



# Natural Gas Network Code

**NGS XX/2024**

**[DD MMMM YYYY]**

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# 1 Definitions and Interpretations

## 1.1 Scope and Objectives

- 1) This code governs the arrangements between the designated gas transporter and the relevant gas shippers who ship gas by means of the designated gas transporter's gas pipeline.
- 2) The Transporter shall comply with the provisions, rules and processes of this Code and shall not discriminate as between similarly situated persons or classes of persons in the exercise of its rights or in the performance of its obligations under this Code.

## 1.2 Application

- 3) This Code:
  - (a) applies to any arrangements for the transport of gas established between gas shippers and the designated gas transporter; and
  - (b) shall be implemented in accordance with all applicable laws

## 1.3 Entry into effect

- 4) This Code or any amendment thereto shall come into force on the day on which URCA issued this Code or the day on which the amendment is issued, as the case may be.

## 1.4 Definitions

- 5) The following definitions shall apply in this Code unless otherwise specified or the context otherwise requires:

**"Act"** means the 2024 Liquefied Natural Gas Act of the Commonwealth of the Bahamas.

**"Affiliate"** means a related corporation;

**"Aggregate BPM Offtake Quantity"** is the sum of the Metered Offtake Quantities for all Distribution Network Offtake Points within a particular Distribution Network at which there is a BPM Meter Installation;

**"Aggregate NBPM Offtake Quantity"** is the Total Transmission/Distribution Quantity less the result of the Aggregate BPM Offtake Quantity;

**"Aggregate Shipper Transmission/Distribution Quantity"** is, in respect of a Shipper, the quantity of gas treated as offtaken by that Shipper from the Transmission Network at all Transmission/Distribution Points and flowing into the Distribution Network(s);

**"Annual Maintenance Programme"** is a programme (or revised programme) of Maintenance determined and updated in accordance with parts 9.1 and 9.2;

**"Authorised Exit Capacity Right"** means the right of a Shipper to have offtaken from the Transmission Network at a designated Eligible Offtake Point gas which has been conveyed by the Transporter through

the Transmission Network in a Balancing Period in accordance with the terms of this Code. A Shipper's Authorised Exit Capacity Right shall be expressed in mmBtu/Balancing Period;

**"Available Pipeline Capacity Amount"** means, in respect of a Shipper and a Transmission Network Injection Point and Eligible Offtake Point at which the Shipper intends or anticipates a quantity of gas to be injected and offtaken respectively by the Shipper in a Balancing Period, the sum of the Firm Entry Capacity Right amount, Non-Firm Entry Capacity Right amount and Authorised Entry Capacity Overrun Amount (expressed in mmBtu/Balancing Period) held by and available to the Shipper to inject such quantity of gas at such Transmission Network Injection Point for offtake at such Eligible Offtake Point in the Balancing Period;

**"Average Monthly Transportation Code Indebtedness"** is a Shipper's average monthly Transportation Code Indebtedness as determined by the Transporter from time to time with reference to historical information and the prevailing Transportation Charges specified in the Charging Statement.

**"Balancing Period Meter"** or **"BPM"** is either a BPRM or a BPCM;

- a) **"Balancing Period Read Meter"** or **"BPRM"** is a meter which enables the Transporter to obtain readings remotely of the quantity of gas flowing through such meter in respect of each Balancing Period;
- b) **"Balancing Period Capable Meter"** or **"BPCM"** is a meter at which:
  - (i) Meter reading is not conducted for each Balancing Period;
  - (ii) Metering Data is recorded in the Meter Installation for each Balancing Period; and
  - (iii) Metering Data is available to the Transporter less frequently than hourly;

**"Buyer"** means a party buying regasified LNG from a Seller pursuant to a Gas Sales Agreement between the Buyer and the Seller;

**"Capacity Duration"** is the period from the Capacity Right Start Date until the Capacity Right End Date;

**"Capacity Right"** is the right of a Shipper to have gas conveyed through the Transmission Network by the Transporter from a designated Transmission Network Injection Point to a designated Eligible Offtake Point in a Balancing Period in accordance with the terms of this Code. A Shipper's Capacity Right shall be expressed in mmBtu/Balancing Period and shall comprise an Entry Capacity Right and an Exit Capacity Right, where:

- a) **"Entry Capacity Right"** is the right of a Shipper, pursuant to such Capacity Right, to have gas injected into the Transmission Network at a designated Transmission Network Injection Point for conveyance through the Transmission Network by the Transporter in a Balancing Period in accordance with the terms of this Code. A Shipper's Entry Capacity Right shall be expressed in mmBtu/Balancing Period; and
- b) **"Exit Capacity Right"** is the right of a Shipper, pursuant to such Capacity Right, to have offtaken from the Transmission Network at a designated Eligible Offtake Point gas which has been conveyed by the Transporter through the Transmission Network in a Balancing Period in accordance with the terms of this Code. A Shipper's Exit Capacity Right shall be expressed in mmBtu/Balancing Period.

**"Capacity Right End Date"** is the last Day on which the Shipper holds the Registered Capacity Right;

**"Capacity Right Renewal Option"** is: (i) the Roll-Over Option in relation to such Registered Capacity Right;

or (ii) the First Refusal Option in relation to such Registered Capacity Right;

"**Capacity Right Start Date**" is the first day from which a Shipper holds the Registered Capacity Right;

"**Capacity Right Transfer**" is a transfer, in relation to an Available Firm Capacity Right held by a Shipper, of either:

- a) both an Entry Capacity Right and an Exit Capacity Right provided that the Transmission Network Injection Point and Eligible Offtake Point which the Transferee Shipper will hold the Transferred Capacity Right for is the same as the Transmission Network Injection Point and Eligible Offtake Point for which the Transferor Shipper held the Transferred Capacity Right; or
- b) an Entry Capacity Right only provided that the Transmission Network Injection Point for which the Transferee Shipper will hold the Transferred Capacity Right is the same as the Transmission Network Injection Point for which the Transferor Shipper held the Transferred Capacity;

"**Charging Statement**" means the statement of Transportation Charges, Connection Charges, Failure to Notify Charges, and Nomination Divergence Charges to be published by the Transporter in accordance with the Transporter's Licence

"**Code**" means this Gas Network Code;

"**Code Communication**" means any communication to be given by the Transporter or a Shipper under this Code;

"**Code Contingency**" is an event or circumstance specified in the GTSS Manual affecting the ability of the Transporter or Shippers (or where specified, a particular Shipper or Shippers) to give or receive GTSS Communications either as a result of a "GTSS Failure" or a "GTSS Communication" failure;

"**Code Re-start Time**" is the time from which the provisions of part 11.3.1 cease to apply and all the provisions of the Code apply again in accordance with part 11.3.2;

"**Commodity Variance Charge**" means an Initial Cumulative Commodity Variance Charge or a Final Cumulative Commodity Variance Charge (as the context may require);

"**Competent Authority**" means URCA, or, alternatively, any agency, authority, department, inspectorate, minister, official, court, tribunal or public or statutory person of the Bahamas which has jurisdiction over the Transporter or a Shipper or the subject matter of this Code;

"**Connection Charges**" means the charges levied by the Transporter on any person requiring connection of his premises to the Transportation System in accordance with the Act;

"**Customer**" means a person who consumes or uses the gas offtaken at a System Offtake Point who is not a Shipper

"**Customer Type**" means a type of Customer having certain particular characteristics, including the quantity of gas offtaken at the System Offtake Point located at the Customer's premises, more particularly described in the System Point Profile Methodology.

"**Directive**" means any present or future directive, request, instruction, code of practice, direction or rule of URCA and any modification, extension or replacement thereof;

"**Dispute**" is any dispute, controversy or claim arising out of or in connection with the Code, the Transportation Framework Contract or an Ancillary Agreement, including, but not limited to, any question in respect of their existence, validity or termination, between the Transporter and any Shipper or Shippers



which the Parties have been unable to resolve amongst themselves; but excludes all matters which are identified in the Code that are to be resolved before the Compensation Resolution Panel in accordance with the Compensation Resolution Procedures;

"**Facilities**" are those plants and facilities downstream of any System Offtake Point at which gas offtaken at that point of the Transportation System is used;

"**Firm Capacity Right**" means a Capacity Right pursuant to which the Transporter shall be required to convey gas through the Transmission Network when the Shipper holding such Capacity Right submits a Nomination for gas to be transported pursuant to such Capacity Right. A Firm Capacity Right comprises a Firm Entry Capacity Right and a Firm Exit Capacity Right, where:

- a) "**Firm Entry Capacity Right**" means an Entry Capacity Right which the Transporter shall be required to make available when a Shipper submits a Nomination for gas to be injected pursuant to a Shipper's Available Firm Entry Capacity Rights; and
- b) "**Firm Exit Capacity Right**" means an Exit Capacity Right which the Transporter shall be required to make available when a Shipper submits a Nomination for gas to be offtaken pursuant to a Shipper's Available Firm Exit Capacity Rights;

"**Final Cumulative Commodity Variance Charge**" means the charge payable by or to a Shipper in respect of the Shipper's Consolidated Cumulative Commodity Variance;

"**Gas Entry Conditions**" with respect to all System Injection Points are limits or other requirements as to the composition, pressure, temperature and other characteristics of gas injected into, or made available for injection into, either the Transmission Network at Transmission Network Injection Points into a Distribution Network at the Distribution Network Injection Point.

"**Gas Metering Code**" is the code of practice of that name to be prepared by the Transporter in accordance with the Transporter's Licence;

"**Gas Retailer**" means a person who supplies gas to Retail Customers and who holds a Retailer's Licence;

"**Gas Sales Agreement**" means an agreement between a Buyer and a Seller of regasified LNG to be injected by a LNG Terminal Operator into the Transmission Network at a Transmission Network Injection Point;

"**GSA Number**" means the unique number assigned by a LNG Terminal Operator to identify a Gas Sales Agreement;

"**Gate Closure**" means, in relation to a Balancing Period, the last hour bar falling prior to the hour bar on which the Balancing Period commences;

"**GTSS**" is an information exchange system (described in the GTSS Manual) as from time to time modified in accordance with the procedures set out in the GTSS Manual, which allows the electronic transfer of information between the Transporter and GTSS Users;

"**GTSS Communication**" is an electronic communication transmitted by the Transporter or by a GTSS User and received by means of GTSS;

"**GTSS Contingency Procedures**" are the procedures set out in the GTSS Manual for the Transporter and Shippers to communicate with each other and to coordinate any module failure in the event of a Code Contingency;

**"GTSS Manual"** is the document so named and prepared by the Transporter from time to time modified in accordance with the procedures set out in the GTSS Manual;

**"GTSS User"** is a Shipper (provided that a Shipper will cease to be a GTSS User on the Shipper Discontinuance Date) or such other person permitted to have access to GTSS and who has executed an agreement referred to in paragraph 553);

**"Hazardous"**, as referred to in Part 4, shall mean having the characteristic of posing or potentially posing a danger to the public or to health;

**"Implementation of Curtailment Procedures"** means the document developed and issued by the Transporter and entitled 'Implementation of Curtailment Procedures' as from time to time revised by the Transporter in consultation with the Shippers and other interested parties and approved by URCA.

**"Initial Nomination"** is a Nomination submitted by a Shipper to the Transporter by 10.00am on the Day preceding the first Day of the Nomination Period in respect of a quantity of gas to be injected into the Transmission Network at a Transmission Network Injection Point and offtaken from the Transmission Network at an Eligible Offtake Point during each Balancing Period within the Nomination Period;

**"Initial Settlement Distribution Charge Rate"** is the rate used to determine the Distribution Charge payable by a Shipper at Initial Settlement as published by the Transporter pursuant to the Transporter's Licence;

**"Injecting Shipper"** means a Shipper treated as injecting gas into the Transmission Network at the Transmission Network Injection Point;

**"Injection Characteristics"** are the characteristics of gas injected, as specified in Gas Entry Conditions, at any Transmission Network Injection Point;

**"Injection Non-Compliant Gas"** is gas injected or made available for injection at any System Injection Point, in respect of which any of the relevant Gas Entry Conditions are not or were not complied with;

**"Injection Measurement Provisions"** with respect of a Transmission Network Injection Point are the procedures, methods and standards by which:

- a) gas injected or made available for injection into the Transmission Network at that point will be measured, sampled and analysed;
- b) the calorific value, quantity, and Injection Characteristics of such gas will be determined and
- c) in circumstances where such Transmission Network Injection Point is connected to an Upstream Facility, the Transporter and the Upstream Facility Operator will inform each other of the determinations made under b).

**"Injection Measurement Equipment"** is the metering, sampling, analysis and other equipment required under the Injection Measurement Provisions to be installed (whether at the Upstream Facility or on the Transmission Network);

**"Injection Operating Procedures"** are the procedures developed and published by the Transporter in respect of its obligations to monitor, report and respond to any injection or anticipated injection of Injection Non-Compliant Gas at each System Injection Point;

**"Initial Cumulative Commodity Variance Charge"** means the charge payable by or to a Shipper in respect of the Shipper's Initial Cumulative Commodity Variance;

"**Invoice**" is an invoice document submitted by the Transporter to a Shipper;

"**Invoice Amount**" is in relation to each Invoice Item the amount shown as payable by the Transporter or the Shipper in relation to that item in the relevant Invoice;

"**Invoice Dispute**" is any bona fide question or query as to the proper calculation of any amount shown as payable by a Shipper or the Transporter under an Invoice or as to whether it is or was properly payable and references to the amount of an Invoice Dispute are to the amount by which the Shipper submitting the Invoice Dispute considers the Invoice Amount to be incorrect.

"**Invoice Due Date**" in respect of an Invoice is the day ending at 24:00 hours which falls ten (10) days after the Invoice was deemed to be received by the Shipper provided that if such day is not a Business Day the Invoice Due Date shall be the next Business Day thereafter;

"**Invoice Item**" is an item shown as payable by the Transporter or a Shipper in an Invoice;

"**Invoice Period**" is one (1) Month.

"**Legal Requirement**" means any Act of Parliament, regulation or licence issued by URCA, or Directive of a Competent Authority;

"**LNG Terminal Operator**" means a party granted a licence under the Act

"**Maintenance**" is the inspection, maintenance, modification, replacement, reinstatement, repair and/or refurbishment of the Transportation System including all activities ancillary and/or related thereto;

"**Meter Read Period**" is the period of time between two (2) Valid Meter Readings;

"**Meter Reconciliation**" is a reconciliation and adjustment in respect of gas offtaken from the Transportation System at a Relevant System Offtake Point arising in respect of the differences between:

- a) the quantities determined to have been offtaken during a Balancing Period in accordance with Part P for the purposes of Initial Settlement; and
- b) the quantities subsequently determined to have been offtaken pursuant to Valid Meter Readings at such Relevant System Offtake Points;

"**Meter Reconciliation Quantity**" is, in respect of a Relevant System Offtake Point, the quantity of gas determined to have been actually offtaken in the period from the previous Valid Meter Reading to the most recent Valid Meter Reading at such Relevant System Offtake Point;

"**Metered Injection Quantity**" means the quantity of gas determined in accordance with part 10.1 as having been injected into the Transportation System at such System Injection Point;

"**Metered Offtake Quantity**" means the quantity of gas determined in accordance with part 10.3 as having been offtaken from any System Offtake Point;

"**Meter Identification Number**" means a unique reference number for the purposes of identifying a Meter Installation;

"**Metering Data**" comprises meter readings, energy consumption data and calorific value data;

"**Meter Installation**" is a meter and associated equipment, including associated pipework, filters, valves, seals, regulators, housings, mountings and telemetry equipment;

"**Meter Owner**" is the person who owns the Meter Installation as specified in the Gas Metering Code;

"**Meter Reading**" is the reading of the index of a Meter Installation;

"**Nomination**" shall be either an Initial Nomination, a Standing Nomination or a Renomination;

"**Nomination Period**" is, in respect of an Initial Nomination or Standing Nomination, the period of seven (7) consecutive days to which the Nomination relates;

"**Non-Balancing Period Meter**" or "**NBPM**" is a meter which is not a Balancing Period Meter;

"**Non-Firm Capacity Right**" means a Capacity Right which the Transporter may, but shall not be required to, convey gas through the Transmission Network when a Shipper submits a Nomination for gas to be transported pursuant to such Capacity Right. A Non-Firm Capacity Right comprises a Non-Firm Entry Capacity Right and a Non-Firm Exit Capacity Right where:

- a) "**Non-Firm Entry Capacity Right**" means an Entry Capacity Right which the Transporter may, but shall not be required to, make available when a Shipper submits a Nomination for gas to be injected pursuant to a Shipper's Available Non-Firm Entry Capacity Rights; and
- b) "**Non-Firm Exit Capacity Right**" means an Exit Capacity Right which the Transporter may, but shall not be required to, make available when a Shipper submits a Nomination for gas to be offtaken pursuant to a Shipper's Available Non-Firm Exit Capacity Rights.

"**Offtake Non-Compliant Gas**" is gas made available for offtake from the Transportation System in respect of which any of the Offtake Requirements are not or were not complied with.

"**Offtake Pressure**" is the nominal pressure of gas made available for offtake from the Transmission Network at a Transmission Network Offtake Point or from the Distribution Network at a Distribution Network Offtake Point.

"**Offtake Requirements**" in respect of a System Offtake Point are the limits or other requirements as to composition, pressure, temperature and other characteristics of gas offtaken from the Transportation System at that System Offtake Point;

"**Offtaking Shipper**" means a Shipper treated as offtaking gas from the Transportation System at the System Offtake Point;

"**Profiled Injection Quantity**" is, with respect to a System Injection Point, the quantity of gas estimated to have been injected into the System during the Balancing Period at the System Injection Point;

"**Profiled Offtake Quantity**" is, in respect of a System Offtake Point and Customer Type, the quantity of gas estimated to have been offtaken from the Transportation System during the Balancing Period at the System Offtake Point, in each case, as determined by reference to, and in accordance with, the System Point Profile Methodology.

"**Reasonable and Prudent Operator**" means a person seeking in good faith to perform its contractual obligations and, in so doing and in the general conduct of its undertaking, exercising that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from an operator complying with all applicable laws engaged in the same type of undertaking under the same or similar circumstances and conditions, and the expression "**standards of a Reasonable and Prudent Operator**" shall be construed accordingly;

"**Registered Shipper**" refers to:

- a) in respect of a System Offtake Point (other than in respect of which paragraph (b) applies), the Shipper in whose name the System Offtake Point; or
- b) in respect of a Shared Transmission Network Offtake Point, one of the two or more Shippers (each a "Sharing Registered Shipper") in whose name the Shared Transmission Network Offtake Point is registered in the System Offtake Point Register.

**"Regulations"** means regulations made under the Natural Gas Act;

**"Renomination"** is a Nomination which revises and replaces (in respect of one or more Balancing Periods) an Initial Nomination, an earlier Renomination or a Standing Nomination;

**"Retail Customer"** is a person who is supplied with gas by a Gas Retailer and whose premises are connected to the gas network;

**"Retailer's Licence"** means a licence granted to a gas retailer under the Act;

**"Safe and Reliable Operation"** means the performance of the Transportation System to a standard which would reasonably and ordinarily be expected from the Transportation System if operated and maintained by the Transporter in accordance with the standards of a Reasonable and Prudent Operator;

**"Scheduled Injection Quantity"** is the quantity of gas to be injected into the Transmission Network at a Transmission Network Injection Point by such Shipper;

**"Scheduled Maintenance"** is Maintenance carried out in accordance with an Annual Maintenance Programme or a Revised Annual Maintenance Programme;

**"Scheduled Offtake Quantity"** is the quantity of gas to be offtaken from the Transmission Network at an Eligible Offtake Point by such Shipper;

**"Scheduled Shipper"** is, in relation to a Balancing Period and a Transmission Network Injection Point and an Eligible Offtake Point, a Shipper who in accordance with the Final Operating Schedule for the Balancing Period, is scheduled to inject gas into, and offtake gas from, the Transmission Network at such System Points;

**"Seller"** means a party selling regasified LNG pursuant to a Gas Sales Agreement approved by URC and granted a licence under the Act;

**"Shipper"** means a Relevant Gas Shipper who is, for the time being, a party to a Transportation Framework Contract, who has become a Shipper in accordance with paragraph 612) and who has not ceased to be a Shipper pursuant to this Code

**"Shipper ID"** is a unique identification number given to each Shipper by the Transporter;

**"Shipper Injection Quantity"** means the quantity of gas treated as having been injected by a Shipper into the Transportation System at such System Injection Point;

**"Shipper's Licence"** means a licence granted to a gas shipper under the Act;

**"Shipper's Facility"** means the Shipper's plant and/or (as the case may be) gas pipeline or gas pipeline network or facility connected to the Transmission Network at the relevant Transmission Network Offtake Point;

**"Shipper Offtake Quantity"** means the quantity of gas treated as having been offtaken by a Shipper from any System Offtake Point;

**"Shipper Transmission/Distribution Quantity"** is, in respect of a Shipper, the quantity of gas treated as offtaken from the Transmission Network at a Transmission/Distribution Point(s) and flowing the Distribution Network calculated in accordance with either paragraph 54 or 55 as applicable;

**"Shrinkage Gas"** means gas in the Transportation System which is used by the Transporter in connection with the operation of the Transportation System and gas which is otherwise unaccounted for, including (without limitation) as a result of meter errors, leakage, unidentified theft and metering uncertainties;

**"Standing Nomination"** is a Nomination submitted by a Shipper to the Transporter by 10.00am on the Day preceding the first Day of the Nomination Period in respect of a quantity of gas to be injected into the Transmission Network at a Transmission Network Injection Point and offtaken from the Transmission Network at an Eligible Offtake Point during a particular Balancing Period which applies in respect of two or more consecutive Nomination Periods and in relation to which the **"Cessation Date"** is the last Day in respect of which such Standing Nomination has (or is to have) effect;

**"System Critical Point"** is a point on the Transportation System designated as such by the Transporter;

**"System Entry Provisions"** are terms and conditions set out in a System Entry Agreement or other provisions which specify requirements (for the purposes of this Code) in respect of the injection of gas into the Transmission Network;

**"System Stress"** is the occurrence of any of the circumstances referred to in paragraph 481);

**"System Stress Operating Procedures"** means the System Stress Procedures and the System Stress Curtailment Plan;

**"System Stress Curtailment Plan"** means the document developed and issued by the Transporter and entitled 'System Stress Curtailment Plan' as from time to time revised by the Transporter in consultation with the Shippers and other interested parties and approved by URCA and as contained at Annex H;

**"System Stress Procedures"** means the document developed and issued by the Transporter and entitled 'System Stress Procedures' as from time to time revised by the Transporter in consultation with the Shippers and other interested parties and approved by URCA and as contained at Annex G;

**"Total Transmission/Distribution Quantity"** is the aggregate quantity of gas determined as offtaken from the Transmission Network at all Transmission/Distribution Points and flowing into the Distribution Network;

**"Transferred Capacity Right"** is the Capacity Right which is (or is to be) transferred;

**"Transfer Period"** is the Balancing Period(s) (in accordance with paragraph 130) for which the Transferred Capacity Right is (or is to be) transferred;

**"Transportation Code Indebtedness"** is:

- a) the aggregate amount, excluding Balancing Charges, for which a Shipper is at any time liable to the Transporter pursuant to the Code or any Ancillary Agreement, determined on the basis of amounts accrued and irrespective of whether such amounts have been invoiced under Part N or (where invoiced) have become due for payment; less
- b) any amount which has been paid to the Transporter by the Shipper by way of prepayment, on the basis that the Transporter may apply such amount without the Shipper's consent in or towards payment of amounts referred to in paragraph (a) and which has not yet been so applied.

**"Transportation Credit Limit"** is, in respect of a Shipper;

- a) an amount equal to the aggregate value of all security provided by the Shipper pursuant part 16.2.1 to secure payment of its Transportation Code Indebtedness; less
- b) the value of any security which may have been realised or applied by the Transporter in settlement of any outstanding Transportation Code Indebtedness pursuant to part 16.2.3.

**"Unscheduled Maintenance"** is Maintenance other than Scheduled Maintenance;

**"Upstream Facility"** is a single facility or system (comprising pipeline(s), plant and/or other installations) in the Bahamas, operated by one person or jointly operated by several persons (other than the Transporter), and connected to the Transmission Network immediately upstream of a Transmission Network Injection Point;

**"Upstream Facility Operator"** is the operator of an Upstream Facility;

**"Valid Meter Reading"** is a Meter Reading which has been subject to Validation and not rejected in accordance with paragraph 445); and

**"Validation Rules"** are the rules and procedures prepared by the Transporter and approved by URCA following consultation with Shippers as set out in Annex E.

## 1.5 Interpretation

- 6) Unless the context otherwise requires, words and expressions defined in or for the purposes of the Act and not otherwise defined in this Code shall, when used in this Code, have the meanings ascribed thereto under the Act.
- 7) Headings are for convenience only and shall not affect the interpretation of this Code.
- 8) In this Code, unless the context otherwise requires:
  - a) a reference to a particular Part is to a Part of this Code;
  - b) a reference in a particular Part to a particular paragraph is to a paragraph of that Part;
  - c) words in the singular may be interpreted as including the plural;
  - d) the word 'including' is to be construed without limitation; and
  - e) a derivative term of any defined or interpreted term shall be construed in accordance with the relevant definition or interpretation.
- 9) A reference in this Code to any statute, subsidiary legislation, proclamation, ordinance, bylaw, resolution, rule, order, supplement, gazette notification or directive includes all statutes, subsidiary legislation, proclamations, ordinances, by-laws or resolutions, rules, orders, supplements, gazette notifications or directives varying, consolidating, re-enacting, extending or replacing it.
- 10) A reference in this Code to a document or provision of a document includes a modification or supplement to, or replacement or novation of, that document or that provision of that document, as well as any exhibit, schedule, appendix or other annex thereto.

- 11) A reference in this Code to a body, whether statutory or not, which ceases to exist or whose
- 12) functions are transferred to another body includes a reference to the body which replaces it or which substantially succeeds to its functions, powers or duties.
- 13) A reference in this Code to the word “including” or grammatical variation thereof means “including but not limited to”.
- 14) A reference to:
  - a) “Clause” or “Clauses” refer to a clause or clauses of this Code;
  - b) “Appendix” or “Appendices” refer to an appendix or appendices to this Code; and
  - c) “Table” or “Tables” refer to a table or tables set out in this Code.
- 15) This code is binding. Nothing in this Code shall be construed as affecting the obligation of a Licensee to comply with the provisions of relevant legislation or of its Gas Licence and, in the event of an inconsistency between the provisions of relevant legislation or of its Gas Licence and the provisions of this Code, the provisions of relevant legislation or of its Gas Licence shall govern to the extent of the inconsistency.

#### **1.5.1 Times and dates**

- 16) For the purposes of the Code:
  - a) "*Balancing Period*": means a period of one (1) hour commencing on an hour bar and ending on the next following hour bar;
  - b) "*Business Day*": means a Day, other than a Day which begins at 00:00:00 hours on a Saturday, Sunday or public holiday in the Bahamas;
  - c) "*Day*": means the period from 00:00:00 hours on one day until 00:00:00 hours on the following day;
  - d) "*Gas Year*": means the period commencing 1 April in any year until 31 March of the following year;
  - e) "hour bar": means an hour starting at 00:00:00 hours;
  - f) "*Maintenance Year*": means the period commencing 1 January in any year until 31 December of the same year;
  - g) "*Month*": means the period from 00:00:00 hours on the first day of a calendar month until 00:00:00 hours on the first day of the following calendar month and references to a particular calendar month (such as January) shall be construed accordingly;
  - h) in relation to any Gas Year or Maintenance Year, the "*Preceding Gas Year*" or "*Preceding Maintenance Year*" is the Gas Year or Maintenance Year ending immediately before the commencement of such Gas Year or Maintenance Year; and



- i) "Reference Number": is a unique number established in accordance with, and having the sequence set out in, the GTSS Manual.
- 17) References to times of a day in this Code are to Eastern Standard Time. The Bahamas follows daylight saving time and allowances are to be made to accommodate this seasonal adjustment.
- 18) Where under any provision of this Code, the Transporter or a Shipper is required to provide any information by a certain date or time, the relevant provision shall be taken to include a requirement that such information shall be provided not earlier than is reasonable before such date or time.
- 19) Where any provision of this Code requires the Transporter to publish any information or document, the Transporter will make such information or each document available to each Shipper, any other person to whom the Transporter may (under the Transporter's Licence or any provision of the Code) be required to provide such information or document, and (subject to Part 16.5) such other persons as the Transporter sees fit.

### **1.5.2 Technical Interpretation**

20) The following terms have the following meanings in the Code:

- a) "*Atmospheric Pressure*" means an absolute pressure of thirty (30) Inches of Mercury;
- b) "*Bar*" means the bar as defined in ISO 80000-4:2006;
- c) "*Btu*" or "*British Thermal Unit*" means the amount of heat equal to one thousand and fifty-five decimal zero six (1,055.06) Joules;
- d) "*°C*" means degree Celsius as defined in ISO 80000-5:2007;
- e) "*°F*" means degree Fahrenheit as defined in ISO 80000-5:2007;
- f) "*Cubic Metre*" or "*m<sup>3</sup>*" means when applied to gas, that amount of gas at a temperature of 15°C and an absolute pressure of 1.01325 Bar and being free of water vapour occupies one (1) cubic metre;
- g) "*Inch of Mercury*" means the pressure exerted by a column of Mercury one (1) inch high at 320F and under standard gravitational force (acceleration of thirty-two decimal one seven four (32.174) feet per second per second) equal to zero decimal four nine one one five four (0.491154) pounds of force per square inch;
- h) "*Joule*" means the joule as defined in ISO 80000-4:2006. One joule is equivalent to approximately 0.00094782 British Thermal Units (BTU);
- i) "*kPa*" means 1 kilopascal and is equal to 1,000 Pascals;
- j) "*mmBtu*" means one million (1,000,000) Btu;
- k) "*mmscf*" means one million (1,000,000) scf;
- l) "*Pascal*" means the pascal as defined in ISO 80000-5:2007;

- m) "ppm" means parts per million;
- n) "*Relative Density*" means the mass of volume of dry gas divided by the mass (expressed in the same units) of an equal volume of dry standard air as defined in ISO 6976:1995, both such gases being at a temperature of 15°C and an absolute pressure of 1.01325 Bar; and Relative Density (REAL) shall for the avoidance of doubt be REAL as defined in ISO 6976:1995;
- o) "*scf*" or "*Standard Cubic Feet*": when applied to gas, shall mean that quantity of gas at 60°F in dry condition and at Atmospheric Pressure and the gas being saturated by water vapour at the same temperature and pressure, occupies a volume of one (1) cubic foot; and
- p) "*Wobbe Index*": when applied to gas, is the calorific value divided by the square root of the Relative Density.

## **1.6 Modifications to this Code**

- 21) URCA may, from time to time, modify this Code. This Code may be modified following URCA's established Standard Consultation procedures
- 22) Nothing contained in paragraph 21) shall prohibit any gas licensee or any relevant Party from notifying URCA of suggested changes to this Code.

## 2 Capacity Rights

### 2.1 Introduction

#### 2.1.1 Capacity Rights

23) Shippers may apply for and be registered as holding Capacity Rights in the Transmission Network in accordance with parts 2.2.1 ("**Registered Firm Capacity Right**") or 2.2.5 ("**Registered Non-Firm Capacity Right**"), which will, pursuant to the terms of this Code, entitle the Shipper to ship gas between identified System Points (each a "**Registered Capacity Right**").

24) Where a Shipper holds a Registered Capacity Right, details of the Registered Capacity Right (comprising the Entry Capacity Right, the Exit Capacity Right and, where applicable, the Authorised Exit Capacity Right) will be set out in a Capacity Certificate, provided that the Shipper's rights in respect of the Registered Capacity Right shall be by virtue of, and be in accordance with, this Part.

25) A Shipper may transfer all or part of its Capacity Rights in accordance with part 2.4.

#### 2.1.2 Capacity Certificate

26) A "**Capacity Certificate**" is a certificate issued by the Transporter to a Shipper pursuant to the terms of a Transportation Framework Contract showing details of a Registered Capacity Right (comprising an Entry Capacity Right and an Exit Capacity Right) or an Authorised Exit Capacity Right, held by the Shipper, a form of which is annexed to this Code at Annex B.

27) A Capacity Certificate shall specify:

- a) the name of the Shipper and the Shipper ID;
- b) where the Capacity Certificate is in respect of a Registered Capacity Right:
  - (i) whether the Registered Capacity Right is a Registered Firm Capacity Right or a Registered Non-Firm Capacity Right;
  - (ii) the amount of the Entry Capacity Right and the amount of the Exit Capacity Right;
  - (iii) the Capacity Right Start Date, Capacity Right End Date and Capacity Duration for such Registered Capacity Right;
  - (iv) the Transmission Network Injection Point for the Entry Capacity Right and the relevant Eligible Offtake Point for the Exit Capacity Right; and
  - (v) the Minimum Required Injection Pressure applicable at the relevant Transmission Network Injection Point;
- c) where the Capacity Certificate is in respect of an Authorised Exit Capacity Right:
  - (i) the amount of the Authorised Exit Capacity Right, expressed in mmBtu/Balancing Period;
  - (ii) the Authorised Exit Capacity Duration, the Authorised Exit Capacity Start Date and the

Authorised Exit Capacity End Date; and

(iii) the relevant Eligible Offtake Point for such Authorised Exit Capacity Right;

d) a unique number determined by the Transporter by which the Capacity Certificate can be identified ("**Certificate Number**"); and

e) the Minimum Required Offtake Pressure applicable at the relevant Eligible Offtake Point.

28) In relation to an Exit Capacity Right or an Authorised Exit Capacity Right where the relevant Eligible Offtake Point is a Transmission/Distribution Point, the Shipper shall be entitled to offtake gas from the Transmission Network at any other Transmission/Distribution Point which serves the Distribution Network (provided that such other Transmission/Distribution Point need not be identified in the Capacity Certificate in respect of the Exit Capacity Right).

29) Where a Shipper offtakes gas from the Transportation System at a Distribution Network Offtake Point for the purposes of determining the Capacity Right that the Shipper will require in order to avoid Authorised Capacity Overrun Charges or Unauthorised Capacity Overrun Charges, the Transmission/Distribution Point which is located most distant from the Transmission Network Injection Point in respect of the Capacity Right shall be deemed to be the Eligible Offtake Point at which such Shipper has offtaken such gas.

### **2.1.3 Renewing Capacity Certificates for Registered Firm Capacity Rights**

30) If the Transporter receives an offer from a Shipper at any time between the date which is two (2) years and the date which is twenty eight (28) Days prior to the Capacity Right End Date for a Registered Firm Capacity Right held by another Shipper, for a Capacity Duration to commence immediately after such Capacity Right End Date ("**Third Party Offer**"), the Transporter shall promptly inform the Shipper registered as holding such Registered Firm Capacity Right of the such Third Party Offer(s), and the Capacity Duration proposed in such Third Party Offer(s), and shall allow such Shipper a period of twenty-one (21) Days to notify the Transporter that it wishes to remain the registered holder of the Registered Firm Capacity Right following the Capacity Right End Date, for the same Capacity Duration as proposed in the Third Party Offer(s) (the "**First Refusal Option**"), provided always that in the event such Shipper does not exercise the First Refusal Option, the Registered Firm Capacity Right will, immediately after the Capacity Right End Date, become registered in the name of the Shipper making the Third Party Offer.

31) If the Transporter has not received any Third Party Offer in respect of a Registered Firm Capacity Right held by a Shipper, such Shipper may at any time during the Capacity Duration of such Registered Firm Capacity Right but no later than the date which is twenty-eight (28) Days prior to the Capacity Right End Date, request to be registered as holding all, or part of, the Registered Firm Capacity Right for such further period, which shall be not less than one (1) year, after the Capacity Right End Date (the "**Roll-Over Option**") as such Shipper may specify in its request. For the avoidance of doubt, where such Shipper has exercised the Roll-Over Option in respect of only part of such Registered Firm Capacity Right, such Shipper will not have a Capacity Right Renewal Option in respect of the remainder of the part of the Registered Firm Capacity Right which was not the subject of such exercise of the Roll-Over Option ("**Capacity Not Rolled Over**").

- 32) In the event a Shipper exercises a Capacity Right Renewal Option in respect of all of a Registered Firm Capacity Right, the Transporter shall issue a new Capacity Certificate to the Shipper in respect of such Registered Firm Capacity Right. In the event a Shipper exercises a Roll-Over Option in respect of only part of a Registered Firm Capacity Right, the Transporter shall issue a new Capacity Certificate to the Shipper in respect of such part of such Registered Firm Capacity Right and the Transporter shall publish a revised Capacity Statement in accordance with paragraph 42), to reflect the Capacity Not Rolled Over as Available Uncontracted Capacity with effect from the day immediately after the Capacity Right End Date specified in the Capacity Certificate in respect of such Registered Firm Capacity Right. For the avoidance of doubt, in the event the Shipper has exercised its Roll-Over Option in respect of a Registered Firm Capacity Right, the Transporter may only entertain Third Party Offers relating to such Registered Firm Capacity Right (or, where the Shipper has exercised its Roll-Over Option in respect of only part of a Registered Firm Capacity Right, the relevant part of such Registered Firm Capacity Right) which are made between the date which is two (2) years and the date which is twenty eight (28) Days prior to the Capacity Right End Date specified in the new Capacity Certificate issued to the Shipper in respect of such Registered Firm Capacity Right.
- 33) A Shipper may at any time during the Capacity Duration of, but no later than the date which is twenty-eight (28) Days prior to the Capacity Right End Date of, a Registered Firm Capacity Right held by such Shipper, by notice in writing (in the form prescribed in Annex D) to the Transporter waive its Capacity Right Renewal Options in relation to all of such Registered Firm Capacity Right.
- 34) Following receipt of a notice under paragraph 33), the Transporter shall, not later than five (5) Business Days, notify the Shipper of its acceptance or rejection of the Shipper's notice under paragraph 33). The Transporter may reject any notice which does not comply with the requirements set out in paragraph 33).
- 35) Upon the acceptance by the Transporter of a Shipper's notice under paragraph 33), the Transporter shall publish a revised Capacity Statement in accordance with paragraph 42) to reflect the Registered Firm Capacity Right which is the subject of the Shipper's notice under paragraph 33) as Available Uncontracted Capacity with effect from the day immediately after the Capacity Right End Date for such Registered Firm Capacity Right.

