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Dear Andrew

**Consultation on the NTS Exit Capacity Release Methodology Statement (ExCR) in respect of the Transitional and Enduring Exit Periods.**

The latest draft document of 20 February 2009 provides some useful detail in describing how NGG intends to implement the enduring offtake arrangements following approval of UNC 0195AV especially in relation to the ARCA arrangements and the ad hoc application process. It does seem however, to unnecessarily replicate many rules that are already adequately covered in the UNC.

This raises a particular concern about how this document will evolve in future. The UNC or rather its predecessor the Network Code was originally established to provide a single document setting out a common set of rules for third part access to the gas system. Unfortunately over the years more and more of these rules seem have hived -off into non code documents that are not subject to collective oversight of all the industry via UNC governance, but are instead controlled and managed by National Grid. It is therefore important to ensure that the ExCR does not progressively supplant the rules set out in the UNC. Thus we consider that National Grid should clearly state in this document that should there be an inconsistency between the ExCR and the UNC then the UNC shall prevail.

Of the terms and conditions that we believe should be more properly set out in the UNC those relating to user commitment and capacity release are the most important. Many users will be concerned to hear that the user commitment in particular could be extended through a change to the ExCR after just one month's consultation and that unlike the UNC shippers do not have a right to formally proposal alternatives to such arrangements. We would therefore urge NGG to propose a modification to bring forward a proposal to transfer the user commitment<sup>1</sup> rules into the UNC.

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<sup>1</sup> As proposer of UNC 0195AV we were aware that details of the user commitment would have to be set out in ExCR, but felt that Ofgem would be less inclined to approve the proposal if this was instead set out in the UNC. We were particularly keen however, to ensure certain capacity release rules were clearly and unambiguously set out in UNC 0195AV – namely in respect of the “rules-base” release of daily off-peak capacity. Overall we consider user commitments and capacity release rules should be set out in the code or at the very least the ExCR should require approval by the UNC Panel.

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## Revenue drivers

There are a number of references in the documents to revenue drivers and the need to have prior discussions with NGG regarding likely and potential developments. Clearly new exit points have to be identified ahead of any capacity application for that point, but the need for NGG to obtain a revenue driver or a baseline should not be a direct concern for shippers as our contractual rights should be established in the UNC. What National Grid has negotiated as part of its license should not be allowed undermine its contractual obligation to make capacity available under the UNC.

It is particularly inappropriate under paragraph 35 for NGG to suggest that;

*"If a new NTS Exit Point is not included in the Licence the NTS Exit Point:*

- *Will not have an **NTS baseline exit flat capacity** .....without a baseline value National Grid will not be required to make capacity available at that NTS Exit Point;*
- *Will not be included in the NTS charging model and indicative prices cannot be produced.*

The whole point about the user commitment regime is it is supposed to be users that are in the best position to signal investment and therefore drive enhancement of the grid. One would thus have expected that this would have resulted in (subject to pre agreed revenue driver rules) in an 'automatic' increase in allowed revenue for National Grid. The clear intent of UNC 0195AV was provided that new users give the required user commitment the capacity **will** (not may !) be made available from the date applied for.

It would be untenable if a failure of NGG to agree with Ofgem inclusion of a new Exit Point, baseline or revenue driver in their license introduced a delay in connecting a new load to the transmission system. The process should be simple; user commitment provided by user, National Grid make investment if required and Ofgem guarantee National Grid a return on investment. Instead we seem to have retained the existing central planning process where the usual planning and connection information provide the basis of real decisions, on top of which we have 'bolted-on' a complex user commitment regime. The trouble is that the timescales for this end-to-end process seem to be worse than the current regime<sup>2</sup>.

## Prevailing rights and ARCA Commitments

Please refer to detailed comments made by the Association of Electricity Producers.

There is a typographical error on page 4, change "TRANSITIONAL" to "ENDURING" in the "PART B" heading.

We trust you find these comments helpful. Please feel free to give me a call if you wish to discuss any of the above.

Yours sincerely,

Peter Bolitho  
Trading Arrangements Manager

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<sup>2</sup> We had always understood that user commitments for incremental capacity would replace the need for baselines, and that National Grid would simply get additional allowed revenue associated from the incremental capacity booked. The whole point being to remove the need for Ofgem prior approval – hence the suggestion of savings from reduced ARCA disputes.