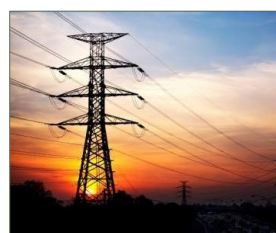


Gas Transmission

Licence changes for Congestion Management Procedures (CMP) in Northern Ireland

Consultation Paper
1st October 2013



About the Utility Regulator

The Utility Regulator is the independent non-ministerial government department responsible for regulating Northern Ireland's electricity, gas, water and sewerage industries, to promote the short and long-term interests of consumers.

We are not a policy-making department of government, but we make sure that the energy and water utility industries in Northern Ireland are regulated and developed within ministerial policy as set out in our statutory duties.

We are governed by a Board of Directors and are accountable to the Northern Ireland Assembly through financial and annual reporting obligations.

We are based at Queens House in the centre of Belfast. The Chief Executive leads a management team of directors representing each of the key functional areas in the organisation: Corporate Affairs; Electricity; Gas; Retail and Social; and Water. The staff team includes economists, engineers, accountants, utility specialists, legal advisors and administration professionals.

Our Mission

Value and sustainability in energy and water.

Our Vision

We will make a difference for consumers by listening, innovating and leading.

Our Values

Be a best practice regulator: transparent, consistent, proportional, accountable, and targeted.

Be a united team.

Be collaborative and co-operative.

Be professional.

Listen and explain.

Make a difference.

Act with integrity.

Abstract

This paper sets out the Utility Regulator's proposals for changes to transmission conveyance licences. The changes are proposed to implement Congestion Management Procedures (CMP) in EC Regulation 715/2009 as amended by the European Commission Decision of 24 August 2012.

Audience

Regulators, industry, consumers and statutory bodies.

Consumer impact

The introduction of the CMP mechanisms will ensure that the benefits of the Regulation are realised in Northern Ireland.

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1.Introduction

Purpose of this paper

- 1.1. EC Regulation 715/2009 (the Regulation)¹ requires the implementation of certain Congestion Management Procedures (CMP) in October 2013. CMP will entail changes to the licences and transportation codes of the gas transmission system operators (TSOs).²
- 1.2. This paper explains the Utility Regulator's (UR's) proposals for changes to the conveyance licences of the TSOs necessary to implement CMP. The text of the proposed licence modifications for each TSO is set out in Gas Notices published with this paper on the Utility Regulator website. Responses to this paper and the associated Gas Notices should be received by 12pm on Tuesday the 29th October 2013 (see the next steps section). The proposed licence changes require the consent of the TSO to implement.
- 1.3. The TSOs are separately consulting on the code changes needed to implement CMP and the Initial Modification Report (IMR) for each TSO has been circulated to industry.

Background

- 1.4. The aim of the CMP guidelines is to address the issue of contractual congestion at Interconnection Points between adjacent gas transmission systems, where Network users cannot gain access to capacity notwithstanding the physical availability of such capacity. CMP mechanisms aim to prevent capacity hoarding by maximising the capacity which is available to Network users and bring unused capacity back to the market to be resold through regular capacity booking procedures.
- 1.5. In Northern Ireland CMP will be implemented at the Moffat Entry Point and the South North Entry Point.
- 1.6. TSO's are required to outline measures to be implemented in the event of "contractual congestion". "Contractual congestion" is defined in Regulation (EC) No715/2009 as "a situation where the level of firm demand exceeds the technical capacity of the transmission system".
- 1.7. CMP involves a suite of four distinct mechanisms. The following is a summary of each of the mechanisms:

¹ As amended by the European Commission Decision of 24 August 2012

² Bord Gas Eireann (UK) (BGE(UK)), Premier Transmission Ltd. (PTL), and Belfast Gas Transmission Ltd. (BGTL)

- I. ***Surrender of Contracted Capacity:*** Transmission System Operators should accept the surrender of capacity by Network Users except where the capacity product is a day, or shorter. The Network User will retain the contractual rights and obligations until the capacity is reallocated by the Transmission System Operator;
- II. ***Long Term Use It or Lose It (LTUIOLI):*** Transmission System Operators may remove systematically underutilised capacity where the Network User had not sold or offered the capacity to the market under reasonable conditions and the other Network Users have required Firm Capacity;
- III. ***Oversubscription and Buyback (OS&BB):*** An oversubscription mechanism makes more capacity available (on a firm basis) than is technically available in the system. A buy-back mechanism enables a Transmission System Operator to buy back capacity if aggregate nominations exceed the physical capability of the system; and
- IV. ***Firm Day Ahead Use It or Lose It:*** Firm day-ahead UIOLI is not required until 1st July 2016.