#### **2.1.4 Available Capacity Rights**

- 36) For the purposes of the Code, in relation to a Transmission Network Injection Point and an Eligible Offtake Point and in respect of a Balancing Period:
- a) a Shipper's "**Available Capacity Right**" in relation to such Transmission Network Injection Point and such Eligible Offtake Point is the aggregate of all Registered Capacity Rights which the Shipper holds in respect of such Transmission Network Injection Point and such Eligible Offtake Point adjusted in respect of any Capacity Right Transfer(s) made by:
    - (i) where the Shipper was the Transferee Shipper, adding the Transferred Capacity Right and, where applicable, the Authorised Exit Capacity Right in respect of such Eligible Offtake Point acquired by the Shipper in accordance with part 2.4.5; or
    - (ii) where the Shipper was the Transferor Shipper, deducting the Transferred Capacity Right and, where applicable, the Authorised Exit Capacity Right in respect of such Eligible Offtake

Point acquired by the relevant Transferee Shipper in accordance with part 2.4.5;

- b) a Shipper's "**Available Firm Capacity Right**" is the Shipper's Available Capacity Rights, which relate to its Firm Capacity Rights; and
- c) a Shipper's "**Available Non-Firm Capacity Right**" is the Shipper's Available Capacity Rights, which relate to its Non-Firm Capacity Rights.

### **2.1.5 Charges**

37) For the purposes of the Code:

- a) "**Transmission Charges**" are charges which apply in respect of the Transmission Network and comprise Capacity Charges and Usage Charges;
- b) "**Transportation Charges**" are Transmission Charges and Distribution Charges;
- c) "**Capacity Charge**" is an Entry Capacity Charge, an Exit Capacity Charge or an Authorised Exit Charge;
- d) "**Usage Charge**" is a charge made in respect of the use of the Transmission Network, determined by reference to the quantity of gas treated as offtaken during a Balancing Period at an Eligible Offtake Point, expressed in \$ per mmBtu;
- e) "**Distribution Charge**" is a charge made in respect of the use of any Distribution Network expressed in \$ per mmBtu;
- f) "**Entry Capacity Charge**" is a charge associated with a Transmission Network Injection Point in respect of, and determined by reference to the amount of a Shipper's Entry Capacity Rights in respect of such Transmission Network Injection Point, expressed in \$ per mmBtu/Balancing Period;
- g) "**Exit Capacity Charge**" is a charge, associated with an Eligible Offtake Point, in respect of, and determined by reference to the amount of a Shipper's Exit Capacity Rights in respect of such Eligible Offtake Point, expressed in \$ per mmBtu/Balancing Period; and
- h) "**Authorised Exit Capacity Charge**" is a charge, associated with an Eligible Offtake Point, in respect of, and determined by reference to the amount of a Shipper's Authorised Exit Capacity Rights in respect of such Eligible Offtake Point, expressed in \$ per mmBtu/Balancing Period.

38) The amount of the Capacity Charges payable at any time by a Shipper shall be determined by reference to the Shipper's Registered Firm Capacity Rights held at the time such Capacity Charges accrue (irrespective of when such Capacity Charges become due for payment and irrespective of whether such Shipper has transferred all or part of its Registered Firm Capacity Rights to another Shipper pursuant to part 2.4).

39) Transportation Charges, calculated in accordance with paragraph 3, shall be invoiced and payable in accordance with Part 13.

### **2.1.6 Transporter to determine Available Uncontracted Capacity**

40) By not later than 28 February in the Preceding Gas Year, the Transporter shall prepare and publish a statement in respect of the next Gas Year ("**Capacity Statement**") setting out, in relation to each Transmission Network Injection Point:

- a) the furthest Eligible Offtake Point at which gas injected into the Transmission Network at such Transmission Network Injection Point may be offtaken; and
- b) in relation to such Transmission Network Injection Point and such Eligible Offtake Point:
- c) the amount (in mmBtu/hour) determined by the Transporter, in accordance with the criteria at paragraph 41), at such time, as the maximum amount of gas which may be injected into the Transmission Network at such Transmission Network Injection Point for offtake from the Transmission Network at such Eligible Offtake Point and the maximum amount of gas which may be offtaken from the Transmission Network at such Eligible Offtake Point during each Balancing Period in such Gas Year (the "**Aggregate Capacity Right Capability**"); and
- d) the amount of the Aggregate Capacity Right Capability for such Transmission Network Injection Point and such Eligible Offtake Point which is not at the relevant time the subject of Registered Firm Capacity Rights or Authorised Exit Capacity Rights and which Shippers may therefore apply for and be registered as holding in accordance with part 2.2.1 ("**Available Uncontracted Capacity**").

41) In making a determination for the purposes of paragraph b), the Transporter shall have regard to:

- a) the amount of linepack in the Transmission Network;
- b) the Minimum Required Offtake Pressure required by each relevant Shipper at the relevant Eligible Offtake Points;
- c) the Minimum Required Injection Pressures at which gas may be injected by Shippers into the Transmission Network at the relevant Transmission Network Injection Point; and
- d) the flow rates at the Eligible Offtake Points,

provided always that in making its determination under paragraph 40)(b) the Transporter shall comply with the standards of a Reasonable and Prudent Operator.

42) Without prejudice to paragraph 40), the Transporter shall, at any time in a Gas Year following a material change in the Aggregate Capacity Right Capability and/or Available Uncontracted Capacity, provide Shippers with a revised Capacity Statement taking into account Firm Capacity Rights registered in accordance with part 2.2.1 pursuant to applications submitted by Shippers following publication of the most recent Capacity Statement under paragraph 40).

43) Following the publication of the revised Capacity Statement under paragraph 42), applications for Available Uncontracted Capacity shall be open for submission by the Shippers ten (10) Business Days after the publication of the revised Capacity Statement.

## 2.2 Capacity Rights

### 2.2.1 Acquisition of Firm Capacity Rights

44) Shippers may apply to the Transporter for, by way of submitting an application, and be registered as holding a Firm Capacity Right (comprising of a Firm Entry Capacity Right and a Firm Exit Capacity Right) in accordance with this subpart 2.2.1.

45) An application under paragraph 44) for a Firm Capacity Right shall specify:

- a) that it is in respect of a Firm Capacity Right (comprising a Firm Entry Capacity Right and a Firm Exit Capacity Right);
- b) the identity of the Shipper and the Shipper ID;
- c) the Transmission Network Injection Point which the Shipper wishes to hold such Firm Entry Capacity Right and the relevant Eligible Offtake Point which the Shipper wishes to hold such Firm Exit Capacity Right;
- d) the proposed Capacity Right Start Date, the proposed Capacity Right End Date and the Capacity Duration, which shall be for a period of not less than one (1) year (or such shorter period as may be approved by URCA); and
- e) the amount of the Firm Capacity Right (in respect of the Firm Entry Capacity Right and the Firm Exit Capacity Right) applied for (expressed in mmBtu/Balancing Period).

46) The Transporter may:

- a) reject an application which does not comply with the requirements of paragraph 45) or if the Shipper making the application is in breach of any of the provisions of Part 16.2; and
- b) subject to paragraph 49), notify the Shipper within five (5) Business Days of the application for a Firm Capacity Right made by the Shipper in accordance with paragraph 45) that the application has been approved.

47) Where a Shipper submitting an application for a Firm Capacity Right does not notify the Transporter of its wish to be registered as holding a Firm Capacity Right in the amount of the Available Uncontracted Capacity in accordance with paragraph 51)a) the application shall lapse and the Transporter need take no further action in respect of the application.

48) Where, in respect of an application under paragraph 44), the Transporter determines that the Available Uncontracted Capacity, during the proposed Capacity Duration, in respect of the Transmission Network between the Transmission Network Injection Point and the Eligible Offtake Point specified in the application is greater than or equal to the amount of the Firm Capacity Right which is the subject of the application, the Transporter will, within five (5) Business Days of the application, notify the Shipper that the application has been approved and will:

- a) register the Shipper as holding a Firm Capacity Right in relation to the relevant Transmission Network Injection Point and the relevant Eligible Offtake Point in the amount and for the



Capacity Duration applied for by the Shipper; and

- b) within thirty (30) Business Days of the Shipper's application under paragraph 44) provide the Shipper with a Capacity Certificate in respect of such Registered Firm Capacity Right.

49) Where, in respect of an application under paragraph 44):

- a) there will be no Available Uncontracted Capacity, during the proposed Capacity Duration, in respect of the Transmission Network between the Transmission Network Injection Point and the Eligible Offtake Point, as specified in the Shipper's application made under paragraph 44);  
or
- b) the Available Uncontracted Capacity, during the proposed Capacity Duration, in the Transmission Network between the Transmission Network Injection Point and the Eligible Offtake Point specified in the application will be less than the amount of the Firm Capacity Right which is the subject of the application under paragraph 44),

the Transporter will not later than five (5) Business Days following the submission of the application notify the Shipper accordingly and in the case of paragraph (b), the Transporter shall notify the Shipper of the Available Uncontracted Capacity, during the proposed Capacity Duration, between the Transmission Network Injection Point and the Eligible Offtake Point specified in the application.

50) In the event that the Transporter receives more than one application from Shippers at the same time, and the Available Uncontracted Capacity is less than the aggregate amount of Firm Capacity Rights which are the subject of these applications under paragraph 44), the Transporter shall allocate the Available Uncontracted Capacity to the Shippers in proportion to the Firm Capacity Right which they have respectively applied for. The Transporter will not later than five (5) Business Days following the submission of the applications, notify the Shippers of the respective allocation of the Available Uncontracted Capacity.

51) Following a notification under paragraph 49)b) or 50), the Shipper may within a further period of five (5) Business Days following the date of such notification:

- a) notify the Transporter that it wishes to be registered as holding a Firm Capacity Right in the amount of the Available Uncontracted Capacity specified in the notification notwithstanding the amount in respect of which the initial application was made; and/or
- b) request that the Transporter issue an Open Season Invitation.

52) For the purposes of this subpart 2.2.1, the Transporter shall consider applications and register Firm Capacity Rights in the order in which such applications are submitted by Shippers.

53) In relation to a notification under paragraph 50), any Available Uncontracted Capacity not accepted by any of the Shippers pursuant to paragraph 51)a) and 54), shall be re-allocated to the remaining Shippers notified under paragraph 50) in proportion to the Firm Capacity Right which they have respectively applied. The Transporter will notify the remaining Shippers of the respective re-allocation of the Available Uncontracted Capacity within five (5) Business Days following the notification by the Shipper pursuant to paragraph 51)a) and 54).

- 54) Following a notification by the Transporter under paragraph 53), the Shipper may within a further period of five (5) Business Days following the date of such notification by the Transporter, notify the Transporter that it wishes to be registered as holding a Firm Capacity Right in the amount of the Available Uncontracted Capacity specified in the notification notwithstanding the amount in respect of which the initial application was made (and in such case sub-paragraphs 48)a) and b) shall apply in respect of the Available Uncontracted Capacity specified in the notification).
- 55) Subject to paragraph 56), where a Shipper applies for a Firm Capacity Right, the Shipper agrees by making such application to pay the Transmission Charges at the amounts (or rates) applicable to the relevant Firm Capacity Right applied for (such charges being in accordance with the Regulated Transportation Charges specified in the Charging Statement).
- 56) The Transporter may, with the prior approval of URCA, invite Shippers to make applications for Available Uncontracted Capacity in respect of which the Capacity Duration may be less than one (1) year (subject to such lesser Capacity Duration having been approved by URCA for the purpose of paragraph 45)d).
- 57) The Transporter and the Shipper may, by written agreement, vary or amend the Capacity Certificate issued pursuant to paragraph 48).

### **2.2.2 Reduction of a Shipper's Registered Firm Capacity Right**

58) In the event a Shipper (the "**Incumbent Shipper**") with a Registered Firm Capacity Right in respect of a Transmission Network Injection Point (which has not been transferred in accordance with part 2.4) has not made any Nomination for the injection of a quantity or quantities of gas at such Transmission Network Injection Point equal to at least eighty percent (80%) of the Firm Entry Capacity Right comprised in such Registered Firm Capacity Right in any Balancing Period during the previous six (6) month period, other than for reasons of Force Majeure, (the amount by which such Incumbent Shipper's Firm Entry Capacity Right comprised in such Registered Firm Capacity Right exceeds such Incumbent Shipper's largest Nomination for the injection of gas at such Transmission Network Injection Point in any Balancing Period during such six (6) month period being its "**Dormant Firm Entry Capacity Right**") and the Transporter has received an application from another Shipper pursuant to paragraph 44) for a Firm Capacity Right which (i) cannot be wholly satisfied from the Available Uncontracted Capacity and (ii) can be satisfied by utilising that Dormant Firm Entry Capacity Right, or part thereof, for the remainder of the Capacity Duration applicable to such Incumbent Shipper's Firm Entry Capacity Right comprised in such Registered Firm Capacity Right, the Transporter may, subject to paragraph 60), reduce the amount of such Incumbent Shipper's Registered Firm Capacity Right by reducing both the Firm Entry Capacity Right and the Firm Exit Capacity Right comprised in such Incumbent Shipper's Registered Firm Capacity Right by an amount up to the lower of:

- a) the amount of the Dormant Firm Entry Capacity Right; and
- b) the difference between such Incumbent Shipper's Firm Entry Capacity Right and the "maximum quantity of gas capable of being utilised" by such Incumbent Shipper,

where the "**maximum quantity of gas capable of being utilised**" by such Incumbent Shipper shall be a quantity equivalent to the maximum instantaneous rate (MIR), expressed in mMBTU per hour, at which such Incumbent Shipper is contractually entitled, pursuant to the relevant gas supply contract(s) to which

such Incumbent Shipper is a party, to a firm supply of gas at such Transmission Network Injection Point. If the MIR is expressed in mmBTU per day in the relevant gas supply contract(s), for the purposes of this paragraph, the MIR shall be divided by 24 for the purposes of deriving the MIR in mmBTU per hour. The Incumbent Shipper shall disclose this information to the Transporter and shall provide such assistance and information as the Transporter may require to verify this information. For avoidance of doubt, the “maximum quantity of gas capable of being utilised” shall not exceed the Registered Firm Capacity Right of the Incumbent Shipper.

59) As soon as practicable following the reduction of an Incumbent Shipper’s Registered Firm Capacity Right in accordance with paragraph 58), the Transporter shall issue such Incumbent Shipper with a new Capacity Certificate showing its reduced Registered Firm Capacity Right and shall issue a Capacity Certificate to the Shipper who made the application in accordance with paragraph 44) for the corresponding Firm Capacity Right with the same Capacity Right End Date.

60) Where the Transporter proposes to exercise its right under paragraph 58) following an application for a Firm Capacity Right made by a Shipper, the Transporter shall so notify the Incumbent Shipper that it intends to exercise such right and the Incumbent Shipper shall have five (5) Days from receipt of the Transporter’s notice under this paragraph to contest such exercise. In the event the Transporter does not agree with the Incumbent Shipper that its Registered Firm Capacity Rights should not be reduced in accordance with paragraph 58), the matter shall be referred to and finally resolved by URCA.

### **2.2.3 Firm Capacity Rights: Open Season Invitation**

61) Where:

- a) a Shipper makes a request in accordance with paragraph 51)b); or paragraph 91); or
- b) if no such request is made by any Shipper in any consecutive period of twenty four (24) Months,

the Transporter will, within five (5) Business Days of such request or the expiry of such twenty four (24) Months period, as the case may be, invite Shippers to submit applications for new Firm Capacity Rights and/or offers to surrender existing Registered Firm Capacity Rights or part thereof, and the Transporter shall ensure adequate publicity is secured in respect of such invitation.

62) The Transporter's invitation under paragraph 61) ("**Open Season Invitation**") shall specify:

- a) where the invitation is made pursuant to paragraph 61)a), the relevant Transmission Network Injection Point and the relevant Eligible Offtake Point in respect of which there is insufficient Available Uncontracted Capacity to satisfy the application made under paragraph 44);
- b) where the invitation is made pursuant to paragraph 61)a), the Transporter's reasonable estimate of the amount (or rate) of Transmission Charges that the Transporter would seek to recover in respect of proposed additional Firm Capacity Rights;
- c) the closing date ("**Open Season Closing Date**") for the submission of applications and/or offers in accordance with paragraph 63) and/or 64) (shall be fifteen (15) Business Days after

publication of the Open Season Invitation); and

- d) such other matters as are consistent with this Part as the Transporter may reasonably determine.

63) An application for a new Firm Capacity Right ("**Open Season Capacity Application**") submitted in response to an Open Season Invitation shall specify:

- a) each of the details set out in paragraph 45); and
- b) any other condition in respect of which the application is made subject to, and for the avoidance of doubt an Open Season Capacity Application may be submitted in respect of any Transmission Network Injection Point and Eligible Offtake Point and may not be accepted by the Transporter other than in accordance with paragraph 68).

64) An offer to surrender a Registered Firm Capacity Right, or part thereof, ("**Turn-back Offer**") submitted by a Shipper (provided such Shipper may not issue a Turn-back Offer in respect of any of its Registered Firm Capacity Rights which it has transferred to a Transferee Shipper) in response to an Open Season Invitation shall specify:

- a) the identity of the Shipper and the Shipper ID;
- b) the Transmission Network Injection Point and the Eligible Offtake Point which such Registered Firm Capacity Right relates to;
- c) the date from which the Shipper proposes that the surrender of the Registered Firm Capacity Right, or part thereof, be effective and the duration for which such Shipper proposes to surrender such Registered Firm Capacity Right;
- d) the amount of the Registered Firm Capacity Right that the Shipper proposes to surrender, which amount shall not exceed the Shipper's Registered Firm Capacity Rights in respect of the specified Transmission Network Injection Point and Eligible Offtake Point;
- e) the relevant Certificate Number(s); and
- f) any other condition in respect of which the Turn-back Offer is made subject to,

and for the avoidance of doubt, the Transporter may accept a Turn-back Offer at any time after the Open Season Closing Date and before the expiry of the period referred to in paragraph 65), and the Shipper submitting such Turn-back Offer shall be bound upon such acceptance.

65) An Open Season Capacity Application and a Turn-back Offer may be withdrawn at any time up to, but not after, the Open Season Closing Date and the Transporter may reject an Open Season Capacity Application or a Turn-back Offer which does not comply with paragraphs 63) or (as the case may be) 64); provided that a Turn-back Offer shall be deemed to have lapsed (and no longer be capable of acceptance by the Transporter) thirty (30) Business Days after the Open Season Closing Date.

66) Following the Open Season Closing Date, the Transporter shall consider each Open Season Capacity Application and/or Turn-back Offer (which has not been withdrawn by a Shipper or rejected by the

Transporter) made by a Shipper under paragraphs 63) and 64) and determine, in respect of each Transmission Network Injection Point and Eligible Offtake Point which is the subject of an Open Season Capacity Application and/or Turn-back Offer:

- a) the aggregate amount of Firm Capacity Rights in respect of which Open Season Capacity Applications were submitted;
- b) the aggregate amount of Registered Firm Capacity Rights in respect of which Turn-back Offers were submitted ("**Aggregate Firm Capacity Turn-back Offer Quantity**"); and
- c) the amount of Available Uncontracted Capacity,

and no later than three (3) Business Days following the Open Season Closing Date the Transporter shall notify all Shippers of such amounts together with details of the number of Open Season Capacity Applications and Turn-back Offers received and the Firm Capacity Rights (or proposed Firm Capacity Rights) to which they relate.

67) A "**Capacity Shortfall**" exists with respect to a Transmission Network Injection Point and Eligible Offtake Point following an Open Season Invitation in the event the amount under paragraph 66)a) exceeds the aggregate of the amounts under paragraphs 66)b) and c).

68) Subject to the provisions of this part, and except where a Capacity Shortfall exists (in which case paragraph 70) applies), the Transporter shall within ten (10) Business Days of the Open Season Closing Date notify each relevant Shipper who has submitted an Open Season Capacity Application where such application(s) can be satisfied by the acceptance of:

- a) the Transmission Charge applying to the Registered Firm Capacity Right which is the subject of the Turn-back Offer; and
- b) the date specified pursuant to paragraph 64)b) and the Capacity Right End Date in respect of the Registered Firm Capacity Right which is the subject of the Turn-back Offer,

and where the Shipper confirms to the Transporter within five (5) Business Days of such notice that it is prepared to accept the Registered Firm Capacity Right which is the subject of a Turn-back Offer the Transporter shall be deemed to have accepted the Shipper's Open Season Capacity Application and the Shipper will be registered as holding the Firm Capacity Right which is the subject of the Turn-back Offer in respect of which it submitted the Open Season Capacity Application. The Transporter shall issue a Capacity Certificate in respect thereof as soon as reasonably practicable (which for the avoidance of doubt shall have a Capacity Right End Date which is no earlier than the Capacity Right End Date for the Registered Firm Capacity Right which is the subject of the Turn-back Offer).

69) Where a Shipper gives a confirmation in accordance with paragraph 68), the relevant Turn-back Offer(s) in respect of the Firm Capacity Right which a Shipper wishes to be registered as holding shall be accepted without further action being required on the part of the Transporter, and the Capacity Certificate in respect of the Registered Firm Capacity Right which is the subject of the relevant Turn-back Offer(s), will either be cancelled if the Turn-back Offer(s) relates to the whole Registered Firm Capacity Right, or will be amended to reflect the new Firm Capacity Right if the Turn-back Offer(s) relates to part of the Registered Firm Capacity Right, with effect from the date specified in paragraph 64)c), and the Transporter shall notify the Shipper submitting the Turn-back Offer that such Turn-

back Offer has been accepted.

70) Where in respect of any Transmission Network Injection Point and Eligible Offtake Point a Capacity Shortfall exists, the Transporter will allocate the Registered Firm Capacity Rights in respect of such Transmission Network Injection Point and Eligible Offtake Point that are the subject of Turn-back Offers to Shippers on a first come first serve basis.

#### **2.2.4 Proposed New Capacity**

71) The Transporter shall, not later than thirty-four (34) Business Days following the Open Season Closing Date, notify each Shipper who submitted an Open Season Capacity Application which remains unsatisfied following the allocation of Registered Firm Capacity Rights under paragraphs 68) and 70), and such notice shall specify:

- a) each Open Season Capacity Application submitted by the Shipper which is unsatisfied;
- b) what steps the Transporter is considering taking to enhance the Transmission Network to provide additional Firm Capacity Rights to be made available for the Transmission Network Injection Points and Eligible Offtake Points (already existing or to be constructed) which are the subject of the Open Season Capacity Application(s) under paragraph 71)a) ("**Proposed New Capacity**");
- c) the earliest date, in the opinion of the Transporter, by which the Proposed New Capacity could be made available to Shippers ("**Proposed New Capacity Start Date**");
- d) any conditions, approvals, consents or permits which the Transporter would require in order to make the Proposed New Capacity available, the satisfaction, or obtaining, of which, would be a condition to the Proposed New Capacity being available from the Proposed New Capacity Start Date; and
- e) an estimate in reasonable detail (approved by URCA) of the cost of the development of the Proposed New Capacity together with an estimate of the Transmission Charges that would apply in respect of the Proposed New Capacity.

72) Where a Shipper receives a notice under paragraph 71), it may notify the Transporter not later than twenty (20) Business Days following receipt of such notice that it wishes to be registered as holding the Proposed New Capacity with effect from the Proposed New Capacity Start Date, and following such notice from a Shipper, the Transporter shall as soon as reasonably practicable issue to relevant Shippers a certificate in the same format as a Capacity Certificate (the "**Proposed Capacity Certificate**") in respect of the Proposed New Capacity, and such Proposed Capacity Certificate shall become a Capacity Certificate if the conditions specified in paragraph 71)d) are satisfied.

73) Nothing in paragraphs 71) and 72) shall prevent the Transporter and a Shipper from entering into discussions regarding the terms which might apply in respect of Proposed New Capacity and the Transporter shall, subject to the Transporter's Licence and any Legal Requirement, be free to conclude such terms as it determines appropriate, for making available Proposed New Capacity, and where the Transporter and a Shipper agree alternative terms, the Transporter shall as soon as reasonably practicable issue to the Shipper a Proposed Capacity Certificate reflecting such terms in respect of the Proposed New Capacity.

- 74) Nothing in this part shall oblige the Transporter to make available Proposed New Capacity to a Shipper who has received a notice under paragraph 71) in respect of Proposed New Capacity which would have satisfied in whole or in part its Open Season Capacity Application but has not notified the Transporter of its wish to be registered as holding any such Proposed New Capacity in accordance with paragraph 72).
- 75) Following the issue of Proposed Capacity Certificates under paragraph 72) or 73), the Transporter shall notify all Shippers and URCA that a Proposed Capacity Certificate has been issued in respect of Proposed New Capacity and such notice shall specify:
- a) the number of Open Season Capacity Applications in respect of which paragraph 71) applied (and details of the Transmission Network Injection Point(s) and Eligible Offtake Points to which such Open Season Capacity Applications apply);
  - b) the number of Turn-back Offers received under paragraph 64) and the aggregate Registered Firm Capacity Rights for each Transmission Network Injection Point and Eligible Offtake Point in respect of which such Turn-back Offers were made;
  - c) the number of Turn-back Offers accepted under paragraph 69) and the aggregate Registered Firm Capacity Rights for each Transmission Network Injection Point and Eligible Offtake Point in respect of which Turn-back Offers were accepted;
  - d) the number of Open Season Capacity Applications accepted;
  - e) the proposed Transmission Charge payable under each Proposed Capacity Certificate for Proposed New Capacity; and
  - f) in the case of Proposed Capacity Certificates issued under paragraph 73), any alternative terms agreed as contemplated by paragraph 73) in respect of the Proposed New Capacity.
- 76) Where some but not all Shippers notify the Transporter that they wish to be registered as holding the Proposed New Capacity in accordance with paragraph 72) the Transporter may revise the amount of Proposed New Capacity which it proposes to make available and the proposed Transmission Charges, and where the Transporter makes such revision, it shall notify all Shippers within twenty (20) Days of it making such decision, in which case those Shippers shall have a further five (5) Days from the date of such notification in which they must re-confirm to the Transporter that they still wish to be registered as holding the Proposed New Capacity with effect from the Proposed New Capacity Start Date, failing which the Shipper shall not be registered as holding such Proposed New Capacity.
- 77) The Transporter may construct Proposed New Capacity in excess of the aggregate amount of the capacity specified in the Proposed Capacity Certificates issued to Shippers under paragraphs 72) or 73) provided that URCA has given its prior written approval.

### **2.2.5 Application for Non-Firm Capacity Rights**

- 78) Where, in respect of any Transmission Network Injection Point and Eligible Offtake Point, the Available Uncontracted Capacity is equal to or less than ten (10) per cent of the Aggregate Capacity Right Capability, the Transporter may notify the Shippers and the Shippers may apply to be registered as holding a Non-Firm Capacity Right (of a specified amount) in accordance with this part.

- 79) An application for a Non-Firm Capacity Right shall specify the details in paragraph 45)b), c), d) and e) and shall state that it is in respect of a Non-Firm Capacity Right and for this purpose the Transmission Network Injection Point and the Eligible Offtake Point must both physically exist.
- 80) The Transporter may reject an application for a Non-Firm Capacity Right which does not comply with the requirements of paragraph 79) and/or if the Shipper making the application is in breach of any of the provisions of part 16.2.
- 81) The Transporter shall, not later than thirty (30) Business Days following the submission of an application under paragraph 79):
- a) register the Shipper as holding a Non-Firm Capacity Right in relation to the relevant Transmission Network Injection Point and Eligible Offtake Point in the amount applied for; and
  - b) as soon as reasonably practicable provide the Shipper with a Capacity Certificate (which certificate shall specify the Regulated Usage Charge Rate payable in accordance with paragraph 82).
- 82) Where a Shipper applies for a Non-Firm Capacity Right, the Shipper agrees by making such application to pay Usage Charges at the amounts (or rates) applicable in respect of the Non-Firm Capacity Rights (such charges being in accordance with the Charging Statement).
- 83) Nothing in this part shall oblige the Transporter to schedule a Shipper's Nomination where the Shipper's Nomination is made pursuant to its Non-Firm Capacity Rights during any Balancing Period.

### **2.2.6 Acquisition of Firm Capacity Rights in Available Capacity Under Construction**

- 84) The Transporter may in each Gas Year publish a statement setting out the aggregate amount of available Firm Capacity Rights (if any) which may arise from steps the Transporter is taking to enhance the Transmission Network ("**Available Capacity Under Construction**").
- 85) The statement published by the Transporter under paragraph 84) shall specify the earliest date, in the opinion of the Transporter, by which the Available Capacity Under Construction could be made available to Shippers ("**Available Capacity Under Construction Start Date**").
- 86) Shippers may apply to the Transporter for Firm Capacity Rights in respect of Available Capacity Under Construction, by submitting an application in accordance with paragraph 87).
- 87) An application under paragraph 86) for Firm Capacity Rights in respect of Available Capacity Under Construction shall specify:
- a) that it is in respect of a Firm Capacity Right in respect of Available Capacity Under Construction;
  - b) the identity of the Shipper and the Shipper ID;
  - c) the Transmission Network Injection Point which the Shipper wishes to hold such Firm Entry Capacity Right and the relevant Eligible Offtake Point which the Shipper wishes to hold such



Firm Exit Capacity Right;

- d) the proposed Capacity Right Start Date (which shall be no earlier than the Available Capacity Under Construction Start Date), the proposed Capacity Right End Date and the Capacity Duration, which shall be for a period of not less than one (1) year (or such shorter period as may be approved by URCA); and
  - e) the amount of the Firm Capacity Right (in respect of the Firm Entry Capacity Right and the Firm Exit Capacity Right) applied for (expressed in mmBtu/Balancing Period).
- 88) The Transporter may within five (5) business days of the application for a Firm Capacity Right made by the Shipper in accordance with paragraph 87):
- a) reject the application if it does not comply with the requirements of paragraph 87) or if the Shipper making the application is in breach of any of the provisions of Part 16.2;
  - b) reject the application where the aggregate amount of Firm Capacity Rights applied for under paragraph 87) in respect of each Transmission Network Injection Point and Eligible Offtake Point is more than the amount of Available Capacity Under Construction for such Transmission Network Injection Point or Eligible Offtake Point; or
  - c) notify the Shipper that the application has been approved. Such notification shall include a reference to the requirement for the Shipper to confirm its acceptance of the Proposed Capacity Certificate pursuant to paragraph 89) within five (5) business days of such notification.
- 89) The Transporter shall, along with the notification under paragraph 88)c), issue to the relevant Shipper a certificate in the same format as a Capacity Certificate (the “**Proposed Capacity Certificate**”) in respect of the Available Capacity Under Construction, and such Proposed Capacity Certificate shall state the conditions, approvals, consents or permits which the Transporter would require in order to make the Available Capacity Under Construction available, the satisfaction, or obtaining, of which, would be a condition to the Available Capacity Under Construction being available from the Available Capacity Under Construction Start Date. Such Proposed Capacity Certificate shall become a Capacity Certificate if the conditions specified in the Proposed Capacity Certificate are satisfied.
- 90) Where a Shipper submitting an application for a Firm Capacity Under Construction does not notify the Transporter of its acceptance of the Proposed Capacity Certificate in accordance with paragraph 88)c), the application shall lapse and the Transporter need take no further action in respect of the application.
- 91) Following a notification under paragraph 88)b), the Shipper may within a further period of five (5) Business Days following the date of such notification, request that the Transporter issue an Open Season Invitation.
- 92) For the purposes of this subpart 2.2.6, the Transporter shall consider applications and register Firm Capacity Rights in the order in which such applications are submitted by Shippers.

## 2.3 Transportation Services

### 2.3.1 Firm Capacity Rights

93) Subject to the provisions of the Code, the Transporter will convey quantities of gas through the Transmission Network from the relevant Transmission Network Injection Point to the relevant Eligible Offtake Point in each Balancing Period in such amounts which accord with each relevant Shipper's Nomination which has been accepted by the Transporter in accordance with paragraph 173).

94) Where the Transporter is unable to comply with paragraph 93) in respect of a Balancing Period it shall promptly notify all Shippers so affected.

95) If, in any Balancing Period:

- a) the quantity of gas conveyed to a Shipper by the Transporter at an Eligible Offtake Point is less than the quantity specified in the Final Operating Schedule relating to such Eligible Offtake Point; and
- b) the pressure of the gas at such Eligible Offtake Point is less than the Minimum Required Offtake Pressure for such Eligible Offtake Point,

the Transporter shall, subject to paragraphs 96) and 97), and provided:

- a) no Unauthorised Capacity Overrun Charges are payable by such Shipper at any other Eligible Offtake Point during such Balancing Period; or
- b) the injection pressure of the gas at the Transmission Network Injection Point at which such Shipper is injecting gas for offtake at such Eligible Offtake Point is at least equal to the Minimum Required Injection Pressure for such Transmission Network Injection Point,

pay to such Shipper an amount calculated as:

$$6 * (B * FCS)$$

where:

*B* is the Capacity Charge Rate negotiated between the parties; and

*FCS* is the shortfall between (i) the Shipper's Scheduled Offtake Quantity which has been scheduled in respect of the Shipper's Nomination which relates to the use of its relevant Available Firm Capacity Rights and Authorised Overrun Amount and (ii) the Shipper Offtake Quantity at the relevant Eligible Offtake Point.

96) Where the Transporter is liable to pay any sum of money to a Shipper pursuant to paragraph 95) and another Shipper(s) has caused the reduction in the quantity of gas or the pressure of the gas delivered to such Shipper by reason of taking an Unauthorised Capacity Overrun Amount at any Eligible Offtake Point or because it has failed to inject gas at the relevant Transmission Network Injection Point at a pressure at least equal to its Minimum Required Injection Pressure, the other Shipper(s) shall pay to the Transporter the same amount as the Transporter is liable to the firstmentioned Shipper under paragraph 95) (or such portion thereof as determined by the Transporter).

97) The Transporter shall not be required to make any payment to a Shipper under paragraph 95) where the event giving rise to the Transporter's obligation to make payment arises as a result of:

- a) a Force Majeure Event affecting the Transmission Network or any part thereof relating to the relevant Available Firm Capacity Right; or
- b) System Stress other than System Stress which is caused by the Transporter's negligence, wilful misconduct or failure to comply with the standards of a Reasonable and Prudent Operator; or
- c) the carrying out of Scheduled Maintenance on the Transmission Network or any part thereof relating to the relevant Available Firm Capacity Right; or
- d) complying with any Legal Requirement other than any Legal Requirement imposed as a result of a breach by the Transporter of this Code or of any other Legal Requirement; or
- e) the carrying out of any scheduled activity on the Upstream Facility or any part thereof which causes the insufficient gas injection relating to the relevant Available Firm Capacity Right.

98) Where the Transporter has issued a notice under paragraph 94) or in the event of Force Majeure or Scheduled Maintenance which affects the quantity of gas capable of being offtaken at an Eligible Offtake Point, and without prejudice to paragraphs 95), a Shipper's Authorised Capacity Overrun will be cancelled and its Available Firm Capacity Right in respect of the relevant Transmission Network Injection Point and Eligible Offtake Point shall for a Balancing Period be calculated in accordance with the following formula:

$$FCA * (SN / ASN)$$

where:

*FCA* is the amount of the Firm Capacity Rights that the Transporter is able to make available notwithstanding the circumstances described in this paragraph in respect of the Transmission Network Injection Point and Eligible Offtake Point and Balancing Period;

*SN* is, where any of the circumstances described in this paragraph has occurred:

- a) before Gate Closure, the amount the Shipper nominated for offtake at the Eligible Offtake Point (up to the maximum of the Shipper's Available Firm Capacity Rights in relation thereto) in respect of the relevant Transmission Network Injection Point and Eligible Offtake Point and Balancing Period; and
- b) after Gate Closure, the Shipper Scheduled Offtake Quantity for the Eligible Offtake Point in respect of the relevant Transmission Network Injection Point and Eligible Offtake Point and Balancing Period; and

*ASN* is, where any of the circumstances described in this paragraph has occurred:

- a) before Gate Closure, the aggregate amount all Shippers nominated for offtake at the Eligible Offtake Point (up to the maximum of all Shippers' Available Firm Capacity Rights in relation thereto) in respect of the relevant Transmission Network Injection Point and Eligible Offtake

Point and Balancing Period; and

- b) after Gate Closure, the aggregate of all Shippers' Scheduled Offtake Quantities for the Eligible Offtake Point in respect of the relevant Transmission Network Injection Point and Eligible Offtake Point and Balancing Period.

99) Any amounts due in accordance with paragraphs 95) or 96) shall be invoiced and payable in accordance with Part 13.

100) For the purposes of the Code, in relation to a Nomination made by a Shipper in relation to a Firm Capacity Right or a Non-Firm Capacity Right:

- a) "**Minimum Required Offtake Pressure**" is the minimum offtake pressure specified in the Capacity Certificate (upon which the Shipper's Nomination was based) applicable to the relevant Eligible Offtake Point for such Firm Capacity Right or Non-Firm Capacity Right; and
- b) "**Minimum Required Injection Pressure**" is the injection pressure specified in the Capacity Certificate (upon which the Shipper's Nomination was based) applicable to the relevant Transmission Network Injection Point.

### **2.3.2 Non-Firm Capacity Rights**

101) Subject to the provisions of the Code and without prejudice to part 2.3.1, the Transporter will, to the extent (if any) determined by the Transporter in accordance with paragraph 103), convey quantities of gas through the Transmission Network from a Transmission Network Injection Point to an Eligible Offtake Point in each Balancing Period in such amounts which accord with each Shipper's Scheduled Offtake Quantities pursuant to a Shipper's Nominations which requested use of its Available Non-Firm Capacity Rights held by each Shipper.

102) Where the Transporter is unable to comply with paragraph 101) in respect of a Balancing Period, it shall promptly notify all Shippers so affected.

