promote cross-border trade. It requires a number of legally binding Guidelines and 'Network Codes' to be established and implemented.[3] Taken together, these aim to promote liquidity, improve integration between Member States' gas markets and promote the efficient use of interconnectors to ensure that gas flows according to price signals, ie to where it is valued most.[4] These EU legislative requirements take priority over GB domestic legislation and associated regulations and codes. There are four such European Network Codes (ENCs) relevant to this decision letter, these are:

- Capacity Allocation Mechanisms in Gas Transmission Systems (CAM): this was published in the Official Journal of the European Union (OJEU) on 15 October 2013

[1] Inquiry pursuant to Article 17 of Regulation (EC) No 1/2003 into the European gas and electricity sectors (Final Report): http://ec.europa.eu/competition/sectors/energy/2005_inquiry/index_en.html.
[2] In relation to gas, the Third Package includes Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC (the "Gas Directive") and Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005 (the "Gas Regulation").
[3] See Article 6 (Establishment of network codes) of the Gas Regulation which sets out the process for establishing EU-wide network codes for gas.
[4] See Article 8(6) of the Gas Regulation for the areas required to be covered by network codes.

and applies from 1 November 2015.[5] CAM aims to facilitate equal and transparent access to transmission capacity, achieve effective competition on the wholesale gas market, facilitate a more transparent, efficient and non-discriminatory system of allocation of capacity and avoid foreclosure of downstream supply markets. It does this by introducing standard capacity products (in terms of duration), auctions of bundled capacity products at interconnection points (IPs) via a cross-border web-based booking system, coordination of maintenance of pipelines or parts of transmission networks by Transmission System Operators (TSOs)[6] and communication procedures by TSOs.

- Congestion Management Procedures (CMP)[7]: this aims to tackle contractual congestion (where gas transportation capacity is fully booked but not fully used).[8] This situation may occur where there is physical capacity to flow more gas, but the right to flow it is tied up in existing contracts with network users so that others cannot gain access to it. Contractual congestion results in inefficient use of gas transportation assets and is a barrier to cross border trade. CMP aims to enhance the efficient use of transportation capacity by bringing unused capacity back to the market on a firm basis, thereby making it available to market participants who wish to make use of it.
- Gas Balancing of Transmission Networks (BAL): this was published in the OJEU on 27 March 2014 and applies from 1 October 2015.[9] BAL aims to facilitate cross-border gas trade and the further development of competitive and efficient wholesale gas markets in the EU. The code requires the use of non-discriminatory and transparent balancing systems, which are of particular importance for new market entrants, and specifies procedures for nominations to flow gas at IPs.
- Interoperability and Data Exchange (INT): this was published in the OJEU on 1 May 2015 and applies from 1 May 2016.[10] The code covers ways in which network operators manage gas flows across borders, deal with differences in gas quality, exchange data between themselves and market players, rules for matching nominations to flow gas at either side of an IP and rules for allocating gas. The code also requires adjacent TSOs to agree and set out these rules in interconnection agreements.

These ENCs are required to be implemented by the gas interconnector licensees taking into account the specific nature of interconnectors, where identified in each ENC.

National Grid Gas plc (NGG) owns and operates the national transmission system in GB.

GNI (UK) Limited (GNI (UK)) owns the gas interconnector between Moffat, in South West Scotland, and the interface between UK territorial Waters and Manx Waters, for which it holds a gas interconnector licence. The GNI (UK) interconnector is connected to the NGG system at Moffat and splits into two different pipes before leaving the Scottish mainland.

Premier Transmission Limited (PTL) holds an interconnector licence allowing it to operate the gas interconnector between Twynholm, in South West Scotland and Ballylumford, in Northern Ireland, and is connected to the GNI (UK) interconnector at Twynholm. The PTL

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[5] Commission Regulation (EU) No 984/2013 of 14 October 2013 establishing a Network Code on Capacity Allocation Mechanisms in Gas Transmission Systems: http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R0984&from=EN.

