

Final Modification Report No.6

Brexit Modifications

25th March 2019

The Transporter has prepared this Final Modification Report No.6 in accordance with section 8 of the Code Modification Rules.

In order to best manage the current uncertainty surrounding Brexit, please note that the Initial Modification Report for this Proposed Modification was subject to a consultation period of 5 days, which is shorter than normal.

A Description of the nature and purpose of the modification

In the event of a 'no-deal' Brexit, EU Regulations will no longer be directly applicable in the UK immediately after exit day. As set out in the European Union (Withdrawal) Act 2018, the UK Government plans to incorporate EU law, as it exists on exit day, into UK law. However, obligations to report to, or participate in, EU bodies and institutions such as ACER will be omitted. The UK Government has published draft Statutory Instruments (or SIs) which, once implemented, will give this process legal effect.

This means that there is no dilution of the requirement to comply with the existing regulations, but where relevant, references to certain legislation and references to EU institutions will no longer be correct. As a result, certain minor changes are required to the NI Network Gas Transmission Code. These are mainly changes to amend or remove references to the EU, EU bodies and institutions, and to deal with some other consequential changes within the text of the NI Network Gas Transmission Network Code.

Some minor process changes are required as a result of Brexit such as publishing the Auction Calendar, however they will not have a material effect on Shippers. The Proposed Modification is essentially a 'housekeeping' modification.

B How the modification better facilitates the relevant objective

The Relevant Objective, (condition 2.4 of the Transporter Licences) will be better facilitated by the NI Network Gas Transmission Code as a result of this modification. This change will support the efficient operation of the network by ensuring that certain referencing and defined terms in the NI Network Gas Transmission Code are updated to reflect the legislative situation, in the event of a 'no-deal' Brexit.

C Third Party Representations

No responses were received to the consultation on the Initial Modification Report.

D The clauses of the NI Network Gas Transmission Code that require amendment

This proposal amends various sections of the NI Network Gas Transmission Code and adds, removes or amends certain defined terms, as shown in the final legal text in section H.

E Impact on the networks of the Designated Pipeline Operators, Adjacent Transporters and/or relevant agreements in respect of the NI Network:

The Transporter has considered the impacts the modification may have and has concluded as follows:

Operation of the networks of the Designated Pipeline Operators: No impact

Adjacent Transporters: No impact

Relevant NI Agreements: No impact

F Changes from the Initial Modification Report

No changes have been made to the legal text following the consultation on the Initial Modification Report.

G The date proposed for implementation

The Transporter proposes that this Modification should take effect from the date at which the relevant Statutory Instruments take effect in UK law. The relevant Statutory Instruments are:

- the Gas (Security of Supply and Network Codes) (Amendment) (EU Exit) Regulations 2019; and
- the Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019.

H Final Legal Text

Amend Section 2.4.2 (b) to read as shown below:

2.4.2 For the purposes of this Code:

- (a) “**Auction**” means an auction of IP Capacity of a single Class, IP Capacity Duration, IP Capacity Period and Flow Direction and which is either Bundled or Unbundled and “**Auctions**” shall be construed accordingly save that references to “**Auctions**” in sections 2.8.43 to 2.8.49 have the meaning given to them in section 2.8.42;
- (b) “**Auction Calendar**” in relation to an Auction Year is the auction calendar published ~~by ENTSOG~~ for that Auction Year on the Transporter’s Website;

Amend section 2.8.14 to read as follows:

2.8.14 The Bid Windows shall be determined as follows:

- (a) no Bid Window shall start before 08:00~~(UTC)~~ or end after 17:00 ~~(UTC)~~;

Amend section 4.2.11 to read as follows:

4.2.11 The Market Demand Assessment Report shall take into account:

- (a) whether ~~the EUTYDP or~~ the Ten Year Statement, any UK network development plan or national development plan relevant to the network of an Adjacent Transporter including the EUTYDP indicate a demand requirement in a reasonable peak demand scenario which the offer of Incremental Capacity could fulfil;

Amend section 16.2.7 to read as follows:

16.2.7 Shippers agree to respond within a reasonable timeframe to any additional requests for forecast (or other) information made by the Transporter at any time where necessary for the purposes of compliance with information requests from ~~ENTSOG, ACER,~~ the Authority and/or any other reasonable purpose.

Appendix 1: Definitions and Interpretation

Amend, add or remove, as applicable, the following defined terms to read as shown below:

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| “Competent Authority” | means the Authority, the Office of Gas and Electricity Markets in Great Britain, or any local, national or supra-national agency, authority, department, inspectorate, official, court, tribunal or public or statutory person (whether autonomous or not) of the European Union (including any Member State thereof) which has jurisdiction over the Individual Transporters or a Shipper regarding the subject matter of this Code; |
| “ENTSOG” | means the European Network of Transmission System Operators for Gas, an ‘Association Internationale Sans But Lucratif’ established under Belgian law; |
| “EUTYDP” | means the EU-wide ten-year network development plan <u>of the European Union</u> ; |
| “FDA UIOLI” | means the firm day-ahead use-it-or-lose-it mechanism set out in point 2.2.3 of Annex 1 to Regulation (EC) No. 715 / 2009, as amended by a commission decision of 24 August 2012 <u>and (as a component of Retained EU Law) as amended by Schedule 2 of the Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019</u> ; |
| "Licence" | means the licence (as amended from time to time) to convey gas granted to an Individual Transporter under Article 8 (1) (a) of the Gas (Northern Ireland) Order 1996 (as amended <u>from time to time</u>); |
| “Recognised Standard” | means any technical, engineering or other standard, issued or published by any governmental body of professional or other institution, and generally recognised as applying to the gas industry in the United Kingdom <u>or, as relevant to the South North Interconnection Point, the Republic of Ireland</u> or the European Union , as from time to time applicable; |
| “Retained EU Law” | has the meaning given to it in section 6(7) of the European Union (Withdrawal) Act 2018; |