103) For the purposes of determining the extent (if any) of the Transporter's obligations under paragraph 101), the Transporter shall review each Nomination made by a Shipper in respect of an Available Non-Firm Capacity Right held by such Shipper when submitting the Nomination and where the Transporter is of the opinion that it can make available for use by the Shipper the Non-Firm Capacity Right for the purposes of conveying the quantity of gas specified in such Nomination it shall notify the Shipper (for which purposes the Final Operating Schedule in respect of the relevant Balancing Period shall be deemed to be such notification).

104) Where the Transporter is unable to meet all Nominations by Shippers requesting for use by Shippers of their Available Non-Firm Capacity Rights, the Transporter will allocate capacity for the purposes of conveying the quantity of gas specified in such Nominations in respect of the relevant Balancing Period on a pro-rata basis by reference to the amount in respect of which such Nominations were made.

105) If, in any Balancing Period:

- a) the quantity of gas conveyed to a Shipper by the Transporter at an Eligible Offtake Point

calculated in accordance with 121) is less than the quantity specified in the Final Operating Schedule relating to such Eligible Offtake Point and such Shipper's Available Non-Firm Capacity Rights; and

- b) the pressure of the gas at such Eligible Offtake Point is less than the Minimum Required Offtake Pressure for such Eligible Offtake Point,

the Transporter shall, subject to paragraphs 106) and 107), and provided that:

- (i) no Unauthorised Capacity Overrun Charges are payable by such Shipper at any other Eligible Offtake Point during such Balancing Period; or
- (ii) the injection pressure of the gas at the Transmission Network Injection Point at which such Shipper is injecting gas for offtake at such Eligible Offtake Point is at least equal to the Minimum Required Injection Pressure for such Transmission Network Injection Point,

pay to such Shipper in respect of such Shipper's relevant Available Non-Firm Capacity Rights for the Balancing Period, an amount calculated as:

$$6 * (U * [SOQ - DFC])$$

where, with respect to the relevant Available Non-Firm Capacity Right and the relevant Balancing Period:

*U* is the Usage Charge Rate negotiated between the parties for the relevant Available Non-Firm Capacity Rights;

*SOQ* is the Shipper's Scheduled Offtake Quantity which has been scheduled in respect of a Shipper's Nomination which related to use of its Available Non-Firm Capacity Rights; and

*DFC* is the Shipper Offtake Quantity at the relevant Eligible Offtake Point attributable to such Shipper's Non-Firm Capacity Rights in accordance with 121).

106) Where the Transporter is liable to pay any sum of money to a Shipper pursuant to paragraph 105) and another Shipper(s) has caused the reduction in the quantity of gas or the pressure of gas delivered to such Shipper by reason of taking an Unauthorised Capacity Overrun Amount at any Eligible Offtake Point or because it has failed to inject gas at the relevant Transmission Network Injection Point at a pressure at least equal to its Minimum Required Injection Pressure, the other Shipper(s) shall pay to the Transporter the same amount as the Transporter is liable to such Shipper under paragraph 105) (or such portion thereof as determined by the Transporter).

107) The Transporter shall not be required to pay a Shipper in accordance with paragraph 105) where the event giving rise to the Transporter's obligation to make payment arises as a result of:

- (a) a Force Majeure Event affecting the Transmission Network or any part thereof relating to the relevant Available Non-Firm Capacity Right; or
- (b) System Stress other than System Stress which is caused by the Transporter's negligence, wilful misconduct or failure to comply with the standards of a Reasonable and Prudent Operator; or
- (c) any Party complying with any Legal Requirement or Directive other than any Legal Requirement

or Directive imposed as a result of a breach by the Transporter of this Code or of any other Legal Requirement or Directive.

- 108) Where the Transporter has issued a notice in accordance with paragraph 102) or in the event of Force Majeure which affects the quantity of gas capable of being offtaken at an Eligible Offtake Point, a Shipper's Available Non-Firm Capacity Right in respect of the relevant Capacity Path shall for the relevant Balancing Periods be calculated in accordance with the following formula:

$$NFCA * (NN / NSN)$$

where:

*NFCA* is the amount of the Non-Firm Capacity Rights that the Transporter is able to make available (if any) notwithstanding the circumstances described in this paragraph in respect of the Transmission Network Injection Point and Eligible Offtake Point and Balancing Period;

*NN* is the Shipper's Scheduled Offtake Quantity in respect of the relevant Transmission Network Injection Point and Eligible Offtake Point and Balancing Period which has been scheduled in respect of a Shipper's Nomination which related to use of its Available Non-Firm Capacity Rights; and

*NSN* is the sum of all Shippers' Scheduled Offtake Quantities in respect of the relevant Transmission Network Injection Point and Eligible Offtake Point and Balancing Period which has been scheduled in respect of all Shippers' Nominations which related to use of their Available Non-Firm Capacity Rights.

- 109) Any amounts due and payable in accordance with paragraphs 105) or 106) shall be invoiced and payable in accordance with Part 13.

### **2.3.3 Calculation of Capacity Charges and Usage Charges**

- 110) The amount of any Capacity Charge payable by a Shipper in respect of a Balancing Period shall be determined by reference to the amount of the Shipper's Registered Firm Capacity Rights and the Capacity Charge Rate negotiated between the parties in respect of such Registered Firm Capacity Rights as set out in the Charging Statement.

- 111) The amount of any Usage Charge payable by a Shipper in respect of a Balancing Period shall be determined (in accordance with paragraph 113) and without prejudice to part 4.6) by reference to the Shipper's Offtake Quantity at each Eligible Offtake Point for the Balancing Period and the Usage Charge Rate negotiated between the parties.

- 112) The Usage Charge Rate negotiated between the parties shall differ in respect of gas which is offtaken from the Transmission Network pursuant to a Firm Capacity Right and a Non-Firm Capacity Right; provided that the Usage Charge Rate negotiated between the parties for Non-Firm Capacity Rights may not be less than the Usage Charge Rate negotiated between the parties for Firm Capacity Rights.

- 113) For the purposes of paragraph 111), in respect of a Balancing Period a Shipper shall pay the Transporter an amount equal to:

- a) in relation to each of a Shipper's Available Firm Capacity Rights, the relevant Usage Charge

Rate negotiated between the parties multiplied by such Shipper's Offtake Quantity which relates to each such Available Firm Capacity Right (calculated in accordance with part 2.3.5); and

- b) in relation to each of a Shipper's Available Non-Firm Capacity Rights, the relevant Usage Charge Rate negotiated between the parties multiplied by such Shipper's Offtake Quantity which relates to each such Available Non-Firm Capacity Rights (calculated in accordance with part 2.3.5).

#### **2.3.4 Calculation of Distribution Charges**

- 114) The amount of any Distribution Charge payable by a Shipper to the Transporter at Initial Settlement for a Month "m" shall be determined by reference to the aggregate of such Shipper's Aggregate Shipper Transmission/Distribution Quantity plus such Shipper's Distribution Network Injection Quantity, if any, for each Balancing Period during Month "m" and the Initial Settlement Distribution Charge Rate.
- 115) By the fifth (5th) Business Day of "m + 2" each Shipper shall submit to the Transporter a statement (the "**Monthly Distribution Statement**") showing for Month "m" the aggregate amount of gas delivered to the Retail Customers of all its Gas Retailers. If a Shipper fails to submit to the Transporter the Monthly Distribution Statement for Month "m", without prejudice to any other rights which the Transporter may have under this Code or otherwise, the Transporter shall be entitled to regard the last Monthly Distribution Statement submitted by such Shipper as the Monthly Distribution Statement submitted by such Shipper for Month "m".
- 116) By the tenth (10th) Business Day of "m + 2" the Transporter shall re-calculate the Distribution Charge payable by a Shipper to the Transporter based upon the information provided in the Monthly Distribution Statement and the applicable Distribution Charge Rate negotiated between the parties specified in the Charging Statement (the "**Reconciled Distribution Charge**").
- 117) In the event the Distribution Charge paid by a Shipper at Initial Settlement differs from the Reconciled Distribution Charge, the Transporter shall either reimburse such Shipper the difference (where the amount paid at Initial Settlement is greater than the Reconciled Distribution Charge) or shall require payment from the Shipper of the difference (where the amount paid at Initial Settlement is less than the Reconciled Distribution Charge).
- 118) Any reimbursement from the Transporter to a Shipper or payment due from a Shipper to the Transporter, calculated in accordance with paragraph 117), shall be invoiced and payable in accordance with Part 13.
- 119) The Transporter shall, for a period of twelve (12) months after the issuance of any Monthly Distribution Statement, be entitled at any time to appoint an independent auditor to audit the details provided by a Shipper to the Transporter in such Monthly Distribution Statement. If such independent auditor reports any inaccuracy in such Monthly Distribution Statement resulting in an over-payment or under-payment of an amount by a Party, the amount of such over-payment or under-payment together with interest thereon at the Applicable Interest Rate from and including the date the sum in question should have been paid by the relevant Party shall be included in a Miscellaneous Invoice. The cost of any review and report of an independent auditor shall be borne:

- a) in the event that an inaccuracy is discovered, by the Shipper who issued the Monthly Distribution Statement; and
- b) in the event that no inaccuracy is discovered, by the Transporter.

### **2.3.5 Attribution of a Shipper's Offtake Quantity for the purposes of calculating Usage Charges**

120) In respect of a Balancing Period, a Shipper's Offtake Quantity shall be attributed by the Transporter as constituting:

- (a) use of the Shipper's Available Firm Capacity Rights;
- (b) an Authorised Capacity Overrun;
- (c) use of the Shipper's Available Non-Firm Capacity Rights;
- (d) an Unauthorised Capacity Overrun,

in accordance with paragraph 121).

121) A Shipper's Offtake Quantity in a Balancing Period shall:

- (a) first be attributed to use of a Shipper's Available Firm Capacity Rights up to the maximum of such Shipper's Available Firm Capacity Rights;
- (b) in the event a Shipper's Offtake Quantity exceeds the maximum amount of such Shipper's Available Firm Capacity Rights, the surplus shall be attributed to use of such Shipper's Authorised Capacity Overrun, if any, up to the maximum of such Shipper's Authorised Capacity Overrun;
- (c) in the event a Shipper's Offtake Quantity exceeds the aggregate of such Shipper's Available Firm Capacity Rights and its Authorised Capacity Overrun, if any, the surplus shall be attributed to use of such Shipper's Available Non-Firm Capacity Rights up to the maximum of such Shipper's Scheduled Offtake Quantity pursuant to such Shipper's Nomination which requested use of its Available Non-Firm Capacity Rights; and
- (d) in the event a Shipper's Offtake Quantity exceeds the aggregate of such Shipper's Available Firm Capacity Rights, its Authorised Capacity Overrun, if any, and such Shipper's Available Non-Firm Capacity Rights (as attributed in accordance with paragraph (c)), if any, the surplus shall be attributed as an Unauthorised Capacity Overrun Amount by such Shipper.

## **2.4 Capacity Trading**

### **2.4.1 Basis of transfer**

122) A Shipper ("**Transferor Shipper**") may transfer all or part of its Available Firm Capacity Rights to itself or another Shipper ("**Transferee Shipper**") subject to and in accordance with this part.

123) A Capacity Right Transfer may be for a Balancing Period or a number of Balancing Periods within the period for which the Transferor Shipper holds the Available Firm Capacity Right which is the



subject of the Capacity Right Transfer.

- 124) The Transporter shall reject a Capacity Right Transfer where the Transferred Capacity Right exceeds the Transferor Shipper's Available Firm Capacity Rights for the Transfer Period.
- 125) The Transporter will establish and maintain an electronic bulletin board as part of GTSS for the purposes of allowing Shippers to notify other Shippers of their requirements as regards Capacity Right Transfers provided that:
- (a) the Transporter will not be responsible for the accuracy of any information posted by means of such facility and each Shipper acknowledges that the Transporter will not be liable in any respect in relation to any notification made by a Shipper;
  - (b) the Transporter will not be liable to Shippers in the event of the unavailability of the facility;
  - (c) the Transporter may modify the facility in its sole discretion; and
  - (d) each Shipper agrees to be bound by, and at all times comply with, such terms and conditions as the Transporter shall from time to time publish regarding access to and use of such facility.

#### **2.4.2 Transfer procedure**

- 126) Where a Shipper proposes to make a Capacity Right Transfer, each of the Transferor Shipper and the Transferee Shipper must notify the Transporter of the proposed Capacity Right Transfer specifying:
- (a) the identity of the Transferor Shipper and the Transferee Shipper;
  - (b) the relevant Certificate Number (which, in the circumstances where the Transferor Shipper is not the Shipper who holds the Registered Capacity Right, means the Certificate Number held by the Shipper who holds the Capacity Certificate for such Capacity Right);
  - (c) the amount of the Transferred Capacity Right;
  - (d) whether the Capacity Right Transfer is for both an Entry Capacity Right and an Exit Capacity Right or only an Entry Capacity Right;
  - (e) the relevant Transmission Network Injection Point and, where the Capacity Right Transfer is for both an Entry Capacity Right and an Exit Capacity Right, the relevant Eligible Offtake Point; and
  - (f) the Transfer Period; and
  - (g) where the Capacity Right Transfer is for an Entry Capacity Right only, whether an application has been submitted for the grant of a corresponding Authorised Exit Capacity Right in accordance with part 2.4.5,

and the Shippers shall be required to submit a separate notice in respect of each Capacity Certificate in the event the Transferred Capacity Right is referable to two (2) or more Capacity Certificates.

- 127) Without prejudice to any requirement set out in the GTSS Manual, a notification of a proposed

Capacity Right Transfer may not be notified to the Transporter under paragraph 126) after Gate Closure in respect of the first Balancing Period of the Transfer Period and the maximum number of Capacity Right Transfers which a Shipper may notify the Transporter in any sixty (60) minute period shall not exceed three (3) provided always such Capacity Right Transfer(s) shall only be effective in accordance with paragraph 129).

128) The Transporter may reject a Capacity Right Transfer:

- (a) in accordance with paragraph 124);
- (b) where either the Transferor Shipper or Transferee Shipper does not notify the Transporter in accordance with paragraph 126);
- (c) where the proposed Transfer Period exceeds the Capacity Duration of the Transferred Capacity Right;
- (d) where the Transferee Shipper is in breach of the provisions of Part 16.2;
- (e) if the Transferee Shipper has not acceded to any allocation agreement in place at the Transmission Network Injection Point or the Transmission Network Offtake Point to which the Capacity Right Transfer relates where there is more than one Shipper injecting or, as the case may be, offtaking, gas from such System Point;
- (f) if the Transferee Shipper has not submitted an Offtake Point Registration Notice in accordance with paragraph 131);
- (g) if the Shipper has breached the provisions of paragraph 127); or
- (h) where the Capacity Right Transfer is in respect of an Entry Capacity Right only, if the Transferee Shipper has not been registered as holding an Authorised Exit Capacity Right in respect of the relevant Eligible Offtake Point for the Transfer Period for an amount equivalent to the Transferred Capacity Right.

129) Where the proposed Capacity Right Transfer has not been rejected by the Transporter pursuant to paragraph 128), the Transporter will notify the Transferor Shipper and the Transferee Shipper that the Capacity Right Transfer is effective within the response time specified under paragraph 146).

### **2.4.3 Effect of transfer**

130) Except for the purposes of paragraph 132), and subject to subpart 2.4.4, following notification by the Transporter of the effectiveness of the Capacity Right Transfer pursuant to paragraph 129), the Transferee Shipper will be treated during the Transfer Period as the holder of the Transferred Capacity Right.

131) The Transferee Shipper shall be required to, at the time the Transferee Shipper notifies the Transporter of the proposed Capacity Right Transfer in accordance with paragraph 126):

- (a) submit an Offtake Point Registration Notice in respect of the Eligible Offtake Point at which it proposes to offtake gas if the Capacity Right Transfer is for both an Entry Capacity Right and an

Exit Capacity Right; or

- (b) if the Capacity Right Transfer is for an Entry Capacity Right only, submit an Offtake Point Registration Notice in respect of the Eligible Offtake Point at which it proposes to offtake gas and acquire an Authorised Exit Capacity Right by way of submitting an application in accordance with subpart 2.4.5.

132) A Transferor Shipper will remain liable for the Capacity Charges in respect of all of its Registered Capacity Rights irrespective of any Capacity Right Transfer(s).

133) Where in respect of a Capacity Right Transfer the Transfer Period is for the remaining Capacity Duration of the Transferred Capacity Right, in the event the Transferor Shipper does not exercise its rights under the applicable Capacity Right Renewal Option the Transferee Shipper may do so as if it were the Transferor Shipper (subject to and in accordance with this Code), and the Transporter shall also notify the Transferee Shipper of its receipt of any Third Party Offer at the same time as it notifies the Shipper registered as holding such Registered Capacity Right in accordance with subpart 2.1.3.

#### **2.4.4 Effect of Termination**

134) Where during the Transfer Period in respect of a Capacity Right Transfer the Transferor Shipper ceases to be a Shipper in accordance with Part 16.4:

- (a) the Transporter will notify the Transferee Shipper of such cessation as soon as reasonably practicable and in any event not more than five (5) Business Days after giving a Termination Notice to the Transferor Shipper;
- (b) the Capacity Right Transfer will lapse with effect from the Shipper Discontinuance Date in respect of the Transferor Shipper, and the Transferee Shipper will cease to be treated as holding the Transferred Capacity Right;
- (c) if the Transferor Shipper was the Shipper holding a Capacity Certificate in respect of the Transferred Capacity Right, the Transferee Shipper may elect to be registered in accordance with paragraphs 135) as holding the Transferred Capacity Right (in addition to any other Capacity Right held other than by virtue of the Capacity Right Transfer):
  - i) in an amount equal to the Transferred Capacity Right; and
  - ii) for the Balancing Periods comprising the balance of the Transfer Period (commencing from the later of such election and the Shipper Discontinuance Date); and
- (d) if the Transferor Shipper was not the Shipper holding a Capacity Certificate in respect of the Transferred Capacity Right, then the Transferred Capacity Right shall revert to the Shipper who holds the Capacity Certificate in respect of such Capacity Right. For the avoidance of doubt the Shipper to whom the Transferred Capacity Right reverts may subsequently thereafter enter into a Capacity Right Transfer with the Shipper who had been the Transferee Shipper of such Transferred Capacity Right prior to the Transferor Shipper ceasing to be a Shipper in accordance with Part 16.4.

135) Where under paragraph 134)(c) the Transferee Shipper elects to be registered as holding the

Capacity Right:

- (a) the Transferee Shipper shall notify the Transporter of such election as soon as reasonably practicable and in any event not more than five (5) Business Days after the Transporter's notice under paragraph 134)(a), specifying the Capacity Right and the date or period in accordance with paragraph 134)(c);
  - (b) the Transferee Shipper will be registered as holding the Capacity Right in an amount equal to the Transferred Capacity Right and for the Balancing Periods comprising the balance of the Transfer Period (commencing from the later of such election and the Shipper Discontinuance Date) (notwithstanding any other requirement of the Code as to the prior notice required for, or the period of, registration) and the Transporter shall as soon as reasonably practicable provide the Transferee Shipper with a Capacity Certificate; and
  - (c) the Transferee Shipper will accordingly be liable for Capacity Charges in respect of the Transferred Capacity Right for the relevant Transmission Network Injection Point and Eligible Offtake Point for the Balancing Periods comprising the balance of the Transfer Period (commencing from the later of such election and the Shipper Discontinuance Date).
- 136) Where during the Transfer Period in respect of a Capacity Right Transfer, the Transferee Shipper ceases to be a Shipper in accordance with Part 16.4:
- (a) the Transporter will so notify the Transferor Shipper as soon as reasonably practicable and in any event not more than five (5) Business Days after giving a Termination Notice to the Transferee Shipper; and
  - (b) with effect from the Shipper Discontinuance Date in respect of the Transferee Shipper, the Capacity Right Transfer will lapse, and the Transferee Shipper will cease to be treated as holding the Transferred Capacity Right, which will revert to (and be treated as held by) the Transferor Shipper.
- 137) For the avoidance of doubt, where:
- (a) a Transferor Shipper who holds a Capacity Certificate in respect of the Transferred Capacity Right ceases to be a Shipper in accordance with the provisions of paragraph 4 Part Q; and
  - (b) a Transferee Shipper does not elect in accordance with paragraph 134)(c) to be registered as holding the Capacity Rights previously held by the Transferor Shipper,

the relevant Capacity Rights shall revert to the Transporter and shall be made available, in such form and in respect of such period, in accordance with this Part.

**2.4.5 Acquisition of Authorised Exit Capacity Rights**

- 138) The Transferee Shipper in relation to a Capacity Right Transfer which is in respect of an Entry Capacity Right only may apply for and be registered as holding an Authorised Exit Capacity Right in accordance with this subpart 2.4.5.
- 139) An application for an Authorised Exit Capacity Right shall specify:

- (a) that it is in respect of an Entry Capacity Right which is proposed to be transferred to the Transferee Shipper in accordance with part 2.4;
- (b) the identities of the Transferee Shipper, the Transferor Shipper and their respective Shipper IDs;
- (c) the relevant Eligible Offtake Point in respect of which the Shipper wishes to hold the Authorised Exit Capacity Right;
- (d) the proposed Authorised Exit Capacity Right Start Date, the proposed Authorised Exit Capacity Right End Date and the proposed Authorised Exit Capacity Duration, which shall be equal to the Transfer Period for such Entry Capacity Right proposed to be transferred, which shall be a period of no less than one (1) Balancing Period; and
- (e) the amount of the Authorised Exit Capacity Right applied for (expressed in mmBtu/Balancing Period), which shall be equal to the amount of the Entry Capacity Right which has been transferred,

and may be submitted at any time up to two hour bars falling prior to Gate Closure in relation to, but no earlier than 180 Days prior to, the first Balancing Period in respect of which the application is made.

140) The Transporter may reject an application if:

- (a) the application for the Authorised Exit Capacity Right does not comply with the requirements of paragraph 139) or if the Transferee Shipper making the application is in breach of any of the provisions of Part 16.2;
- (b) there is no Available Uncontracted Capacity in respect of the Transmission Network between the relevant Transmission Network Injection Point and the relevant Eligible Offtake Point, as specified in the Transferee Shipper's application made under paragraph 139); or
- (c) such application is not in relation to a Capacity Right Transfer which has been notified to the Transporter pursuant to paragraph 126) or if the Transporter has or will reject such Capacity Right Transfer,

and the Transporter will notify the Transferee Shipper of such rejection in accordance with the GTSS Manual.

141) Where, in relation to an application for an Authorised Exit Capacity Right under paragraph 138), there is Available Uncontracted Capacity in the Transmission Network between the Transmission Network Injection Point which is the subject of the Capacity Right Transfer pursuant to which such application is submitted and the Eligible Offtake Point specified in such application which is greater than or equal to the amount of the Authorised Exit Capacity Right which has been applied for and such application has not been rejected by the Transporter, the Transporter will register the Transferee Shipper as holding an Authorised Exit Capacity Right in relation to the relevant Eligible Offtake Point in the amount and for the Authorised Exit Capacity Duration applied for by the Transferee Shipper, in accordance with the response time specified under paragraph 146).

142) Where, in respect of an application under paragraph 138):

- (a) there is no Available Uncontracted Capacity in the Transmission Network between the Transmission Network Injection Point which is the subject of the Capacity Right Transfer pursuant to which such application is submitted and the Eligible Offtake Point specified in such application; or
- (b) the Available Uncontracted Capacity in the Transmission Network between the Transmission Network Injection Point which is the subject of the Capacity Right Transfer pursuant to which such application is submitted and the Eligible Offtake Point specified in such application is less than the amount of the Authorised Exit Capacity Right specified in such application,

the Transporter will notify the Transferee Shipper accordingly (and in the case of paragraph (b) the Transporter shall notify the Transferee Shipper of the remaining amount of Available Uncontracted Capacity), in accordance with the response time specified under paragraph 146).

143) Following a notification under paragraph 142)(b) the Transferee Shipper may within a further period of five (5) Business Days notify the Transporter that it wishes to be registered as holding an Authorised Exit Capacity Right in the amount of the Available Uncontracted Capacity notwithstanding the amount in respect of which the initial application was made, and in which case:

- (a) the amount of the Transferred Capacity Right in relation to the Capacity Right Transfer pursuant to which the application for an Authorised Exit Capacity Right was submitted shall, notwithstanding the amount in respect of which the initial notification under paragraph 126) was made, be deemed to be an amount equivalent to the amount of the Available Uncontracted Capacity specified in the notification under paragraph 142)(b); and
- (b) sub-paragraphs 141)(a) and (b) shall apply in respect of the Available Uncontracted Capacity.

144) Where a Transferee Shipper applies for an Authorised Exit Capacity Right, the Transferee Shipper agrees by making such application to pay by the Transmission Charges at the amounts (or rates) applicable to the relevant Authorised Exit Capacity Right (such charges being in accordance with the Regulated Transportation Charges specified in the Charging Statement).

145) For the purposes of the Code, in relation to an Authorised Exit Capacity Right:

- (a) the “**Authorised Exit Capacity Duration**” is the period from the Authorised Exit Capacity Start Date until the Authorised Exit Capacity End Date;
- (b) the “**Authorised Exit Capacity End Date**” is the last Day on which a Transferee Shipper holds the Authorised Exit Capacity Right; and
- (c) the “**Authorised Exit Capacity Start Date**” is the first Day from which a Transferee Shipper holds the Authorised Exit Capacity Right.

146) For the purposes of the Code, in relation to a proposed Capacity Right Transfer or an application for an Authorised Exit Capacity Right:

- (a) where such application for an Authorised Exit Capacity Right has been submitted to the Transporter less than three (3) Days (including the Day in which the first Balancing Period in respect of which such application for an Authorised Exit Capacity Right is made falls) prior to the

first Balancing Period in respect of which such application for an Authorised Exit Capacity Right is made but no later than two-hour bars falling prior to Gate Closure in relation to the first Balancing Period in respect of which such application for an Authorised Exit Capacity Right is made, the Transporter will respond to the Transferee Shipper not later than ninety (90) minutes after receipt of such application;

- (b) where such application for an Authorised Exit Capacity Right has been submitted to the Transporter less than thirty (30) Days but more than three (3) Days (in each case including the Day in which the first Balancing Period in respect of which such application for an Authorised Exit Capacity Right is made falls) prior to the first Balancing Period in respect of which such application for an Authorised Exit Capacity Right is made, the Transporter will respond to the Transferee Shipper not later than one (1) Day (excluding the Day in which such application is received by the Transporter) after receipt of such application;
- (c) where such application for an Authorised Exit Capacity Right has been submitted to the Transporter thirty (30) Days (including the Day in which the first Balancing Period in respect of which such application for an Authorised Exit Capacity Right is made falls) or more prior to the first Balancing Period in respect of which such application for an Authorised Exit Capacity Right is made, the Transporter will respond to the Transferee Shipper not later than seven (7) Days (excluding the Day in which such application is received by the Transporter) after receipt of such application; or
- (d) in relation to a proposed Capacity Right Transfer which has not been rejected by the Transporter pursuant to paragraph 128), the Transporter will respond to the Transferor Shipper and the Transferee Shipper within sixty (60) minutes following notification from the Transferor Shipper or the Transferee Shipper, whichever is the later, unless the proposed Capacity Right Transfer relates to twenty (20) files of more than five (5) Balancing Periods, in which case the Transporter will respond within twenty-four (24) hours following notification from the Transferor Shipper or the Transferee Shipper, whichever is the later.

## 2.5 Overrun Charges

### 2.5.1 *Authorised Capacity Overrun*

147) A Shipper may apply for, by way of submitting an application to the Transporter, and hold, in respect of a Transmission Network Injection Point and an Eligible Offtake Point in relation to which such Shipper holds Firm Capacity Right(s), the ability to inject a quantity of gas at such Transmission Network Injection Point and to offtake a quantity of gas at such Eligible Offtake Point in excess of such Shipper's Available Firm Capacity Right(s) in respect of such Transmission Network Injection Point and Eligible Offtake Point during one or more consecutive Balancing Period(s) (the "**Authorised Capacity Overrun**").

148) An application for an Authorised Capacity Overrun shall specify:

- (a) the identity of the Shipper;
- (b) the Balancing Period or consecutive Balancing Periods in respect of which the application is made, provided where consecutive Balancing Periods are specified, the first and last Balancing Period

must fall on the same Day;

- (c) the Transmission Network Injection Point and Eligible Offtake Point in respect of which the application is made;
- (d) the amount (expressed in mmBtu/hour) of the Authorised Capacity Overrun applied for in respect of such Transmission Network Injection Point (which amount shall be the same for each Balancing Period specified in (b)) (the "**Authorised Entry Capacity Overrun Amount**"); and;
- (e) the amount (expressed in mmBtu/hour) of the Authorised Capacity Overrun applied for in respect of such Eligible Offtake Point (which amount shall be the same for each Balancing Period specified in (b) and shall be the same as the Authorised Entry Capacity Overrun Amount) (the "**Authorised Exit Capacity Overrun Amount**"),

and may be submitted at any time up to two-hour bars falling prior to Gate Closure in relation to the first Balancing Period in respect of which the application is made but no earlier than 180 Days prior to the Day in which the first Balancing Period in respect of which the application is made falls.

149) The Transporter may reject an application which does not comply with the requirements of paragraph 148) or where the Shipper making the application has committed a Shipper Default under Part 16.4 and the Transporter shall notify a Shipper submitting an application that:

- (a) the application has been rejected; or
- (b) the application has been accepted

in accordance with the response time specified under paragraph 154).

150) The Transporter shall consider applications for Authorised Capacity Overruns under paragraph 147) in the order in which such applications are submitted by Shippers.

151) The Transporter may (in its sole discretion) accept applications for Authorised Capacity Overruns from Shippers provided that in considering whether to accept such applications the Transporter shall consider in respect of the relevant Balancing Period(s) and the relevant System Points:

- (a) the aggregate amount of Registered Firm Capacity Rights held by Shippers;
- (b) the Transporter's expectation of gas flows;
- (c) the maximum physical capacity of the Transmission Network; and
- (d) earlier applications which the Transporter has accepted.

152) Nothing in this part shall oblige the Transporter to accept an application for an Authorised Capacity Overrun; provided that the Transporter may only accept an application for an Authorised Capacity Overrun for the Authorised Entry Capacity Overrun Amount and the Authorised Exit Capacity Overrun Amount specified in the application.

153) The Transporter shall, not later than Thursday in each week notify the Shippers of the aggregate of the Authorised Entry Capacity Overrun Amounts and Authorised Exit Capacity Overrun Amounts



(and the relevant System Points for such) in respect of which the Transporter has accepted applications from Shippers under paragraph 148) for Balancing Periods falling in the preceding week.

154) For the purposes of this Code, in relation to an application for an Authorised Capacity Overrun where the first Balancing Period in respect of which such application has been submitted to the Transporter:

- (a) less than three (3) Days (including the Day in which the first Balancing Period in respect of which such application for an Authorised Capacity Overrun is made falls) prior to the first Balancing Period in respect of which such application for an Authorised Capacity Overrun is made by no later than two (2) hour bars falling prior to Gate Closure in relation to the first Balancing Period in respect of which such application for an Authorised Capacity Overrun is made, the Transporter will respond to the Shipper not later than ninety (90) minutes after receipt of such application;
- (b) less than thirty (30) Days but more than three (3) Days (in each case including the Day in which the first Balancing Period in respect of which such application for an Authorised Capacity Overrun is made falls) prior to the first Balancing Period in respect of which such application for an Authorised Capacity Overrun is made, the Transporter will respond to the Shipper not later than one (1) Day (excluding the Day in which such application is received by the Transporter) after receipt of such application; or
- (c) thirty (30) Days (including the Day in which the first Balancing Period in respect of which such application for an Authorised Capacity Overrun is made falls) or more prior to the first Balancing Period in respect of which such application for an Authorised Capacity Overrun is made, the Transporter will respond to the Shipper not later than seven (7) Days (excluding the Day in which such application is received by the Transporter) after receipt of such application.

### **2.5.2 Overrun Charges**

155) In respect of a Balancing Period in respect of which a Shipper holds an Authorised Capacity Overrun, the Shipper shall, subject to paragraph 159), pay the Transporter an amount ("Authorised Capacity Overrun Charge"), in respect of each application for an Authorised Capacity Overrun which the Transporter has accepted, calculated in accordance with the following formula:

$$AOC = (RCT_{Entry} * 1.25) * AOCA_{Entry} + (RCT_{Exit} * 1.25) * AOCA_{Exit}$$

where:

*AOC* is the Authorised Capacity Overrun Charge;

*RCT<sub>Entry</sub>* is the Firm Entry Capacity Charge negotiated between the parties payable by a Shipper in respect of the Transmission Network Injection Point specified in the Shipper's application for such Authorised Capacity Overrun in a Balancing Period;

*AOCA<sub>Entry</sub>* is the Authorised Entry Capacity Overrun Amount in such application submitted by the Shipper and accepted by the Transporter in accordance with paragraph 149) (whether or not utilised in full by the Shipper);

*RCT<sub>Exit</sub>* is the Firm Exit Capacity Charge negotiated between the parties payable by a Shipper in respect

of the Eligible Offtake Point specified in the Shipper's application for such Authorised Capacity Overrun in a Balancing Period; and

$AOCA_{Exit}$  is the Authorised Exit Capacity Overrun Amount in such application submitted by the Shipper and accepted by the Transporter in accordance with paragraph 149) (whether or not utilised in full by the Shipper).

156) For each Eligible Offtake Point, in respect of each Balancing Period in respect of which a Shipper's Offtake Quantity exceeds the sum of its Available Firm Exit Capacity Rights, such Shipper's Scheduled Offtake Quantity which has been scheduled in respect of a Shipper's Nomination which related to use of its Available Non-Firm Exit Capacity Rights and Authorised Exit Capacity Overrun Amounts (such excess, the "**Unauthorised Exit Capacity Overrun Amount**"), the Shipper shall pay the Transporter an amount ("**Unauthorised Capacity Overrun Charge**") calculated in accordance with the following formula:

$$UOC = (RCT_{Entry} * 2) * UOCA_{Entry} + (RCT_{Exit} * 2) * UOCA_{Exit} \text{ where:}$$

$UOC$  is the Unauthorised Capacity Overrun Charge;

$RCT_{Entry}$  is the Firm Exit Capacity Charge negotiated between the parties payable by a Shipper in respect of such Eligible Offtake Point in respect of such Balancing Period; and

$UOCA_{Entry}$  is the Unauthorised Exit Capacity Overrun Amount;

$RCT_{Exit}$  is the Regulated Firm Entry Capacity Charge negotiated between the parties payable by a Shipper in respect of the relevant Transmission Network Injection Point in respect of such Eligible Offtake Point at such Balancing Period; and

$UOCA_{Exit}$  is the Unauthorised Entry Capacity Overrun Amount (expressed in mmBtu/hour) and is the amount equivalent to the Unauthorised Exit Capacity Overrun Amount.

157) Authorised Capacity Overrun Charges and Unauthorised Capacity Overrun Charges shall be invoiced and payable in accordance with Part Invoicing And Payment.

158) For the avoidance of doubt a Shipper shall pay the Transporter, in addition to the Authorised Capacity Overrun Charges and the Unauthorised Capacity Overrun Charges, Usage Charges in relation to a Balancing Period calculated by reference to the Shipper's Offtake Quantity at each Eligible Offtake Point attributed as a Shipper's Authorised Capacity Overrun Amount pursuant to paragraph 121)(b) and/or Unauthorised Capacity Overrun Amount pursuant to paragraph 121)(d) at the Regulated Usage Charge Rate currently applicable to such Shipper's Firm Capacity Rights in respect of such Eligible Offtake Point.

159) In the event the Transporter issues a notice in accordance with paragraph 94) in respect of a Balancing Period with regard to the Transporter's ability to convey gas from the Transmission Network Injection Point to the relevant Eligible Offtake Point which corresponds to a Shipper's Authorised Capacity Overrun or in the event of Force Majeure or Scheduled Maintenance affecting such points or in respect of a Balancing Period where the Transporter is required to make payment to the Shipper in accordance with paragraph 95), such Shipper's Authorised Capacity Overrun will be cancelled and the Shipper will not be required to make payment of the Authorised Capacity Overrun

Charge in respect of that Balancing Period.

## 3 Nominations And Operating Schedule

### 3.1 Introduction

161) Shippers shall nominate quantities of gas for injection into and offtake from the Transmission Network for each Balancing Period in accordance with this Part. The Shipper shall nominate in terms of attribution of its Firm Capacity Rights, Authorised Capacity Overrun and Non-Firm Capacity Rights and in accordance with this Part.

162) Before first submitting a Nomination a Shipper must comply with the requirements set out in the GTSS Manual relating to the submission of Nominations.

163) References in the Code to a Nomination prevailing at any time before or during a Balancing Period are to:

- a) the Standing Nomination;
- b) where an Initial Nomination has been made, the Initial Nomination; or
- c) where one or more Renominations have been made, the latest Renomination,

provided that such Standing Nomination, Initial Nomination or Renomination has been made and accepted by the Transporter in accordance with this Part.

164) For the purposes of the Code, a Nomination is made by a Shipper where the Shipper has submitted a Nomination which has been accepted by the Transporter in accordance with this Part.

165) Each Shipper shall use its reasonable endeavours to submit accurate Nominations in accordance with this Part for the quantities of gas which it intends or anticipates injecting into, or offtaking from, the Transmission Network during a Balancing Period.

#### 3.1.1 *Nomination timetable*

166) A Shipper may submit an Initial Nomination or Standing Nomination in respect of each Balancing Period in a Nomination Period and where a Shipper does so by not later than 10:00 hours on the Day preceding the first Day of the Nomination Period, such Nomination shall be taken into account by the Transporter for the purposes of part 3.3.1, and without prejudice to paragraph 167) a Shipper may submit a Renomination in respect of each Balancing Period in a Nomination Period not later than Gate Closure.

167) A Shipper shall be entitled to submit a Renomination in respect of a Balancing Period at any time:

- a) after it has submitted either an Initial Nomination or Standing Nomination for the Balancing Period; and
- b) before Gate Closure.

168) An Initial Nomination and a Standing Nomination shall not be submitted earlier than seven (7) Days before the first Day of the Nomination Period to which the Initial Nomination or Standing

Nomination relates.