Scope of this consultation on licence modification

- 1.8. Firm Day Ahead Use It or Lose It mechanism is not required until 1 July 2016 and will not be implemented in October 2013; no licence changes are therefore proposed at this stage for Firm day-ahead UIOLI.
- 1.9. In relation to Surrender of Contracted Capacity and LTUIOLI we believe that the existing licence framework is sufficient to facilitate code changes for these aspects of CMP therefore no licence changes are proposed. The TSOs have included proposals for code changes in respect of Surrender of Contracted Capacity and LTUIOLI in the IMR for each TSO which has been circulated to industry.
- 1.10. The third aspect of CMP, the Oversubscription and Buyback mechanism is a new concept in Northern Ireland. We consider that licence changes to implement OS&BB are necessary to ensure that the provision of oversubscription capacity works alongside the existing Part 2A of the TSO licenses and to ensure that any revenues are treated appropriately. We have therefore proposed changes to:
 - Part 2A of the TSO licences. The changes being proposed are identical across all the TSO licences
 - TSO specific changes to revenue conditions (Condition 2.2 of the BGE(UK) licence and condition 3.1 of the PTL and BGTL licences).

- 1.11. These changes are explained below in section 3. The changes proposed to Part 2A will differentiate the treatment of the OS&BB scheme within the postalisation conditions. The structure of changes proposed is similar to that used when the short term capacity and the virtual reverse flow product were introduced. Consequently, there will not be any change in the way in which the forecast postalised tariff (capacity and commodity) and year end tariffs are calculated and reconciled or the fact that these charges are set to recover the TSO required revenues.
- 1.12. For the avoidance of doubt no changes are being proposed to any other sections of the TSO licences for CMP purposes.

2. Overview of licence changes necessary to implement OS and BB

Modifications to Postalised conditions Part 2A

- 2.1. Clause 2.2.2 of Annex 1 of Gas Regulation (EC) 715/2009 (the Gas Regulation) outlines the requirement on TSOs to introduce an oversubscription and buyback scheme (the OS Scheme) as one of the congestion management procedures by 1 October 2013.
- 2.2. Licence changes are proposed to Part 2A of all the gas TSO licenses to give effect to OS&BB. The changes proposed to Part 2A are identical for BGE(UK), PTL, and BGTL.
- 2.3. The changes proposed to Part 2A require a streamlined OS Scheme to be put in place in NI between all the TSOs (2A.2.1.17). Our proposed approach is that the detail of the new rules on oversubscription capacity will not be in the licence but in the Scheme required by the licence. This is line with the Gas Regulation which requires that the TSOs must propose a scheme to the Regulator. This has not yet been submitted and it is our intention that the TSOs will consult on the OS Scheme.
- 2.4. In line with the Gas Regulation the OS Scheme must be approved by the Utility Regulator. If the UR does not approve the OS Scheme submitted to it, we propose that UR may issue a direction requiring the TSO and every other DPO to make such modifications to the OS Scheme which have been submitted to it as are specified in the direction (2A.2.1.18).
- 2.5. The proposed licence changes also set out what the scheme must contain and propose that the TSOs will not make any changes to the OS Scheme (including the OS Charging Statement) without prior written approval from UR.
- 2.6. The licence changes propose (2A.2.1.20) that the OS Scheme shall:
 - set out the circumstances in which (and the basis on which) the Licensee will offer to allocate and allocate OS Capacity and offer to purchase, and purchase, Buy-Back Capacity which will collectively be referred to as the OS Services,
 - set out the methodology for determining the Entry Point Additional Capacity and the amount of OS Capacity that may be offered at a given time in respect of a given Exit Point;

- Include a charging methodology statement which sets out the methodology that will be applied by the TSOs in determining the charges for the provision of OS Service (the OS Charging Statement);
- include provisions setting out the basis on which the revenues received and payments made in respect of the provision of OS Services are to be apportioned;
- comply with the requirements of point 2.2.2 of Annex 1 to the EC Regulation.

2.7. In order to introduce the OS scheme and associated concepts such as buy-back of capacity into the licence a number of new definitions need to be included in Part 2A of the licence.

