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for energy consumers

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Dear Andrew,

**Approval of the modified access rules proposed by GNI (UK) Limited (GNI (UK)) including direction of approval pursuant to Standard Licence Condition 11A of the gas interconnector licence.**

GNI (UK) proposed modifications to its access rules on 7 June 2017 to the Authority for approval. These were submitted pursuant to Standard Licence Condition (SLC) 11A of the gas interconnector licence ('licence').<sup>1</sup> The same modifications were also submitted under SLC 3 'Compliance with bilateral agreements' as the documents modified are considered both part of GNI (UK)'s access rules and its bilateral agreements.

This letter and the annexed direction set out our approval of the submitted proposals under SLC11A. Attached to this letter is a direction to GNI(UK) approving the proposed modification to the access rules on the basis that they meet the relevant access rules objectives.<sup>2</sup>

**Background**

European Network Codes (ENCs)

A key step in establishing cross-border harmonisation between Transmission System Operators (TSOs)<sup>3</sup> in Europe is the development of ENCs. There are two ENCs relevant to this decision letter, these are:

- Capacity Allocation Mechanisms in Gas Transmission Systems (CAM)<sup>4</sup>: Establishes common rules for TSOs to allocate capacity. 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,

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<sup>1</sup> The current version of the gas interconnector licence and SLCs can be found at [epr.ofgem.gov.uk](http://epr.ofgem.gov.uk)

<sup>2</sup> The 'relevant access rules objectives' are set out in SLC 11A(5) of the licence.

<sup>3</sup> References to TSOs in this letter include interconnectors.

<sup>4</sup> Commission Regulation (EU) No 2017/459 of 16 March 2017 establishing a network code on capacity allocation mechanisms in gas transmission systems and repealing regulation (EU) No 984/2013: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R0984&from=EN>.

coordination of maintenance of pipelines or parts of transmission networks by TSOs and communication procedures by TSOs.

- Interoperability and Data Exchange (INT)<sup>5</sup>: 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 flow quantities after the gas flow day. INT also requires adjacent TSOs to agree and set out certain rules in interconnection agreements.

### Moffat Specific Arrangements

Arrangements at Moffat are unique and involve a number of parties.

- National Grid Gas plc (NGG) owns and operates the national transmission system in GB.
- 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.
- Gas Networks Ireland Limited (GNI) owns two interconnectors that connect with GNI (UK)'s interconnector pipes at the interface between UK Territorial Waters and Manx Waters and continue to the Irish mainland. The GNI interconnectors form part of the Irish entry-exit system which has an entry point at Moffat.
  - In order to offer Irish entry-exit capacity at Moffat, GNI must have access to GNI (UK)'s interconnector pipelines between Moffat and the interface between UK Territorial Waters and Manx Waters in combination with its own interconnectors.
  - GNI then contracts directly with Irish shippers to offer Irish entry and exit capacity at Moffat.
  - As a result GNI (UK) has no direct relationship with Irish shippers despite the Irish shippers flowing gas on the GNI (UK) interconnector.

To facilitate implementation of the ENC's, the parties at Moffat mentioned above, created two tripartite agreements. One agreement is between GNI (UK), NGG and PTL<sup>6</sup> (PTL TRI); while the other is between GNI (UK), NGG and GNI (GNI TRI). 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 and Ireland. To ensure full coverage of the ENC's, these are required in addition to the interconnection agreement between GNI (UK) and NGG<sup>7</sup>.

The GNI TRI (and PTL TRI) covers arrangements at the Moffat IP between the 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 ENC's in respect of gas flowing from GB to Ireland (and, in the case of the PTL TRI, GB to Northern Ireland).

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<sup>5</sup> 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](http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1430734293842&uri=OJ:JOL_2015_113_R_0003).

<sup>6</sup> PTL own and operate the gas interconnector between Great Britain and Northern Ireland.

<sup>7</sup> The interconnection agreement sets out principles for how TSOs will interact with each other at the physical interconnection between their two systems.

### Virtual Reverse Flow at Moffat

CAM requires unidirectional interconnectors to offer a daily capacity product in the opposite direction from physical flow to shippers on an interruptible basis. As a part of their compliance with CAM, Moffat parties provide virtual reverse flow from Ireland to Great Britain.

