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Date: 13 December 2018

Dear Chris

### **Approval of the Scope and Objectives for an Independent Examination of the Entry and Exit Capacity Release Methodology Statements**

Thank you for your letter dated 12 November 2018 proposing a scope and objectives<sup>1</sup> for an Independent Examination of two capacity release methodologies: the Entry Capacity Release Methodology Statement (the 'ECR'); and, the Exit Capacity Release Methodology Statement (the 'ExCR'). In the letter you ask us<sup>2</sup> to approve the proposed scope and objectives for the Independent Examination.

We have decided to approve the proposed scope and objectives for the Independent Examination of the review of these two capacity release methodologies. The background and reasons for our decision are explained below.

In your 12 November 2018 letter you also ask us to consent to you **not** providing a statement from an Independent Examiner to accompany the modifications that you propose to make to:

- The Entry Capacity Substitution Methodology Statement.
- The Exit Capacity Substitution and Exit Capacity Revision Methodology Statement.
- The Entry Capacity Transfer and Entry Capacity Trade Methodology Statement.

We have published a separate decision on that request today.

### **Background: the proposed Scope and Objectives for an Independent Examination of the ECR and ExCR Methodology Statements**

Special Condition 9B.8 of (National Grid Gas) NGG's Gas Transporter's Licence provides that NGG must, if so directed by the Authority, and in any event at least once in every two years, review the current entry and exit capacity release methodology statements.

Special Condition 9B.9 of the Licence provides that, unless the Authority otherwise consents in writing, the capacity release methodology statements must be accompanied by

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<sup>1</sup> Document entitled *Capacity Release Methodology Statements - Independent Examination 2019 Proposed Scope and Objectives*, submitted on the 14<sup>th</sup> November 2018.

<sup>2</sup> The terms "the Authority", "Ofgem", "we", "our" and "us" are used interchangeably in this letter. The Authority is the Gas and Electricity Markets Authority. Ofgem is the office of the Authority.

a statement from an Independent Examiner. **The statement must confirm that they have carried out an Examination, the scope and objectives of which must have been proposed by the Licensee and approved by the Authority.**

In line with the requirement from Special Condition 9B.9 you have asked us to approve the proposed scope and objectives of the Independent Examination for the ECR and ExCR methodology statements.

### **Our decision**

In your letter you propose that the anticipated changes to the ECR and ExCR methodologies are accompanied by Independent Examination Statements in line with Special Licence Condition 9B.6. You outline the envisaged changes to the two methodologies. Your letter sets out the proposed scope and objectives of the Independent Examination. You ask us to approve the proposed scope and objectives of the Independent Examination.

**We have decided to approve the proposed scope and objectives of the Independent Examination of the review of the ECR and ExCR Methodology Statements.** Your letter setting out the scope and objectives is appended to this decision for information. We consider the scope and objectives of the Independent Examination to be appropriate to enable an Independent Examiner to give an opinion as to the extent to which you have developed a methodology that is consistent with your duties under the Act and your obligations under the Licence, as it will include:

- An explanation of the logical connection and interaction between the relevant methodology statement and the UNC and the various duties of NGG.
- The impacts of UNC modifications and other relevant changes, and how these changes affect National Grid's ability to comply with its Licence and statutory obligations.
- A discussion of the extent to which any feasible alternatives may also comply with the various duties or different interpretations of the duties.
- Confirmation as to whether the methodology statements are consistent with NGG's duties under the Act and its obligations under the Licence.
- An audit to establish the accuracy of any identified business processes and/or computer systems relevant to the methodology statements.

This letter has been made available on our website. You can contact Lea Slokar at [Lea.Slokar@ofgem.gov.uk](mailto:Lea.Slokar@ofgem.gov.uk) or on 020 7901 7005 if you have any questions about this decision.

Yours sincerely

**David O'Neill**  
**Head of Gas Systems**

## Annex

### CAPACITY RELEASE METHODOLOGY STATEMENTS

#### INDEPENDENT EXAMINATION 2019 PROPOSED SCOPE & OBJECTIVES

##### Introduction

This document outlines the proposed scope and objectives for an Examination of National Grid Gas plc's ('National Grid') capacity release methodology statements, as required by Special Condition 9B.9 of the Gas Transporter Licence in respect of the NTS ('the Licence').

Separate Examinations will be undertaken in respect of the following two methodology statements:

- Entry Capacity Release Methodology Statement ("ECR"); and
  - Exit Capacity Release Methodology Statement ("ExCR");
- together, the capacity release methodology statements defined in Special Condition 9B,

Although separate Examinations will be undertaken for two statements, National Grid may seek efficiencies by employing a single Independent Examiner to undertake an Examination of both statements. This may lead to a combined statement from the Independent Examiner.

The Examination described herein consists of an assessment of relevant documents by the Independent Examiner to enable them to form an opinion on the extent that National Grid has developed methodology statements that are consistent with its duties and obligations.

