



## **Conclusion Paper on NI Daily Capacity Products: High Level Business Rules**

**6 April 2012**

## **1. Purpose of this paper**

- 1.1. The Utility Regulator published a consultation on the *NI Daily Capacity Products: High Level Business Rules*, (“the consultation paper”) on 8<sup>th</sup> March 2012. The consultation paper set out the high level business rules for the short term daily capacity product in Northern Ireland. This product has been developed in order to satisfy infringement proceedings against the UK which alleged that the TSOs in NI do not provide firm and interruptible third party access services down to a minimum period of one day under Regulation (EC) 715/2009, which replaced Regulation (EC) 1775/2005.
- 1.2. This paper sets out the Utility Regulator’s view on the business rules and the next steps.

## **2. Background**

- 2.1. The European Commission referred the UK and Ireland to the European Court of Justice on 26 January 2012 for a failure to fulfil certain obligations under Regulation (EC) 715/2009, which replaced Regulation (EC) 1775/2005 on 3 March 2011. Earlier in June 2010 the Commission issued a reasoned opinion to the UK for non-implementation of certain aspects of Regulation (EC) 1775/2005. These requirements were to be fulfilled as part of the CAG project by 1 October 2012 but this deadline will not now be met.<sup>1</sup>
- 2.2. The two Departments have jointly requested that the Utility Regulator and the Commission for Energy Regulation (CER) in Ireland urgently focus their resources, and the resources of the system operators, on ensuring immediate compliance with the Gas Regulation in the EU Second Package in their respective jurisdictions.
- 2.3. The Utility Regulator is progressing a work programme with the TSOs to meet the infringement and a timetable for consultation with industry has been published separately.

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<sup>1</sup> See Common Arrangements for Gas (CAG) Industry Update published on 2/2/12 on the Utility Regulator website.

### 3. Responses received

3.1. We received three responses to the consultation from:

- Power NI Energy - Power Procurement Business;
- Phoenix Natural Gas Ltd; and
- AES Ballylumford Power Ltd and AES Kilroot Power Ltd.

3.2. The responses are published in full alongside this document therefore only a brief summary is provided below.

3.3. Power NI Energy - Power Procurement Business expressed concern that the product proposed would be much less flexible and liquid than that available in the ROI and that this difference could have a significant impact on how electricity generators participate in the SEM.

3.4. Phoenix Natural Gas Ltd. questioned what benefits the short term product would bring to shippers who operate within distribution networks given that distribution operators are required to book transmission capacity for all shippers within their zones. For this reason they questioned whether any shipper would want to secure short term capacity. Consequently, they asked that we work towards a longer term cost effective solution which allows all shippers to avail of appropriate capacity products which bring real benefits.

3.5. AES was of the view that the short term product as proposed would be of limited value. To be of value, the business rules would need to permit the application window for securing Short Term capacity products to be on a day-ahead or on a within-day basis. In addition, capacity should be capable of being transferred between Shippers at short notice on a short term basis. AES also believe there is merit in developing a mechanism to secure Interruptible Capacity within day to accommodate volatile in-day changes in dispatch of flexible gas fired electricity generators due to the significant (and increasing) penetration of wind generation.

3.6. AES also sought clarification in a number of areas:

- how the flip-flop arrangement would continue to work on the SNIP;
- on notice periods given to Shippers of Capacity Interruption or restrictions; and
- on the impact, if any, that Short Term products will have on the availability of interruptible capacity on SNIP.

- 3.7. All of the respondents expressed concern at the short time frames for responses to consultation. However, there was recognition of the need to ensure compliance with the infringement.

#### **4. Utility Regulator view**

- 4.1. Given the imperative to comply with the outstanding areas of the infringement, the approach to product development has been to introduce products which are workable, cost effective and can be implemented and offered to shippers quickly.
- 4.2. We will continue to improve the product and will take on board the comments made by respondents as the product develops. But it is important to make the product available as soon as possible.
- 4.3. Further work remains to be done to implement wider aspects of the third package e.g. to change the existing point to point codes to entry exit codes and to comply with EU network codes as they are developed. In this context further code and system changes will be put in place on an enduring basis. The change to entry exit in particular will provide an opportunity to put enhanced short term products in place.
- 4.4. The short term capacity product consulted on will meet the infringement despite the issues identified and can be implemented quickly. For this reason we are confirming the business rules as consulted on as the basis for the TSOs to prepare necessary code modifications for consultation under the code modification rules.
- 4.5. It should be noted that we had originally planned to introduce a short term product similar to that available in the Republic of Ireland as part of a project to deliver CAG by 1 October 2012. Previously some respondents asked that the CAG project be postponed and we find their arguments now contradictory.
- 4.6. In reply to the detailed questions posed by AES we would make the following points:
- how the flip-flop arrangement would continue to work on the SNIP:
    - The rules for short term capacity consulted on will not affect the current flip-flop arrangements in the PTL code. We propose to consult separately over the summer on the flip-flop arrangements in the code such that any code modifications agreed would be in place before next winter.
  - on notice periods given to Shippers of Capacity Interruption or restrictions:

- The rules for short term capacity consulted on will not affect the rules for capacity reduction and emergencies in the PTL code.
  - on the impact, if any, that Short Term products will have on the availability of interruptible capacity on SNIP.
    - The rules for short term capacity consulted on will not affect the availability of interruptible capacity on SNIP.
- 4.7. All the respondents expressed concern at the short timescales for consultation. We acknowledge the tight timescales for consultation on all aspects of the infringement work. However, given the urgency to achieve compliance longer consultation periods are not possible.

## **5. Next steps**

- 5.1. The TSOs should now prepare code modifications to their respective codes which would implement the high level business rules consulted on.
- 5.2. We expect the TSOs to bring forward draft code modifications for consultation with industry under the code modification rules by 30 April.
- 5.3. The consultation stated that we are minded to shorten the usual code modification process established by the TSOs. The Code Modification Rules of both TSOs allow the Authority, upon request of either the TSO or another consultee, to reduce the timescales set out in the modification rules. In this instance we believe that a consultation period of two weeks balances the need to resolve the infringement issues quickly with the need to give respondents a reasonable period to consider the text of the code modifications, bearing in mind that we have also consulted on the business rules.
- 5.4. The proposed code modifications will also be presented for discussion to the industry by the TSOs at next the EU code forum on 24<sup>th</sup> April.