On 13 September 2016 The Commission for Energy Regulation (CER)<sup>8</sup> approved Modification No. A064 to GNI's Code of Operations ('A064').<sup>9</sup> A064 was raised by GNI in order to increase the flexibility of GNI's virtual reverse flow product at Moffat as instructed by CER based on feedback from industry amongst other things.

Under the proposals in A064, GNI offers virtual reverse flow capacity on an interruptible basis at within-day auctions, and allows shippers to submit single or double sided nominations against those products. The proposals also include rules for GNI to reduce nominations in the event of an interruption to the product.

In order to reflect these proposals fully at Moffat, GNI (UK), NGG and GNI have agreed to make changes to the GNI TRI.

### **Proposed modifications**

GNI (UK) submitted modifications to the GNI TRI on 7 June 2017 as part of their Access Rules to the Authority for approval under SLC 11A of its interconnector licence. GNI (UK) also submitted a report setting out the proposed changes to the GNI TRI that was published on 13 September 2016<sup>10</sup> for a 28 day consultation period and confirming that there were no responses to the consultation and therefore no changes to the GNI TRI were made as a consequence of the consultation.

The modifications proposed by GNI (UK) are additions to the nomination arrangements in Annex B of the GNI TRI. These include that:

- GNI may notify GNI (UK) of an interruption (and the cessation of that interruption) to the GNI system before or during the gas day.
- Where GNI notify GNI (UK) of an interruption to the GNI system, the confirmed quantity of gas flows that can be nominated to flow on the NGG side will be equal to the nominated quantity of gas flows that GNI can make available on the GNI side.
- GNI (UK) will forward any revised nomination quantities to NGG.

### **Ofgem views**

SLC 11A(5) requires that access rules be transparent, objective, non-discriminatory and compliant with any relevant legally binding decision of the European Commission and/or the Agency for Cooperation of Energy Regulators, ACER, (namely 'the access rules objectives'). Ofgem's analysis of the GNI (UK) access rules against the access rules objectives is set out below.

### Compliance with European Law

Article 8 of INT provides rules for matching procedures between adjacent TSOs. We set out specific provisions of Article 8 relevant to GNI(UK)'s proposals and our accompanying analysis below.

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<sup>8</sup> The Commission for Energy Regulation (CER) is Ireland's energy regulator.

<sup>9</sup> <https://www.gasnetworks.ie/corporate/gas-regulation/service-for-suppliers/code-of-operations/code-modifications/approved-modifications/a064-virtual-reverse-flow/>

<sup>10</sup> The consultation was carried out via the GNI Code of Operations.

- *Adjacent TSOs shall establish the rules of the matching process as well as the rules governing the communication and processing of nominations.* By establishing rules by way of a trilateral agreement with NGG and GNI, we consider that GNI's proposals are in line with this provision of article 8.
- *TSOs shall use the lesser rule* By deeming that the quantity of gas flows nominated on the NGG side are equal to the nominated quantity of flows that can be made available by GNI on the GNI side in the event of an interruption, we view that these proposals use the lesser rule as defined in INT.

#### Requirement to be objective

The proposed measures allows GNI to interrupt and stop an interruption to virtual reverse flow at any point within the nomination cycle, the period in which a shipper can indicate their intended flows. As a result, the proposal also allows GNI to revise the confirmed nominations of gas flows to be more reflective of the actual flows possible when an interruption to virtual reverse flow on GNI occurs or ceases. As the standard method to allocate gas flows to shippers is based on the confirmed nominations, then when this standard method is applied, shippers will be billed more accurately for flows of gas in the event of an interruption or cessation of an interruption to virtual reverse flows.

Considering the benefit mentioned above, GNI (UK)'s proposed modifications to its access rules allows additional flexibility to all Irish shippers using the virtual reverse flow service.

Ofgem views that the requirement to be objective has been met by GNI (UK).

#### Requirement to be transparent

As mentioned previously, the proposed access rules serve to reflect the provisions of A064 fully at Moffat. The modifications to GNI (UK)'s access rules enable all parties to understand how they will be affected by A064.

Furthermore, we note that parties to the GNI TRI have voluntarily entered into an agreement to make changes to the GNI TRI. We would therefore consider that by collectively agreeing to the proposed modifications to the GNI TRI, GNI, GNI(UK) and NGG have reached a sufficient level of transparency by agreeing to those terms. Also as the access rules are published then shippers will have greater transparency over how the arrangements work for virtual reverse flows from Ireland.