Special Condition 9B.9 require National Grid to provide "a statement from an Independent Examiner confirming that they have carried out an Examination.....giving an opinion as to the extent to which [National Grid] has developed a methodology that is consistent with it's duties under the Act and its obligations under the Licence." Whilst these duties are defined as those arising from the Gas Act 1986 (as amended) ('the Act') and the Licence, the Examination described herein is intended to provide an opinion as to whether the methodology statements achieve what the Office of Gas and Electricity Markets ('Ofgem') and the wider industry might reasonably expect that they should achieve. This Examination therefore also considers duties arising from the Uniform Network Code ('UNC') and other contractual and conventional arrangements. This includes considering the effect of recent UNC Modifications 616s, 628s and 621x<sup>3</sup> upon the methodology statements, and whether the revised methodology statements are consistent with UNC, as well as wider obligations.

The Examination described herein is not intended to result in a legal opinion, as might be produced by legal counsel, as to whether National Grid are or are not complying with their legal and regulatory duties. Any Examination undertaken or opinion provided according to these scope and objectives should not be construed as legal advice. Any such Examination is intended to be directed and completed by an experienced gas industry professional that has relevant experience of dealing with the subject matter (i.e. NTS capacity arrangements).

##### Relevant duties

The Examination will consider specific duties arising from the Act, the Licence, and related documents including the UNC. Other related legal duties (e.g. from the Planning Act 2008) and more general duties may also be considered appropriate. The consideration will be based on the Independent Examiner's experience of such duties rather than any strict interpretation or formal legal analysis (for example, the Independent Examiner is not expected to opine on the precise nature of discrimination). These are expected to include:

- from the Act, duties to:

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<sup>3</sup> 621x refers to the suite of 621 modification proposals and does not prejudice which modification, if any, is approved. As 621x may not have been approved at the time of the Examination, then it is intended for the Examiner to consider a range of scenarios with regards to these modifications a) no implementation b) CWD implementation and c) postage stamp implementation. If a modification is approved then the Examination can be focused accordingly.

- develop and maintain an efficient and economical pipeline system;
- avoid undue preference or undue discrimination;
- allow connection to the NTS; and
- convey gas within the NTS;
- from the Licence:
  - Special Condition 9A (requiring the ECS and the ExCS);
  - Special Condition 9B (requiring the ECR and ExCR);
  - Special Conditions 5F and 5G (Incremental Capacity)
  - Standard Special Condition A7 (Transportation Arrangements consistent with UNC);
  - Standard Special Condition A11 (Network Code and UNC);
- UNC requirements.
  - TPD Section B

## Opinion

The objectives of providing the opinion are to provide independent verification that the intent of the methodology statements is aligned with the intent of the various duties placed on National Grid, and where there is the potential for conflict between these duties, that reasonable decisions have been made in designing the relevant methodology statement. The opinion should (where appropriate) provide the wider industry and Ofgem with confidence that the methodology statements are fit for purpose.

In order to do this the Examination should attempt to:

- explain the logical connection and interaction between the relevant methodology statement and the UNC and the various duties;
- identify the impacts of UNC modifications and other relevant changes, and consider how these changes affect National Grid's ability to comply with its Licence and statutory obligations.
- discuss the extent to which any feasible alternatives may also comply with the various duties or different interpretations of the duties. It will be within the remit of the Independent Examiner to evaluate any feasible alternatives when assessing the methodology statements. Thereby the Independent Examiner will confirm whether the methodology statements are consistent with National Grid's duties under the Act and its obligations under the Licence, by providing an opinion alongside any suitable recommendations.

It is expected that in order to adequately cover these points there will be a significant level of engagement between National Grid and the Independent Examiner(s) to obtain an understanding of how the methodology statements have been derived from National Grid's interpretation of the various duties and this will be assessed by an independent examiner and challenged where necessary.

## Audit

The purpose of the audit is to establish the accuracy of any identified business processes and/or computer systems relevant to the methodology statements.

National Grid currently publishes an 'iecr model' on its website<sup>4</sup> which is a tool that both National Grid and industry can use to run the Economic Test. It is updated annually with up to date data. National Grid plansto produce and publish a similar tool for the revised Economic Test.. An audit of this tool shall be included<sup>5</sup> in the scope and objectives for the Examination, and is expected to cover:

- examining supporting guidance for the tool;
- examining the tool's underlying logic/formulas to see that the ECR logic is correctly transposed;

<sup>4</sup> The current iecr model can be found and downloaded on National Grid's website:  
<https://www.nationalgridgas.com/capacity/entry-capacity>

<sup>5</sup> The rules for the Economic Test are still in development at this time. One option may lead to a Test that is very simple so that a supporting tool may not actually be necessary. In such an eventuality, the audit would be scaled back appropriately.

- running appropriately designed test scripts through the tool to check the accuracy of data flows.

### **Confidentiality and reporting**

National Grid has a statutory duty to ensure that certain information, to which it is party, does not enter the public domain. This will require appropriate confidentiality arrangements between National Grid and the Independent Examiner. However it is also essential that the Independent Examiner's independence is not compromised. To resolve these potentially conflicting requirements, it will be important to ensure that the Independent Examiner can report directly to Ofgem as necessary.

Detailed report(s) should be created that describe the outcomes of the Examination. In order to allow for factual accuracy, it will be important to iterate this report with National Grid, however editorial control will be retained by the Independent Examiner before final delivery by National Grid to Ofgem.