[6] References to TSOs in this letter include interconnectors.

[7] CMP is a Guideline and not a separate network code; formally, it is an amendment to the Guideline on congestion management procedures which form part of Annex I of the Gas Regulation. However we have referred to it using the same abbreviation of 'ENCs' throughout this letter for brevity.

[8] Commission Decision of 24 August 2012 on amending Annex I to Regulation (EC) No 715/2009 of the European Parliament and of the Council on conditions for access to the natural gas transmission networks: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:231:0016:0020:en:PDF.

[9] Commission Regulation (EU) No 312/2014 of 26 March 2014 establishing a Network Code on Gas Balancing of Transmission Networks: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2014.091.01.0015.01.ENG.

[10] Commission regulation (EU) 2015/703 of 30 April 2015 establishing a network code on interoperability and data exchange rules http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1430734293842&uri=OJ:JOL_2015_113_R_0003.

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interconnector forms part of the Northern Irish (NI) entry-exit system, which has an entry point at Moffat. In order to offer NI entry-exit capacity at Moffat, PTL must use GNI (UK)'s interconnector pipeline between Moffat and Twynholm in combination with its own interconnector. PTL then contracts directly with NI shippers to offer NI entry and exit capacity at Moffat. As a result GNI (UK) has no direct relationship with NI shippers despite the NI shippers flowing gas on the GNI (UK) interconnector between Moffat and Twynholm.

In order to implement the relevant parts of the ENCs listed above, the parties are proposing modifications to various existing bilateral agreements[11] and creating new agreements. One such new agreement is the tripartite agreement between NGG, GNI (UK) and PTL (PTL TRI). [12] A tripartite agreement is necessary because GNI (UK), as NGG's adjacent TSO at Moffat, does not have a commercial relationship with downstream shippers in NI. Therefore the Interconnection Agreement between GNI (UK) and NGG[13] does not cover the full requirements of the ENCs. The PTL TRI covers arrangements at the Moffat IP between its three signatories for (i) how capacity is allocated and bundled, (ii) how nominations to flow gas are made, and (iii) how gas flow quantities are allocated to shippers after the gas flow day. This facilitates implementation of the ENCs in respect of gas flowing from GB to NI.

Standard Licence Condition (SLC) 3 of the gas interconnector licence requires that the Authority approves bilateral agreements that PTL may be reasonably required to enter into with any licensed gas transporter, as well as any amendments to an approved bilateral agreement.[14]

Proposals in the PTL TRI

PTL submitted to the Authority for approval under SLC3 of its gas interconnector licence the proposed PTL TRI on 18 September 2015.

The PTL TRI sets out arrangements to allow for bundling of capacity, nominations and allocations of gas quantities at Moffat including as follows:

1. That the arrangements regarding capacity include that:
    - 1.1. NGG exit capacity and NI entry capacity:
        - 1.1.1. Are to be allocated by way of auctions for standard CAM capacity products under the algorithms in compliance with the CAM code.
        - 1.1.2. Are to be allocated, where that capacity is firm, as a bundled product in a single auction on the PRISMA auction platform, where availability allows.
        - 1.1.3. To be withheld from auctions of annual capacity will be the lesser of:
            - 1.1.3.1. 10% of technical capacity and available capacity, for the five years following the auction.
            - 1.1.3.2. 20% of technical capacity and available capacity, for following ten years.
    - 1.2. The first annual capacity auction will offer bundled capacity for the gas years from 2016/17 to 2020/21.
    - 1.3. Technical capacity at the Moffat IP to be published on the parties' websites.
    - 1.4. Where NGG capacity is less than the sum of NI and Irish capacity at Moffat then there are linked auctions on PRISMA whereby the scarce NGG capacity is allocated as a bundle with capacity on the gas transportation route where shippers value it most.
    - 1.5. Shippers holding both NGG exit and NI entry unbundled capacity may decide to bundle their capacity at Moffat.

