

# Final Modification Report No.12

## Brexit Modifications

16<sup>th</sup> April 2021

The Transporter has prepared this Final Modification Report No.12 in accordance with section A8 of the Code Modification Rules.

### **A Description of the nature and purpose of the modification**

Proposed Modification No.6 was prepared in 2019 to provide for the possibility of a no-deal Brexit and addressed the implementation of the EU (Withdrawal) Act 2018 and the publication of draft Statutory Instruments (or SIs), which were to have the effect of transferring EU law, as it existed on exit day, into UK Law. Despite the significance of this shift in the legislation, the impact on the NI Network Gas Transmission Code was minimal and Proposed Modification No.6 was considered a 'housekeeping' modification.

With the subsequent Brexit uncertainty, the Proposed Modification No.6 was not required to be approved during 2020. With the implementation of a Brexit deal at the end of 2020, the Government passed further relevant legislation, specifically the European Union (Withdrawal) Act 2020 and the Electricity and Gas etc. (Amendment) (EU Exit) Regulations 2020. These have the effect of modifying the earlier Brexit legislation so as to implement the transfer of EU law into UK Law as it existed at the end of the Brexit transition period (referred to as the implementation period in the legislation), instead of on exit day.

The changes mean that there is no dilution of the requirement to comply with the principles of the relevant EU regulations, but where relevant, references to certain legislation and references to EU institutions need to be updated. 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.

This Proposed Modification is to update the NI Network Gas Transmission Code with appropriate references to the legislation which has now been enacted.

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. This Proposed Modification is also therefore a 'housekeeping' modification, and differs from the previous Proposed Modification 6 in relation to the additional references to the 2020 legislation and a small typographical change in the term for the ten-year network development plan of the European Union.

### **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 post-Brexit legislative situation.

**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 details 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 on the date of its approval by the Authority.

## H Proposed 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;

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### ***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~~);

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### ***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 EUTYNDP indicate a demand requirement in a reasonable peak demand scenario which the offer of Incremental Capacity could fulfil;

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### ***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.

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## Appendix 1: Definitions and Interpretation

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

<b>“Competent Authority”</b>	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) <del>of the European Union (including any Member State thereof)</del> which has jurisdiction over the Individual Transporters or a Shipper regarding the subject matter of this Code;
<del><b>“ENTSOG”</b></del>	<del>means the European Network of Transmission System Operators for Gas, an ‘Association Internationale Sans But Lucratif’ established under Belgian law;</del>
<b>“EUTYN<del>DP</del>”</b>	means the <del>EU-wide</del> ten-year network development plan <u>of the European Union</u> ;
<b>“FDA UIOLI”</b>	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 and section 3 of the Electricity and Gas etc. (Amendment)(EU Exit) Regulations 2020</u> ;
<b>“Licence”</b>	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> );
<b>“Recognised Standard”</b>	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> <del>or the European Union</del> , as from time to time applicable;
<del><b>“Retained EU Law”</b></del>	<del>has the meaning given to it in section 6(7) of the European Union (Withdrawal) Act 2018 as amended by the European Union (Withdrawal Agreement Act) 2020;</del>