## 3.2 Procedures

### 3.2.1 Initial Nomination and Standing Nomination

169) A Shipper shall submit either a separate Initial Nomination or Standing Nomination in respect of each Transmission Network Injection Point and each Eligible Offtake Point at which it wishes to inject into, and offtake from, the Transmission Network a quantity of gas during a Balancing Period, provided always that, in the event such Shipper is offtaking gas from the Transmission Network at more than one Transmission/Distribution Point to supply a Distribution Network, it need only submit a single Nomination to apply at the furthest Transmission/Distribution Point identified as such in the relevant Shipper's Available Capacity Rights.

170) Each Initial Nomination or Standing Nomination in respect of gas shall specify:

- a) the identity of the Shipper;
- b) the relevant Transmission Network Injection Point and relevant Eligible Offtake Point;
- c) in respect of each Balancing Period during the Nomination Period, the quantity of gas to be injected at such Transmission Network Injection Point and the quantity of gas to be offtaken at such Eligible Offtake Point;
- d) where the Shipper has Available Capacity Rights between such Transmission Network Injection Point and such Eligible Offtake Point, the Certificate Number(s) applying to such Available Capacity Rights upon which such Initial Nomination or Standing Nomination is based; and where the Shipper's Initial Nomination or Standing Nomination is based upon two or more relevant Capacity Certificates the Shipper shall attribute the quantity nominated under paragraph (c) as between the certificates;
- e) where in respect of any Balancing Period in the Nomination Period, the quantity nominated for injection into the Transmission Network at such Transmission Network Injection Point and the quantity nominated for offtake from the Transmission Network at such Eligible Offtake Point exceeds the Shipper's Available Firm Capacity Rights, the amount of any Authorised Capacity Overrun Amount held by the Shipper pursuant to part 2.5.2 between such Transmission Network Injection Point and such Eligible Offtake Point;
- f) in respect of each Balancing Period during the Nomination Period, the GSA Number(s) of the Gas Sales Agreement(s) for which the Shipper intends or anticipates a quantity of regasified LNG to be injected and offtaken at such Transmission Network Injection Point and such Eligible Offtake Point respectively. The Shipper shall attribute as between such Gas Sales Agreement(s), the Firm Entry Capacity Right amount, Non-Firm Entry Capacity Right amount and Authorised Entry Capacity Overrun Amount that constitute its Available Pipeline Capacity Amount in respect of such Transmission Network Injection Point and such Eligible Offtake Point; and
- g) the Reference Number; and

- h) in the case of a Standing Nomination:
  - (i) the first Day in respect of which the Standing Nomination is to apply; and
  - (ii) the Cessation Date which is not later than the relevant Capacity Certificate End Date.
- 171) Without prejudice to paragraph 173), following submission of an Initial Nomination or a Standing Nomination, the Transporter shall notify the Shipper of receipt of such Initial Nomination or, as the case may be, Standing Nomination and such notice shall specify the Reference Number.
- 172) The Transporter may reject an Initial Nomination or a Standing Nomination where:
  - a) such Initial Nomination or, as the case may be, Standing Nomination is submitted other than in accordance with paragraph 170);
  - b) in respect of any Balancing Period to which such Initial Nomination or, as the case may be, Standing Nomination relates, the condition in paragraph 170) is not complied with; or
  - c) the Shipper is not the Registered Shipper or a Sharing Registered Shipper at the Eligible Offtake Point.
- 173) Following submission of an Initial Nomination or a Standing Nomination, the Transporter shall notify the Shipper not later than one (1) hour following submission of such Initial Nomination or, as the case may be, Standing Nomination that it has:
  - a) rejected such Initial Nomination or, as the case may be, Standing Nomination together with the reasons for the rejection; or
  - b) accepted such Initial Nomination or, as the case may be, Standing Nomination.
- 174) Following submission of an Initial Nomination or a Standing Nomination under paragraph 169) which has been accepted by the Transporter a Shipper may submit, in respect of any Balancing Period in relation to which such Initial Nomination or, as the case may be, Standing Nomination first applied, a Renomination and in submitting a Renomination the Shipper shall specify the details set out in paragraph 170), and such Renomination shall, where accepted in accordance with the same acceptance procedure as specified for the Initial Nomination and Standing Nomination under paragraph 173)b), for the purposes of the Code take precedence in respect of the Balancing Period(s) to which the Initial Nomination or Standing Nomination or earlier Renomination applied, subject to the Shipper having complied with paragraph 167)b). In the event the Transporter rejects a Renomination for a Balancing Period for which there already applies an Initial Nomination, a Standing Nomination or previous Renomination which had been accepted, such Initial Nomination, Standing Nomination or, as the case may be, previous Renomination, for such Balancing Period shall continue to apply.
- 175) Upon acceptance by the Transporter of a Nomination in respect of regasified LNG in accordance with paragraphs 173) and 174), the Transporter shall provide such Nomination to the relevant LNG Terminal Operator not later than one (1) hour following submission of such Nomination for the purpose of determining the Scheduled Injection Quantity and Scheduled Offtake Quantity of the Shipper in accordance with the procedure and methodology set out in Annex K.

### **3.2.2 Nomination conditions**

- 176) Each Nomination pertaining to gas except regasified LNG submitted by a Shipper shall, in respect of each Balancing Period to which such Nomination relates, comply with the Balanced Nomination Requirement.
- 177) The "Balanced Nomination Requirement" is the requirement that, in respect of a Balancing Period and Nomination, the aggregate of the Shipper's attributed Available Pipeline Capacity Amount to inject natural gas at the relevant Transmission Network Injection Point for offtake at the relevant Eligible Offtake Point, is not more than the Shipper's Available Pipeline Capacity Amount for the Balancing Period.
- 178) A Shipper may not withdraw a Nomination after it has been submitted and accepted by the Transporter in accordance with paragraph 174).
- 179) Where a Shipper has submitted a Nomination which has been accepted by the Transporter and which the Shipper no longer wishes to have effect, the Shipper shall be required to submit a Renomination which shall be accepted by the Transporter unless any of the conditions specified in paragraph 173) apply to the Renomination.

### **3.2.3 Cessation Notice**

- 180) Without prejudice to paragraph 175), where a Shipper has submitted a Standing Nomination which has been accepted by the Transporter in accordance with this Part such Standing Nomination shall have effect until:
- a) where, when submitting the Standing Nomination, the Shipper specified a Cessation Date, the Cessation Date; or
  - b) the date notified to the Transporter by the Shipper in accordance with paragraph 181).
- 181) Where the Shipper wishes that a prevailing Standing Nomination ceases to have effect it shall submit a notice ("**Cessation Notice**") to the Transporter specifying:
- a) the identity of the Shipper;
  - b) the Reference Number; and
  - c) the Cessation Date, being a Day not earlier than the second Day following the Day on which the notice is submitted, after which the Standing Nomination shall cease to have effect.
- 182) Without prejudice to paragraph 183), following submission of a Cessation Notice the Transporter shall notify the Shipper of receipt of the Cessation Notice and the Transporter may reject a Cessation Notice only where the Cessation Notice is submitted other than in accordance with paragraph 181).
- 183) Following submission of a Cessation Notice the Transporter shall notify the Shipper not later than thirty (30) minutes following submission of the Cessation Notice that it has:
- a) rejected the Cessation Notice together with the reasons for the rejection, in which case the Standing Nomination shall (without prejudice to any Cessation Date specified in the Standing

Nomination that was first submitted or in the later notice submitted under this part) continue to have effect; or

- b) accepted the Cessation Notice, in which case the Standing Nomination shall cease to have effect after the Cessation Date specified in such notice.

### 3.3 Operating Schedules

#### 3.3.1 Initial Operating Schedule

184) The Transporter will not later than 15:00 hours on each Day notify a Shipper, in respect of each Balancing Period in each of the following seven (7) Days, of the quantity of gas provisionally scheduled for injection by the Shipper into the Transmission Network at each Transmission Network Injection Point and the quantity of gas provisionally scheduled for offtake by the Shipper from the Transmission Network at each Eligible Offtake Point ("**Initial Operating Schedule**").

#### 3.3.2 Final and Revised Operating Schedules

185) The Transporter will in respect of each Balancing Period not later than thirty (30) minutes following Gate Closure notify a Shipper of the quantity of gas scheduled for injection by the Shipper into the Transmission Network at each Transmission Network Injection Point and the quantity of gas scheduled for offtake by the Shipper from the Transmission Network at each Eligible Offtake Point during the Balancing Period ("**Final Operating Schedule**").

186) At the same time as the Transporter notifies Shippers of the Final Operating Schedule it shall notify a Shipper of the quantity of gas scheduled for injection by the Shipper into the Transmission Network at each Transmission Network Injection Point and the quantity of gas scheduled for offtake by the Shipper from the Transmission Network at each Eligible Offtake Point for each of the three (3) Balancing Periods following the Balancing Period to which the Final Operating Schedule relates ("**Revised Operating Schedule**").

187) The quantities of gas to be injected into, and offtaken from, the Transmission Network in a Balancing Period (and accordingly the Scheduled Injection Quantities and Scheduled Offtake Quantities for each Shipper) shall be determined in accordance with the procedure and methodology set out in Annex K. The Transporter shall give priority (in descending order of priority) to and will include such Nominations in the Final Operating Schedule in the below order of priority:

- a) a Nomination in respect of which the Shipper submitting the Nomination holds a Firm Capacity Right;
- b) a Nomination in respect of which (and to the extent paragraph a) does not apply) the Shipper submitting the Nomination holds an Authorised Capacity Overrun; and
- c) a Nomination in respect of which (and to the extent paragraphs a) and b) do not apply) the Shipper submitting the Nomination holds a Non-Firm Capacity Right.

188) For the purposes of this Code, "**Operating Schedule**" means an Initial Operating Schedule, Final Operating Schedule and a Revised Operating Schedule.



### 3.4 Nomination Changes

#### 3.4.1 Failure to notify

189) Where in respect of a Balancing Period, following Gate Closure, a Shipper reasonably anticipates that the quantities of gas to be injected into, or offtaken from, the Transmission Network by the Shipper will be different from the relevant Scheduled Injection Quantity and/or the relevant Scheduled Offtake Quantity for the Balancing Period by an amount greater than the Level of Change Factor multiplied by the relevant Scheduled Injection Quantity or the relevant Scheduled Offtake Quantity (as the case may be), it shall notify the Transporter by telephone and in writing immediately, together with the reasons for the difference and such notice shall in addition set out the Shipper's estimate of the actual quantities of gas that it reasonably expects will be injected into and/or offtaken from the Transmission Network during the relevant Balancing Period.

190) At the date of this Code, the Level of Change Factor shall be zero point five (0.5).

#### 3.4.2 Failure to Notify Charges

191) "**Failure to Notify Charges**" are Failure to Notify Injection Charges and Failure to Notify Offtake Charges. Unless the parties otherwise agree, Failure to Notify Charges will be calculated in accordance with this subpart 3.4.2.

192) Subject to paragraph 194), where a Shipper fails to notify the Transporter pursuant to paragraph 189) in respect of quantities to be offtaken from the Transmission Network, the Shipper shall pay to the Transporter an amount (the "**Failure to Notify Offtake Charge**") calculated as follows:

$$FOC = \text{Max} \{ FTNR * (|O^{s,k} - Q_0^k| - LSC * O^{s,k}), 0 \}$$

where:

*FOC* is the Failure to Notify Offtake Charge;

*FTNR* is the Applicable Failure to Notify Charge Rate;

$O^{s,k}$  is the Shipper's Scheduled Offtake Quantity at the relevant Eligible Offtake Point, 'k', at which there is a difference between a Shipper's Scheduled Offtake Quantity and the Shipper's Offtake Quantity greater than the Level of Change Factor;

$Q_0^k$  is the Shipper Offtake Quantity at the relevant Eligible Offtake Point 'k'; and

*LSC* is the Level of Change Factor expressed as a decimal less than one (1).

193) Subject to paragraph 194), where a Shipper fails to notify the Transporter pursuant to paragraph 189) in respect of quantities of gas to be injected into the Transmission Network at such Transmission Network Injection Point, the Shipper shall pay to the Transporter an amount ("**Failure to Notify Injection Charge**") calculated as follows:

$$FIC = \text{Max} \{ FTNR * (|I^{s,j} - Q_I^j| - LSC * I^{s,j}), 0 \}$$

where:

*FIC* is the Failure to Notify Injection Charge;

*FTNR* is the Applicable Failure to Notify Charge Rate;

$I^{S,j}$  is the Shipper's Scheduled Injection Quantity at the relevant Transmission Network Injection Point, 'j', at which there is a difference between a Shipper's Scheduled Injection Quantity and the Shipper's Injection Quantity greater than the Level of Change Factor;

$Q_i^j$  is the Shipper Injection Quantity at the relevant Transmission Network Injection Point, 'j'; and

*LSC* is the Level of Change Factor expressed as a decimal less than one (1).

194) In the event the Transporter issues a notice in accordance with paragraph part 2.3.1 in respect of a Balancing Period with regard to the Transporter's ability to convey gas from a Transmission Network Injection Point to the relevant Eligible Offtake Point or during a period of Force Majeure or System Stress affecting such System Points or in respect of a Balancing Period where the Transporter is required to make payment to the Shipper in accordance with paragraphs 95) or 105), the Shipper will not be required to make payment of any Failure to Notify Charges in respect of that Balancing Period.

195) The Applicable Failure to Notify Charge Rate (expressed in \$/mmBtu) shall be set out in the Charging Statement, and where the Transporter wishes to revise the amount (or rate) of such charge, it shall give Shippers not less than thirty (30) Days notice of the intention to make a revision provided that the revised amount (or rate) shall:

- a) only first have effect from the first day of a Month; and
- b) have been approved by URCA.

196) Failure to Notify Charges shall be invoiced and payable in accordance with Part 13

## 4 Quantities, Commodity Variances And Pipeline Imbalances

### 4.1 Introduction

#### 4.1.1 Responsibilities

198) The quantities of gas injected into, and offtaken from, the Transmission Network will be determined in accordance with this Part. For the purposes of this Code, this includes determining:

- a) Usage Charges and Overrun Charges;
- b) Commodity Variances and Commodity Variance Charges;
- c) Nomination Divergence Charges; and
- d) Transporter Injection Imbalances,

199) Unless the context requires otherwise, the Code references quantities of gas injected into and offtaken from the Transportation System to the quantities treated in accordance with this Part as being so injected or offtaken.

#### 4.1.2 Commodity Variances and Settlement

200) For the purposes of the Code, a Commodity Variance shall be determined for each Shipper for each Balancing Period.

201) For each Shipper, the "Cumulative Commodity Variance" in respect of a Day 'd' in a Month 'm' is the difference between the quantities of gas treated as injected into, and offtaken from the Transmission Network by the Shipper during that Day, determined (after having taken into account Shrinkage Gas) in accordance with parts 4.5 and 4.6.

202) In respect of a Month 'm', the Transporter shall, for each Shipper, calculate:

- a) the Shipper's Initial Cumulative Commodity Variance for each Day 'd' in such Month 'm' on the fifteenth (15th) Business Day of Month 'm + 1' ("**Initial Settlement**"); and
- b) the Shipper's Final Cumulative Commodity Variance for each Day 'd' in such Month 'm' on the eleventh (11th) Business Day of Month 'm + 3' ("**Final Settlement**").

203) For the purposes of this Part, "**Settlement**" means Initial Settlement or Final Settlement (as the context may require).

### 4.2 Injection Quantities

#### 4.2.1 Shipper Injection Quantity

204) For each Shipper injecting gas into the Transportation System at any System Injection Point, the Shipper Injection Quantity for a Balancing Period shall be determined in accordance with this subpart 4.2.

205) In relation to a Transmission Network Injection Point in respect of which a Shipper is the only Shipper injecting gas into the Transmission Network at such point during a Balancing Period, the Shipper Injection Quantity shall be, without prejudice to part 4.6, the Metered Injection Quantity.

206) In respect of each Transmission Network Injection Point in relation to which there is more than one Shipper injecting gas into the Transmission Network, each Shipper injecting gas into the Transmission Network shall, not later than thirty (30) minutes following the end of a Balancing Period, procure that the Injection Allocation Agent shall submit to the Transporter a statement ("**Injection Allocation Statement**") via GTSS specifying:

- a) the identity of the Shipper injecting gas during such Balancing Period;
- b) (b) the Transmission Network Injection Point at which such Shipper has injected gas during such Balancing Period;
- c) the Balancing Period to which the Injection Allocation Statement applies; and
- d) the quantity of gas injected into the Transmission Network by the Shipper during such Balancing Period at such Transmission Network Injection Point.

207) In respect of a Transmission Network Injection Point, provided the conditions in paragraph 208) are satisfied in respect of a Balancing Period, each Shipper on whose behalf an Injection Allocation Statement is submitted shall be an Injecting Shipper, and the Shipper Injection Quantity shall, without prejudice part 4.6, be the quantity stated in the Injection Allocation Statement.

208) The conditions referred to in paragraph 207) are that:

- a) by Injection Close-out, an Injection Allocation Statement has been submitted to the GTSS on behalf of all Injecting Shippers; and
- b) the sum of the quantities of gas (for each Injecting Shipper) stated in the Injection Allocation Statement is equal to the Metered Injection Quantity.

209) If either of the conditions in paragraph 208) is not satisfied in respect of any Transmission Network Injection Point for any Balancing Period, then each Scheduled Shipper in respect of such Transmission Network Injection Point and such Balancing Period shall be an Injecting Shipper and the Shipper Injection Quantity shall be determined in accordance with the "Default Injection Allocation Formula":

$$Q_{All(inj)} * \frac{Q_{(inj),scheduled,s}}{Q_{(inj),scheduled,tot}}$$

Where:

$Q_{All(inj)}$  is the Metered Injection Quantity at such Transmission Network Injection Point in the Balancing Period;

$Q_{(inj),scheduled,s}$  is the Scheduled Injection Quantity for Shipper, s, at such Transmission Network Injection Point in the Balancing Period; and

$Q_{(inj),scheduled,tot}$  is the aggregate of the Scheduled Injection Quantities for all Shippers at such Transmission Network Injection Point in the Balancing Period.

In respect of each Balancing Period, each Default Injection Allocation Agent shall not later than thirty (30) minutes following the end of a Balancing Period submit to the Transporter a Default Injection Allocation Statement via GTSS specifying the Shipper Injection Quantities (determined in accordance with the formula above) for all Shippers at the relevant Transmission Network Injection Point.

For the purpose of allocating the Metered Injection Quantity to Shippers at a Transmission Network Injection Point, the Transporter shall notify the relevant Default Injection Allocation Agent of the Metered Injection Quantity at such Transmission Network Injection Point for each Balancing Period not later than twenty (20) minutes following the end of such Balancing Period.

For the purpose of this paragraph, the “**Default Injection Allocation Agent**” means either the Shipper or the LNG Terminal Operator who is injecting regasified LNG at such Transmission Network Injection Point.

210) Without prejudice to paragraph 210), where following the application of paragraph 209) the Injection Allocation Agent submits a further Injection Allocation Statement which satisfies the conditions in paragraph 208), the Shipper Injected Quantity shall be the quantity stated in the revised Injection Allocation Statement.

211) Without prejudice to part 4.6, no revision shall be made for any purpose of the Code to any quantity determined pursuant to the Code as being a Shipper Injection Quantity for a Balancing Period after the fifth Business Day of the Month following the Month in which the Balancing Period falls (“**Injection Close-out**”).

#### **4.2.2 Injection Allocation Agent**

212) Where two (2) or more Shippers have Available Capacity Rights entitling them to inject gas at the same Transmission Network Injection Point, each Shipper shall, without prejudice to paragraph 217), enter into an agreement (“**Injection Allocation Agreement**”) whereby each will appoint a suitably qualified person to be its agent (“**Injection Allocation Agent**”) for the purposes of submitting an Injection Allocation Statement in respect of such Transmission Network Injection Point in accordance with part 4.2.1.

213) Where paragraph 212) applies, each Shipper referred to in paragraph 212) shall appoint the same Injection Allocation Agent.

214) Where paragraph 212) applies, and without prejudice to paragraph 215):

- a) each relevant Shipper shall be party to an Injection Allocation Agreement with each other relevant Shipper and the Injection Allocation Agent; and
- b) each relevant Shipper shall promptly notify the Transporter after entering into such agreement that it is a party to an Injection Allocation Agreement and of the identity of the Injection Allocation Agent.

215) An Injection Allocation Agreement:

- a) will specify the Transmission Network Injection Point to which it relates;
  - b) will require the Injection Allocation Agent to submit a single Injection Allocation Statement with the relevant details in relation to each relevant Shipper;
  - c) must be in a form approved by URCA and require the approval of URCA prior to any change to its terms and conditions;
  - d) may specify other matters relating to the injection of gas into the Transmission Network at the Transmission Network Injection Point;
  - e) will contain provisions which allow for a Shipper, not a party to the agreement, to accede to the agreement in the event such Shipper wishes to inject gas into the Transmission Network at the relevant Transmission Network Injection Point; and
  - f) will contain provisions which allow for the Shippers which are parties to the Injection Allocation Agreement to replace the Injection Allocation Agent in the event of material breach by the Injection Allocation Agent of the Injection Allocation Agreement or if any limits of liability of the Injection Allocation Agent thereunder are exceeded.
- 216) Where at the date of effectiveness of the Code or at any later date there is, in respect of a Transmission Network Injection Point where there are two (2) or more Shippers with Available Capacity Rights entitling them to inject gas at such Transmission Network Injection Point, no Injection Allocation Agreement in effect, the Shipper Injection Quantity for a Shipper injecting gas at such Transmission Network Injection Point shall, until an Injection Allocation Agreement is in force, be determined in accordance with paragraph 209).
- 217) For the purposes of allocating the Metered Injection Quantity to Shippers at a Transmission Network Injection Point in the event there are two (2) or more Shippers with Available Capacity Rights entitling them to inject gas at such Transmission Network Injection Point, the Transporter shall notify the Injection Allocation Agent of the Metered Injection Quantity at such Transmission Network Injection Point for a Balancing Period not later than twenty (20) minutes following the end of such Balancing Period.
- 218) Nothing in this part prohibits a Shipper from acting as an Injection Allocation Agent.

### **4.3 Offtake Quantities**

#### **4.3.1 Shipper Offtake Quantity**

- 219) For each Shipper offtaking gas from the Transmission Network:
- a) at a Transmission Network Offtake Point, the Shipper Offtake Quantity; and
  - b) at a Transmission/Distribution Point, the Shipper Transmission/ Distribution Quantity
- for a Balancing Period shall be determined in accordance with this part 4.3.
- 220) In respect of a Transmission Network Offtake Point in respect of which a Shipper is the only

Shipper offtaking gas from the Transmission Network at such point during a Balancing Period, the Shipper Offtake Quantity shall be, without prejudice to part 4.6, the Metered Offtake Quantity.

221) In respect of a Transmission/Distribution Point(s) in a Distribution Network where all the Distribution Network Offtake Points are registered in the name of a single Shipper, the Shipper Transmission/Distribution Quantity at that Transmission/Distribution Point(s) shall be the Total Transmission/Distribution Quantity for that Transmission/Distribution Point(s).

222) In respect of each Shipper offtaking gas from the Transmission Network at a Transmission/Distribution Point(s) and flowing into a Distribution Network where the Distribution Network Offtake Points in such Distribution Network are registered in the name of more than one (1) Shipper, the Shipper Transmission/Distribution Quantity for such Shipper in respect of such Transmission/Distribution Point for a Balancing Period shall be calculated in accordance with the following formula:

$$STDQ = B + C$$

*STDQ* is the Shipper Transmission/Distribution Quantity for such Shipper in respect of such Transmission/Distribution Point;

*B* is the sum of the Metered Offtake Quantities applicable to a Shipper in respect of all Distribution Network Offtake Points within that Distribution Network at which there is a BPRM Meter Installation for which the Shipper is the Registered Shipper; and

*C* is the Shipper NBPM Offtake Quantity, provided that where gas is injected into a Distribution Network from the Distribution Network Injection Point and at least one (1) Transmission/Distribution Point, the Distribution Network Injection Quantity shall be deducted from the sum of B and C in order to calculate a Shipper's Transmission/Distribution Quantity.

223) In respect of a Shipper and for a Balancing Period, the "Shipper NBPM Offtake Quantity" shall be the quantity of gas calculated in accordance with the following formula:

$$R_A = R_{Total} * \frac{\sum_i^T n_i^A p_i}{\sum_i^T n_i^{Total} p_i}$$

where:

*R<sub>A</sub>* is the Shipper NBPM Offtake Quantity;

*R<sub>Total</sub>* is the Aggregate NBPM Offtake Quantity;

*n<sub>i</sub><sup>A</sup>* is, for each Customer Type, *i*, the number of Distribution Network Offtake Points in the Distribution Network in respect of which the Shipper is the Registered Shipper or a Sharing Registered Shipper;

*n<sub>i</sub><sup>Total</sup>* is the number of Distribution Network Offtake Points in the Distribution Network of the relevant Customer Type; and

*p<sub>i</sub>* is the Profiled Offtake Quantity for the Balancing Period for the relevant Customer Type

determined in accordance with Part 15.

224) In respect of each Shared Transmission Network Offtake Point, each Shipper offtaking gas from the Transmission Network at such shared Transmission Network Offtake Point shall not later than thirty (30) minutes following the end of a Balancing Period procure that the Offtake Allocation Agent submit to the Transporter a statement ("**Offtake Allocation Statement**") via GTSS specifying:

- a) the identity of each Shipper offtaking gas;
- b) the Transmission Network Offtake Point;
- c) the Balancing Period; and
- d) the quantity of gas offtaken from the Transmission Network by each Shipper

225) In respect of a Shared Transmission Network Offtake Point, provided that the conditions in paragraph 226) are satisfied in respect of a Balancing Period, each Shipper on whose behalf an Offtake Allocation Statement is submitted shall be an Offtaking Shipper and, prejudice to part 4.6, be the quantity stated in the Offtake Allocation Statement.

226) The conditions referred to in paragraph 225) are that:

- a) by Offtake Close-out, an Offtake Allocation Statement has been submitted to the GTSS on behalf of all Offtaking Shippers; and
- b) the sum of the quantities of gas (for each Offtaking Shipper) stated in the Offtake Allocation Statement is equal to the Metered Offtake Quantity.

227) If either of the conditions in paragraph 226) are not satisfied in respect of a Shared Transmission Network Offtake Point for a Balancing Period, then each Scheduled Shipper in respect of such Shared Transmission Network Offtake Point and such Balancing Period shall be an Offtaking Shipper, and the Shipper Offtake Quantity shall be determined in accordance with part 4.3.2.

228) Without prejudice to paragraph 229), where following the application of paragraph 227) the Offtake Allocation Agent submits a further Offtake Allocation Statement which satisfies the conditions in paragraph 226), the Shipper Offtake Quantity shall be the quantity stated in the revised Offtake Allocation Statement.

229) Without prejudice to part 4.6, no revision shall be made for any purpose of this Code to any quantity determined pursuant to this Code as being a Shipper Offtake Quantity for a Balancing Period after the fifth Business Day of the Month following the Month in which the Balancing Period falls ("**Offtake Close-out**").

#### **4.3.2 Default allocation at Shared Transmission Network Offtake Points**

230) Where in respect of a Balancing Period the circumstances described in paragraph 227) apply, the Shipper Offtake Quantity for each Offtaking Shipper at the Shared Transmission Network Offtake Point for the Balancing Period shall be calculated as follows:

- a) If  $Q_{(off),shcheduled,tot}$  is greater than zero (0):



$$M_{off} * \frac{Q_{(off),shceduled,s}}{Q_{(off),shceduled,tot}}$$

Where:

$M_{off}$  is the Metered Offtake Quantity at the Shared Transmission Network Offtake Point for such Balancing Period;

$Q_{(off),shceduled,s}$  is the Scheduled Offtake Quantity in respect of Offtaking Shipper, 's', at the Shared Transmission Network Offtake Point for such Balancing Period; and

$Q_{(off),shceduled,tot}$  is the aggregate Scheduled Offtake Quantities for all Offtaking Shippers at the Shared Transmission Network Offtake Point for such Balancing Period.

b) If  $Q_{(off),shceduled,tot}$  is equal to zero (0):

$$M_{off} * \frac{Firm\ Exit\ Capacity\ Right_s}{Firm\ Exit\ Capacity\ Right_{tot}}$$

Where:

$M_{off}$  is the Metered Offtake Quantity at the Shared Transmission Network Offtake Point for such Balancing Period;

$Firm\ Exit\ Capacity\ Right_s$  is the Firm Exit Capacity Right of Offtaking Shipper, 's', at the Shared Transmission Network Offtake Point for such Balancing Period; and

$Firm\ Exit\ Capacity\ Right_{tot}$  is the aggregate of Firm Exit Capacity Right for all Offtaking Shippers at the Shared Transmission Network Offtake Point for such Balancing Period.

### 4.3.3 Offtake Allocation Agent

231) Where a Shipper offtakes, or proposes to offtake, gas from the Transmission Network at a Shared Transmission Network Offtake Point, it may, without prejudice to paragraph 236), enter into an agreement ("**Offtake Allocation Agreement**") whereby it will appoint a suitably qualified person to be its agent ("**Offtake Allocation Agent**") for the purposes of submitting an Offtake Allocation Statement in respect of the Shared Transmission Network Offtake Point in accordance with paragraph 224).

232) Where paragraph 231) applies, each Shipper shall appoint the same Offtake Allocation Agent.

233) Where paragraph 231) applies, and without prejudice to paragraph 234):

a) each Sharing Registered Shipper shall be party to an Offtake Allocation Agreement with each other Sharing Registered Shipper and the Offtake Allocation Agent; and

b) each Sharing Registered Shipper shall promptly notify the Transporter after entering into such agreement that it is a party to an Offtake Allocation Agreement and of the identity of the Offtake Allocation Agent.

- 234) An Offtake Allocation Agreement:
- a) will specify the Shared Transmission Network Offtake Point to which it relates;
  - b) will require the Offtake Allocation Agent to submit a single Offtake Allocation Statement with the relevant details in relation to each Sharing Registered Shipper;
  - c) must be in a form approved by URCA and require the approval of URCA prior to any change to its terms and conditions;
  - d) may specify other matters relating to the offtake of gas from the Transmission Network at the Shared Transmission Network Offtake Point;
  - e) will contain provisions which allow for a Shipper, not a party to the agreement, to accede to the agreement in the event such Shipper wishes to offtake gas from the Transmission Network at the Shared Transmission Network Offtake Point; and
  - f) will contain provisions allowing a Shipper to replace the Offtake Allocation Agent in the event of the Offtake Allocation Agent's material breach of the Offtake Allocation Agreement or if the Offtake Allocation Agent's limits of liability hereunder are exceeded.
- 235) Where, at the date of this Code or at any later date, no Offtake Allocation Agreement is in effect in respect of a Shared Transmission Network Offtake Point, the Shipper Offtake Quantity for a Shipper offtaking gas at such Shared Transmission Network Offtake Point shall, until an Offtake Allocation Agreement is in force, be determined in accordance with part 4.3.2.
- 236) Nothing in this part prohibits a Shipper from acting as an Offtake Allocation

## 4.4 Nomination Divergence Charges

### 4.4.1 Introduction

- 237) For the purposes of the Code, "**Nomination Divergence Charges**" are amounts payable in respect of differences between a Shipper's aggregate Shipper Offtake Quantity and its aggregate Scheduled Offtake Quantity for every twelve-hourly block at a Transmission Network Offtake Point with BPRM. For the avoidance of doubt, the twelve-hourly blocks shall be shown below.
- a) 1st twelve-hourly block 00:00:00 hours to 11:59:59 hours
  - b) 2nd twelve-hourly block 12:00:00 hours to 23:59:59 hours
- 238) Where, in respect of each Transmission Network Offtake Point with BPRM and each such twelve-hourly block referred to in paragraph 237), a Shipper's aggregate Shipper Offtake Quantity differs from its aggregate Scheduled Offtake Quantity by a quantity greater than its aggregate Scheduled Offtake Quantity multiplied by the Nomination Divergence Tolerance the Shipper shall, subject to paragraph 239) pay the Transporter a Nomination Divergence Charge, as follows:

$$NDC_k = NDCR * MAX[(|O^k - Q^k| - NDT * O^k), 0]$$

where:

$NDC_k$  is the Nomination Divergence Charge for Shipper 's' and Transmission Network Offtake Point with BPRM 'k';

$NDCR$  is the Nomination Divergence Charge Rate prescribed in paragraph 240)a);

$O^k$  is the sum of all Scheduled Offtake Quantities for Shipper 's' in respect of Transmission Network Offtake Point with BPRM 'k' over the twelve-hourly block;

$Q^k$  is the sum of all Shipper Offtake Quantities for Shipper 's' in respect of Transmission Network Offtake Point with BPRM 'k' over the twelve-hourly block;

$k$  is a Transmission Network Offtake Point with BPRM; and

$NDT$  is the Nomination Divergence Tolerance prescribed in paragraph 240)(b).

239) In the event the Transporter issues a notice in accordance with paragraph 94) in respect of a Balancing Period with regard to the Transporter's ability to convey gas to the relevant Transmission Network Offtake Point with BPRM or during a period of Force Majeure affecting such Transmission Network Offtake Point with BPRM or in respect of a Balancing Period where the Transporter is required to make payment to the Shipper in accordance with paragraph 95) or 105), the Shipper's Offtake Quantity and its Scheduled Offtake Quantity at the relevant Transmission Network Offtake Point with BPRM in respect of the affected twelve-hourly block(s) shall be excluded for the Nomination Divergence Charge calculation prescribed under paragraph 238).

240) For the purposes of the Code:

a) the "**Nomination Divergence Charge Rate**" shall be \$0.50 per mmBtu, without prejudice that URCA may review it from time to time in accordance with paragraph 241);

b) the "**Nomination Divergence Tolerance**" shall be zero point zero five (0.05), without prejudice that URCA may review it from time to time in accordance with paragraph 241).

241) URCA may, from time to time, review and revise the Nomination Divergence Charge Rate and/or the Nomination Divergence Tolerance provided that such revisions shall only be effective on the first day of a Month and Shippers are given no less than thirty (30) days prior notice.

242) Nomination Divergence Charges shall be invoiced and payable in accordance with Part 13.

243) Each Shipper shall use reasonable endeavours to ensure that its Shipper Offtake Quantity in respect of each Balancing Period are in accordance with the relevant Final Operating Schedule, and the Transporter shall be entitled to refer to URCA and for their further investigation and action, any anomalous behaviour or conduct which has or is likely to have an adverse effect on the safe, efficient, reliable or economic operation of the Transportation System.

## 4.5 Commodity Variance

### 4.5.1 Commodity Variance calculation

244) The "**Commodity Variance**" for each Shipper shall be calculated for each Balancing Period as the

difference between:

- a) the sum of the Shipper Injection Quantity for each Transmission Network Injection Point at which the Shipper injected gas during the Balancing Period ("**Shipper Aggregate Injection Quantity**"); and
  - b) the sum ("**Shipper Aggregate Offtake Quantity**") of
    - (i) the Shipper Offtake Quantity for each Transmission Network Offtake Point at which the Shipper offtook gas during the Balancing Period divided by the Network Shrinkage Factor; and
    - (ii) the Aggregate Shipper Transmission/Distribution Quantitydivided by the Network Shrinkage Factor.
- 245) In respect of each Shipper and the total number of Balancing Periods in a Day, each Shipper's "**Cumulative Commodity Variance**" for that Day shall be calculated in accordance with the following formula:

$$Cv_d^A = \left( \sum_1^n Iv_n \right) - Tv_d$$

where:

$Cv_d^A$  is the Cumulative Commodity Variance for Shipper 'A' in respect of all Balancing Periods in Day 'd';

$Iv_n$  is Shipper 'A's Commodity Variance for Balancing Period 'n', provided that such variance in respect of each Balancing Period in Day 'd' shall be expressed as a positive number where, in respect of such Balancing Period 'n', its Shipper Aggregate Injection Quantity is greater than its Shipper Aggregate Offtake Quantity, and expressed as a negative number where its Shipper Aggregate Injection Quantity is less than its Shipper Aggregate Offtake Quantity;

n is the total number of Balancing Periods in Day 'd'; and

$Tv_d$  is Shipper 'A's Commodity Variance Tolerance Quantity for Day 'd' as determined in accordance with the formula set out in part 4.5.3.1.

- 246) The "**Initial Cumulative Commodity Variance**" for each Shipper in respect of each Day 'd' in a Month 'm' shall be determined for the purposes of Initial Settlement as such Shipper's Cumulative Commodity Variance:
- a) plus, Transferred Cumulative Commodity Variances in respect of which the Shipper is the Cumulative Commodity Variance Transferee Shipper; and
  - b) less, Transferred Cumulative Commodity Variances in respect of which the Shipper is the Cumulative Commodity Variance Transferor Shipper,

in respect of such Day 'd' in a Month 'm' for Cumulative Commodity Variance Transfers notified to the Transporter in the relevant Initial Cumulative Commodity Variance Trading Period.

#### **4.5.2 Cumulative Commodity Variance trading**

247) For the purpose of this subpart 4.5.2:

"**Final Cumulative Commodity Variance Trading Period**" is the period referred to in paragraph 248)(b);

"**Initial Cumulative Commodity Variance Trading Period**" is the period referred to in paragraph 248)(a); and

"**Transferred Cumulative Commodity Variance**" is the Cumulative Commodity Variance which is (or is to be) transferred;

248) A Shipper ("Cumulative Commodity Variance Transferor Shipper") may transfer all or part of its:

- a) Cumulative Commodity Variance in respect of Day 'd' in Month 'm' in the period from the sixth (6th) Business Day in Month 'm + 1' to the seventh (7th) Business Day in Month 'm + 1', both dates inclusive (and which shall be taken into account in calculating a Shipper's Reconciled Cumulative Commodity Variance in accordance with paragraph 273)); and
- b) Revised Cumulative Commodity Variance in respect of Day 'd' in Month 'm' in the period from the thirteenth (13th) Business Day in Month 'm + 2' up until (and including) the close of the third (3rd) Business Day in Month 'm + 3' (and which shall be taken into account in calculating a Shipper's Final Cumulative Commodity Variance in accordance with paragraph 274)), to another Shipper ("**Cumulative Commodity Variance Transferee Shipper**") subject to and in accordance with this subpart 4.5.2.