[11] These include the transportation agreement between PTL and GNI (UK), the transportation agreement between GNI and GNI (UK) and the bilateral agreement between NGG and GNI (UK) (also known as the interconnection agreement).
[12] A similar tripartite agreement is proposed by NGG, GNI (UK) and GNI for arrangements between GB and Ireland.
[13] The interconnection agreement sets out principles for how TSOs will interact with each other at the physical interconnection between their two systems.
[14] We consider that SLC3 covers the PTL TRI.

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1.6. Trading of bundled (NGG exit and NI entry) capacity on the secondary market will only be valid where the bundle is preserved.
1.7. If a shipper surrenders bundled capacity in either the NI or NGG's system then such surrender will only be valid if the shipper surrenders equivalent capacity in the other system.
1.8. The minimum interruption lead time for NGG and NI capacity is 75 minutes before the hour bar when the interruption is to be effective. NGG and PTL will inform each other via GNI (UK) in the event of an interruption.
1.9. Any auction premium above the reserve price will be shared equally between PTL and NGG.

2. That the arrangements regarding nominations by shippers to flow gas include that:
   2.1. Single-sided nominations, whereby both NGG and NI shippers can make nominations only to NGG (and which are considered nominations in both the NGG and NI systems), are allowed.
   2.2. Double-sided nominations, whereby shippers provide nominations to both NGG and PTL, are allowed.
   2.3. Initial nominations are to be made by shippers before 13.00 on the day before the gas flow day (D-1) and further nominations are to be made by shippers before 02.00 on the gas flow day (D).
   2.4. Renominations can be submitted between 15.00 on D-1 and 02.00 on D.
   2.5. The time from which renominations become effective must not be:
      2.5.1. Earlier than two hours after the hour bar when the renomination is made.
      2.5.2. Earlier than the start of the gas flow day.
      2.5.3. Later than 04.00 on D.
   2.6. For each two hour nomination cycle that:
      2.6.1. NGG sends GNI (UK)
         2.6.1.1. The single-sided nominations it receives from shippers.
         2.6.1.2. The processed nomination quantities of double-sided nominations it receives (this is the nomination received by NGG following any adjustment in accordance with NGG's rules).
      2.6.2. GNI (UK) sends PTL details of the processed nomination quantities from NGG. GNI (UK) does not send PTL the initial notification of single-sided nominations received from NGG.
      2.6.3. PTL determines if the double-sided nominations are confirmed nominations (where the details are the same without consideration of the nomination quantities). If they are then PTL confirms the nomination quantities[15] and sends these to GNI (UK), who then sends them to NGG.
      2.6.4. NGG and PTL then notify their shippers of the confirmed nomination quantities.
   2.7. Communications are to be made in the data format and protocol compliant with INT which is currently Edig@s xml and SOAP respectively.

3. That the arrangements regarding allocation of gas flow quantities to shippers after the gas flow day include that:
   3.1. For an OBA day[16] the quantities allocated to each shipper is equal to the confirmed nomination quantity for that shipper (for both directions).

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[15] The confirmed nomination quantity is (unless an exceptional event or gas deficit emergency has been notified):
- The processed nomination quantity, where the processed nomination quantities are the same
- The lesser of the processed nomination quantities, where the processed nomination quantities are not the same

Where an exceptional event has been notified by
- NGG only, then the confirmed nomination quantity is the NGG processed nomination quantity for the affected flow direction.
- PTL only, then the confirmed nomination quantity is the PTL processed nomination quantity for the affected flow direction.
- Both NGG and PTL, then the confirmed nomination quantity is the lesser of the processed nomination quantities for the affected flow direction.

Where a gas deficit emergency has been notified, NGG notifies GNI (UK) of the quantity of flows at Moffat. GNI determines under the PTL/GNI (UK) transportation agreement the share of flows that go to NI. PTL then determines the confirmed nomination quantities.