2.8. The most important new definitions are summarized below:

- **Buy-back capacity:** capacity that has been allocated as Firm Capacity, OS Capacity, or Daily Capacity (as the case may be) at any Entry Point and is subsequently available for purchase by the Licensee in accordance with the OS scheme;
- **Entry Point:** a point of interconnection between the network of a Designated Pipe-line Operator and any other transmission pipe-line (except for any other transmission pipe-line operated by another Designated Pipe-line Operator) at which capacity is subject to booking procedures pursuant to the Network Code of that Designated Pipe-line Operator;
- **Entry Point Additional Capacity:** in respect of a given time the amount of additional capacity (in kWh/day), in excess of the Entry Point Technical Capacity, determined as available on a firm basis by the Designated Pipe-line Operator (on whose network the Entry Point is located) in accordance with the OS Scheme and the Network Code of that Designated Pipe-line Operator;
- **Entry Point Technical Capacity:** in respect of a given time the maximum capacity available on a firm basis (in kWh/day) at an Entry Point taking account of the technical requirements of such Entry Point, system integrity and the operational requirements of the Economic Network; and
- **OS Capacity:** in respect of a given time, an amount of additional capacity (in kWh/day) (not exceeding the Entry Point Additional Capacity) which is available for allocation or is allocated at an Exit Point or a UC Exit Point for a duration of one Day as a result of the availability of Entry Point Additional Capacity and as determined in accordance with the OS Scheme and the Network Code.

- 2.9. We propose that the detailed processes and procedures necessary to implement the OS Scheme will be set out in the Licensee's Network Code (the "OS Procedures").
- 2.10. In addition that the Licensee will not impose charges or make payments in respect of the provision of OS Services other than as set out in the OS Charging Statement approved as part of the OS Scheme. Network users utilizing OS capacity will pay the postalised commodity charge in line with all other users using daily capacity.
- 2.11. In order to differentiate the treatment of the OS&BB scheme within the postalisation conditions a number of modifications are proposed, e.g. the proposed 2A.2.1.23 proposes that charges for OS capacity are not subject to reconciliation and 2A.2.1.26 proposes that amounts payable to the Licensee for the allocation of OS Capacity do not constitute PS Transmission Payments and are not to be paid into the PoT Account.

Modifications to TSO Revenue conditions

- 2.12. Any revenues generated by the sale of oversubscription capacity are additional to the required revenues of the TSOs. The introduction of the oversubscription and buy-back scheme will not therefore affect the way in which the TSO required revenues are collected or how the postalised PoT operates. Accordingly, we propose that any charges associated with oversubscription services will not be deposited into the postalised PoT or subject to reconciliation. However, changes to the licence are necessary to set out how any revenues from the provision of OS&BB will be dealt with.
- 2.13. Paragraph 2.2.2 (3) of Annex 1 of the Gas Regulation requires that revenues from selling oversubscription capacity and costs arising from the buy-back scheme are shared between the transmission system operators and network users. The distribution of revenues and costs between the transmission system operator and the network user is decided by the National Regulatory Authority.
- 2.14. Accordingly the TSO is not permitted to retain the entire amount of oversubscription revenues generated. The changes to the revenue licence conditions proposed for all three TSOs are intended to establish the principle of revenue sharing between the TSO and network users.
- 2.15. At this stage the OS Scheme has not been submitted to the Utility Regulator for approval. Therefore, we propose that the proportions of each party's share will not be hard-wired into the licence but should be set out in the OS scheme to be submitted to the Utility Regulator for approval. We understand that the current working proposal of

the TSOs is to split the net OS revenues between the TSOs and network users on a 25:75 basis, 75% being divided between network users.

- 2.16. In order to facilitate the sharing of revenues, two new definitions need to be added to the TSO revenue conditions - 'OS revenues' and 'Licensee OS Revenues Share.' We have proposed consistent drafting where possible across all the TSO revenue conditions for these terms.
- 2.17. OS revenues is the key definition and in general terms will be the net cash amount from the sale of TSO oversubscription capacity once the total cash amounts paid by the TSOs for buy-back capacity have been deducted. However, as the OS Scheme has not been submitted to the Utility Regulator for approval we have not proposed detailed drafting for how the amount would be calculated. We envisage that this will be in the Scheme to be proposed by the TSOs. Similarly, we propose to define the TSO OS Revenues share as the amount to be retained by the licensee in accordance with the OS Scheme. Once the Scheme is submitted and approved more detail can be added to these definitions if appropriate before the licence modifications are finalised.

BGE(UK) licence changes

- 2.18. In BGE(UK)'s licence condition 2.2 relatively few changes are proposed in order to give effect to the sharing of revenues. Aside from the definitions above, we have proposed a new condition 2.2.23 'Allocation of OS Revenues.' This has the effect of allowing BGE(UK) to retain their share of OS revenues and requiring that the remainder is paid to network users according to the provisions of the OS Scheme.
- 2.19. No other changes are proposed to condition 2.2; for the avoidance of doubt there are no changes proposed to the calculation of BGE(UK)'s actual required revenue formula.