249) For the purposes of the Code, a "**Cumulative Commodity Variance Transfer**" is a transfer of a Cumulative Commodity Variance in accordance with paragraph 248).

250) The Transporter shall reject a Cumulative Commodity Variance Transfer where the Transferred Cumulative Commodity Variance exceeds the Transferor Shipper's Cumulative Commodity Variance in respect of the Relevant Transmission Network Portion for the relevant Day (after taking into account any earlier Cumulative Commodity Variance Transfer in respect of the Relevant Transmission Network Portion). For the purpose of paragraph 270), Shippers may within 10 Business Days from the date of notification on such Valid Meter Readings adjustment, request Transporter to allow Shippers to perform Cumulative Commodity Variance trading on the GTSS after 3rd Business Day of month 'm+3'.

251) The Transporter will establish and maintain an electronic bulletin board as part of GTSS for the purposes of allowing Shippers to notify other Shippers of their requirements with regard to Cumulative Commodity Variance Transfers provided that:

- a) the Transporter will not be responsible for the accuracy of any information posted by means of such electronic bulletin board in GTSS, and each Shipper acknowledges that the Transporter will not be liable in any respect in relation to any notification made by a Shipper;

- b) the Transporter will not be liable to Shippers in the event of the unavailability of the electronic bulletin board in GTSS;
  - c) the Transporter may modify the electronic bulletin board in GTSS at its sole discretion; and
  - d) each Shipper agrees to be bound by, and at all times comply with, such terms and conditions as the Transporter shall publish from time to time, regarding access to and use of such electronic bulletin board in GTSS.
- 252) Where a Shipper proposes to make a Cumulative Commodity Variance Transfer, both the Cumulative Commodity Variance Transferor Shipper and the Cumulative Commodity Variance Transferee Shipper must notify the Cumulative Commodity Variance Transfer to the Transporter specifying:
- a) the identity of the Cumulative Commodity Variance Transferor Shipper and the Cumulative Commodity Variance Transferee Shipper;
  - b) the amount of the Transferred Cumulative Commodity Variance; and
  - c) the Day to which the Cumulative Commodity Variance Transfer relates.
- 253) Notification of a proposed Cumulative Commodity Variance Transfer shall not be effected later than the end of the appropriate period referred to in paragraph 248).
- 254) The Transporter may reject a Cumulative Commodity Variance Transfer:
- a) in accordance with paragraph 250);
  - b) where either the Cumulative Commodity Variance Transferor Shipper or the Cumulative Commodity Variance Transferee Shipper does not notify the Transporter in accordance with paragraph 252); or
  - c) where either the Cumulative Commodity Variance Transferor Shipper or the Cumulative Commodity Variance Transferee Shipper is in breach of the provisions of part 16.2.
- 255) The Transporter will notify the Cumulative Commodity Variance Transferor Shipper and the Cumulative Commodity Variance Transferee Shipper that the Cumulative Commodity Variance Transfer is effective not later than sixty (60) minutes following the notification of the Cumulative Commodity Variance Transferor Shipper or the Cumulative Commodity Variance Transferee Shipper, whichever is the later. For the avoidance of doubt, following an effective Cumulative Commodity Variance Transfer, the Cumulative Commodity Variance held by the Cumulative Commodity Variance Transferee Shipper in respect of the Day and the Relevant Transmission Network Portion to which the Cumulative Commodity Variance Transfer relates shall be deemed to have been increased by the amount of the Transferred Commodity Variance.

#### **4.5.3 Cumulative Commodity Variance Clearing**

- 256) Without prejudice to part 4.6, on the date for Initial Settlement, the quantity of gas comprising a Shipper's Initial Cumulative Commodity Variance in respect of each Day 'd' in a Month 'm' shall be

deemed to be sold and purchased in accordance with this part, extinguishing the Shipper's Initial Cumulative Commodity Variance in respect of such Day 'd' in a Month 'm'.

- 257) Where the Shipper's Initial Cumulative Commodity Variance is:
- a) positive, the Transporter is the buyer, and the Shipper is the seller; and
  - b) negative, the Transporter is the seller, and the Shipper is the buyer.
- 258) The Initial Cumulative Commodity Variance Charge payable by the buyer to the seller in accordance with paragraph 257) shall be the amount of the Shipper's Initial Cumulative Commodity Variance in respect of the relevant Day 'd' in a Month 'm' multiplied by:
- a) the Administered Positive Commodity Price where the Shipper's Initial Cumulative Commodity Variance is positive; and
  - b) the Administered Negative Commodity Price where the Shipper's Initial Cumulative Commodity Variance is negative.
- 259) The Initial Monthly Commodity Variance Charge is the aggregate of the Initial Cumulative Commodity Variance Charges for all Days in Month 'm' and shall be invoiced and payable in accordance with Part 13.

#### **4.5.3.1 Commodity Variance Tolerance**

- 260) For the purposes of the Code, in respect of each Month, the "**Commodity Variance Tolerance Quantity**" for a Shipper in relation to such Month is the quantity of gas determined as:

$$(A / B) * SCVT$$

where:

*A* is the aggregate of the differences between the Shipper Aggregate Injection Quantity and Shipper Aggregate Offtake Quantity for the Shipper ("**Shipper Balancing Period Throughput**") for all Balancing Periods in the preceding Month;

*B* is the aggregate of the differences between the Shipper Aggregate Injection Quantity and Shipper Aggregate Offtake Quantity for all Shippers ("**Total Balancing Period Throughput**") for all Balancing Periods in the preceding Month; and

*SCVT* is System Commodity Variance Tolerance.

- 261) The System Commodity Variance Tolerance shall be reviewed from time to time by the Transporter (but in any event, at least on one occasion in every period of six (6) consecutive Months), and the Transporter may, on not less than seven (7) Day's prior notice to Shippers, give notice of a revised System Commodity Variance Tolerance provided that no such revised System Commodity Variance Tolerance shall be effective (and therefore have effect for the purposes of the Code) other than on the first day of a Month and unless and until:
- a) the Transporter has submitted details of the proposed revised System Commodity Variance

Tolerance to URCA; and

b) the revised System Commodity Variance Tolerance has been approved by URCA.

262) The System Commodity Variance Tolerance at the date of the Code shall be zero (0) mmBtu.

263) In respect of a Balancing Period, the Transporter shall, not later than two (2) hours following the Balancing Period notify each Shipper of the Shipper's Commodity Variance and whether such Commodity Variance is positive or negative.

#### **4.5.4 Administered Commodity Prices**

264) At the date of the Code:

a) the "**Administered Positive Commodity Price**" shall be the price, expressed in \$/mmBtu, equal to one hundred and ten (110%) per cent of the Base Price;

b) the "**Administered Negative Commodity Price**" shall be the price, expressed in \$/mmBtu, equal to one hundred and ten (110%) per cent of the Base Price;

c) the "**Base Price**" shall be the arithmetic average of the midpoint of the published values of the average FOB Caribbean spot price assessment expressed in US dollars per metric tonne for high sulphur fuel oil three decimal five percent (3.5%) sulfur 180 CST ("HSFO") as quoted in Platt's for the Month in which a Shipper's Initial Cumulative Commodity Variance occurs, adjusted by the Conversion Factors;

d) "**Conversion Factors**" are the Energy Conversion Factor and the Currency Conversion Factor;

e) "**Energy Conversion Factor**" shall mean 41 mmBtu per metric tonne; and

f) "**Platt's**" shall mean Platt's Oilgram Price Report, a daily international oil and gas market report established in 1923 published by the Commodities Division of Standard & Poor's.

265) In the event that Platt's ceases to be published or it ceases to quote values for HSFO, URCA shall determine a suitable alternative basis to calculate the Base Price.

266) Each Administered Commodity Price shall be reviewed from time to time by the Transporter, and the Transporter may on not less than thirty (30) days prior notice to Shippers give notice of revised Administered Commodity Prices provided that no such revised Administered Commodity Price shall be effective (and therefore have effect for the purposes of this paragraph) other than on the first day of a Month and unless and until:

a) the Transporter has submitted details of the proposed revised Administered Commodity Price to URCA; and

b) the revised Administered Commodity Price is approved by URCA.

#### **4.6 Offtake Reconciliation**

267) For the purposes of this part 4.6, a "**Relevant System Offtake Point**" is a System Offtake Point in



respect of which for a Reconciliation Month the Transporter has by the Reconciliation Cut-off Date received or obtained a Valid Meter Reading in respect of one or more Balancing Periods in the Reconciliation Month.

#### 4.6.1 Meter Reconciliation

268) In respect of each Balancing Period in Month 'm' ("**Reconciliation Month**"), Meter Reconciliation shall be carried out for the purposes of Final Settlement on the thirteenth (13th) Business Day of Month 'm + 2' in accordance with this part 4.6.1.

269) Meter Reconciliation shall be carried out in respect of Relevant System Offtake Points for the Reconciliation Month on the basis of Metered Offtake Quantities determined by reference to Valid Meter Readings provided to or obtained by the Transporter not later than the tenth (10th) Business Day of Month 'm + 2' ("**Reconciliation Cut-off Date**").

270) In undertaking Meter Reconciliation for a Reconciliation Month, the Transporter shall not be required to consider or otherwise take into account Valid Meter Readings for Relevant System Offtake Points which relate (in whole or in part) to the Reconciliation Month if such Valid Meter Readings were provided to the Transporter after the Reconciliation Cut-off Date. Without prejudice to preceding paragraph 269), Transporter will notify affected Shippers in writing on changes to the allocated injection quantities and attributed offtake quantities if such Valid Meter Readings are taken into account after the Reconciliation Cut-off Date.

271) For the purposes of Meter Reconciliation in respect of a Relevant System Offtake Point, the Transporter shall in respect of each Balancing Period in the Reconciliation Month falling in a Meter Read Period ("**Relevant Balancing Period**"), calculate the Shipper Transmission/Distribution Quantity for the Relevant Balancing Period in accordance with the following formula:

$$RTDQ = B + D$$

Where:

*RTDQ* is the revised Shipper Transmission/Distribution Quantity;

*B* is as defined in paragraph 222);

$$D = (\text{Hourly Total TDs} - Bs) \times (\Sigma DOs1 / \Sigma DOsn) * (\Sigma DOsn / (\Sigma TDs - Bm))$$

$$= (\text{Hourly Total TDs} - Bs) \times \Sigma DOs1 / (\Sigma TDs - Bm)$$

Where (for a particular Distribution Network):

- (i) *ΣDOsn* is the total of each metered Distribution Network Offtake Point quantity by all shippers, in such Distribution Network (which excludes all BPRM readings) in a Month 'm';
- (ii) *Hourly Total TDs* is the total of each metered Transmission/Distribution Point quantity for such Balancing Period in such Distribution Network;
- (iii) *Bs* is sum of B for each shipper in such Distribution Network for such Balancing Period;

- (iv)  $\Sigma DOs1$  is the total of each metered Distribution Network Offtake Point quantity by Shipper,  $s1$ , in such Distribution Network (which excludes all BPRM readings) in a Month 'm';
- (v)  $\Sigma TDs$  is the total of each metered Transmission/Distribution Point quantity in a Month 'm' in such Distribution Network; and
- (vi)  $Bm$  is the sum of  $Bs$  in such Distribution Network in a Month 'm'.

#### 4.6.2 Final Settlement

- 272) Following the calculations under part 4.6.1, the Transporter shall for each Shipper and for each Day in the Reconciliation Month, re-calculate the Shipper's Cumulative Commodity Variance (including the Shipper's Commodity Variance Tolerance Quantity) ("**Revised Cumulative Commodity Variance**") on the basis of the revised Shipper Offtake Quantity and the revised Aggregate Shipper Transmission/Distribution Quantity which have been recalculated in accordance with paragraph 271).
- 273) Following the calculation of a Shipper's Revised Cumulative Commodity Variance, the Transporter shall calculate the Shipper's "**Reconciled Cumulative Commodity Variance**", which shall be determined as the Shipper's Revised Cumulative Commodity Variance for the relevant Day:
- a) plus, Transferred Cumulative Commodity Variances in respect of which the Shipper is the Cumulative Commodity Variance Transferee Shipper; and
  - b) less, Transferred Cumulative Commodity Variances in respect of which the Shipper is the Cumulative Commodity Variance Transferor Shipper;

in respect of the relevant Day, and in each case, for Cumulative Commodity Variance Transfer(s) notified to the Transporter in the relevant Initial Cumulative Commodity Variance Trading Period and the Transporter shall publish each Shipper's Reconciled Cumulative Commodity Variance in accordance with the procedures set out in the GTSS Manual.

- 274) For the purposes of Final Settlement, the Transporter shall, in respect of each Shipper and each relevant Day in the Reconciliation Month:
- a) calculate the Shipper's "**Final Cumulative Commodity Variance**", which shall be determined as the Shipper's Reconciled Cumulative Commodity Variance in respect of such Day 'd' for Month 'm':
    - (i) plus, Transferred Cumulative Commodity Variances in respect of which the Shipper is the Cumulative Commodity Variance Transferee Shipper; and
    - (ii) less, Transferred Cumulative Commodity Variances in respect of which the Shipper is the Cumulative Commodity Variance Transferor Shipper; in respect of such Day 'd' and in each case, for Cumulative Commodity Variance Transfers notified to the Transporter in the relevant Final Cumulative Commodity Variance Trading Period;
  - b) re-calculate the Nomination Divergence Charges and Overrun Charges properly payable by the Shipper; and

- c) re-calculate the Usage Charges properly payable by the Shipper.

### 4.6.3 Final Cumulative Commodity Variance Clearing

- 275) Upon the date for Final Settlement, the quantity of gas equal to the difference between a Shipper's Initial Cumulative Commodity Variance and its Final Cumulative Commodity Variance ("**Consolidated Cumulative Commodity Variance**") in respect of each Day 'd' for Month 'm' shall be deemed to be sold and purchased in accordance with this paragraph, thereby extinguishing that Shipper's Consolidated Cumulative Commodity Variance in respect of such Day 'd' for Month 'm'.
- 276) Where the Shipper's Final Cumulative Commodity Variance is:
- a) positive, the Transporter is the buyer and the Shipper is the seller; and
  - b) negative, the Transporter is the seller and the Shipper is the buyer.
- 277) The Final Cumulative Commodity Variance Charge payable by the buyer to the seller in accordance with paragraph 276) shall be the amount of the Shipper's Consolidated Cumulative Commodity Variance in respect of the relevant Day 'd' in Month 'm' multiplied by:
- a) the Administered Positive Commodity Price where paragraph 276)a) applies; and
  - b) the Administered Negative Commodity Price where paragraph 276)b) applies
- 278) Following calculation of a Shipper's Consolidated Cumulative Commodity Variance, the Transporter shall re-calculate the Transportation Charges properly payable by the Shipper, and any adjustments ("**Revised Transportation Charges**") will be payable to, or recoverable from, the Shipper.
- 279) The Final Monthly Commodity Variance Charge, which is the aggregate of the Final Cumulative Commodity Variance Charges for all Days in Month 'm', and Revised Transportation Charges shall be invoiced and payable in accordance with Part 13.

## 4.7 Transporter Injection Imbalances And Compensation Resolution

### 4.7.1 Transporter Injection Imbalance definitions and calculation

- 280) The "**Transporter Injection Imbalance**" in respect of each Transmission Network Injection Point in each Day shall be calculated in accordance with the following formula:

$$T\Delta_d^i = \left( \sum_1^n Qs_n^i \right) - \left( \sum_1^n QI_n^i \right)$$

where:

$T\Delta_d^i$  is the Transporter Injection Imbalance for Transmission Network Injection Point 'i' in respect of all Balancing Periods in Day 'd';

$Qs_n^i$  is the aggregate Scheduled Injection Quantities of all Shippers who have injected gas at Transmission Network Injection Point 'i' in Balancing Period 'n';

n is the total number of Balancing Periods in Day 'd'; and

$QI_n^i$  is the aggregate Metered Injection Quantity at Transmission Network Injection Point 'i' in Balancing Period 'n'.

281) The "**Scheduled Injection Quantity Deviation**" in respect of each Transmission Network Injection Point in each Day shall be the sum of the following:

- a) Shipper Nomination Divergence;
- b) Upstream Delivery Divergence; and
- c) Force Majeure Divergence,

each as defined below.

282) The "**Shipper Nomination Divergence**" in respect of each Transmission Network Injection Point in each Day shall be calculated in accordance with the following formula:

$$SND = \sum_1^n (Qs_n^i - Qoff_n^i)$$

where:

$Qs_n^i$  is the Scheduled Injection Quantities of all Shippers who have injected gas at Transmission Network Injection Point 'i' in Balancing Period 'n';

$Qoff_n^i$  is the Shipper Offtake Quantity divided by Network Shrinkage Factor for all Shippers who have offtaken gas at Eligible Offtake Points which are attributed to Transmission Network Injection Point 'i' in Balancing Period 'n'; and

n is the number of Balancing Periods in Day 'd',

in each case, to the extent that such divergence causes (directly or indirectly) a corresponding Transporter Injection Imbalance. The applicable "Shipper Nomination Divergence" shall be, at the date of the Code, equal to zero (0).

283) The "**Upstream Delivery Divergence**" in respect of each Transmission Network Injection Point in each Day is the shortfall in the quantity of gas that was scheduled to be injected at the relevant Transmission Network Injection Point under the Final Operating Schedule(s), but which was not injected because such gas was not made available for injection by an Upstream Facility, a Shipper or its upstream supplier.

284) The "**Force Majeure Divergence**" in respect of each Transmission Network Injection Point in each Day is the shortfall in the quantity of gas that was scheduled to be injected at the relevant Transmission Network Injection Point under the Final Operating Schedule(s), but which was not injected because of Force Majeure.

285) The "**Transporter Injection Imbalance Error**", expressed as a percentage, in respect of each

Transmission Network Injection Point 'i' for each Day 'd' shall be calculated in accordance with the following formula:

$$ETI_d^i(\%) = \frac{T\Delta_d^i - Q\Delta_d^i}{Qs_d^i}$$

where:

$ETI_d^i(\%)$  is the Transporter Injection Imbalance Error expressed as a percentage;

$T\Delta_d^i$  is the Transporter Injection Imbalance for Transmission Network Injection Point 'i' in respect of all Balancing Periods in Day 'd' as determined in accordance with paragraph 280);

$Qs_d^i$  is the sum of all aggregate Scheduled Injection Quantities of all Shippers who have injected gas at Transmission Network Injection Point 'i' in respect of all Balancing Periods in Day 'd'; and

$Q\Delta_d^i$  is the Scheduled Injection Quantity Deviation for Day 'd' as determined in accordance with paragraph 281).

- 286) The “**Transporter Injection Tolerance**” in respect of each Transmission Network Injection Point for each Day shall be expressed as a percentage based on the aggregate Scheduled Injection Quantities for that Day and such percentage shall be determined in accordance with the formulae and procedures prescribed in a document entitled “**Transmission Network Injection Point Operating Procedures**”. The Transporter shall review the performance of the injection control equipment used at each Transmission Network Injection Point not less than once every three (3) Months and propose revisions (if any) to the Transporter Injection Tolerance in respect of each Transmission Network Injection Point for URCA’s approval.
- 287) The “**Tolerance Threshold**” in respect of each Transmission Network Injection Point for each Day shall be expressed as a percentage based on the aggregate Scheduled Injection Quantities for that Day and such percentage shall be less than the Transporter Injection Tolerance and determined in accordance with the formulae and procedures prescribed in the Transmission Network Injection Point Operating Procedures.
- 288) The Transporter shall develop and publish Transmission Network Injection Point Operating Procedures for each Transmission Network Injection Point and these procedures shall be reviewed from time to time by the Transporter (but in any event at least once in every period of six (6) consecutive Months) and the Transporter may, on not less than seven (7) Day’s prior notice to Shippers, give notice of any revisions to the Transmission Network Injection Point Operating Procedures provided that no such revisions to the procedures shall be effective (and therefore have effect for the purposes of this Code) other than on the first Day of a Month and unless and until:
- a) the Transporter has submitted details of the proposed revisions to the Transmission Network Injection Point Operating Procedures to URCA; and
  - b) the revisions to the Transmission Network Injection Point Operating Procedures have been approved by URCA.

289) The Transporter shall, in respect of each Day ‘d’ in a Month ‘m’ and each Transmission Network Injection Point, determine and notify each Shipper by no later than the sixth (6th) Business Day in Month ‘m+1’ of the following:

- a) the Transporter Injection Imbalance for each such Day ‘d’;
- b) the Scheduled Injection Quantity Deviation for each such Day ‘d’;
- c) the Transporter Injection Imbalance Error for each such Day ‘d’;
- d) the Transporter Injection Tolerance for each such Day ‘d’; and
- e) the Tolerance Threshold for each such Day ‘d’.

#### 4.7.2 Transporter Rebate Payments

290) Where, in respect of Day ‘d’ and Transmission Network Injection Point ‘i’, the Transporter Injection Imbalance Error is equal to or less than the Transporter Injection Tolerance but is greater than the Tolerance Threshold, the Transporter shall pay to the Shippers a “**Transporter Rebate Payment**” in respect of such Day and Transmission Network Injection Point which shall be calculated in accordance with the following formula:

$$TRP_i^d = \frac{(Transporter\ injection\ imbalance\ error - Tolerance\ Threshold)(\%)}{100}$$

\* aggregate Metered Injection Quantity at Injection Point ‘i’ for all Balancing Periods in Day ‘d’

\* (\$0.05 per mmBtu)

291) The amount of Transporter Rebate Payment to be paid by the Transporter to each Shipper shall be calculated in accordance with the following formula:

$$TRP_s^d = TRP_i^d * \left(\frac{STT}{TST}\right)$$

where:

$TRP_s^d$  is the amount of the Transporter Rebate Payment to be paid by the Transporter to Shipper ‘s’ in respect of Day ‘d’ and Transmission Network Injection Point ‘i’;

$TRP_i^d$  is the total amount of the Transporter Rebate Payment in respect of Day ‘d’ and Transmission Network Injection Point ‘i’ calculated in accordance with paragraph 290);

$STT$  is the sum of the Shipper Aggregate Injection Quantity and the Shipper Aggregate Offtake Quantity for Shipper ‘s’ in respect of all Balancing Periods in Day ‘d’ at Final Settlement; and

$TST$  is the sum of the Shipper Aggregate Injection Quantity and the Shipper Aggregate Offtake Quantity for all Shippers in respect of all Balancing Periods in Day ‘d’ at Final Settlement.

292) Transporter Rebate Payments for Day 'd' shall be payable at Final Settlement in accordance with part 13.

#### **4.7.3 Compensation Resolution for Transporter Injection Imbalance Errors**

293) Where, in respect of Day 'd' in a Month 'm' and Transmission Network Injection Point 'i', the Transporter Injection Imbalance Error is greater than the Transporter Injection Tolerance, a Shipper who has incurred or suffered loss or damage as a result of such Transporter Injection Imbalance exceeding the Transporter Injection Tolerance may issue a notice for compensation by no later than the sixth (6th) Business Day in Month 'm+2' (a "**Compensation Notice**") to the chairman of the "Compensation Resolution Panel" which has been established and constituted in accordance with the rules and procedures prescribed in Annex I.

294) All claims made by Shippers for compensation for loss or damage due to the Transporter Injection Imbalance exceeding the Transporter Injection Tolerance shall be resolved per the Compensation Resolution Procedures and this part.

295) Without prejudice to paragraph 296):

a) the aggregate liability of the Transporter with respect to all Transporter Injection Imbalances, including any compensation awarded by the Compensation Resolution Panel for any Gas Year in respect of all Transmission Network Injection Points shall not exceed:

(i) in the case of the aggregate liability of the Transporter to any one claimant Shipper, \$500,000; and

(ii) in the case of the aggregate liability of the Transporter to all claimant Shippers collectively, \$5,000,000; and

b) the liability of a Shipper in respect of any compensation awarded by the Compensation Resolution Panel with respect to Transporter Injection Imbalances shall not be subject to any monetary limit.

296) The Compensation Resolution Panel shall not award, and neither the Transporter nor a Shipper shall be liable for, compensation in any circumstances for:

a) any loss or deferment of profit or anticipated earnings or saving, loss of revenue, loss of use, loss of contract, loss of goodwill, or increased cost of working and wasted effort or expenditure; or

b) any indirect or consequential loss.

297) The rights and remedies set out in this part and the Compensation Resolution Procedures are intended to be the exhaustive rights and remedies of the Shippers with respect to Transporter Injection Imbalances and, insofar as they relate to limitations of liability and nature of loss, shall apply to all liabilities and claims of any kind, whether as a result of a breach of any contractual obligation, representation or warranty, negligence, nuisance, breach of statutory duty, strict liability or otherwise howsoever arising on the part of the Transporter or a Shipper.

298) Notwithstanding any provisions contained in this part or the Compensation Resolution Procedures, the Transporter shall not be liable for any loss or damage incurred or suffered by a Shipper as a result of Transporter Injection Imbalances where the Transporter Injection Imbalance Error (i.e. having excluded Scheduled Injection Quantity Deviations from the Transporter Injection Imbalance) is equal to or less than the Transporter Injection Tolerance.

299) A Shipper who has suffered or incurred loss or damage as a result of Transporter Injection Imbalances caused by:

- a) Shipper Nomination Divergences shall be compensated by the Shipper(s) who have caused such Shipper Nomination Divergences in accordance with the process set out in paragraph 300);
- b) Upstream Delivery Divergences shall be compensated by the Shipper(s) to whom the shortfall quantity of gas should have been delivered for injection at the relevant Transmission Network Injection Point in accordance with the process set out in paragraph 300); or
- c) Force Majeure Divergences shall be compensated by all Shippers in accordance with the process set out in paragraph 301).

300) Any compensation awarded by the Compensation Resolution Panel pursuant to paragraph 299)a) or 299)b) shall be:

- a) paid to the claimant Shipper(s) by the relevant Shipper(s) within one (1) month of the Compensation Resolution Panel's award; or
- b) in the event of any non-payment or partial payment by the relevant Shipper(s) after expiry of the one (1) month period referred to in paragraph (a) above, paid(in whole or in part, as the case may be) by all Shippers where the amount to be paid by each Shipper (including the claimant Shipper(s)) shall be determined in accordance with paragraph 302).

301) Any compensation awarded by the Compensation Resolution Panel pursuant to paragraph 299)c) shall be paid by all Shippers where the amount to be paid by each Shipper (including the claimant Shipper(s)) shall be determined in accordance with paragraph 302).

302) In the event that:

- a) an amount referred to in paragraph 300)b) or 301) shall be payable by all Shippers; or
- b) the compensation awarded against the Transporter by the Compensation Resolution Panel in respect of Transporter Injection Imbalances exceed the amounts prescribed in paragraph 295),

the amount of such compensation or additional compensation (the "**Residual Award**") shall be borne and paid for by all Shippers (including the claimant Shipper(s)) where the amount to be paid by each Shipper shall be calculated in accordance with the following formula:

$$R_{As} = R_A * \left(\frac{STT}{TST}\right)$$



where:

$R_{A_s}$  is the amount of the Residual Award to be paid by Shipper 's';

$R_A$  is the total amount of the Residual Award;

$STT$  is the sum of the Shipper Aggregate Injection Quantity and the Shipper Aggregate Offtake Quantity for Shipper 's' in respect of all Balancing Periods at Final Settlement in the Month to which the Residual Award relates; and

$TST$  is the sum of the Shipper Aggregate Injection Quantity and the Shipper Aggregate Offtake Quantity for all Shippers in respect of all Balancing Periods at Final Settlement in the Month to which the Residual Award relates.

303) The amount of Residual Award to be paid by a Shipper under paragraph 302) shall be invoiced by the Transporter as a Miscellaneous Invoice and paid by the Shipper in accordance with Part 13.

304) The Transporter shall not be required to pay any Residual Award to the claimant Shipper(s) until it has received payment of such Residual Award from the relevant Shippers pursuant to paragraph 303).

305) The failure by a Shipper to pay the amount of any compensation awarded by the Compensation Resolution Panel in accordance with paragraph 300)a) or the amount of any Residual Award in accordance with paragraph transporter incentive payments by the relevant due date shall constitute a 'Shipper Default' for the purposes of part 16.4.1.

306) All remuneration, disbursements, fees and other costs of the Compensation Resolution Panel and any professional advisers appointed by the Compensation Resolution Panel to assist in the claims process shall be borne and paid by the Transporter and the Shippers in the manner and in the amounts prescribed in the Compensation Resolution Procedures.

307) The determination of the Compensation Resolution Panel shall be:

- a) final and binding on the Parties except in the event of fraud or manifest error; and
- b) enforceable by a court of competent jurisdiction on the same basis as obligations between private parties.

## **4.8 Balancing Neutrality**

### **4.8.1 Balancing Reconciliation**

308) "**Balancing Reconciliation**" is the calculation, in respect of a Month 'm' ("**Balancing Reconciliation Month**"), of the portion of the Balancing Charges collected during such Balancing Reconciliation Month to be refunded to each Shipper.

309) Balancing Reconciliation shall be carried out in respect of a Balancing Reconciliation Month not later than the eleventh (11th) Business Day of Month 'm + 3' in accordance with this paragraph 8.

310) Following Balancing Reconciliation the Transporter shall pay each Shipper, in respect of the

Balancing Reconciliation Month, the Balancing Neutrality Charge. for such Shipper calculated in accordance with paragraph 308).

- 311) For the purposes of the Code, "**Balancing Charges**" comprise the Commodity Variance Charges and Metering Performance Charges collected by the Transporter which, for the avoidance of doubt, includes interest earned, or financing costs incurred, by the Transporter from such charges.

#### **4.8.2 Balancing Neutrality Charges**

- 312) For each Shipper, the Balancing Neutrality Charge in respect of a Balancing Reconciliation Month shall be calculated in accordance with the following formula:

$$BNC = BNC_{CV} + BNC_{MP}$$

where:

$BNC$  is the Balancing Neutrality Charge;

$BNC_{CV}$  is the Balancing Neutrality Charge relating to Commodity Variance Charges; and

$BNC_{MP}$  is the Balancing Neutrality Charge relating to Metering Performance Charges calculated in accordance to paragraph 314).

- 313) Balancing Neutrality Charges shall be invoiced and are payable in accordance with part 13.
- 314) Balancing Neutrality Charge relating to Commodity Variance Charges and Metering Performance Charges are calculated in accordance with the following formulas:

- a) Balancing Neutrality Charge relating to Metering Performance Charges

$$BNC_{MP} = (STT/TST) * MPC$$

where:

$BNC_{MP}$  is the Balancing Neutrality Charge relating to Metering Performance Charges;

$STT$  is the sum of the Shipper Aggregate Injection Quantity and the Shipper Aggregate Offtake Quantity for all Balancing Periods in the Balancing Reconciliation Month;

$TST$  is the sum of the Shipper Aggregate Injection Quantity and the Shipper Aggregate Offtake Quantity for all Shippers during all Balancing Periods in the Balancing Reconciliation Month; and

$MPC$  is the sum of the Metering Performance Charges collected from all Shippers for all Balancing Periods in the Balancing Reconciliation Month which, for the avoidance of doubt, includes interest earned, or financing costs incurred, by the Transporter from such Metering Performance Charges.

- b) Balancing Neutrality Charge relating to Commodity Variance Charges

$$BNC_{MP} = (STT/TST) * MPC$$

where:

$BNC_{CV}$  is the Balancing Neutrality Charge relating to Commodity Variance Charges;

$STT$  is the sum of the Shipper Aggregate Injection Quantity and the Shipper Aggregate Offtake Quantity for all Balancing Periods in the Balancing Reconciliation Month;

$TST$  is the sum of the Shipper Aggregate Injection Quantity and the Shipper Aggregate Offtake Quantity for all Shippers during all Balancing Periods in the Balancing Reconciliation Month; and

$CVC$  is the sum of the Commodity Variance Charges collected from all Shippers less the sum of the Commodity Variance Charges paid to all Shippers for all Balancing Periods in the Balancing Reconciliation Month which, for the avoidance of doubt, includes interest earned, or financing costs incurred, by the Transporter from such Commodity Variance Charges.

#### **4.8.3 Reconciliation and neutrality audit**

315) The Transporter will appoint in accordance with paragraph 317) a person eligible for appointment as a company auditor to conduct a review after the end of the Gas Year of whether, in the opinion of such person, in calculating Balancing Neutrality Charges, the Transporter has complied with the applicable provisions of the Code.

316) For the purposes of this part the person appointed under paragraph 317) in respect of a Gas Year is the “**Neutrality Auditor**”.

317) The person appointed as Neutrality Auditor for each Gas Year and the terms of his appointment, including the scope and objectives of the review under paragraph 315) , shall be the person and the terms from time to time agreed by the Transporter and approved by URCA. The terms of appointment will require that:

- a) the Neutrality Auditor shall report his findings to the Transporter, Shippers and URCA; and
- b) the Neutrality Auditor shall undertake, in reasonable terms, to keep confidential the information disclosed to the Neutrality Auditor in the course of its review.

318) A copy of the Neutrality Auditor’s full report will be provided by the Transporter to each Shipper and to URCA.

319) The fees and costs of the Neutrality Auditor (“**Balancing Audit Charges**”) will be paid by the Transporter.

320) Where the report of the Neutrality Auditor contains a recommendation to the effect that the provisions of the Code as to the calculation of Balancing Neutrality Charges would be materially better implemented by a change in the procedures and controls adopted by the Transporter for such calculation, the Transporter will take all reasonable steps to comply with such recommendations.

## 5 Title and Risk

### 5.1 Delivery of natural gas

#### 5.1.1 Title and risk

322) Title and (without prejudice to any other provision of this Part) risk in gas:

- a) injected into the Transportation System at any System Injection Point shall pass to the Transporter at the relevant point of injection determined in accordance with paragraph 324); and
- b) offtaken from the Transportation System at a System Offtake Point shall pass to the Offtaking Shipper(s) at the relevant point of offtake determined in accordance with paragraph 328).

323) In respect of a Shared Transmission Network Offtake Point, title and risk in gas shall, for the purposes of paragraph 322)a), be deemed to pass to the Offtaking Shippers in such proportions as are consistent with the terms of the relevant Offtake Allocation Agreement or, as the case may be, the provisions of the default allocation mechanism set out in paragraph part 4.3.2.

#### 5.1.2 Injection of gas

324) Where a System Entry Agreement is in effect, such agreement shall identify (by description or a diagram, or both) for the purposes of paragraph 322) a point of injection in respect of such Transmission Network Injection Point and otherwise the Transmission Network Injection Point shall be identified by the Transporter in the Capacity Certificate which identifies that Transmission Network Injection Point.

325) Each Shipper warrants to the Transporter:

- a) that such Shipper will have title (at the point of delivery) to all gas injected by that Shipper into the Transportation System at any System Injection Point; and
- b) that all such gas will (at such point) be free of any lien, charge, encumbrance or adverse claim (as to title or otherwise), including any claim for any tax, royalty or other charge in respect of the production, gathering, processing and tendering of gas arising on or before its injection into the Transportation System.

326) Each Shipper shall indemnify the Transporter and hold it harmless against any loss, liability, damage, claim, action, proceeding, cost and expense suffered or incurred by, or made or brought against, the Transporter in consequence of any breach of the warranties in paragraph 325), including, without limitation, any claim by a third party to title in gas injected into the Transportation System at any System Injection Point.

327) For the purposes of the warranty in paragraph 325)a) where a Shipper has arranged to receive delivery of gas at a System Injection Point from a person (or persons) who has (or jointly have) title to the gas up to the System Injection Point, then such Shipper shall procure that title to the gas shall pass, immediately upon delivery of gas at the System Injection Point, to the relevant Shipper, who shall then immediately pass title to the gas to the Transporter at the same System Injection Point to

facilitate the injection of such gas by the Shipper into the Transportation System.

### **5.1.3 Offtake of gas**

328) The point of offtake in respect of each System Offtake Point shall be:

- a) where gas is offtaken at the premises of a Retail Customer, the point so identified in the Distribution Network Offtake Point Registration Certificate applicable to the Distribution Network Offtake Point at such Retail Customer's premises; or
- b) where gas is offtaken at the premises of a Customer who is not a Retail Customer, the point so identified in the Capacity Certificate applicable to the Transmission Network Offtake Point at such Customer's premises.

329) The Transporter warrants to each Shipper that the Transporter will have title (at the point of offtake) to all gas made available for offtake from the Transportation System at any System Offtake Point by that Shipper, and that all such gas will (at such point) be free of any lien, charge, encumbrance or adverse claim (as to title or otherwise), including any claim for any tax, royalty or other charges in respect of the production, gathering, processing and tendering of gas arising on or before offtake from the Transportation System, save to the extent that any defect in title or adverse interest is attributable to a breach by the relevant Shipper of its warranty in paragraph 325)

330) The Transporter shall indemnify each Shipper and hold it harmless against any loss, liability, damage, claim, action, proceeding, cost and expense suffered or incurred by or made or brought against such Shipper in consequence of any breach of the warranty in paragraph 329).

## 6 System offtake point register

### 6.1 Register and Registered Shipper

- 332) The Transporter shall at all times establish and maintain, or procure the maintenance of, a register ("**System Offtake Point Register**") containing details of each System Offtake Point in accordance with this Part.
- 333) For each System Offtake Point, the System Offtake Point Register will record the details to be submitted in an Offtake Point Registration Notice and the details to be recorded in accordance with paragraph 339).
- 334) The gas offtaken from the Transportation System at a System Offtake Point will be attributed to the Registered Shipper or Sharing Registered Shippers, and the Registered Shipper or Sharing Registered Shipper accepts responsibility for the offtake of the gas at the System Offtake Point by itself or such other person (whether or not authorised by the Registered Shipper) for the purposes of this Code.