[16] Under INT shippers will normally receive allocations equal to their confirmed nomination quantities. When the measured flow rate of gas deviates from what was nominated by shippers the difference (or steering difference) is

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3.2. For a non-OBA day the quantities to be allocated for:
3.2.1. NI shippers is in accordance with the PTL Transportation Code.[17]
3.2.2. NGG shippers is:
3.2.2.1. the sum of the allocations for that NGG shipper's counterpart in NI where GNI (UK) provides certain information on each shipper's nomination to NGG.
3.2.2.2. determined according to the alternative arrangements in the Uniform Network Code (UNC) where GNI (UK) does not provide the information in the previous point.
3.3. For a non-OBA day the sum of the allocation quantities to NI and Irish shippers in both directions, the quantity allocated to the Stranraer Operator and the cumulative steering difference correction for that day must equal the metered quantity at Moffat for that day.

4. Where an error has been identified in determining the processed nomination quantity, the confirmed nomination quantity or the allocation quantity then PTL and NGG shall notify the affected shippers. The cumulative steering difference will be adjusted in the Interconnection Agreement (IA) between NGG and GNI (UK) to reflect the correction of an error.
5. The arrangements for the flow of gas to Stranraer via the PTL interconnector, where these differ from the standard arrangements, are set out in the rest of the PTL TRI.
6. The arrangements to amend the PTL TRI.
7. Communications between the signatories in the PTL TRI when there is an exceptional event will be communicated as soon as reasonable practicable for events on:
7.1. NGG system: between NGG and GNI (UK).
7.2. PTL system: between PTL and GNI (UK), and GNI (UK) will communicate this to NGG.
8. Data exchange between the parties.
9. Other issues: including flow of information, confidentiality between the parties, force majeure, dispute resolution process and liabilities.

Ofgem view

Ofgem's principal objective is to protect the interest of existing and future consumers. The interests of consumers are their interests taken as a whole, including their interests in the security of supply and their interests in the fulfilment by the Authority, when carrying out its functions as designated regulatory authority for GB, of the objectives set out in Article 40 of the Third Package Gas Directive.[18]

Those objectives include promoting a competitive and secure internal market in natural gas, developing competition and properly functioning regional markets and eliminating restrictions on trade and enhancing the integration of national markets. Furthermore, the Authority, as National Regulatory Authority (NRA) for GB under Article 41 of the Third Package Gas Directive, has a duty to ensure compliance by TSOs (which includes PTL and GNI (UK)) with the requirements of relevant Community legislation (including the ENCs).

Ofgem considers that the proposals in the PTL TRI, as summarised above, in terms of how capacity is allocated, how nominations to flow gas are made and how gas flow quantities are allocated to shippers after the gas flow day are compliant with the relevant ENCs.

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accumulated in an Operational Balancing Account (OBA) which is managed by the adjacent TSOs. The adjacent TSOs agree tolerance levels in which steering differences are permitted. Where the cumulative steering difference exceeds the tolerance levels the TSOs may decide to allocate gas based on the measured volume of gas ie the TSOs call a non-OBA day. Otherwise the gas flow day is an OBA day.

[17] The PTL Transportation Code governs access to the PTL interconnector by shippers http://www.premier-transmission.com/transCode04.html.

[18] Commission Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:211:0094:0136:en:PDF.

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Furthermore we consider the inclusion of detailed processes for amending the PTL TRI are welcome given the three different parties and the three different jurisdictions that they operate in.

We note that the arrangements set out in the PTL TRI to amend the document require approval by the Commission for Energy Regulation (CER) and the Northern Ireland Authority for Utility Regulation (NIAUR) (as well as Ofgem). For the avoidance of doubt, we do not consider that Ofgem's approval of the PTL TRI in any way confers any legal power to the CER and NIAUR to approve any future amendments to the TRI.

The Authority decision

Following consideration of the documentation provided and having regard to the Authority's principal objective and statutory duties and for the reasons set out above, the Authority has decided to approve the PTL TRI, in accordance with the provisions of SLC3 of PTL's gas interconnector licence.

Rob Mills
Head of Gas Transmission, Gas Networks
Duly authorised on behalf of the Authority

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