

## NTS GCD 13 – Impacts of Existing Contracts on Transmission Services Charges”

### Allegations from Pavilion Energy

Dear National Gas Transmission,

First of all we would like to thank National Gas Transmission for the opportunity to participate in the open consultation “NTS GCD 13 – Impacts of Existing Contracts on Transmission Services Charges”.

#### 1. We are in favour of a “do nothing” approach at this moment based on the following:

➤ **Regulatory stability is needed.**

We consider that the regulatory stability is essential for maintaining the confidence of market participants, investors and stakeholders. It provides a foundation for market participants to make informed decisions, plan investments, and engage in long-term contractual arrangements.

In that sense, it is important that the tariff structure that National Gas Transmission pretends to review now was approved by Ofgem and implemented less than 3 years ago.

Changing the tariff structure now will not contribute to such regulatory stability but the opposite.

➤ **We consider that the opportunity/timing of the proposal is not adequate.**

The majority of the existing contracts are set to expire in the coming years. Even more, after the first few years, only last existing storage contracts, that already have a substantial discount, so the differential against new contracts is minimized.

We consider that changing the tariff scheme for contracts approaching their end introduces unnecessary uncertainty of the involved parties. We therefore consider that is important to prioritize the regulatory stability and maintain a consistent framework.

Introducing regulatory changes targeting only on a limited number of contracts rather than a general approach based on objective criteria, can erode trust in the regulatory process. We consider than ad hoc regulatory changes that solely impact existing contracts can set a negative precedent (and in the limit, if the number of affected parties is extremely limited, it could be considered as “ad hominem” regulation and should therefore be avoided).

**2. Moreover, we consider that further assessment needs to be done before even considering any eventual proposal, based on the following:**

➤ **We consider that the assessment of the existing contracts is unfair.**

We consider that the starting point for determining the charging difference of the existing contracts is unfair.

The reason is that the assessment fails to consider the circumstances surrounding existing contracts, especially that they have already paid for their capacity when it was acquired (through open seasons carried more than a decade ago).

By solely considering current prices as the reference point for evaluating the existing contracts, National Gas Transmission fails to account for the inherent differences between existing and new contracts.

When acquiring the existing capacity, holders entered into agreements with the understanding that their financial commitments were based on the prevailing market conditions at that time. Changing the pricing structure without considering these previous investments (millions of pounds in most of the cases), places an undue burden on these holders and undermines the integrity of contractual agreements, including setting an alarming precedent.

This skewed comparison disregards the investments, risks and time horizons associated with existing contracts, leading to an inaccurate assessment of their economic viability.

We therefore consider that any eventual assessment related to the existing contracts should be based on a fair and comprehensive assessment of all relevant factors, including the financial commitments made by existing contract holders. Consequently, the comparison made by National Gas Transmission is, from our point of view, unfair and may have detrimental consequences for the affected parties.

➤ **We consider that it is needed to assure the compliance with the Tariff Code**

We consider that it is necessary to assess whether the proposed alternatives are in line with the provisions and objectives of the Tariff Network Code (TAR NC), as the main regulatory framework that outlines guidelines and principles for tariffs and contracting.

Any decision that deviates from these guidelines should be carefully justified and transparently communicated as it represents a precedent.

➤ **Finally we consider that further legal analysis and impact and competition assessment is needed.**

We also consider that it is necessary to conduct a comprehensive legal analysis and assessment of how the different alternatives impact on market competition and ensure a level playing field between all agents.

**3. Finally we would like to make the following remarks regarding National Gas Transmission's initial proposals:**

- **The option to review the existing contracts, their flexibility and usage should be discarded.**

We consider that such alternative presents serious legal impediments and will impact on the confidence of the market participantes.

It will also restrict trades (which could eventually even impact on the security of supply of the UK's gas system) and would be likely contested in court by the agents involved.

This approach, in our view, has to be completely rejected.

- **Review the entry/exit split will introduce greater stability into the system.**

Demand has a more stable and predictable behavior than the entry as the agents that introduce gas into the system (entry) will rapidly adapt to the changing market conditions and tariffs if a regulatory change occur. This is not the case at the exit as the behavior of the demand (exit) is much more stable and predictable.

In that sense, increasing the share of the exit split (as the majority of the European countries) may lead into a greater stability and predictability into the system.

- **Introduce a new commodity charge will introduce greater uncertainty into the regulatory system.**

We consider that this alternative will introduce uncertainty into the regulatory system as it will change the current charging scheme that was introduced less than 3 years ago. Therefore not enough time has elapsed yet to be able to accurately assess all the effects of the reform.

We also foresee that it is more difficult to implement than the entry / exit split, as it directly impacts on the Gemini System.

As previously commented, we strongly support the principles of transparency, fairness, and regulatory stability, which are essential for a well-functioning gas market.

Consistently with those principles, and between the three alternatives presented by National Gas Transmission (commodity charge applicable to i) all flows, ii) all entry flows or iii) flows based on usage of existing contracts), the broader and more general approach the less disruption and uncertainties it will introduce into the market. It will also minimize further potential disputes arising if the regulation is more targeted to a specific segment.

We thank you in advance for your attention and we hope that our comments will be of your interest.

We stay at your disposal.

Best regards.

Pavilion Energy Spain S.A.