### 6.2 Offtake Point Registration Notice

- 335) Without prejudice to paragraph 338), before a Shipper offtakes gas from the Transportation System at a System Offtake Point (irrespective of whether or not such Shipper is the first Shipper to do so):
- a) the Shipper shall submit to the Transporter a notice ("**Offtake Point Registration Notice**") in accordance with paragraph 336); and
  - b) the Transporter shall have notified the Shipper that it has accepted the Offtake Point Registration Notice.
- 336) An Offtake Point Registration Notice shall, without prejudice to paragraph 338), specify in respect to the relevant System Offtake Point:
- a) the Meter Identification Number for the Meter Installation;
  - b) the address at which the Meter Installation is located and the location of the Meter Installation at the address;
  - c) the identity of the Shipper (and the Shipper ID) submitting the notice and, in the case of a notice submitted under paragraph 341)b), the identity of the Registered Shipper, evidence that the Registered Shipper is agreeable to the transfer of the System Offtake Point and the date from which the transfer is to have effect (which shall not be earlier than the date provided for in paragraph 342)b);
  - d) the type of Meter Installation(s) installed at the System Offtake Point;
  - e) the Customer Type (for the purposes of Part 15);
  - f) the proposed classification of the System Offtake Point for the purposes of the System Stress

Curtailment Plan (for the purposes of part 11);

- g) the reason for submitting the notice (in accordance with paragraph 341);
- h) the date on which gas was, or is proposed to be, first offtaken by the Shipper from the Transportation System at the System Offtake Point; and
- i) the date on which the connection to the Transportation System at the System Offtake Point was, or is proposed to be, commissioned.

337) The Transporter:

- a) may reject an Offtake Point Registration Notice which does not comply with the requirements of paragraph 336); and
- b) shall notify the Shipper whether it has accepted or rejected the notice not later than three (3) Business Days after the Shipper submits the notice.

338) Where a Shipper submits an Offtake Point Registration Notice for the purposes of paragraph 341)c), the notice shall specify the identity of the Shipper, the Shipper ID, the Meter Identification Number and the details in respect of which those recorded in the System Offtake Point Register are no longer accurate.

339) The Transporter shall, in respect of each Distribution Network Offtake Point, at the same time the details in respect of the Distribution Network Offtake Point are first recorded in the System Offtake Point Register, assign to such Distribution Network Offtake Point one or more Transmission/Distribution Points (each a "**Relevant Transmission/Distribution Point**") and for this purpose the Registered Shipper at such Distribution Network Offtake Point shall also be a Registered Shipper at the Relevant Transmission/Distribution Point, provided that any Distribution Network Offtake Point which is on the Distribution Network from which gas was injected into the Distribution Network at the Distribution Network Injection Point, shall be assigned to such Distribution Network Injection Point.

340) For the purposes of paragraph 29) it shall be the Relevant System Point, located most distant from the relevant Transmission Network Injection Point, at which the gas offtaken from the Transportation System at the Distribution Network Offtake Point is deemed to flow out of the Transmission Network and into the Distribution Network.

### **6.3 Notification**

341) A Shipper (which includes a Transferee Shipper) shall be required to submit an Offtake Point Registration Notice:

- a) in accordance with paragraph 335);
- b) where the Shipper submitting the notice wishes to replace the existing Registered Shipper as such (and the existing Registered Shipper is agreeable to the same);
- c) where any of the details in an earlier submitted Offtake Point Registration Notice (where

previously submitted by the Shipper) are no longer accurate;

- d) where, in respect of a Transmission Network Offtake Point, it wishes to become a Sharing Registered Shipper; and
- e) where it is proposed that the offtake of gas at the System Offtake Point be discontinued.

342) A Shipper shall submit an Offtake Point Registration Notice to the Transporter:

- a) in the case of paragraph 341)a), not later than ten (10) Business Days before the first day on which the Shipper proposes to offtake gas at the System Offtake Point;
- b) in the case of paragraph 341)b), not later than five (5) Business Days before the first day on which the Shipper proposes to become the Registered Shipper in respect of the System Offtake Point;
- c) in the case of paragraph 341)c), not later than five (5) Business Days before the first Day on which the Shipper wishes to change the details recorded on the System Offtake Point Register;
- d) in the case of paragraph 341)d), not later than five (5) Business Days before the first Day on which the Shipper wishes to offtake gas at the Shared Transmission Network Offtake Point; and
- e) in the case of paragraph 341)e)), not later than five (5) Business Days before the Day from which the Shipper proposes that the offtake of gas at the System Offtake Point be discontinued.

For notices submitted outside the timelines stated in paragraphs 342)a) to 342)e) and without prejudice to paragraph 337), the Transporter may exercise discretion of approval on a case-by-case basis.

343) Following submission of an Offtake Point Registration Notice which is not rejected by the Transporter, the Transporter shall:

- a) amend the System Offtake Point Register to reflect the details set out in the Offtake Point Registration Notice;
- b) notify the Shipper submitting the notice that the System Offtake Point Register has been amended; and
- c) in the case of paragraphs 341)b) to e), notify, where applicable, the existing Registered Shipper or (as the case may be) existing Sharing Registered Shippers that the System Offtake Point Register has been amended.

344) Where a Shipper submits an Offtake Point Registration Notice which is rejected by the Transporter, the Shipper may, without prejudice to the Transporter's rights under paragraph 337)a), resubmit such notice.



## **6.4 Data**

- 345) The Transporter shall keep all data to be held, or shall procure that all data shall be held, on the System Offtake Point Register in accordance with this Part for a period of ten (10) years.

## 7 System Entry Requirements

### 7.1 Introduction

- 346) The provisions of this Part shall apply in respect of the injection of gas into any System Injection Point.
- 347) Shippers injecting gas into the System at any System Injection Point shall comply with the relevant requirements of this Part H.
- 348) Nothing in the Code confers on any person any entitlement to have any pipeline, plant or other installation connected to the Transportation System for the purpose of injecting gas into it.

### 7.2 System Entry Agreement

- 349) A Shipper may not inject gas into the Transmission Network at any Transmission Network Injection Point connected to an Upstream Facility unless there is in force an agreement ("**System Entry Agreement**") between the Transporter and the Upstream Facility Operator containing, without limitation, System Entry Provisions applicable in respect of that Transmission Network Injection Point.
- 350) A System Entry Agreement may contain provisions other than System Entry Provisions.
- 351) The existence of a System Entry Agreement shall not relieve Shippers of any obligation under this Code, and the Transporter shall not be required (for itself or for the benefit of any Shipper) to secure in a System Entry Agreement any remedy against the Upstream Facility Operator nor to take steps to enforce any provision of a System Entry Agreement.

#### **7.2.1 Availability of System Entry Provisions and Local Operating Procedures**

- 352) Subject to paragraph 354), the Transporter shall make available to any Shipper or Applicant Shipper on request, a copy of the System Entry Provisions and, subject to part 7.2.5, Local Operating Procedures applicable at any Transmission Network Injection Point which is connected to an Upstream Facility, but shall not be required to provide to any Shipper or Applicant Shipper any other details of a System Entry Agreement.
- 353) A Shipper who applies (in accordance with part 2) for Capacity Rights in relation to a Transmission Network Injection Point which is connected to an Upstream Facility or injects gas into the Transmission Network at a Transmission Network Injection Point which is connected to an Upstream Facility, shall be responsible for obtaining and shall be deemed to have obtained and to be fully informed of the applicable System Entry Provisions and Local Operating Procedures.
- 354) Paragraph 352) shall not apply to any particular provision of the System Entry Provisions applicable pursuant to paragraph 357) or Local Operating Procedures, where the disclosure of such provision would be materially prejudicial to the commercial interests of the Upstream Facility Operator or where the provision or procedure contains personal or confidential information relating to individuals or refers to any other agreement to which the Upstream Facility Operator is a party.

### **7.2.2 Amendment of System Entry Provisions**

- 355) Subject to paragraph 361)a), the System Entry Provisions in respect of any Transmission Network Injection Point connected to an Upstream Facility may not be modified except by agreement between the Transporter and the relevant Upstream Facility Operator.
- 356) Subject to paragraph 357), the Transporter shall not agree to any modification of the System Entry Provisions except with the written consent of all Shippers who, at the date when such amendment is to take effect, have Available Capacity Rights entitling them to inject gas at the relevant Transmission Network Injection Point connected to an Upstream Facility.
- 357) Such System Entry Provisions may (in accordance with the provisions of the relevant System Entry Agreement) be amended without the consent of any Shipper insofar as necessary to enable the Transporter or the relevant Upstream Facility Operator to comply with any Legal Requirement.
- 358) The Transporter shall notify all Shippers who have Available Capacity Rights entitling them to inject gas at the relevant Transmission Network Injection Point, which is connected to an Upstream Facility, of any modification to the System Entry Provisions not later than the date upon which such modification becomes effective.

### **7.2.3 System Entry Provisions**

- 359) System Entry Provisions shall:
- a) identify the Upstream Facility (by name, location or otherwise);
  - b) specify the Transmission Network Injection Point(s);
  - c) specify for the Transmission Network Injection Point, the Injection Measurement Provisions in accordance with part 7.2.4 and the Local Operating Procedures in accordance with part 7.2.5; and
  - d) identify (by description or diagram, or both) the point at which gas is injected into the Transmission Network for the purposes of paragraph 322)a).
- 360) System Entry Provisions may specify (unless separately specified) Local Operating Procedures in accordance with part 7.2.5.
- 361) System Entry Provisions shall, without limitation, include:
- a) procedures by and standards to which the Upstream Facility is to be maintained, repaired and operated, but only insofar as such procedures and standards are material to the ability of the Transporter to safely, efficiently and economically operate the Transportation System or to comply with any Legal Requirement or Directive;
  - b) terms entitling the Transporter and the Upstream Facility Operator to have access to each other's facilities for the purposes of verification of compliance with the requirements of the System Entry Provisions or requiring them to procure and facilitate a technical audit of such compliance;

- c) terms according to which, and circumstances in which, it is permitted to deviate or depart from any other System Entry Provision;
  - d) any other terms or conditions which may be appropriate for the purposes of (but consistent with the terms of) this Code in respect of the injection of gas into the Transmission Network or (in relation to such injection) the Upstream Facility;
  - e) procedures applicable to gas flows in the event of any emergency circumstances affecting the Transporter or the Upstream Facility Operator (including System Stress in accordance with Part 11; and
  - f) the circumstances in which the Transporter shall be entitled to refuse to accept the injection of gas by Shippers into the Transmission Network at the relevant Transmission Network Injection Point, including, without limitation, where the System Entry Provisions are not for the time being complied with or are incapable of being complied with (other than as a result of a failure by the Transporter to perform).
- 362) System Entry Provisions may differ as between different Transmission Network Injection Points which are connected to Upstream Facilities.

#### **7.2.4 Injection Measurement Provisions**

- 363) Injection Measurement Provisions may include:
- a) standards of accuracy and procedures for testing and calibration of Injection Measurement Equipment;
  - b) terms by which calorific value, quantity or any Injection Characteristics of gas injected or made available for injection may be estimated in the case of failure or defect of any Injection Measurement Equipment, non-compliance with any of the Injection Measurement Provisions, or otherwise; and
  - c) terms upon which any difference or dispute between the Upstream Facility Operator and the Transporter as to the calorific value, quantity or Injection Characteristics of gas injected or made available for injection will be resolved (which may include resolution by agreement between them).
- 364) Each Shipper acknowledges that the calorific value, quantity and Injection Characteristics of gas injected or made available for injection (by Shippers in aggregate) to the Transmission Network at a Transmission Network Injection Point and the compliance or non-compliance with the applicable Gas Entry Conditions in respect thereof, will be established by the Transporter and/or the Upstream Facility Operator in accordance with the applicable Injection Measurement Provisions and by means of the Injection Measurement Equipment, and each Shipper agrees to be bound (for the purposes of the Code) by what is so established.

#### **7.2.5 Local Operating Procedures**

- 365) The "**Local Operating Procedures**" in respect of a Transmission Network Injection Point which is connected to an Upstream Facility are procedures for communication, the exchange of information

and coordination between the Transporter and the Upstream Facility Operator in connection with the operation of the Upstream Facility and the part of the Transmission Network at which it is connected, including as appropriate and without limitation:

- a) safety procedures;
  - b) maintenance and repair procedures;
  - c) emergency procedures;
  - d) asset ownership and site boundaries;
  - e) nomenclature to be used (to identify plant);
  - f) diagrams to be exchanged and displayed on site;
  - g) names and phone numbers of key authorised personnel; and
  - h) rights of access to the Upstream Facility site for the Transporter.
- 366) Except with the prior written consent of the Upstream Facility Operator, the Transporter shall not and shall not be required to provide to any Shipper any information provided by the Upstream Facility Operator under the Local Operating Procedures.
- 367) The Transporter may rely on the information provided to it by the Upstream Facility Operator in operating and planning the operation of the Transportation System and for the purposes of ensuring the Safe and Reliable Operation of the Transportation System.

### **7.3 Injection Of Gas Into The Transportation System**

#### **7.3.1 *Injecting Shippers and Injected Gas***

- 368) Subject to any applicable new or changed Legal Requirement (which shall result in an amendment of the Gas Entry Conditions), Gas Entry Conditions may include limits, prohibitions, or requirements in respect of the properties which shall be in compliance with the common gas specifications for the Transportation System set out in Annex A.
- 369) Subject to parts 4 and 11, where gas is injected by more than one Shipper into the Transmission Network at a Transmission Network Injection Point during a Balancing Period, each such Shipper shall be deemed to have injected gas with the same Injection Characteristics as that injected, or made available for injection, at such Transmission Network Injection Point by each other Shipper.
- 370) Where the Transporter is or becomes aware of or has reason to believe or suspect that gas injected/transported or to be injected/transported contains any substance that is not specified in the Gas Entry Conditions and that may be hazardous, the Transporter shall notify URCA of the same as soon as reasonably practicable. Upon being notified, URCA may, as it considers appropriate, conduct or direct the Gas Transporter to conduct a study to ascertain, among other things, the substance and whether the substance is hazardous per se or is hazardous only if it exceeds a certain threshold quantity when in the gas and the reasonable threshold quantity which, if exceeded, will result in the

substance being hazardous.

- 371) Where URCA determines, from the Study, that the substance present in the gas is hazardous per se or is hazardous only if it exceeds the said reasonable threshold quantity, URCA may do one or both of the following:
- a) Direct the Transporter to prepare and include, in the Injection Operating Procedures on Injection Non-Compliant/Offtake Non-Compliant Gas, appropriate measures and procedures to deal with and address the hazardous substance identified from the Study.
  - b) Declare that the gas does not comply with the Gas Entry Conditions (i.e. Non-Compliant Gas) and the Offtake Requirements (i.e. Offtake Non-Compliant Gas) and direct the Transporter to cease the injection/transportation of the gas immediately or within such time as URCA may specify and the Transporter shall forthwith comply with such direction of URCA.
- 372) Except in compliance with a direction by URCA pursuant to paragraph 371)b), the Transporter shall continue with the injection and/or transportation of gas unless otherwise directed.
- 373) The Transporter shall not be liable to any Shipper, Customer or other party for any loss or damage, howsoever caused by the Transporter's refusal to accept the injection of, or its refusal to deliver or transport gas containing any hazardous substance, to the extent that the Transporter has complied with the Injection Operating Procedures or relevant direction from URCA.

### **7.3.2 Liability and claims against the Transporter for Injection Non-Compliant Gas**

- 374) The Transporter shall not be liable to any Shipper, Customer or other party for any loss or damage howsoever caused by the injection of Injection Non-Compliant Gas except where the Transporter had failed to comply with the Injection Operating Procedures.
- 375) A Shipper who has incurred or suffered loss or damage pursuant to paragraph 374) may issue a notice for compensation (a "**Shipper Compensation Notice**") to the chairman of the "Compensation Resolution Panel" which has been established and constituted in accordance with the rules and procedures prescribed in Annex I (the "**Compensation Resolution Procedures**").
- 376) All claims made by Shippers for compensation for loss or damage with respect to the injection of Injection Non-Compliant Gas into the Transportation System shall be resolved in accordance with the Compensation Resolution Procedures and this part 7.3.2.
- 377) Without prejudice to paragraph 378), the liability of the Transporter in respect of any claim for compensation awarded by the Compensation Resolution Panel with respect to the injection of Injection Non-Compliant Gas into the Transportation System shall not exceed:
- a) in the case of the liability of the Transporter to any one claimant Shipper, \$500,000; and
  - b) in the case of the liability of the Transporter to all claimant Shippers collectively, \$5,000,000.
- 378) The Compensation Resolution Panel shall not award, and the Transporter shall not be liable for, compensation in any circumstances for:

- a) any loss or deferment of profit or anticipated earnings or saving, loss of revenue, loss of use, loss of contract, loss of goodwill, or increased cost of working and wasted effort or expenditure; or
- b) any indirect or consequential loss.

379) The rights and remedies set out in this part 7.3.2 and the Compensation Resolution Procedures are intended to be the exhaustive rights and remedies of the Shippers with respect to the injection of Injection Non-Compliant Gas into the Transportation System and, insofar as they relate to limitations of liability and nature of loss, shall apply to all liabilities and claims of any kind, whether as a result of a breach of any contractual obligation, representation or warranty, negligence, nuisance, breach of statutory duty, strict liability or otherwise howsoever arising on the part of the Transporter.

380) In the event that the compensation awarded by the Compensation Resolution Panel in respect of a claim arising from the injection of Injection Non-Compliant Gas into the Transportation System exceeds the amounts prescribed in paragraph 377), the excess amount of such compensation (the “Excess Award”) shall be borne and paid for by all Shippers (including the claimant Shipper(s)) where the amount to be paid by each Shipper shall be calculated in accordance with the following formula:

$$E_{As} = E_A * \frac{S_{TT}}{T_{ST}}$$

where:

$E_{As}$  is the amount of the Excess Award to be paid by Shipper ‘s’ in respect of the claim;

$E_A$  is the total amount of the Excess Award in respect of the claim;

$S_{TT}$  is the sum of the Shipper Aggregate Injection Quantity and the Shipper Aggregate Offtake Quantity for Shipper ‘s’ in respect of all Balancing Periods at Final Settlement for the Month in which the Shipper Compensation Notice for the claim was issued pursuant to paragraph 375); and

$T_{ST}$  is the sum of the Shipper Aggregate Injection Quantity and the Shipper Aggregate Offtake Quantity for all Shippers in respect of all Balancing Periods at Final Settlement for the Month in which the Shipper Compensation Notice for the claim was issued pursuant to paragraph 375).

381) The amount of Excess Award to be paid by Shipper ‘s’ pursuant to paragraph 380) shall be invoiced by the Transporter as a Miscellaneous Invoice within one (1) month of the Compensation Resolution Panel’s award and paid by the Shipper in accordance with part 13.

382) The Transporter shall not be required to pay any Excess Award to the claimant Shipper(s) until it has received payment of such Excess Award from the relevant Shippers pursuant to paragraph 381).

### **7.3.3 Liability and claims against the Shipper(s) for Injection Non-Compliant Gas**

383) A Shipper shall not be liable to the Transporter, Customer or other party for any loss or damage, howsoever caused by the injection of Injection Non-Compliant Gas, except where the Shipper had failed to comply with the Injection Operating Procedures. For the avoidance of doubt, where a

Shipper has informed the Transporter of the injection of Injection Non-Compliant Gas before the Transporter has detected the Injection Non-Compliant Gas and such Shipper has and continues to comply with the requirements of the Injection Operating Procedures for dealing with Injection Non-Compliant Gas, then such Shipper shall be deemed to have complied with the Injection Operating Procedures.

384) Where the Transporter has incurred or suffered loss or damage pursuant to paragraph 383), it may issue a notice for compensation to the chairman of the Compensation Resolution Panel which has been established and constituted in accordance with the rules and procedures prescribed in the Compensation Resolution Procedures.

385) All claims made by the Transporter for compensation for loss or damage with respect to the injection of Injection Non-Compliant Gas into the Transportation System shall be resolved in accordance with the Compensation Resolution Procedures and this part 7.3.3.

386) Without prejudice to paragraph 387), the liability of the Shipper(s) in respect of any compensation awarded by the Compensation Resolution Panel with respect to the injection of Injection Non-Compliant Gas into the Transportation System shall not be subject to any monetary limit.

387) Subject to paragraph 388), the Compensation Resolution Panel shall not award, and the Shipper(s) shall not be liable for, compensation in any circumstances for:

- a) any loss or deferment of profit or anticipated earnings or saving, loss of revenue, loss of use, loss of contract, loss of goodwill, or increased cost of working and wasted effort or expenditure; or
- b) any indirect or consequential loss.

388) For the avoidance of doubt and without limitation, the Transporter shall be entitled to claim all costs and expenses it had reasonably incurred in consequence of the injection of the Injection Non-Compliant Gas by the Shipper(s), including costs and expenses incurred in:

- a) cleaning or clearing any part of the Transportation System affected by the injection of that Injection Non-Compliant Gas;
- b) rectifying any other physical damage caused to the Transportation System by the acceptance of Injection Non-Compliant Gas; and/or
- c) taking reasonable measures to secure the Safe and Reliable Operation of the Transportation System notwithstanding the injection or continued injection of such Injection Non-Compliant Gas.

389) The rights and remedies set out in part 7.3.3 and the Compensation Resolution Procedures are intended to be the exhaustive rights and remedies of the Transporter with respect to the injection of Injection Non-Compliant Gas into the Transportation System and, insofar as they relate to limitations of liability and nature of loss, shall apply to all liabilities and claims of any kind, whether as a result of a breach of any contractual obligation, representation or warranty, negligence, nuisance, breach of statutory duty, strict liability or otherwise howsoever arising on the part of the Shipper(s).



390) The amount of any award made in favour of the Transporter by the Compensation Resolution Panel pursuant to the Compensation Resolution Procedures shall be invoiced to the relevant Shipper(s) by the Transporter as a Miscellaneous Invoice within one (1) month of the Compensation Resolution Panel's award and paid by the Shipper(s) in accordance with part 13.

391) The determination of the Compensation Resolution Panel shall be:

- a) final and binding on the Parties except in the event of fraud or manifest error;
- b) enforceable by a court of competent jurisdiction on the same basis as obligations between private parties.

#### **7.3.4 Additional conditions on liability**

392) The Compensation Resolution Panel shall not award, and neither the Transporter nor a Shipper shall be liable for, any compensation for loss or damage pursuant to the provisions of this part 7.3 which had already been awarded or were subject to a claim pursuant to the provisions of part 8.3.

393) In the event that the Compensation Resolution Panel resolves that both the Transporter and the Shipper(s) (each, a "**Counterparty**") are (irrespective of their proportionate liability) liable in respect of a compensation claim made pursuant to this part 7.3, the damages awarded by the Compensation Resolution Panel shall be borne and paid by each Counterparty in equal shares.

394) All remuneration, disbursements, fees and other costs of the Compensation Resolution Panel and any professional advisers appointed by the Compensation Resolution Panel to assist in the claims process shall be borne and paid by the Transporter and the Shipper(s) in the manner and in the amounts prescribed in the Compensation Resolution Procedures.

## 8 Offtake Arrangements

### 8.1 General

#### 8.1.1 Introduction

395) The provisions of this Part shall apply to the offtake of gas from the Transportation System at any System Offtake Points.

396) Nothing in the Code confers on any person any entitlement to have any premises, pipeline, plant or other installation connected to the Transportation System for the purposes of the offtake of gas from the Transportation System.

#### 8.1.2 Offtake Connections

397) The Transporter shall develop, publish and comply with its obligations under a document entitled “**Standard Operating Procedures for Gas Connection**” which shall prescribe the processes, timeframes, technical, regulatory and documentary requirements, and deliverables for the connection of a gas installation of a Customer at a System Offtake Point.

398) A Capacity Certificate is required to be in effect for each Transmission Network Offtake Point or Transmission/Distribution Point, and a Shipper shall not be entitled to offtake gas from the Transportation System at such Eligible Offtake Point unless such Shipper has a valid Capacity Certificate issued pursuant to Part 2 relating to such Eligible Offtake Point.

399) A Distribution Network Offtake Point Registration Certificate is required to be in effect for each Distribution Network Offtake Point, and a Shipper shall not be entitled to offtake gas at such Distribution Network Offtake Point unless such Shipper has a valid Distribution Network Offtake Point Registration Certificate issued pursuant to paragraph 400) relating to such Distribution Network Offtake Point.

400) A Shipper wishing to offtake gas at a Distribution Network Offtake Point shall apply to the Transporter using Form 1 (Natural Gas Customer Project Information Sheet) of the Standard Operating Procedures for Gas Connection and in accordance with the Standard Operating Procedures for Gas Connection and this paragraph. The Transporter may, following an assessment by the Transporter of such application by the Shipper, including as to whether sufficient capacity exists in the Distribution Network to meet the flow and pressure requirements requested by such Shipper in its application, issue to such Shipper a Distribution Network Offtake Point Registration Certificate (in the form attached as Annex C) specifying inter alia the following:

- a) the identity of the Shipper and the Shipper ID;
- b) the Distribution Network Offtake Point which such Distribution Network Offtake Point Registration Certificate relates to;
- c) where applicable, the name of the Customer and the address of the Relevant Customer’s Facility connected at such Distribution Network Offtake Point;
- d) the exact point of offtake from the Transportation System for the purposes of paragraph 322)

- b).
  - e) summary information of gas plant and equipment installed at such Distribution Network Offtake Point;
  - f) the minimum required distribution offtake pressure at such Distribution Network Offtake Point (“**Minimum Required Distribution Offtake Pressure**”); and
  - g) the maximum instantaneous flow rate at which such a Shipper is permitted to offtake gas at such Distribution Network Offtake Point (“**Maximum Instantaneous Rate of Offtake**”).
- 401) The Transporter and the Shipper may by an agreement in writing, vary or amend the Distribution Network Offtake Point Registration Certificate issued pursuant to paragraph 400).

### **8.1.3 Entitlements under the Act**

- 402) Nothing in the Code shall prevent the Transporter from exercising any entitlement or discharging any duty under the Act or pursuant to its Transporter’s Licence or any other Legal Requirement which may involve the disconnection of, or refusal to convey gas to, or to allow gas to be conveyed to, any premises.
- 403) Where under the Act or pursuant to the Transporter’s Licence, the Transporter is not required to connect or to maintain a connection, or has exercised or is entitled to exercise any right to disconnect, or is required to disconnect any premises, or (having disconnected them) is not required to re-connect any premises or is entitled to refuse to convey gas to or to allow gas to be conveyed to any premises, the Transporter shall not be in breach of its obligation to make gas available for offtake from the Transportation System at the relevant System Offtake Point(s).
- 404) The Transporter shall inform the Registered Shipper (or each Sharing Registered Shipper) at a System Offtake Point as soon as reasonably practicable after exercising an entitlement (as described in paragraph 403) to disconnect or refuse to convey gas or allow gas to be conveyed.

## **8.2 Offtake Requirements**

- 405) Subject to any applicable new or changed Legal Requirement (which shall result in the amendment of the Offtake Requirements) the Offtake Requirements shall be in compliance with the common gas specification parameters set out in Annex A.
- 406) Subject to paragraph 407), the Transporter shall make gas available for offtake at:
- a) a Transmission Network Offtake Point at the Minimum Required Offtake Pressure specified in the relevant Capacity Certificate; or
  - b) a Distribution Network Offtake Point at the Minimum Required Distribution Offtake Pressure specified in the Distribution Network Offtake Point Registration Certificate provided the flow rate at such Distribution Network Offtake Point does not exceed the Maximum Instantaneous Rate of Offtake specified in the Distribution Network Offtake Point Registration Certificate.
- 407) The Transporter shall not be in breach of its obligation to make gas available for offtake at any

System Network Offtake Point if such failure is due to any reason not attributable to the acts or omission of the Transporter, including where the overall pressure in the Transportation Network falls below its normal operating pressure.

408) The Transporter shall use reasonable endeavours to notify Shippers as soon as reasonably practicable after the Transporter becomes aware that the Offtake Pressure of Gas available at the System Offtake Point has decreased or will decrease below what is stated in the Capacity Certificate or Distribution Network Offtake Point Registration Certificate.

409) Nothing in this part 8.2 shall be construed as requiring the Transporter to make available gas for offtake at any System Offtake Point at any nominal pressure requested by the Registered Shipper (or Sharing Registered Shipper).

### **8.3 Offtake of gas from the transportation system**

#### ***8.3.1 Obligation to make gas available for offtake***

410) Subject to the provisions of this Code, the Transporter shall make gas available for offtake by Shippers from the Transportation System at System Offtake Points in accordance with the requirements of part 8.2. The Transporter shall not be liable to any Shipper, Customer or other party for any loss or damage howsoever caused by the Transporter's refusal to make gas available in accordance with this paragraph, to the extent that the Transporter has complied with any direction of URCA given pursuant to this Code or with the Injection Operating Procedures.

#### ***8.3.2 Responsibility for gas at a System Offtake Point***

411) All gas made available for offtake at a System Offtake Point by the Transporter shall be allocated to Offtaking Shippers for the purpose of this Code.

#### ***8.3.3 Liability and claims against the Transporter for Offtake Non-Compliant Gas***

412) The Transporter shall not be liable to any Shipper, Customer or other party for any loss or damage howsoever caused by the delivery of Offtake Non-Compliant Gas except where the Transporter had failed to comply with the Injection Operating Procedures.

413) A Shipper who has incurred or suffered loss or damage pursuant to paragraph 412) may issue a notice for compensation (a "**Shipper Compensation Notice**") to the chairman of the "Compensation Resolution Panel" which has been established and constituted in accordance with the rules and procedures prescribed in Annex I (the "Compensation Resolution Procedures").

414) All claims made by Shippers for compensation for loss or damage arising from the delivery of Offtake Non-Compliant Gas shall be resolved in accordance with the Compensation Resolution Procedures and part 8.3.3.

415) Without prejudice to paragraph 416), the liability of the Transporter in respect of any claim for compensation awarded by the Compensation Resolution Panel with respect to loss or damage arising from the delivery of Offtake Non-Compliant Gas shall not exceed:

- a) in the case of the liability of the Transporter to any one claimant Shipper, \$500,000; and

- b) in the case of the liability of the Transporter to all claimant Shippers collectively, \$5,000,000.
- 416) Subject to paragraph 417), the Compensation Resolution Panel shall not award, and the Transporter shall not be liable for, compensation in any circumstances for:
- a) any loss or deferment of profit or anticipated earnings or savings, loss of revenue, loss of use, loss of contract, loss of goodwill, or increased cost of working and wasted effort or expenditure; or
  - b) any indirect or consequential loss.
- 417) For the avoidance of doubt, a Shipper shall be entitled to claim against the Transporter all costs and expenses it had reasonably incurred (but subject to paragraph 415) as a result of the delivery of Offtake Non-Compliant Gas by the Transporter for:
- a) cleaning or clearing any part of the affected Shipper’s Facility or the Relevant Customer’s Facility affected by the receipt of that Offtake Non-Compliant Gas; and/or
  - b) rectifying any other physical damage caused to the affected Shipper’s Facility or the Relevant Customer’s Facility affected by the receipt of that Offtake Non-Compliant Gas; and/or
  - c) taking reasonable measures to secure that the Offtake Non-Compliant Gas can be made fit for use in the Shipper’s Facility or the Relevant Customer’s Facility.
- 418) The rights and remedies set out in part 8.3.3 and the Compensation Resolution Procedures are intended to be the exhaustive rights and remedies of the Shippers with respect to the delivery of Offtake Non-Compliant Gas and, insofar as they relate to limitations of liability and nature of loss, shall apply to all liabilities and claims of any kind, whether as a result of a breach of any contractual obligation, representation or warranty, negligence, nuisance, breach of statutory duty, strict liability or otherwise howsoever arising on the part of the Transporter.
- 419) In the event that the compensation awarded by the Compensation Resolution Panel in respect of a claim arising from the delivery of Offtake Non-Compliant Gas exceeds the amounts prescribed in paragraph 415), the excess amount of such compensation (the “**Excess Award**”) shall be borne and paid for by all Shippers (including the claimant Shipper(s)) where the amount to be paid by each Shipper shall be calculated in accordance with the following formula:

$$E_{As} = E_A * \frac{S_{TT}}{T_{ST}}$$

where:

$E_{As}$  is the amount of the Excess Award to be paid by Shipper ‘s’ in respect of the claim;

$E_A$  is the total amount of the Excess Award in respect of the claim;

$S_{TT}$  is the sum of the Shipper Aggregate Injection Quantity and the Shipper Aggregate Offtake Quantity for Shipper ‘s’ in respect of all Balancing Periods at Final Settlement for the Month in which the Shipper Compensation Notice for the claim was issued pursuant to paragraph 375);

and

$T_{ST}$  is the sum of the Shipper Aggregate Injection Quantity and the Shipper Aggregate Offtake Quantity for all Shippers in respect of all Balancing Periods at Final Settlement for the Month in which the Shipper Compensation Notice for the claim was issued pursuant to paragraph 413).

- 420) The amount of Excess Award to be paid by Shipper 's' pursuant to paragraph 418) shall be invoiced by the Transporter as a Miscellaneous Invoice within one (1) month of the Compensation Resolution Panel's award and paid by the Shipper in accordance with part 13.
- 421) The Transporter shall not be required to pay any Excess Award to the claimant Shipper(s) until it has received payment of such Excess Award from the relevant Shippers pursuant to paragraph 381).

#### **8.3.4 Liability and claims against the Shipper(s) for Offtake Non-Compliant Gas**

- 422) Subject to paragraph 418), a Shipper shall not be liable to the Transporter, Customer or other party for any loss or damage howsoever caused by the delivery of Offtake Non-Compliant Gas except where the Shipper had failed to comply with the Injection Operating Procedures.
- 423) Where the Transporter has incurred or suffered loss or damage in respect of which a Shipper is liable pursuant to paragraph 422), it may issue a notice for compensation to the chairman of the Compensation Resolution Panel which has been established and constituted in accordance with the rules and procedures prescribed in the Compensation Resolution Procedures.
- 424) All claims made by the Transporter for compensation for loss or damage arising from the delivery or presence of Offtake Non-Compliant Gas at a System Offtake Point shall be resolved in accordance with the Compensation Resolution Procedures and this part 8.3.4.
- 425) Without prejudice to paragraph 426), the liability of the Shipper(s) in respect of any compensation awarded by the Compensation Resolution Panel with respect to loss or damage arising from the delivery of Offtake Non-Compliant Gas at a System Offtake Point shall not be subject to any monetary limit.
- 426) Subject to paragraph 427), the Compensation Resolution Panel shall not award, and the Shipper(s) shall not be liable for, compensation in any circumstances for:
- a) any loss or deferment of profit or anticipated earnings or saving, loss of revenue, loss of use, loss of contract, loss of goodwill, or increased cost of working and wasted effort or expenditure; or
  - b) any indirect or consequential loss.
- 427) For the avoidance of doubt and without limitation, the Transporter shall be entitled to claim all costs and expenses it had reasonably incurred in consequence of the delivery or presence of Offtake Non-Compliant Gas at a System Offtake Point which had been caused by the Shipper(s), including costs and expenses incurred in:
- a) cleaning or clearing any part of the Transportation System affected by the Offtake Non-Compliant Gas;

- b) rectifying any other physical damage caused to the Transportation System by the Offtake Non-Compliant Gas; and/or
  - c) taking reasonable measures to secure the Safe and Reliable Operation of the Transportation System notwithstanding the offtake or continued offtake of such Offtake Non-Compliant Gas.
- 428) The rights and remedies set out in part 8.3.4. and the Compensation Resolution Procedures are intended to be the exhaustive rights and remedies of the Transporter with respect to the delivery or presence of Offtake Non-Compliant Gas at a System Offtake Point and, insofar as they relate to limitations of liability and nature of loss, shall apply to all liabilities and claims of any kind, whether as a result of a breach of any contractual obligation, representation or warranty, negligence, nuisance, breach of statutory duty, strict liability or otherwise howsoever arising on the part of the Shipper(s).
- 429) The amount of any award made in favour of the Transporter by the Compensation Resolution Panel pursuant to the Compensation Resolution Procedures shall be invoiced to the relevant Shipper(s) by the Transporter as a Miscellaneous Invoice within one (1) month of the Compensation Resolution Panel's award and paid by the Shipper(s) in accordance with Part 13.
- 430) The determination of the Compensation Resolution Panel (whether in respect of a claim by the Transporter or a Shipper) shall be:
- a) final and binding on the Parties except in the event of fraud or manifest error;
  - b) enforceable by a court of competent jurisdiction on the same basis as obligations between private parties.

### **8.3.5 Additional conditions on liability**

- 431) The Compensation Resolution Panel shall not award, and neither the Transporter nor a Shipper shall be liable for, any compensation for loss or damage pursuant to the provisions of this part 8.3 which had already been awarded or were subject to a claim pursuant to the provisions of part 7.3
- 432) In the event that the Compensation Resolution Panel resolves that both the Transporter and the Shipper(s) (each, a "**Counterparty**") are (irrespective of their proportionate liability) liable in respect of a compensation claim made pursuant to this part 8.3, the damages awarded by the Compensation Resolution Panel shall (subject to paragraphs 415) and 420) be borne and paid by each Counterparty in equal shares.
- 433) All remuneration, disbursements, fees and other costs of the Compensation Resolution Panel and any professional advisers appointed by the Compensation Resolution Panel to assist in the claims process shall be borne and paid by the Transporter and the Shipper(s) in the manner and in the amounts prescribed in the Compensation Resolution Procedures.

## 9 Maintenance

434) The Transporter shall be responsible for the carrying out of maintenance on all parts of the Transportation System in accordance with this Part.

### 9.1 Maintenance Programme

435) The Transporter will prepare an Annual Maintenance Programme in respect of each Maintenance Year and in preparing an Annual Maintenance Programme the Transporter shall:

- a) endeavour to secure that the estimated reduction in the availability of a Shipper's Available Firm Capacity Rights due to Scheduled Maintenance on any Day in the Maintenance Year is minimised; and
- b) take into account information provided by Shippers relating to the timing of Maintenance under their contracts with gas suppliers or Customers at Transmission Network Offtake Points and periods when Shippers would prefer Scheduled Maintenance to be avoided, as appropriate.