PTL licence changes

- 2.20. In PTL's licence similar definitions and changes are proposed in condition 3.1 to give effect to the sharing of revenues between PTL and network users.
- 2.21. In PTL's case there are further changes to ensure that the licensee's share of OS revenues is not recovered via the end of year reconciliation process. To achieve this a new formula term has been added to the PTL actual required revenue (ARR) calculation to deduct the licensee's share of OS revenues from the ARR. This is necessary because the licensee's share must be paid into the Social Enhancement Fund (SEF) and in doing that the licensee approved surplus must be inflated by the amount of the OS revenues share. If it is not deducted again the OS share will be recovered twice – once through the sale of oversubscription capacity and again at

the end of the year through the reconciliation process. Changes have also been proposed to the definition of Zt in the licence to ensure that for the part of the approved surplus constituted by the licensee's share of OS revenues, the entire share will be retained in the SEF.

- 2.22. Changes to PTL's revenue conditions are also needed to set out the charges for OS capacity and commodity to be paid by gas suppliers shipping to Stranraer and any necessary changes to definitions. The bulk of changes proposed are in a new 3.1.8B which appears immediately prior to 3.1.9.3. The effect of these is that gas suppliers shipping to Stranraer will pay the capacity charge for daily capacity as set out in Part 2A of the licence and the normal commodity charge paid by gas suppliers shipping to Stranraer calculated in accordance with the existing licence conditions. The drafting also proposes that the TSO will pay for buy-back capacity at the Stranraer exit point in accordance with the charging methodology statement in the OS scheme.

BGTL

- 2.23. BGTL's proposed revenue conditions mirror those of PTL, except that the changes to facilitate OS&BB for Stranraer network users are not needed. How BGTL's share of OS net revenues will be determined will be set out in the OS Scheme.

Costs

- 2.24. The Gas Regulation also requires that costs arising from the buy-back scheme are to be shared between the transmission system operators and network users. The question of costs is not explicitly covered in the licence changes proposed. There will be costs associated with the buy-back of capacity and the TSOs have indicated in their business rules that their preference is that buy-back costs should be capped such that they will buy-back capacity only up to the amount of revenues in the OS&BB account. At this stage (i.e. in advance of the scheme being submitted, considered and approved) it would not seem appropriate to propose drafting to hard-wire this principle into the licence. However, we expect that the Scheme will be submitted for approval before the licence modifications are finalised. Therefore we will consider whether the principle of a cap on buy-back costs should be included in the licence once the Scheme is submitted.
- 2.25. Any other costs of buy-back are likely to be administrative. One option is to include an allowance for these costs in the TSO allowances and collect the necessary revenue through the postalised tariff. We consider that the likely costs, if any arise, will be very small and so setting an allowance and collecting revenues

³ Note, in the attached PTL Gas Notice we have moved the existing 3.1.8A to the end of 3.1.8 where it is followed by the new 3.1.8B. No changes are proposed to 3.1.8A.

through the postalised tariff would seem a disproportionate way to deal with them. Alternatively, our preferred approach is that any OS&BB costs should be funded from OS revenues themselves and that this will be set out in the Scheme. This has the further advantage of incentivising the TSOs to keep these costs down in order to maximise their revenues from the OS Scheme. We would welcome views on this approach to OS&BB costs.

3.Next Steps

- 3.1. Responses to this paper and the associated Gas Notices should be received by 12pm on Tuesday the 29th October 2013 and should be addressed to:

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- 3.2. Please note that this is an open consultation paper. We have not posed any specific questions in this paper; instead we invite stakeholders to express a view on any particular aspect of the paper or any related matter.
- 3.3. Our preference would be for responses to be submitted by e-mail.
- 3.4. Individual respondents may ask for their responses in whole or in part, not to be published, or that their identity should be withheld from public disclosure. Where either of these is the case, we will ask respondents to also supply us with the redacted version of the response that can be published.
- 3.5. As a public body and non-ministerial government department, we are bound by the Freedom of Information Act (FOIA) which came into full force and effect on 1 January 2005. According to the remit of FOIA, it is possible that certain recorded information contained in consultation responses can be put into the public domain. Hence it is now possible that all responses made to consultations will be discoverable under FOIA – even if respondents ask us to treat responses as confidential. It is therefore important that respondents note these developments and in particular, when marking responses as confidential or asking to treat responses as confidential, should specify why they consider the information in question to be confidential.
- 3.6. This paper is available in alternative formats such as audio, Braille etc. If an alternative format is required, please contact the office and we will be happy to assist.