Making a positive difference
for energy consumers

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Dear Stephen

Approval of bilateral agreements 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.

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 interconnector forms part of the Northern Irish (NI) entry-exit system, which has an entry

[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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point at Moffat. In order to offer NI entry-exit system at Moffat, PTL must use GNI (UK)'s interconnector pipeline between Moffat and Twynholm in combination with its own interconnector.

In order to implement the relevant parts of the ENCs listed above, GNI (UK) and PTL are proposing modifications to various existing bilateral agreements and creating a new agreement with GNI (UK) and National Grid Gas (the PTL tripartite, PTL TRI).[11] One such bilateral agreement requiring changes to implement the ENCs is the PTL Transportation Agreement (PTL TA) between PTL and GNI (UK).[12] The PTL TA sets out the arrangements for how PTL has access to GNI (UK)'s interconnector capacity for the purposes of transporting gas between Moffat and Twynholm. It covers issues including the level of GNI (UK) interconnector capacity made available to PTL, operation and maintenance of the GNI (UK) interconnector, costs, pressure, measurement and testing, throughput restrictions and emergencies, liabilities and emergencies, billing, variations to operating procedures, termination of the agreement and referral of issues to an expert. The PTL TA was first agreed on 21 August 1996 and has been amended following Authority approval as follows:

- Addition of an annex governing arrangements by which GNI (UK) provide virtual reverse flow (VRF) services[13] to PTL in order for PTL to offer VRF from NI to GB. This was called operational variation (OV1) and was approved by the Authority on 8 February 2013.
- Addition of an annex governing processes for submission and rejection of daily profiles with respect to the quantities of gas to be delivered and transported by GNI (UK) on behalf of PTL. This was called OV2 and was approved by the Authority on 27 May 2014.
- Amendment of a clause relating to how issues are referred to an expert that was approved by the Authority on 7 November 2014.

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.

Proposed amendments to the PTL TA

PTL submitted its proposed changes to the PTL TA to implement parts of ENCs to the Authority for its approval under SLC3 of the interconnector licence on 18 September 2015. The amendments are made by means of a side agreement to the PTL TA (the Amendment and Supplemental Arrangements Agreement (ASAA)) and revising the annexes approved under OV1 and OV2.

The changes proposed include the following (as summarised):

1. References to BGE (UK) and Gaslink in the PTL TA will be considered as references to GNI (UK) and GNI respectively, reflecting changes in ownership of the interconnector between Moffat and Twynholm and the party acting as system operator for the Irish entry-exit system.
2. The gas day starts from 05.00 (from 1 October 2015).
3. Clarification that:
   3.1. The maximum amount of entry nominations to the NI entry-exit system at Moffat cannot exceed the amount of capacity made available to PTL by GNI (UK) in the PTL TA (ie 8.08 mscmd).

[11] A similar tripartite agreement is proposed by NGG, GNI (UK) and GNI for arrangements between GB and Ireland.
[12] The transportation agreement between GNI (UK) and GNI is also being modified.
[13] If gas can only physically flow in one direction then it is possible to offer an interruptible flow service in the opposite direction, this is virtual reverse flow.

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3.2. The maximum amount of exit nominations from the NI entry-exit system at Moffat (ie virtual reverse flow) shall not exceed 1228 MWh (down from the current level of 4100 MWh).
3.3. PTL VRF capacity will be offered as interruptible and not bundled with NGG capacity.
3.4. Quantities of gas equal to the differences between allocated and measured gas quantities ('steering differences') are not deemed to be delivered for PTL.

4. Nomination timings are such that:
   4.1. PTL nominations (in the form of daily profiles) are to be submitted to GNI (UK) by 13.30 on the day before the gas flow day (D-1). GNI (UK) is to send any rejection of daily profiles by 15.00 on D-1 (otherwise the daily profile is deemed accepted).
   4.2. PTL is to submit re-nominations (in the form of a revised daily profile) between 16.00 on D-1 and 02:30 on the gas flow day (D). GNI (UK) checks any revised daily profiles it receives before 30 minutes the hour bar and sends any rejection of revised daily profile for these no later than 15 minutes after the hour
5. Allocation of gas quantities, for:
   5.1. Operational Balancing Account (OBA) days[14] are that allocations to PTL (for both forward and reverse flows) are based on aggregate nominations.
   5.2. non-OBA days are that allocations for reverse flows are based on nominations and for forward flow on metered values.
6. Exceptional events resulting in reduced amount of GNI (UK) capacity available between Moffat and Twynholm require GNI (UK) capacity to be allocated to PTL (and ultimately NI shippers) as follows (unless a gas deficit emergency is notified to GNI (UK) by NGG):[15]
   6.1. For the remainder of the day on which the exceptional event was called and the next day: in proportion to the total nominations on GNI (UK)'s system.
   6.2. For all other days: 32% of the restricted capacity.
7. Arrangements for exceptional events:[16]
   7.1. On the PTL system: PTL notifies GNI (UK) of an exceptional event and PTL may submit a revised daily profile where the physical flow required into NI is no more than 25% higher or lower than the prevailing figure. GNI (UK) accepts the revised daily profile unless it would cause safety or operational problems on its pipe between Moffat and Twynholm.
   7.2. On the GNI (UK) system (ie Moffat to Twynholm): GNI (UK) notifies PTL of the amount of gas that can be physically flowed to NI and then PTL submits a revised daily profile complying with GNI (UK)'s requirements (which may reflect a reduction of flows no more than 25% from the prevailing daily profile). GNI (UK) will accept such a daily profile subject to all other requirements being met.
8. In any event where (i) NGG issues a notice to change the flows from its system at Moffat or a notice to reject a GNI (UK) request to flow, or (ii) where there is restricted capacity in the Moffat to Twynholm pipe, or (iii) where GNI (UK) has accepted PTL