#### Requirement to be non-discriminatory

GNI (UK)'s access rules comprises of two tripartite agreements; both have NGG as a signatory and there are separate agreements with each of GNI and PTL. We note that by updating the GNI TRI and not updating the PTL TRI with the same provisions creates further differences between those agreements that GNI and PTL enter in to. However, given that these are changes driven by provisions in the GNI Code of Operations which operates a different regime from that of PTL, we view that no undue discrimination results from implementing GNI (UK)'s proposals.

### **Decision on the proposed access rules**

Upon review of the documents submitted on 7 June to Ofgem for approval with the main features as summarised above, the authority considers the proposed changes to the GNI(UK)

access rules to be transparent, non-discriminatory, objective and compliant with the relevant legally binding decisions of the European Commission and/or ACER.

A direction issued in accordance with SLC 11A(14) of the licence to this effect can be found in the annexe of this letter.

We note that there are a few minor clerical errors which do not materially affect how GNI (UK)'s access rules comply with the relevant access rules objectives given in SLC 11A(5) but ask GNI (UK) to consider addressing these in the next annual review of its access rules under SLC 11A(9).<sup>11</sup>

Yours sincerely



Chris Brown  
**Head of Gas Systems**

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<sup>11</sup> Clerical errors as follows: 5.2 c) incorrect use of 'GNI' 6.5 a) 1 incorrect spelling of nomination.

## ANNEX 1 – Access Rules

### **Direction issued to GNI (UK) Limited pursuant to Standard Licence Condition 11A (approval of terms for access to the licensee’s interconnector) paragraph 14 of its gas interconnector licence**

1. This Direction is issued by the Gas and Electricity Markets Authority (the “Authority”) pursuant to Standard Licence Condition 11A (SLC 11A) paragraph 14 of the gas interconnector licence (“the Licence”) granted or treated as granted under section 7ZA of the Gas Act 1986 (“the Act”) to GNI(UK) Limited (“GNI (UK)” or “the licensee”).
2. SLC 11A paragraph 2 provides that the licensee shall prepare and submit for approval by the Authority a statement setting out the Access Rules (as defined in the Licence). The Access Rules for the licensee were first approved on 21 September 2015.
3. SLC 11A paragraph 5 requires that the Access Rules be transparent, objective, non-discriminatory and compliant with the Regulation (Regulation (EC) No 715/2009 on conditions for access to the national gas transmission networks) and any relevant legally binding decision of the European Commission and/or Agency (collectively the ‘relevant access rules objectives’).
4. SLC 11A paragraph 9 requires the licensee to review its Access Rules at least once in each calendar year and make such modifications to the Access Rules as may be requisite for the purpose of ensuring that the Access Rules better achieve the relevant access rules objectives.
5. SLC 11A paragraph 11 requires the licensee to take all reasonable steps to ensure that all persons, including those in other Member States who may have a direct interest in the Access Rules, are consulted on the proposed modifications and allow them a period of not less than 28 days within which to make written representations. The licensee must also furnish the Authority with a report setting out the terms originally proposed for the modifications, the representations, if any, made by interested persons, any change in the terms of the modifications intended as a consequence of such representations, how the intended modifications better achieve the relevant access rules objectives, and a timetable for the implementation of the modifications.
6. In accordance with SLC 11A paragraph 11(b), on 7 June 2017 GNI (UK) furnished the Authority with a report.
7. Having regard to the relevant access rules objectives set out in SLC 11A paragraph 5, and to our principal objective and statutory duties, the Authority considers that GNI (UK)’s proposed modified Access Rules meet the relevant access rules objectives.
9. The Authority hereby directs, pursuant to SLC 11A paragraph 14, that GNI (UK)’s proposed modified Access Rules are approved.
10. SLC 11A paragraph 15 requires the licensee to publish (at least on its website) the Access Rules as soon as practicable after the Access Rules, as modified, have been approved by the Authority. The Access Rules must be published 28 days prior to coming into effect, unless the Authority directs otherwise.
11. This direction shall superede any previous directions issued to GNI (UK) in respect to approval of its access rules.
12. This Direction shall have immediate effect. It shall remain in effect until such time as the Authority may revoke or vary the Direction in writing upon reasonable notice.
13. This Direction constitutes notice of the Authority’s reasons for the decision pursuant to section 38A of the Act.

Dated: 7 September 2017

Chris Brown

**Head of Gas Systems**

Duly authorised on behalf of the Authority