436) The timetable for the preparation of the Annual Maintenance Programme in respect of a Maintenance Year shall be as follows:

- a) not later than 30 June in the Preceding Maintenance Year, each Shipper shall provide to the Transporter:
  - (i) details of the Maintenance that the Shipper is proposing to undertake in the Maintenance Year in respect of its own Facilities;
  - (ii) details of Maintenance that is proposed to be undertaken at Facilities owned by its Customers at Transmission Network Offtake Points in respect of which the Shipper is the Registered Shipper (or Sharing Registered Shipper); and
  - (iii) such other information as may be reasonable for the Shipper to notify the Transporter;

- a) not later than 31 August in the Preceding Maintenance Year, the Transporter shall publish a provisional Annual Maintenance Programme;
- b) not later than 30 September in the Preceding Maintenance Year, the Transporter shall meet with Shippers to discuss the provisional Annual Maintenance Programme;
- c) not later than 30 November in the Preceding Maintenance Year, the Transporter shall publish the final Annual Maintenance Programme for the Maintenance Year.

437) An Annual Maintenance Programme will identify:

- a) each Day on which Scheduled Maintenance will be undertaken in the Maintenance Year;
- b) the System Points in respect of which the injection of, conveyance through, and offtake of gas from, will be affected by the Scheduled Maintenance;



- c) where the Transporter expects that the injection into, conveyance through, and offtake of gas from, the Transportation System will be able to take place in respect of the System Points referred to in (b) during Scheduled Maintenance but on a reduced level (by reason of the Maintenance), on an indicative basis, the quantities which the Transporter expects will be capable of injection into, conveyance through and offtake from the Transportation System; and
  - d) such other information as may be reasonable for the Transporter to include.
- 438) In determining the reduced level of availability of a Shipper's Available Firm Capacity Rights due to Scheduled Maintenance:
- a) the Transporter shall pro-rate the reduction in proportion to the Available Firm Capacity Rights ("**Reduced Capacity Rights**") of each affected Shipper during the period of the Scheduled Maintenance and notify each affected Shipper of its Reduced Capacity Rights;
  - b) each affected Shipper shall notify the Transporter of its acceptance of the Reduced Capacity Rights, in part or in full, within fourteen (14) Business Days of receiving the notification in (a). Each affected Shipper may also notify the Transporter, with reason, any Firm Capacity Rights required in excess of the Reduced Capacity Rights. For avoidance of doubt, each affected Shipper may also notify the Transporter that it does not require any of the Reduced Capacity Rights during the period of the Scheduled Maintenance; and
  - c) the Transporter shall consult with URCA on the Reduced Capacity Rights for each affected Shipper based on the information received from each affected Shipper in paragraph (b).
    - (i) If there is no change to the Reduced Capacity Rights for an affected Shipper following the consultation with URCA, the Transporter shall proceed to notify the relevant affected Shipper that its Reduced Capacity Rights is approved.
    - (ii) If there is a change to the Reduced Capacity Rights for an affected Shipper, the Transporter shall notify the relevant affected Shipper of the revised Reduced Capacity Rights. The affected Shipper shall notify the Transporter of its acceptance of the revised Reduced Capacity Rights, in part or in full, within fourteen (14) Business Days from the Transporter's notification, failing which it shall be deemed that the affected Shipper has accepted the revised Reduced Capacity Rights in full.
- 439) A Shipper shall:
- a) nominate quantities of gas for injection into, and offtake from, the Transmission Network for each Balancing Period during Scheduled Maintenance in full at the Shipper's reduced Available Firm Capacity Rights as determined by the Transporter in accordance with paragraph 438). In the event the relevant Shipper wishes to nominate quantities of gas less than its reduced Available Firm Capacity Rights during Scheduled Maintenance, it shall be required to obtain the Transporter's prior approval; and
  - b) ensure offtake of gas according to the Scheduled Offtake Quantity during Scheduled Maintenance.

## 9.2 Maintenance

- 440) Where the Transporter carries out Scheduled Maintenance on any Day in accordance with the Annual Maintenance Programme published under part 9.1 (or revised under this part) it shall not (for the avoidance of doubt) be required to pay any amount to Shippers in accordance with part 2.3.
- 441) The Transporter may give to Shippers and URCA notice of a revision to the Annual Maintenance Programme ("**Revised Annual Maintenance Programme Notice**") specifying:
- a) either:
    - (i) the Days (being Days not previously specified in an Annual Maintenance Programme or earlier Revised Annual Maintenance Programme Notice) on which it proposes to carry out Scheduled Maintenance provided that such notice is given at least forty (40) Days prior to the Day specified in such notice, or such earlier date as the Transporter and Shippers may agree; or
    - (ii) the Days ("**New Maintenance Days**") which will replace those Days which had previously been specified in an Annual Maintenance Programme or Revised Annual Maintenance Programme Notice (the "**Existing Maintenance Days**"), provided that such notice is given at least forty (40) Days prior to the New Maintenance Days or the Existing Maintenance Days, whichever is earlier, or such earlier date as the Transporter and Shippers may agree; and
  - b) the reasons for the revisions.
- 442) Where the Transporter gives a Revised Annual Maintenance Programme Notice, Maintenance carried out on any Day(s) specified in such notice shall be deemed to be carried out in accordance with the Annual Maintenance Programme prepared in accordance with part 9.1 for the Maintenance Year in which such Day(s) fall.
- 443) Nothing in this part shall prohibit the Transporter carrying out Unscheduled Maintenance on any Day, without prejudice to Shippers' rights under the Code.

## 10 Metering

### 10.1 General

444) This part contains provisions:

- a) relating to the metering of gas injected into the Transmission Network at any System Injection Point;
- b) relating to the metering of gas at any System Point;
- c) relating to the metering of the offtake of gas from the Transportation System at System Offtake Points;
- d) in respect of the ownership, installation and maintenance of Meter Installations; and
- e) relating to the use of and ownership of Metering Data.

#### 10.1.1 Validation

445) Meter Readings will be subject to Validation. "**Validation**" means the testing, by tolerance checking, of the validity of a Meter Reading in accordance with the Validation Rules.

### 10.2 Installation And Maintenance

#### 10.2.1 Responsibilities

446) The Transporter shall secure or, where relevant, procure that an Upstream Facility Operator secures (in accordance with the Gas Metering Code) that there is installed, operated and maintained in proper working order and to the standards set out in the Gas Metering Code, a BPRM Meter Installation for the purposes of registering the quantity of gas injected into the Transmission Network at any System Injection Point, or (as the case may be) offtaken from the Transmission Network and flowing into the Distribution Network at a Transmission/Distribution Point, at:

- a) each System Injection Point;
- b) each Transmission/Distribution Point, and
- c) each System Critical Point

447) The Registered Shipper (or Sharing Registered Shippers) shall secure that (in accordance with the Gas Metering Code) at each Transmission Network Offtake Point there is installed, operated and maintained in proper working order and to the standards set out in the Gas Metering Code a Meter Installation for the purposes of registering the quantity of gas offtaken at such Transmission Network Offtake Point.

448) In complying with its obligations under paragraphs 446) and 447) the Transporter and Shippers will secure that the Meter Installation installed is of the type and standard and complies with the specification as to accuracy as set out in the Gas Metering Code.

- 449) In respect of a Meter Installation it shall be the responsibility of the person identified in paragraphs 446) and 447):
- a) to secure the proper maintenance and repair of the Meter Installation;
  - b) to secure that the Meter Installation is housed in a suitable housing at the relevant System Point; and
  - c) that to the extent necessary, there exists and is maintained a supply of electricity to the Meter Installation and that there exists adequate drainage at the relevant System Point.

## **10.3 Meter Reading**

### **10.3.1 Responsibilities**

- 450) Meter Readings are required for the purpose of Meter Reconciliation in accordance with part 4.6 and to calculate Distribution Charges in accordance with part 2.3.4.
- 451) In respect of a Meter Installation located at:
- a) a System Injection Point, a Transmission/Distribution Point, a System Critical Point, a Transmission Network Offtake Point, and, where the Meter Installation at such System Point is a BPRM Meter Installation, the Transporter will be responsible for obtaining Meter Readings; or
  - b) a System Offtake Point at which a BPCM Meter Installation or a NBPM Meter Installation is installed, the Registered Shipper will be responsible for obtaining and providing Meter Readings to the Transporter.

### **10.3.2 Provision of Meter Readings**

- 452) Meter Readings in respect of System Offtake Points, which a Shipper is required to provide in accordance with paragraph 451)b), are required to be provided by such Shipper to the Transporter in the form and by the means provided in the GTSS Manual.
- 453) Each Shipper shall ensure that the Meter Reading from an NBPM Meter Installation at a System Offtake Point at which it is the Registered Shipper or the Sharing Registered Shipper is obtained at least once every forty (40) Business Days.
- 454) Each Shipper shall ensure that the Meter Readings containing the Metering Data for each Balancing Period from a BPCM Meter Installation at which it is the Registered Shipper or Sharing Registered Shipper are obtained at least once every seven (7) Days.
- 455) Each Shipper shall provide the Transporter Meter Readings for each relevant System Offtake Point secured in accordance with:
- a) paragraph 453), in respect of a Balancing Period in a Month 'm', by no later than the tenth (10th) Business Day of Month 'm + 2'; and
- paragraph 454), in respect of a Balancing Period in a Month 'm', by no later than the fifth

(5th) Business Day of Month 'm + 1'

456) Where a Shipper is unable to secure or provide a Meter Reading in respect of a System Offtake Point in accordance with paragraphs 453), 454) or 455) the Transporter shall utilise the Profiled Offtake Quantity (determined in accordance with part 15.2) as the Meter Reading for such System Offtake Point for each Balancing Period.

457) Where a Shipper has, in respect of a Balancing Period, failed to comply with paragraphs 453), 454) or 455) the Shipper shall pay the Transporter a charge calculated in accordance with paragraph 458) ("**Metering Performance Charge**") in respect of each System Offtake Point in respect of which such failure relates, unless such non-compliance is caused solely by a failure of the Meter Installation which is not caused by and could not have avoided by such Shipper acting in accordance with the standard of a Reasonable and Prudent Operator.

458) The Metering Performance Charge shall be calculated in accordance with the following formula:

$$MPC = (E * 0.1) * AIP$$

where:

*MPC* is the Metering Performance Charge;

*E* is the Profiled Offtake Quantity for the Balancing Period provided by the Transporter;  
and

*AIP* is the Administered Negative Commodity Price for the Month in which the Balancing Period falls.

459) The Metering Performance Charge shall be invoiced and payable in accordance with Part 13.

460) The Transporter will calculate the Metered Injection Quantity and Metered Offtake Quantity in accordance with part 10.5.

## **10.4 Metering Data**

### **10.4.1 Ownership**

461) Part 16.5 applies in respect of the ownership of Metering Data relating to Meter Readings.

### **10.4.2 Meter Data Register**

462) The Transporter shall establish and maintain a register ("**Meter Data Register**") of all Metering Data.

463) The Transporter shall store all data to be held on the Meter Data Register in normally accessible form for sixteen (16) months from the date to which it relates and shall archive such data for a further period of eighty-four (84) months thereafter.

464) For the avoidance of doubt Metering Data shall be Confidential Information for the purposes of

part 16.5.

## **10.5 Metered Quantities**

### **10.5.1 Metered Injection Quantity**

465) For the purposes of the Code, and in respect of a Balancing Period, the Metered Injection Quantity in respect of a System Injection Point shall be:

- a) where the Transporter is in possession of a Valid Meter Reading for System Injection Point for the Balancing Period, the quantity determined by reference to the Valid Meter Reading; and
- b) where the Transporter is not in possession of a Valid Meter Reading for the System Injection Point for the Balancing Period, the Profiled Injection Quantity.

### **10.5.2 Distribution Network Injection Quantity**

466) For the purposes of the Code, and in respect of a Balancing Period, the Distribution Network Injection Quantity at the Distribution Network Injection Point shall be deemed to equal:

- a) where the Transporter is in possession of a Valid Meter Reading for the Distribution Network Injection Point for the Balancing Period, the quantity determined by reference to the Valid Meter Reading; and
- b) where the Transporter is not in possession of a Valid Meter Reading for the Distribution Network Injection Point, the Profiled Injection Quantity.

### **10.5.3 Metered Offtake Quantity**

467) For the purposes of the Code, and in respect of a Balancing Period, the Metered Offtake Quantity in respect of a System Offtake Point shall be:

- a) where the Transporter is in possession of a Valid Meter Reading for the System Offtake Point for the Balancing Period, the quantity determined by reference to the Valid Meter Reading; and
- b) where the Transporter is not in possession of a Valid Meter Reading for the System Offtake Point for the Balancing Period, the Profiled Offtake Quantity.

### **10.5.4 Energy Conversion**

468) Where for the purposes of the Code, the Transporter or a Shipper is required to calculate the quantity of gas offtaken at a System Offtake Point in a Balancing Period in mmBtu by reference to a Valid Meter Reading expressed in scf, the Transporter or (as the case may be) the Shipper shall undertake the conversion (from scf to mmBtu) in accordance with the following formula:

$$EV_{BP} = VV_{BP} * \frac{HV_{BP}}{1,000,000}$$

Where :

$EV_{BP}$  is the quantity of gas offtaken at the System Offtake Point in the Balancing Period (expressed in mmBtu);

$VV_{BP}$  is the volume of gas offtaken at the System Offtake Point in the Balancing Period (expressed in scf) in accordance with the Valid Meter Reading; and

$HV_{BP}$  is the heating value (being the Offtake Point Heating Value or the System Wide Heating Value) for the Balancing Period (expressed in Btu/scf) determined in accordance with paragraph 469).

469) Where:

a) a Registered Shipper has installed at a System Offtake Point a gas chromatograph that is compliant with all applicable accuracy standards and other requirements prescribed in the Gas Metering Code, the heating value to be used for the energy conversion calculation in paragraph 468) shall be the “**Offtake Point Heating Value**” (expressed in Btu/scf) derived from the gas chromatograph reading(s) for the relevant Balancing Period; and

b) in all other cases, the heating value (expressed in Btu/scf) to be used for the energy conversion calculation in paragraph 468) shall be the “**System Wide Heating Value**” calculated by the Transporter in the manner prescribed in Annex J.

470) The Transporter will notify those Shippers with Available Capacity Rights in the Transmission Network of the System Wide Heating Value within twenty (20) minutes of the end of the Balancing Period in respect of which the calculation relates.

471) Where paragraph 469)a) applies, the Registered Shipper will notify the Transporter of the Offtake Point Heating Value(s) for its System Offtake Point(s) within fifteen (15) minutes of the end of each Balancing Period in respect of which the calculation relates.

# 11 System Stress

## 11.1 Introduction

473) Shippers and the Transporter acknowledge that the conveyance of gas by pipelines involves operational risks in the context of which the provisions of this part are reasonable. In this respect, the Shippers acknowledge that the duties of the Transporter under the Transportation Licence, the Regulations, and other Legal Requirements to convey gas by pipelines are subject to this Part.

474) This Part provides for the following matters:

- a) the requirements to be complied with by Shippers in the event of System Stress to enable the Transporter to discharge its duties (pursuant to the Regulations and any other Legal Requirement) in respect of System Stress; and
- b) the consequences for the Transporter and Shippers of System Stress in relation to the application of the Code.

475) The existence of System Stress shall be determined by the Transporter in its sole judgment and irrespective of either its cause or whether or not the Transporter or any other person may have contributed to the System Stress situation. The Transporter's right to determine System Stress in its sole judgment shall not prejudice its liabilities under this Part .

476) The Transporter will provide without charge to each Shipper a copy of the System Stress Operating Procedures and thereafter of any revision or update.

477) The Transporter and Shippers acknowledge that during System Stress:

- a) their respective commercial interests will be subordinated to the need and requirement to comply with the System Stress Operating Procedures; and
- b) it may be necessary for each of them to divert resources from other activities which may result in the temporary impairment of their abilities subsequently to perform their respective obligations under the Code and further acknowledge that any such impairment resulting from such diversion of resources may constitute Force Majeure for the purposes of part 16.7.

478) Where there is any conflict between any requirement under this Part and the System Stress Operating Procedures as to anything to be done by the Shippers, the Transporter may decide which requirement is to prevail and will inform the relevant Shipper of its decision, which decision will relieve the Shipper of any obligation under the Code to comply with the conflicting requirement.

479) Where there is any conflict between any requirement under this Part and any other requirement of the Code, the requirement under this Part shall prevail, and the Shipper shall be relieved of the other conflicting requirement(s) of the Code for the duration of the System Stress.

480) Each Shipper shall provide to the Transporter twenty-four (24) hour emergency contact details for the purposes of this Part comprising a telephone number and the identity of the representative of the Shipper to be contacted by the Transporter in the event of System Stress, which representative shall be a person having the appropriate authority to act on behalf of and bind, the Shipper for the



purposes of the Code.

## **11.2 System Stress**

### **11.2.1 Determination and notice**

481) Where the operating state of the Transportation System (or any one or more of its components) falls outside its (or their) designed operating range and the Transporter is of the reasonable opinion that:

- a) the safe and reliable conveyance of gas in the Transportation System is at risk;
- b) the maintenance of safe and reliable pressures in the Transportation System is at risk; or
- c) there exist such other circumstances affecting the Transportation System that would or is reasonably likely to constitute a gas emergency,

the Transporter shall as soon as reasonably practicable give notice ("**System Stress Notice**") by the means specified in the System Stress Operating Procedures to Shippers and for the purposes of this paragraph, the parameters specified in the System Stress Operating Procedures shall be used to assess the "designed operating range" of the Transportation System.

482) A System Stress Notice shall specify:

- a) that System Stress has commenced;
- b) the Balancing Period from which the provisions of part 11.3.1 shall first apply;
- c) reasonable details of the event or of the existence of circumstances which have resulted in System Stress; and
- d) the expected duration of System Stress.

483) The Transporter shall, at the same time that it gives Shippers a System Stress Notice, give such notice to URCA and such other persons (including, but not limited to, those persons responsible for the operation of the electricity transmission and distribution systems in the Bahamas) as in the Transporter's opinion are likely to be materially affected by System Stress.

484) After giving a System Stress Notice, the Transporter shall keep Shippers reasonably informed as to material changes to the information provided in the System Stress Notice, of any material developments in the System Stress situation and, where first reasonably practicable to do so, of the expected Code Re-start Time.

485) Subject to paragraph 478), during System Stress, the Transporter shall comply with the System Stress Operating Procedures and shall exercise its powers and discretions conferred thereunder in a manner that does not unduly discriminate as between similarly situated persons or classes of persons.

### **11.2.2 Shippers**

486) During System Stress each Shipper shall be required to:

- a) comply with the System Stress Operating Procedures insofar as they are applicable to the Shipper in the circumstances;
  - b) co-operate with the Transporter to the extent within the Shipper's power; and
  - c) in doing so, comply at all times as soon as reasonably practicable with the Transporter's reasonable instructions and requests for the purposes of (a) and (b).
- 487) During System Stress each Shipper shall:
- a) if requested by the Transporter, make reasonable efforts to:
    - (i) increase or decrease (as the Transporter may request) the quantities of gas which are injected into, or offtaken from, the Transmission Network or, as the case may be, procure that its Customer increase or decrease (as the Transporter may request) the quantities of gas which are injected into, or offtaken from, the Transmission Network; and
    - (ii) inform the Transporter from time to time of the extent to which it, or its Customer(s), is able to comply with the Transporter's request; and
  - b) do all other things as are reasonably necessary to assist the Transporter in its compliance with and implementation of the System Stress Operating Procedures.
- 488) A Shipper shall not be required to comply with any requirement under this part 11.2 until and unless the Transporter has given the Shipper a System Stress Notice.
- 489) Where the System Stress Operating Procedures include the reduction or discontinuance of the offtake of gas from the Transmission Network in the event of System Stress the Transporter shall effect such reduction or discontinuance in accordance with the order determined in accordance with the principles set out in the System Stress Operating Procedures.

## **11.3 Consequences Of System Stress**

### ***11.3.1 Suspension of certain provisions of the Code***

- 490) In respect of each Balancing Period during System Stress:
- a) Part 3 will not apply except to the extent that the Transporter wishes to use Operating Schedules as a means of communication with Shippers;
  - b) Nomination Divergence Charges, Failure to Notify Charges and Overrun Charges will not be payable; and
  - c) Part 4 will apply, subject to part 11.3.3.

### ***11.3.2 Return to normal operation***

- 491) For the purposes of part 11.3, System Stress will be considered to have ceased only:
- a) when the relevant circumstances referred to in paragraph 481) have ceased;

- b) where the Transporter is of the reasonable opinion that the normal operation of the Transportation System may resume;

and such cessation shall take effect only from the start of a Balancing Period and after the Transporter has given not less than two (2) hours' notice to Shippers of such cessation, provided that no further System Stress Notice is issued during such period.

492) The order in which during System Stress the offtake of gas at Transmission Network Offtake Points is restored shall be (insofar as is reasonably practicable) the inverse of that at which the offtake of gas is restricted or discontinued in accordance with the System Stress Operating Procedures.

493) To the extent the Transporter is able, it shall take all reasonable steps to effect a return to the normal operation of the Code as soon as reasonably practicable following the declaration of System Stress.

### **11.3.3 Application of Part 4**

494) In respect of a Balancing Period (commencing with the Balancing Period in which a System Stress Notice is given in accordance with paragraph 482) during System Stress (and ending with the Balancing Period preceding that specified in the notice given by the Transporter under paragraph 491):

- a) a Shipper's Shipper Injection Quantity will be determined in accordance with part 4.2 and for this purpose a Shipper's Scheduled Injection Quantity shall be based upon the Operating Schedule issued by the Transporter during System Stress;
- b) a Shipper's Shipper Offtake Quantity will be determined in accordance with part 4.3 and for this purpose a Shipper's Scheduled Offtake Quantity shall be based upon the Operating Schedule issued by the Transporter during System Stress;
- c) Part 4.5 will apply for the purposes of calculating a Shipper's Commodity Variance and Cumulative Commodity Variance.

### **11.3.4 Interruption**

495) For the avoidance of doubt, nothing in the Code or the System Stress Operating Procedures shall prohibit the Transporter from taking such steps as are available to it to interrupt the supply of gas at a Transmission Network Offtake Point in relation to which the Transporter is of the reasonable opinion that the behaviour of the relevant Shipper or the relevant Customer (as regards the quantities and patterns at which gas is being supplied to and utilised at the premises located at the relevant Transmission Network Offtake Point) is giving rise to the circumstances in paragraph 481).

496) Before taking any steps under paragraph 495) the Transporter shall notify the Registered Shipper (or each Sharing Registered Shipper) that it intends to interrupt the supply of gas at the relevant Transmission Network Offtake Point.

497) The Transporter may take such steps as are available to it under paragraph 495) with a view to avoiding System Stress.

### 11.3.5 Costs

498) Following the earlier of the Code Re-start Time and the date which is one month after the date of the System Stress Notice (or such later date as approved by URCA), the Transporter shall determine, as accurately as it is reasonably practicable to do so and in consultation with the Shippers, the "**System Stress Costs**". These will include:

- a) the Usage Charges attributable to gas injected into the Transmission Network in accordance with paragraph 487);
- b) the costs incurred by the Transporter in implementing the System Stress Operating Procedures;
- c) costs incurred, or likely to be incurred, by the Transporter in respect of the replacement or repair of any asset comprising a part of the Transportation System where such replacement or repair is a consequence of the System Stress;
- d) such other costs incurred, or likely to be incurred as a consequence of the System Stress; and
- e) the costs of any auditor appointed in accordance with paragraph 500),

### 11.3.6 Apportionment

499) Where the System Stress was the result of:

- a) the negligence or wilful misconduct of the Transporter or the failure by the Transporter to comply with the standards of a Reasonable and Prudent Operator, the Transporter shall not be entitled to recover the System Stress Costs from Shippers;
- b) the actions (or omissions) of an identifiable Shipper(s) (or the Customer of such Shipper(s)), the Transporter shall be entitled to recover the System Stress Costs from such Shipper(s); or
- c) any other cause, the Transporter shall be entitled to recover the System Stress Costs from all Shippers, for which purposes each Shipper shall pay to the Transporter an amount calculated in accordance with the following formula:

$$SSC * (SCR/TCR)$$

where:

*SSC* is the System Stress Costs;

*SCR* is the Available Firm Capacity Rights held by such Shipper in respect of the Balancing Period during which the System Stress was declared; and

*TCR* is the Available Firm Capacity Rights held by all Shippers during the Balancing Period during which the System Stress was declared.

500) For the purpose of paragraph 499), as soon as reasonably practicable following System Stress and the return to normal operation, the Transporter shall appoint an independent, appropriately qualified

person to conduct an investigation regarding the precise circumstances giving rise to the System Stress. If the Transporter fails to appoint such a person within 30 days after the occurrence of System Stress, any Shipper may request URCA to appoint such a person. The person appointed under this paragraph shall, as soon as reasonably practicable, report to the Transporter, the Shippers and URCA on the likely causes of that System Stress, together with any recommendations as to the manner of operation of the Transportation System (or any part of it) to avoid a repetition of such System Stress.

501) Amounts payable by a Shipper or the Transporter under paragraph 499) shall be invoiced and payable in accordance with part 13.

## 12 Gas Shrinkage

### 12.1 Shrinkage Gas

#### 12.1.1 Treatment

- 503) Shrinkage Gas shall be taken into account in determining a Shipper's:
- a) compliance with the Balanced Nomination Requirement (in accordance with part 3.2.2); and
  - b) Commodity Variance (in accordance with part 4.5.1).
- 504) Nothing in this Part shall be construed as requiring the Transporter to take any steps to purchase gas or make any other arrangement for injecting gas into the Transmission Network to compensate for Shrinkage Gas.

#### 12.1.2 Determination of Shrinkage Factor

- 505) Without prejudice to paragraph 506), the Transporter shall determine and publish a shrinkage factor ("**Network Shrinkage Factor**") and such Shrinkage Factor shall apply in respect of each Balancing Period in the period for which such factor is stated to apply (which such period shall be notified to Shippers at the time the Transporter first publishes such factor or revised factor ("**Shrinkage Period**").
- 506) The Transporter shall, in determining the Network Shrinkage Factor under paragraph 505), use historical data from the preceding twelve (12) months to estimate the extent of Shrinkage Gas in respect of the Gas Network in respect of the Shrinkage Period and in determining such factor, the Transporter shall take into account the estimated aggregate quantities of gas to be injected into, and offtaken from, the Transportation System during the Shrinkage Period including the likely (or proven) inaccuracies of the BPMs.
- 507) The applicable Network Shrinkage Factor shall be, at the date of the Code equal to 0.999.
- 508) The Transporter shall review the Network Shrinkage Factor not less than once every twelve (12) Months based upon the previous twelve (12) months historical data and where following such review the Transporter determines that the Network Shrinkage Factor should be revised:
- a) the Transporter shall notify Shippers and URCA of the revised Network Shrinkage Factor that the Transporter proposes should apply (together with the reasons therefore); and
  - b) where URCA approves the revised Network Shrinkage Factor, the Transporter shall notify Shippers accordingly. The revised Network Shrinkage Factor shall become effective from the first Day of the following Month.
- 509) For the avoidance of doubt, where following a review in accordance with paragraph 508), the Transporter determines that the Network Shrinkage Factor should not be revised, the Network Shrinkage Factor applying before such review shall, without prejudice to paragraph 508), continue to apply.

510) A reference to a Shrinkage Factor in the context of a particular Balancing Period shall be construed as the Shrinkage Factor applying in accordance with this Part in respect of the Balancing Period.

### 12.1.3 Shrinkage Factor incentive payments

511) The Transporter shall, in respect of Month 'm' calculate the "**Network Shrinkage Factor Variance**" in accordance with the following formula:

$$V_{NSF} = \frac{\sum Q_0}{\sum Q_1}$$

Where:

$V_{NSF}$  is the Network Shrinkage Factor Variance for Month 'm';

$\sum Q_0$  is the sum of all Metered Offtake Quantities of all Transmission Network Offtake Points and RTDQ of all Shippers for all Balancing Periods in Month 'm'; and

$\sum Q_1$  is the sum of all Metered Injection Quantities of all Transmission Network Injection Points for all Balancing Periods in Month 'm', less any quantity of gas that was lost in the Transmission Network and Distribution Networks in Month 'm' by reason of Force Majeure.

512) The Transporter shall calculate, in respect of Month 'm', the amount of "**Shrinkage Factor Charge**" in accordance with the following formula:

$$SFC_s^m = SF * S_{IQ} * \frac{S_{IQ}}{T_{IQ}} * R * 0.5$$

Where:

$SFC_s^m$  is the Shrinkage Factor Charge in respect of Shipper 's' for Month 'm';

$R$  is the rate of \$0.05 per mmBtu;

$SF$  is the value obtained by subtracting the  $V_{NSF}$  from the Network Shrinkage Factor;

$S_{IQ}$  is the sum of the Shipper Aggregate Injection Quantity for Shipper 's' in respect of all Balancing Periods in Month 'm' at Final Settlement; and

$T_{IQ}$  is the sum of the Shipper Aggregate Injection Quantity for all Shippers in respect of all Balancing Periods in Month 'm' at Final Settlement.

513) For the purposes of paragraph 512):

a) where the Shrinkage Factor Charge is greater than zero, the Shrinkage Factor Charge shall be payable by the Transporter to the relevant Shipper; and

b) where the Shrinkage Factor Charge is less than zero, the Shrinkage Factor Charge shall be payable by the relevant Shipper to the Transporter.

- 514) The Transporter shall, in respect of Month 'm', publish the Network Shrinkage Factor Variance by no later than the fifteenth (15th) Business Day of 'm+2'.
- 515) Shrinkage Factor Charges shall be invoiced and are payable in accordance with Part 13.



## 13 Invoicing And Payment

### 13.1 Introduction

#### 13.1.1 General

- 516) The amounts payable by Shippers to the Transporter and by the Transporter to Shippers in accordance with the Code will be invoiced and payable in accordance with this Part.
- 517) No delay in submitting an Invoice shall prejudice the liability, once the Invoice has been submitted, of the Transporter or the Shipper for the payment of the amounts subject to such Invoice.
- 518) The types (each an "**Invoice Type**") of Invoices to be submitted are Transportation Service Invoices, Balancing Invoices, Reconciled Distribution Charge Invoices, Meter Reconciliation Invoices and Miscellaneous Invoices.
- 519) Each Invoice will specify:
- a) the identity of the Shipper;
  - b) the Invoice Period to which the Invoice relates;
  - c) the Invoice Type;
  - d) the Invoice Amount in respect of each Invoice Item;
  - e) the Invoice Due Date;
  - f) the amount of GST (if any) payable in respect of each Invoice Item; and
  - g) a unique number by which the Invoice can be identified.
- 520) The Transporter will submit in respect of a Month 'm':
- a) following Initial Settlement, and not later than the fifteenth (15th) Business Day of "m + 1", a Transportation Services Invoice and a Balancing Invoice;
  - b) not later than the tenth (10th) Business Day of "m + 2", a Reconciled Distribution Charge Invoice; and
  - c) following Final Settlement, and not later than the eleventh (11th) Business Day of "m + 3", a Meter Reconciliation Invoice. Subject to paragraph 270), Transporter may issue a revised Final Settlement after the eleventh (11th) Business Day of 'm+3'.
- 521) In the event of System Stress the Transporter shall use its reasonable endeavours to submit the Invoices identified in paragraph 520) to Shippers within five (5) Business Days of the dates provided for in paragraph 520) in respect of a Month in which System Stress occurred or where System Stress exists in relation to the last Balancing Period in a Month, within five (5) Business Days of the Code Re-start Date.

522) There is no requirement to submit a Miscellaneous Invoice by any specific date in a Month and the Transporter may submit more than one such Invoice in respect of any Invoice Period.

### **13.1.2 Termination**

523) Notwithstanding paragraph 520), the Transporter may, at any time (before or after the Shipper Discontinuance Date) after submitting to a Shipper a Termination Notice under part 16.4 submit any Invoice to the Shipper in respect of any Invoice Period (or part thereof) ending at or before the time at which the Transporter submits such Invoice in accordance with this part.

524) Where the Transporter has submitted a Termination Notice to a Shipper, all amounts payable by the Shipper to the Transporter or by the Transporter to the Shipper (irrespective of whether the Invoice in which such amounts are shown was submitted before or after the date of the Termination Notice) shall be immediately payable notwithstanding part 13.3.1.

## **13.2 Invoice Types**

### **13.2.1 Transportation Services Invoice**

525) A "Transportation Services Invoice" is an Invoice Type on which the following charges are shown:

- a) Capacity Charges (in accordance with part 2.3.3);
- b) Usage Charges (in accordance with part 2.3.3);
- c) Distribution Charges (in accordance with part 2.3.4);
- d) Overrun Charges (in accordance with part 2.5.2);
- e) amounts payable by the Transporter to the Shipper (in accordance with parts 2.3.1 or 2.3.2);
- f) amounts payable by the Shipper to the Transporter (in accordance with parts 2.1.5 or 2.2.6);  
and
- g) Failure to Notify Charges (in accordance with part 3.4.2),

### **13.2.2 Balancing Invoice**

526) A "Balancing Invoice" is an Invoice Type on which the following charges are shown:

- a) Nomination Divergence Charges (in accordance with part 4.4);
- b) Cumulative Commodity Variance Charges (in accordance with part 4.5);
- c) Transporter Rebate Payments (in accordance with part 4.7);
- d) Metering Performance Charges (in accordance with part 10.3.2);
- e) Balancing Neutrality Charges (in accordance with part 4.8); and
- f) Shrinkage Factor Payments and Shrinkage Factor Charges (in accordance with part 12.1.3),

### **13.2.3 Reconciled Distribution Charge Invoice**

527) A “**Reconciled Distribution Charge Invoice**” is an Invoice Type on which amounts payable by the Transporter to the Shipper or amounts payable by the Shipper to the Transporter (in accordance with part 2.3.4) are shown.

### **13.2.4 Meter Reconciliation Invoice**

528) A “**Meter Reconciliation Invoice**” is an Invoice Type on which Final Cumulative Commodity Variance Charges and Revised Transportation Charges (in each case calculated in accordance with part 4.6) are shown.

### **13.2.5 Miscellaneous Invoice**

529) A “**Miscellaneous Invoice**” is an Invoice Type on which an amount not shown on any other Invoice Type is shown.

530) The Transporter may submit a Miscellaneous Invoice at any time in respect of any amount (not included in any other Invoice Type) which at any time prior to the submission of such Invoice becomes payable or repayable by the Transporter or a Shipper pursuant to any other provision of the Code.

531) The Transporter may designate as an Invoice Item in any Invoice an item previously included in a Miscellaneous Invoice.

## **13.3 Invoice Payment**

### **13.3.1 Invoice Due Date**

532) Subject to paragraph 535), the Invoice Amounts under each Invoice shall be paid by the Shipper to the Transporter or (as the case may be) the Transporter to the Shipper on or before the Invoice Due Date, except for the amounts under the Balancing Invoice, which shall be paid by the Transporter to the Shipper on or before the day that is two (2) Business Days after the Invoice Due Date.

533) Where an Invoice contains Invoice Amounts payable by and to a Shipper, only the net amount shall be payable (the “**Net Invoice Amount**”).

### **13.3.2 Payment details**

534) Payment of any amount payable under the Code shall be made in Bahamian Dollars in same day funds to the account of the payee to a bank in the Bahamas notified to the payer in accordance with paragraph 535).

535) The Transporter shall notify each Shipper, and each Shipper shall notify the Transporter, of the account name and number, the name, address and other necessary payment details of the account bank to which payments are to be made by such Shipper to the Transporter or (as the case may be) by the Transporter to such Shipper, within five (5) Days of the Shipper Accession Date, or in the event of any change to such details, not less than thirty (30) Days before such change is effective.

### **13.3.3 Deductions**

- 536) Without prejudice to paragraph 545), amounts payable under the Code shall be paid:
- a) free and clear of any restriction, reservation or condition; and
  - b) save to the extent required by law (if any), without any set-off or counterclaim and free and clear of any deductions or withholdings in respect of any tax.

### **13.3.4 Late payment and interest**

- 537) Without prejudice to part 16.4, where any amount payable under an Invoice is not paid on or before the Invoice Due Date, the payee shall pay interest at the Applicable Interest Rate, on the unpaid amount from the Invoice Due Date until the Day on which payment is made.
- 538) For the avoidance of doubt, paragraph 537) shall not be construed as permitting late payment of any Invoice Amount.
- 539) Where interest is payable in accordance with this Part, interest:
- a) shall accrue on a daily basis and on the basis of a 365 day year; and
  - b) will be compounded to the extent and by virtue of being invoiced in a Miscellaneous Invoice, the late payment of which will itself be subject to interest in accordance with paragraph 537)
- 540) The "**Applicable Interest Rate**" is the rate of interest, expressed as a percentage rate per annum, payable in respect of amounts overdue for payment or subject to repayment, under the Code and shall be a rate equivalent to the the 1-year Bahamian Treasury Bill yield as published on the Central Bank of the Bahamas website, for the period which the interest accrues.

### **13.3.5 3.5 Application of monies received in the event of an underpayment**

- 541) Where the Transporter receives any payment from a Shipper and the Shipper has not, in making the payment, indicated to the Transporter the Invoice in respect of which the payment is made, and the amount received by the Transporter falls short of the total amount of the payment due to be made by the Shipper at the relevant time then, without prejudice to any rights or remedies available to the Transporter, the Transporter shall apply the amount received from the Shipper towards the payment of Invoices which are outstanding at such time in the following order:
- a) Transportation Services Invoice;
  - b) Reconciled Distribution Charge Invoice;
  - c) Meter Reconciliation Invoice;
  - d) Miscellaneous Invoice;
  - e) Balancing Invoice,

including, in each case, any late payment interest which may have accrued in accordance with part 13.3.4.

## **13.4 Invoice disputes**

542) The Transporter and the relevant Shipper shall endeavour to resolve any Invoice Dispute by agreement provided always that if an Invoice Dispute remains unresolved for more than thirty (30) Days from when it was first raised, either the Transporter or the relevant Shipper may refer that Invoice Dispute for resolution in accordance with part 16.9.