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

[15] A gas deficit emergency is a Network Gas Supply Emergency as defined in the NGG 'Procedure for Network Gas Supply Emergency' http://www2.nationalgrid.com/uk/industry-information/gas-transmission-system-operations/network-gas-supply-emergency/. Where a gas deficit emergency has been notified by NGG to GNI (UK), GNI (UK) will determine the share of gas to be flowed at Moffat to NI in accordance with (i) the Northern Ireland Network Emergency Coordinator (NINEC) safety case (as approved by Health and Safety Executive for Northern Ireland (HSE NI), (ii) the Network Emergency Coordinator (NEC) safety case (as approved by the Health and Safety Executive (HSE)), (iii) the National Gas Emergency Plan (NGEM Procedure) (as approved by the Commission for Energy Regulation (CER)), and (iv) the Joint Protocol for Load Shedding and Gas Supply Emergency (as agreed between NGG and GNI and forms an annex to the NGEM Procedure)).

[16] An exceptional event in the case of (i) GNI (UK), is an unplanned event that is not reasonably controllable or preventable by GNI (UK) and may cause for a limited period capacity reductions on the Moffat to Twynholm pipe, (ii) PTL, has the meaning given in the PTL transportation code and (iii) NGG, means a transportation constraint as that is defined in the Uniform Network Code (UNC).

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request to accept a daily profile with a shorter notice period or which does not fully comply with standard rules and there is later a constraint, then:

8.1. GNI (UK) may notify PTL of what flow is possible into NI and PTL will issue a revised daily profile to reflect this.

8.2. GNI (UK) will manage flows of gas at Moffat according to the Interconnection Agreement (IA) between GNI (UK) and NGG and the associated exit flow profile methodology.

9. PTL ensures that information provided to GNI (UK) reflects what is agreed.

10. There needs to be agreed arrangements in place before any amendments are made to OV1 and/or OV2 (or these are deleted) that result in an incompatibility with the arrangements in the IA between GNI (UK) and National Grid Gas (NGG) and/or the tripartite agreement between PTL, GNI (UK) and NGG (the PTL TRI).

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.

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 changes being proposed to the PTL TA agreement between PTL and GNI (UK), including any side agreement, relating to (i) gas day, (ii) allocations of gas for OBA and non-OBA days, and (iii) VRF capacity from the NI entry-exit system being offered as interruptible and not being bundled with NGG capacity, are compliant with the relevant ENCs. Furthermore, we consider that the change in timings for the sharing of information between PTL and GNI (UK) with respect to nominations and renominations allow for aggregate flow nominations and renominations between GNI (UK) and NGG to be compliant with the relevant ENCs.

We note that there are a number of other changes proposed to the PTL TA which reflect wider changes in the industry and clarifications which help improve transparency and operational processes, but which are not necessary for ENC implementation. These include:

- Procedures in an exceptional event (and gas deficit emergency). The changes reflect approvals of various safety protocols by the HSE, CER and HSE NI.
- References to BGE (UK) and Gaslink being replaced by references to GNI (UK) and GNI respectively
- Clarification of the amounts of capacity offered by GNI (UK) to PTL in varying operational situations and that amendments to the PTL TA may be required in the event of any inconsistencies with either the PTL TRI and/or the interconnection agreement between GNI (UK) and NGG, where changes to the latter two are legally required.

In relation to the changes governing what happens in a gas deficit emergency we note that PTL and GNI (UK) have been using procedures which differ from the PTL TA (though which have been approved by HSE, CER and HSE NI). PTL should seek approval from the Authority for further changes in their bilateral agreement with GNI (UK) (the PTL TA) before these changes come into effect.

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Next steps

We note that the PTL TA is due to expire on 30 September 2021 and that there are a number of other issues that PTL and GNI (UK) would like to change in their PTL TA. We encourage PTL and GNI (UK) as soon as possible to start discussions to agree arrangements between them to apply after 30 September 2021 (as also referred to in our decision in relation to GNI (UK)'s Access rules). There are a number of issues which we recommend be addressed (though we note that this is not an exhaustive list). These include (i) maximising the amount of VRF capacity that GNI (UK) makes available to PTL, and (ii) removing the requirement to give GNI (UK) 20 business days' notice of intention to use the VRF service.

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 changes to the PTL TA, 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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