543) Any reference to the resolution of an Invoice Dispute is:

- a) the resolution thereof by agreement (at any time) by the Transporter and the relevant Shipper;
- b) the resolution of the dispute in accordance with part 16.9; or
- c) subject to paragraph (b), to the outcome of proceedings commenced by the Transporter or the relevant Shipper in respect thereof.

### **13.4.1 Invoice Disputes**

544) Without prejudice to subpart 13.4.2, where a Shipper wishes to raise an Invoice Dispute in respect of any amount shown as payable by the Shipper or the Transporter on an Invoice, the Shipper may not later than five (5) Days following receipt of the relevant Invoice notify the Invoice Dispute to the Transporter, specifying:

- a) the date and number of the Invoice;
- b) the Invoice Item(s) to which the Invoice Dispute relates;
- c) an explanation of the basis on which the Invoice Dispute is submitted; and
- d) the amount of the Invoice Dispute.

545) The undisputed amount shown as payable by a Shipper on a Transportation Services Invoice or a Reconciled Distribution Charge Invoice shall be payable in full on the Invoice Due Date, irrespective of the fact that the Shipper has raised an Invoice Dispute concerning other amounts shown on the Transportation Services Invoice or the Reconciled Distribution Charge Invoice.

546) When any amount under a Transportation Services Invoice or a Reconciled Distribution Charge Invoice is the subject of an Invoice Dispute, the relevant Shipper shall, on or before the Invoice Due Date, pay the disputed amount into a current account, which shall be established by the Transporter. After settlement of the Invoice Dispute, any amount agreed or adjudged to be due to, or returned to, a Party shall be paid from the current account together with interest earned on the account (if any) during the period which the disputed amount remains in the current account.

547) Irrespective of any Invoice Dispute in respect of any Balancing Invoice, each Shipper shall pay the Net Invoice Amount in full on the Invoice Due Date.

### **13.4.2 Invoice Disputes after payment**

548) Nothing in this part shall prevent a Shipper from raising an Invoice Dispute after payment has

been made in respect of the amount of the Invoice Dispute or at the same time as payment is made, provided that (without prejudice to the outcome of the Invoice Dispute) no constructive trust or other implied term as to the receipt or application by the payee of the amount paid shall arise and provided further that the Invoice Dispute is raised by a Shipper not later than the date which is three (3) Months after the date when payment is made by such Shipper.

549) Where following resolution of an Invoice Dispute, it is agreed or resolved that any amount or part of any amount paid should not have been paid, the payee shall repay such amount together with interest at the Applicable Interest Rate from the Invoice Due Date to the date of repayment.

### ***13.4.3 Invoicing resolved disputes***

550) As soon as reasonably practicable following the resolution of an Invoice Dispute in favour of a Shipper but not later than the end of the following Month after the Invoice Dispute is resolved, the Transporter will prepare and submit an appropriate Invoice in respect of the amount, if any, determined to be repayable by the Transporter to the relevant Shipper.

## **14 Communications And IT**

### **14.1 General**

#### ***14.1.1 Introduction***

- 551) The Transporter shall secure the establishment and operation of GTSS and shall allow Shippers access to and use of GTSS, and the Transporter and Shippers shall communicate with each other by means of GTSS, subject to and in accordance with this Part.
- 552) Shippers must comply with the relevant requirements of this Part regarding access to and use of GTSS.
- 553) Shippers agree that the Transporter may permit persons (other than Shippers) to have access to and use of GTSS provided that no such person shall have access to or use of GTSS unless and until such person has executed an agreement substantially in the form set out for such purpose in the GTSS Manual.

#### ***14.1.2 Code Communications***

- 554) A GTSS Communication given in accordance with this Part and the GTSS Manual shall be treated as a valid Code Communication; and the Transporter and each Shipper confirms that it intends and agrees that GTSS Communications or any other communication given in accordance with the GTSS Contingency Procedures shall have legal effect for the purposes of the Code.
- 555) The GTSS Manual shall specify in respect of each Code Communication to be listed whether it is to be given by GTSS Communication or in accordance with Part 16.8 and a Code Communication may only be given by the means specified or (where an alternative means are specified) by such other alternative means.
- 556) In the event of certain failures of GTSS referred to in part 14.3, GTSS Communications shall be given in accordance with the means specified in the GTSS Contingency Procedures.
- 557) Where a Code Communication which is required to be given as a GTSS Communication is not so given and as a result is not properly received by the intended recipient(s) it shall be deemed not to have been given and shall be of no effect.
- 558) The failure by the Transporter or a Shipper to give a Code Communication as a GTSS Communication in accordance with the GTSS Manual shall not be a breach of the Code (without prejudice to paragraph 557) or any breach that arises from the failure to give the Code Communication).

#### ***14.1.3 GTSS Manual***

- 559) It shall be an obligation of the Transporter and the Shippers to comply with the requirements of the GTSS Manual. Insofar as a GTSS User is not a Shipper the GTSS Manual will set out the extent to which such person shall have access to and use of GTSS.
- 560) The GTSS Manual does not form part of the Code, and the Code shall prevail in the event of a

conflict between the Code and the GTSS.

#### **14.1.4 Operational Security**

- 561) Each Shipper and the Transporter agrees to implement and maintain all security procedures and measures required under the 'GTSS Security Policy' as set out in the GTSS Manual so as to prevent unauthorised access to or use of GTSS and to ensure protection against alteration, delay, disruption or loss to GTSS Communications. If the Transporter becomes aware of unauthorised access to or use of GTSS it shall promptly contact any GTSS User affected thereby and take such other steps as set out in the GTSS Manual.
- 562) If a Shipper becomes aware of unauthorised access to or use of GTSS it shall promptly contact the Transporter and take such other steps as set out in the GTSS Manual.
- 563) If through GTSS a Shipper obtains or receives unauthorised access to information concerning another GTSS User or receives a GTSS Communication sent to another GTSS User, the Shipper shall promptly inform the Transporter and close the screen on which such information or communication appears without making any copy or any further use thereof.

#### **14.1.5 Liability**

- 564) For the purposes of part 16.6, damages and loss to or corruption of any software or data or information contained in a computer system arising from the wilful breach of part 14.1.4 shall be deemed to be physical damage.
- 565) Paragraph 605) shall not apply in respect of paragraph 564).
- 566) The Transporter or (as the case may be) a Shipper shall not be liable in respect of any such damage or loss as is referred to in paragraph 564) to the extent the breach giving rise thereto occurred as the result of a breach by another GTSS User or (as the case may be) the Transporter.

#### **14.1.6 Equipment**

- 567) The GTSS Manual will set out:
- a) the responsibilities of the Transporter and each GTSS User so as to enable access to and use of GTSS and to transmit, receive, translate and record GTSS Communications; and
  - b) details of the specification and minimum scope and configuration of the equipment referred to in (a).
- 568) Except where equipment is to be provided by the Transporter, it will be the responsibility of the GTSS User to ensure that the equipment referred to in paragraph 567) complies with the specification and satisfies the scope and configuration described in the GTSS Manual.

#### **14.1.7 GTSS Help Desk**

- 569) The Transporter will provide a help desk, with appropriate resources and personnel, to meet reasonable requests made by GTSS Users between 08:30 hours and 18:00 hours on Business Days, which will assist GTSS Users in identifying the nature and cause of any operational problems



experienced in accessing or using GTSS.

570) The Transporter will endeavour to ensure that the help desk responds to not less than 80% of requests made to the help desk within two (2) hours of a GTSS User making a request, and the Transporter shall from time to time (but in any event not less than every three (3) Months) provide all GTSS Users with details of its performance in responding to requests made under paragraph 569) in accordance with this paragraph.

571) No communication by or to the help desk shall be a Code Communication.

#### **14.1.8 Charges**

572) No charge will be payable by a Shipper to the Transporter in respect of the provision of any general service, documentation or other support which is identified in the GTSS Manual as being reasonable to expect the Transporter to provide to GTSS Users. However, if a Shipper requests service from the Transporter or makes a request for documentation which is beyond that which is ordinarily requested by GTSS Users, the Transporter shall be entitled to levy a charge to such Shipper (calculated as being sufficient to reimburse the Transporter the actual cost of providing such service or documentation) for such service or such documentation.

573) Any charges that the Transporter makes in accordance to paragraph 572) shall be invoiced and payable in accordance with part 13 above.

#### **14.2 Licence**

574) Subject to paragraph 575), a Shipper may, for the purposes contemplated in the Code or the GTSS Manual:

- a) have access to and use GTSS;
- b) use any software provided to the Shipper by the Transporter for the purposes of accessing or using GTSS ("**GTSS Software**"); and
- c) make use of the GTSS Manual.

575) The licence granted under paragraph 574) to each Shipper is royalty free (without prejudice to part 14.1.8) and non-exclusive and non-transferable and shall terminate automatically should the Shipper cease to be a GTSS User for any reason.

576) GTSS, GTSS Software, the GTSS Manual and all copyright and intellectual property rights therein of whatever nature shall at all times remain, as between the Transporter and each Shipper, the property of the Transporter.

577) The Transporter warrants to each Shipper that the licence granted under paragraph 574) and the use of the GTSS does not and will not infringe the intellectual property rights of any third party.

##### **14.2.1 Transporter's Software**

578) A Shipper may not:

- a) copy the GTSS Software (other than for the purposes of the Shipper's own disaster recovery and/or contingency procedures);
- b) sub-licence the GTSS Software or charge or otherwise deal in the GTSS Software;
- c) modify, edit or decompile or otherwise disassemble the GTSS Software;
- d) use the GTSS Software other than for the purposes for which it is provided.

579) The Transporter may issue from time to time new versions of the GTSS Software and each Shipper shall be required to install the new release by the date and time requested by the Transporter.

#### **14.2.2 Indemnities**

580) Each Shipper shall indemnify and hold harmless the Transporter from and against all loss, liability, claims, expense and action resulting from any breach of paragraph 578).

581) The Transporter shall indemnify and hold harmless each Shipper from and against all loss, liability, claims, expense and action resulting from any breach of paragraph 577).

### **14.3 Failure of GTSS**

#### **14.3.1 Contingency**

582) The Transporter and Shippers agree to adopt and (in the event of a Code Contingency) implement the relevant GTSS Contingency Procedures.

#### **14.3.2 Obligations**

583) In the event of a Code Contingency, the Transporter shall use its reasonable endeavours to resolve the failure or other event or circumstance giving rise to the Code Contingency so as to bring about the resumption of the normal operation of GTSS as soon as possible.

584) Each Shipper shall give the Transporter all reasonable assistance as may be necessary for the purposes of the resumption of the normal operation of GTSS.

585) In the event of a Code Contingency involving a GTSS Communication failure, where the GTSS Contingency Procedures so provide, a Code Communication is normally required to be given as a GTSS Communication may be given by any means provided in the GTSS Manual.

586) Except as provided in the GTSS Contingency Procedures, the Code will apply during and will not be affected by a Code Contingency.

#### **14.3.3 GTSS Failure and Activation of Disaster Recovery System**

587) In the event of a failure of the GTSS due to a fault that the Transporter believes cannot be fully ascertained and rectified within 30 minutes of the Transporter first becoming aware of such failure ("**GTSS Failure**"), the Transporter may initiate a switchover to the system established by the Transporter as a backup to the GTSS ("**DR System**"). During the period from the commencement of the GTSS Failure until the time when all GTSS processes are available using the DR System, as notified

by the Transporter in accordance with paragraph 592) ("**Switchover Period**"), all GTSS processes (including nominations, scheduling, applications for Authorised Capacity Overruns and Authorised Exit Capacity Rights) will not be available.

588) The Transporter shall use reasonable endeavours to complete the switchover to the DR System as soon as practicable.

589) In the event of a GTSS Failure, the quantity of gas scheduled for injection by each Shipper into the Transmission Network at each Transmission Network Injection Point and the quantity of gas scheduled for offtake by each Shipper from the Transmission Network at each Eligible Offtake Point shall be determined:

- a) for the three (3) Balancing Periods following the Balancing Period during which the GTSS Failure commenced, in accordance with the last Revised Operating Schedule notified by the Transporter to the Shippers; and
- b) for each Balancing Period thereafter until the end of the Switchover Period, in accordance with the last Initial Operating Schedule notified by the Transporter to the Shippers.

590) The following charges will not be imposed during the Switchover Period:

- a) Nomination Divergence Charges; and
- b) Failure to Notify Charges.

591) During the Switchover Period, in relation to each Unauthorised Exit Capacity Overrun Amount by a Shipper, the Unauthorised Capacity Overrun Charge payable by such Shipper shall be calculated in accordance with the formula stipulated for a Authorised Capacity Overrun Charge (and for this purpose, the Authorised Entry Capacity Overrun Amount and the Authorised Exit Capacity Overrun Amount shall each be deemed to be an amount equivalent to the Unauthorised Exit Capacity Overrun Amount).

592) The Transporter shall inform Shippers as to the time when all GTSS processes are available using the DR System, upon which paragraphs 589) and 590) shall cease to apply.

#### **14.4 Performance Levels**

593) The Transporter and Shippers agree and acknowledge that:

- a) it would not be economical for GTSS to be designed, built or operated so as to reduce the possibility of failure below a certain level, and accordingly, that failure may occur;
- b) the GTSS Contingency Procedures for giving Code Communications in circumstances of failure have been developed in recognition of paragraph (a) and are reasonable and adequate in the circumstances; and
- c) GTSS Performance Levels are determined by reference to a designed maximum level of access to and use of GTSS by GTSS Users ("**GTSS Design Volumes**").

- 594) GTSS is designed and built and will be operated with a view to achieving, over particular periods ("**GTSS Performance Periods**"), the performance levels set out in the GTSS Manual ("**GTSS Performance Level**").
- 595) The Transporter shall every three (3) Months prepare and provide to Shippers a statement of:
- a) the performance of GTSS during the GTSS Performance Periods up to the end of the preceding three (3) Months and whether or not the GTSS Performance Levels were achieved;
  - b) any instances of the GTSS Design Volumes being exceeded during any GTSS Performance Period in the preceding three (3) Months.
- 596) The Transporter will establish, implement and maintain (and revise) procedures for the collection and monitoring of data samples relating to the achievement (or otherwise) of GTSS Performance Levels.
- 597) Where GTSS Design Volumes are exceeded during any GTSS Performance Period, the Transporter will not be required to undertake any works in relation to GTSS to enable higher GTSS Performance Levels to be achieved except as may be required following a modification to the GTSS Manual in accordance with the procedures for such modification set out therein.
- 598) Without prejudice to any other provision of the Code, the Transporter will not be liable to any Shipper for or for the consequences of any failure, error or defect in the operation of or performance of GTSS (or any part of GTSS).

## 15 Load profiling

### 15.1 Load profiles

599) The Transporter shall, in the absence of a Valid Meter Reading, use load profiles to estimate the quantity of gas for the purposes of this Code:

- a) injected into the Transmission Network at any System Injection Point and
- b) offtaken from the Transportation System at different System Offtake Points by different Customer Types, in each case, during a Balancing Period.

600) The Transporter shall prepare and establish a methodology ("**System Point Profile Methodology**") for the purposes of paragraph 253, and the System Point Profile Methodology at the date of the Code shall be approved by URCA and is attached hereto as Annex F.

601) The Transporter shall review the System Point Profile Methodology from time to time, and the Transporter may, on giving not less than thirty (30) Days prior notice, make proposals to URCA and to Shippers that a revised System Point Profile Methodology will apply from the date specified in the notice provided that no revised System Point Profile Methodology shall be effective (and therefore have effect for the purposes of the Code) other than on the first day of a Month and unless and until the revised System Point Profile Methodology is approved by URCA.

### 15.2 System Point Profile Methodology

602) In preparing the System Point Profile Methodology, the Transporter shall, for the purposes of estimating the particular quantities of gas offtaken at a particular System Offtake Point during a particular Balancing Period:

- a) where a BPM Meter Installation is located, utilise both Proxy Day and Day Type profiling; and
- b) where an NBPM Meter Installation is located, utilise both Proxy Day and Day Type profiling.

603) For the purposes of this paragraph part 15.2:

- a) "**Day Type**" profiling involves an estimation of the quantity of gas offtaken by reference to a particular like Day for which the Balancing Period occurs; and
- b) "**Proxy Day**" profiling involves an estimation of the quantity of gas offtaken by reference to a Day in respect of which actual valid metering data was available and in respect of which particular levels and patterns of demand and supply and temperature were experienced.

604) The System Point Profile Methodology shall form part of the Code.

## 16 General

### 16.1 Introduction And Shipper Accession

605) The Code operates as a binding contract between the Transporter and each Relevant Gas Shipper. For the avoidance of doubt, each such contract comprising the Code between the Transporter and a Relevant Gas Shipper shall constitute a distinct and separate contract (each such contract a "**Transportation Framework Contract**"). Save for the Transporter and the Relevant Gas Shipper who are parties to a specific Transportation Framework Contract, no other person or entity (including a Relevant Gas Shipper who is a party to another Transportation Framework Contract) shall have any right to enforce any term of such Transportation Framework Contract, regardless of whether such person or entity has been identified by name, as a member of a class or as answering a particular description. For the avoidance of doubt, nothing in this paragraph shall affect the rights of any permitted assignee or transferee.

#### 16.1.1 Ancillary Agreement

606) An "**Ancillary Agreement**" is an agreement offered by the Transporter to, and accepted by, one or more Shippers setting out further terms of their transportation arrangement in the Transportation System, which is:

- (a) contemplated by the Code, the Transporter's Licence or the Shipper's Licence; and
- (b) approved and designated by URCA to be an 'Ancillary Agreement' for the purposes of this Part.

607) Subject to the provisions contained in this Part, the rights and obligations between the Transporter and the Shipper or Shippers under an Ancillary Agreement shall be treated as being supplemental to the rights and obligations of such parties under the Code and their respective Transportation Framework Contract(s).

608) In the event of any inconsistency between the provisions of the Code and a Transportation Framework Contract on the one hand and the provisions of an Ancillary Agreement on the other, the provisions of the Code and the Transportation Framework Contract shall prevail to the extent of the inconsistency.

609) An Ancillary Agreement may be amended by agreement between the Transporter and the Shipper(s) who are party to that Agreement and not otherwise; and accordingly, amendments to an Ancillary Agreement shall not be subject to the Modification Rules.

610) A breach by the Transporter or a Shipper of a term of an Ancillary Agreement shall not (unless the Ancillary Agreement otherwise provides) constitute a breach of the Code.

#### 16.1.2 Applicant Shipper

611) In order to become a Shipper, a Relevant Gas Shipper (the "**Applicant Shipper**") must satisfy each of the following requirements:

- a) the Applicant Shipper shall have applied to the Transporter, in such form as the Transporter may from time to time prescribe, giving the following details:

- i) the name of the Applicant Shipper;
  - ii) the legal nature of the Applicant Shipper; and
- b) the address and telephone and facsimile numbers and electronic mail address of the Applicant Shipper and the individual for whose attention notice is to be marked, for the purposes of notice under part 16.8;
  - c) the Applicant Shipper shall be the holder of a Shipper's Licence;
  - d) the Applicant Shipper shall have secured compliance with those requirements of part 11 which are required to be complied with before a Shipper is able to send and receive Code Communications;
  - e) the Applicant Shipper shall have provided the emergency contact details required under part 11;
  - f) the Applicant Shipper shall have obtained from the Transporter one or more copies of the Code and such other documents referred to in the Code as the Transporter shall from time to time prescribe for the purposes of paragraph 611)e);
  - g) the Applicant Shipper shall have provided to the Transporter security for Transportation Code Indebtedness in such form and amount as required under part 16.2.1;
  - h) the Applicant Shipper shall have:
    - (i) been assigned an initial Balancing Credit Limit in accordance with part 16.3.5; and
    - (ii) provided to the Transporter security for Balancing Charges in such form and amount as required under part 16.3.6;
  - i) the Applicant Shipper shall have paid to the Transporter all prescribed application processing and other administrative fees as may be approved by URCA.

### **16.1.3 Admission of Shipper**

612) The Applicant Shipper will become a Shipper with effect from the Day which is specified in the Transporter's notification to the Applicant Shipper under paragraph 613) ("**Shipper Accession Date**").

613) Upon satisfaction of the last of the requirements under paragraph 611), the Transporter will notify:

- a) the Applicant Shipper of:
  - i) the Transporter's notice details for the purposes of part 16.8; and
  - ii) the names of all other Shippers and their notice details in accordance with part 16.8;
  - iii) the Shipper Accession Date for such Applicant Shipper; and
- b) all other Shippers specifying the name of the Applicant Shipper, its notice details provided under paragraph 611)a)ii) and the Shipper Accession Date for such Applicant Shipper.

614) For the avoidance of doubt, prior to the Shipper Accession Date, notwithstanding that a Relevant Gas Shipper is a Party to a Transportation Framework Contract, such Relevant Gas Shipper shall have no rights under such Transportation Framework Contract or the provisions of this Code to apply or hold any Capacity Rights or to have gas conveyed on behalf of such Relevant Gas Shipper and the Transporter shall have no obligations or liabilities to such Relevant Gas Shipper in relation to the same and, in particular, the Transporter shall be under no obligation to grant any Capacity Rights to or to convey any gas on behalf of such Relevant Gas Shipper.

## **16.2 Transportation Credit Regime**

### ***16.2.1 Security for Transportation Code Indebtedness***

615) The Transporter may mitigate the risk of non-payment by a Shipper of its Transportation Code Indebtedness by requiring such Shipper to provide security in such amount equal to three (3) times its Average Monthly Transportation Code Indebtedness and in the form of:

- (a) cash deposits;
- (b) irrevocable bankers' guarantee
- (c) issued by the Bahamas branch of a bank which
  - (i) holds a current banking licence under the Banks and Trust Companies Regulation Act; and
  - (ii) has a credit rating of "A" or above from either Moody's Investors Services Inc or Standard and Poor's; or
- (d) any combination of the above.

616) If a Shipper provides security in the form of a cash deposit for its Transportation Code Indebtedness, the Transporter shall not be required to pay interest on such deposit.

617) The initial amount of security required from a Shipper to secure payment of its Transportation Credit Code Indebtedness shall be:

- a) notified by the Transporter to the Shipper prior to the Shipper Accession Date; and
- b) deposited with the Transporter or otherwise provided by the Shipper prior to the Shipper Accession Date.

618) The Transporter may review a Shipper's Average Monthly Transportation Code Indebtedness as frequently as the Transporter wishes or at the written request of the Shipper.

619) If, as a result of a review by the Transporter made pursuant to paragraph 618), a Shipper's Average Monthly Transportation Code Indebtedness is determined to have increased by more than ten percent (10%), the Transporter shall so notify and require the Shipper to provide within ten (10) Business Days additional security to reflect such increase.

620) In the event the Transporter is notified by the Shipper's bank of the non-renewal of the Shipper's irrevocable banker's guarantee that it had provided under paragraph 615), the Transporter shall issue



a written notice to the Shipper for the requisite security to be replaced by the due date specified in such written notice or at least ten (10) Business Days prior to the expiry of the irrevocable banker's guarantee, whichever is earlier.

### **16.2.2 Transportation Credit Limit and Transportation Code Indebtedness**

621) Subject to paragraph 622), where:

- (a) a Shipper's Transportation Code Indebtedness exceeds an amount equal to sixty percent (60%) of its Transportation Credit Limit and the Transporter has issued a warning notice to the Shipper to that effect; and
- (b) at any time following such notice, the Shipper's Transportation Code Indebtedness exceeds its Transportation Credit Limit and the Transporter has given notice to the Shipper to that effect,

paragraph 623) shall apply.

622) Where a Shipper has submitted an Invoice Dispute in accordance with part 13.4 in respect of any Invoice, the Transporter will review and give due consideration to such Invoice Dispute before taking any steps pursuant to paragraph 621).

623) Subject to paragraph 621), where and for so long as the Transportation Code Indebtedness of a Shipper for the time being reaches or exceeds the Shipper's Transportation Credit Limit, the Transporter shall be entitled to reject or refuse to accept all or any of the following by the relevant Shipper:

- (a) an application for Capacity Right Transfer under part 2.4 in respect of which the Shipper is the Transferee Shipper;
- (b) a Cumulative Commodity Variance Transfer under part 4.5 in respect of which the Shipper is the Cumulative Commodity Variance Transferee Shipper; and
- (c) Nominations under part 3, other than a Renomination,

until such time as the Shipper's Transportation Code Indebtedness is reduced to less than eighty percent (80%) of its Transportation Credit Limit.

### **16.2.3 Security Enforcement and Top-up**

624) The Transporter shall, on the Business Day following a default in payment by a Shipper of its Transportation Code Indebtedness by the relevant Invoice Due Date, notify the Shipper that payment was not received. If the amount owing remains unpaid by the Shipper five (5) Business Days after the date of such notice, the Transporter may realise or apply any security provided by the Shipper under part 16.2.1 in settlement of the outstanding Transportation Code Indebtedness to which the notice relates, including any late payment interest calculated in accordance with part 13.3.4.

625) Following any realisation or application of a Shipper's security under paragraph 624), the Transporter shall notify the Shipper of the amount of security realised or applied, and the Shipper shall replace such security with new or additional security of equal value and in a form described in

paragraph 615) within five (5) Business Days of such notice.

626) For the avoidance of doubt and for the purposes of part 16.2.2, a Shipper's Transportation Credit Limit shall be reduced in accordance with any security realised or applied by the Transporter pursuant to paragraph 624) and reinstated in accordance with any replacement security provided by the Shipper pursuant to paragraph 625).

## **16.3 Balancing Credit Regime**

### **16.3.1 Introduction**

627) The effect of the provisions of this part 16.3 is that if a Shipper fails to make payment of any Balancing Charges when due, then such unpaid amounts (together with an amount in respect of the cost of financing such non-payment) shall be deemed as additional costs to be apportioned amongst the other Shippers in accordance with part 4.8.

628) Nothing in this paragraph shall modify the provisions referred to in paragraph 627).

629) Part 16.3 is independent of and shall apply separately from the provisions of part 16.2.

630) For the purposes of this Code the following definitions shall have the following meanings:

- (a) "**Relevant Balancing Charges**" means Balancing Charges which would (on the basis set out in paragraph 653)) be payable and other relevant charges which are payable by, or to, each Shipper in respect of Balancing Periods falling on the Relevant Day;
- (b) "**Balancing Neutrality Charges**" are the amounts that would be determined as Balancing Neutrality Charges in accordance with part 4.8.2;
- (c) "**Outstanding Balancing Indebtedness**" for each Shipper means the sum of:
  - i) the net aggregate amount (payable by, or to, the Shipper) of the Relevant Balancing Charges for each Day of the Uninvoiced Period (as defined in paragraph (e) below); and
  - ii) the Invoice Amounts in respect of all Balancing Charges under each Balancing Invoice;
- (d) for the purposes of paragraph 630)i) the "**Uninvoiced Period**" is the period from the first Day of the Invoice Period in respect of which no Balancing Invoice has been submitted to the Shipper up to and including the Relevant Day; and
- (e) in determining Outstanding Balancing Indebtedness, amounts payable by the Shipper shall be positive, and amounts payable to the Shipper shall be negative; and where Outstanding Balancing Indebtedness would otherwise be negative its shall be deemed (for the purposes of this part 16.3 only) to be zero.

### **16.3.2 Shipper Credit Forum**

631) The "**Shipper Credit Forum**" consists of one appointed representative from each entity which holds a Shipper's Licence.

- 632) The Transporter may consult with the Shipper Credit Forum in relation to any aspect of its functions under this part and may at any time convene a meeting of such committee on any reasonable period of notice.
- 633) Where the Transporter has any reasonable grounds for wishing to consult with the Shipper Credit Forum in relation to any step required to be taken under this part, the Transporter may (having convened a meeting of the Shipper Credit Forum at the earliest reasonable date) defer taking such step until it has consulted with the Shipper Credit Forum.
- 634) Where the Transporter brings to the Shipper Credit Forum any matter relating to a particular Shipper, the Transporter will not disclose the identity of the Shipper to the Shipper Credit Forum unless:
- (a) the Shipper in question agrees to such disclosure; or
  - (b) it is not practicable for the matter in question to be considered by the Shipper Credit Forum without the identity of the Shipper being disclosed or becoming apparent; or
  - (c) the Transporter has given a Termination Notice to the Shipper (but this paragraph shall not of itself require the Transporter to inform the Shipper Credit Forum of the fact that it has given a Termination Notice to any Shipper).
- 635) With the approval of the Shipper Credit Forum, the Transporter is authorised, in implementing the provisions of this part in respect of Shippers or any particular Shipper, to delay the implementation of any such provision or to implement any such provision on a modified basis which is less onerous than the provision in the absence of such modification.

### ***16.3.3 Liability of the Transporter under part 16.3***

- 636) Shippers acknowledge that the calculation of Balancing Charges and other matters to be calculated under this part may be made erroneously. As such the Shippers agree to make the payments required under this part, and that the Transporter is permitted to take the steps contemplated by this part, notwithstanding that an error has been made (on the basis that any necessary repayments or additional payments will be made at a later date following resolution of any such error).
- 637) Notwithstanding paragraph 636) and the other provisions of this part, where the Transporter has reasonable grounds for believing that any calculation required to be made by it for the performance of its functions under this part has been or may have been made erroneously, the Transporter may (but shall not be required to) defer the taking of any step that would otherwise be required under this part until the Transporter has had a reasonable opportunity of verifying such calculation.
- 638) Without prejudice to paragraph 639), nothing in this part shall require the Transporter to take any step which the Transporter reasonably believes may result in it becoming liable to any person in damages or otherwise, whether or not the amount of any such liability would be recoverable under paragraph 642). However the possibility of a claim being made against the Transporter shall not of itself suffice for the purposes of this part unless the Transporter reasonably believes that such claim would be well founded.

- 639) Each Shipper authorises the Transporter to take any step contemplated by this part and (without prejudice to part 16.6, but subject to paragraph 643) agrees that the Transporter shall have no liability whatsoever to such Shipper for taking any such step.
- 640) Nothing in this part shall require the Transporter to take any step which conflicts with any Legal Requirement or any order of any court of competent jurisdiction.
- 641) The Transporter will act in good faith in implementing the provisions of this part but will not be liable to any Shipper for any failure or delay of the Transporter in doing so or in taking any particular step.
- 642) Where a Shipper brings any claim against the Transporter under paragraph 643) and the Transporter successfully defends such claim, the fees, costs and expenses incurred by the Transporter (other than its own internal costs and expenses) in defending such claim shall be aggregated with the Balancing Charges in the Months in which the Transporter makes payment thereof for the purposes of determining the Balancing Neutrality Amount under paragraph 313).
- 643) Nothing in the Code shall exclude or limit the Transporter's liability or entitle the Transporter to recover from Shippers any amount:
- (a) in respect of a reckless or wilful breach by the Transporter of this part; or
  - (b) in any case where the Transporter has in the exercise of its functions under this part acted in bad faith or fraudulently.

#### **16.3.4 Code Contingencies**

- 644) The Transporter will not be required to implement this part in any case where and for so long as, by reason of any Code Contingency, it is not reasonably practicable for the Transporter to calculate with reasonable accuracy anything required for such implementation.

#### **16.3.5 Balancing Credit Limit**

- 645) For each Shipper, the "**Balancing Credit Limit**" shall be the amount determined in accordance with the following formula:

$$1\% \times (ACR * n * ANIP)$$

where:

*ACR* = such Shipper's Available Firm Capacity Rights;

*n* = 1440, being approximately the number of Balancing Periods in a two (2) Month period; and

*ANIP* = the Administered Negative Commodity Price applicable to the previous two (2) Months.

- 646) A Shipper's Balancing Credit Limit will be reviewed by the Transporter every two (2) Months following the Shipper Accession Date to take account of changes to a Shipper's Available Firm Capacity Rights during such period and the market price for the Administered Negative Commodity Price and where this results in a change to such Shipper's Balancing Credit Limit of more than five

percent (5%), the Transporter shall notify the Shipper in writing of the Shipper's latest Balancing Credit Limit.

### **16.3.6 Security for Outstanding Indebtedness**

647) The risk of non-payment by a Shipper of its Outstanding Balancing Indebtedness shall be mitigated by the Shipper providing security to the Transporter in such amount equal to the Shipper's Balancing Credit Limit (as amended from time to time in accordance with paragraph 646)) and in the form of:

- a) cash deposits; or
- b) irrevocable banker's guarantee issued by the Bahamas branch of a bank which
  - (i) currently holds a current banking licence under the Banks and Trust Companies Regulation Act and
  - (ii) has a credit rating of "A" or above from either Moody's Investors Services Inc or Standard and Poor's; or
- c) any combination of the above.

648) If a Shipper provides security in the form of a cash deposit for its Outstanding Balancing Indebtedness, the Transporter shall not be required to pay interest on such deposit.

649) The initial amount of security required from a Shipper to secure payment of its Outstanding Balancing Indebtedness shall be:

- a) notified by the Transporter to the Shipper prior to the Shipper Accession Date; and
- b) deposited with the Transporter or otherwise provided by the Shipper prior to the Shipper Accession Date.

650) Where, as a result of the Transporter reviewing a Shipper's Balancing Credit Limit, the Transporter issues a notice to the Shipper in accordance with paragraph 646) which results in either:

- (a) the reduction of a Shipper's Balancing Credit Limit, the Shipper shall be entitled to reduce the amount of security provided to the Transporter in accordance with paragraph 647) provided always that the aggregate value of the remaining security is at least equal to such Shipper's revised Balancing Credit Limit; or
- (b) the increase of a Shipper's Balancing Credit Limit, the Shipper shall, within two (2) Business Days, provide to the Transporter such additional security in the form prescribed in paragraph 647) so as to ensure the aggregate value of the security is at least equal to the Shipper's revised Balancing Credit Limit.

651) In the event the Transporter is notified by the Shipper's bank of the non-renewal of the Shipper's irrevocable banker's guarantee that it had provided under paragraph 647), the Transporter shall issue a written notice to the Shipper for the requisite security to be replaced by the due date specified in such written notice or at least ten (10) Business Days prior to the expiry of the irrevocable banker's

guarantee, whichever is earlier.

### **16.3.7 Balancing Credit Limit and Outstanding Balancing Indebtedness**

652) On each Day, the Transporter will calculate for each Shipper:

- (a) the amount of the Relevant Balancing Charges for the previous Day (the “**Relevant Day**”); and
- (b) the amount of the Outstanding Balancing Indebtedness.

653) The Relevant Balancing Charges will be calculated in respect of each Relevant Day on the basis of the amounts determined as the Shipper's Shipper Injection Quantity, and the Shipper Offtake Quantity determined in accordance with part 4.

654) Shippers acknowledge that the calculation of Relevant Balancing Charges will disregard any revision of initial Injection Allocation Statements pursuant to part 4.

655) For the avoidance of doubt paragraph 654) is without prejudice to the subsequent determination of Balancing Charges for the purposes of submission of a Balancing Invoice.

### **16.3.8 Demand for an increase in security for a Shipper's Outstanding Balancing Indebtedness**

656) Where the amount of a Shipper's Outstanding Balancing Indebtedness reaches seventy percent (70%) of its Balancing Credit Limit the Transporter shall as soon as reasonably practicable thereafter send a written notice to the Shipper advising them of this and may demand an increase in the amount of the security provided by the Shipper in accordance with paragraph 649). Where the Transporter submits a demand in accordance with this paragraph the value for the increase in the security shall be for such amount so as to ensure the value of the security is at all times equal to at least one hundred and thirty percent (130%) of a Shipper's Outstanding Balancing Indebtedness.

657) Where a demand under this part 16.3.8 is given on a Day which is not a Business Day, or after 15:00 hours on a Business Day, it shall be treated as having been made on the next following Business Day.

### **16.3.9 Compliance with a demand for an increase in security for a Shipper's Outstanding Balancing Indebtedness**

658) A Shipper shall ensure that the additional security demanded by the Transporter in accordance with part 16.3.8 is either deposited with the Transporter or otherwise provided by the Shipper on the Business Day following the Day on which the demand was made.

659) In the event any additional security has been provided by the Shipper to the Transporter in accordance with paragraph 658) and for a period of three (3) months after that security was made available to the Transporter such Shipper's Outstanding Balancing Indebtedness has been less than seventy percent (70%) of its Balancing Credit Limit, the Transporter shall notify the Shipper and the Shipper shall be entitled to release or receive back any additional security so provided.

### **16.3.10      *Failure to provide additional security***

- 660) Where a Shipper has failed to provide additional security as demanded in accordance with paragraph 658) by the Business Day following the Day on which the demand was made, and irrespective of the amount of the Shipper's Outstanding Balancing Indebtedness as at any Day after the demand, the Transporter shall be entitled to, and as soon as reasonably practicable after such Business Day if such additional security has not been provided will, submit to the Shipper a notice notifying the Shipper that the Transporter will give a Termination Notice to the Shipper if the Shipper does not provide the additional security by the third (3rd) Business Day after the date of such notice.
- 661) Where the Transporter has given notice to a Shipper under paragraph 660), and until the additional security is provided, the Transporter will not pay, and (irrespective of the Invoice Due Date) shall be entitled to withhold payment pursuant to any Balancing Invoice in respect of, any amounts payable to the Shipper in respect of Balancing Charges.
- 662) Where the Transporter has given notice to a Shipper under paragraph 660) and the Shipper has not provided the additional security by the third (3rd) Business Day following the date of such notice, the Transporter shall be entitled to, and as soon as reasonably practicable after such third (3rd) Business Day may, give a Termination Notice (for the purposes of part 16.4) to the Shipper to the effect that the Shipper shall cease to be a Shipper with effect from the Day following the date of the Termination Notice.
- 663) The Transporter will send a copy of any notice given under paragraph 660) or 662) to URCA.
- 664) Where the Transporter has given a Shipper a Termination Notice pursuant to this part 16.3.10 it shall promptly inform the other Shippers.

### **16.3.11      *Resolution of queries after payment in full***

- 665) It is agreed that Shippers shall pay the Invoice Amount under each Balancing Invoice in full on the Invoice Due Date, notwithstanding any Invoice Dispute.

### **16.3.12      *Failure to make payment***

- 666) Where a Shipper does not pay the Invoice Amount under a Balancing Invoice in full on the Invoice Due Date, notwithstanding part 16.4.2 the Transporter shall be entitled to, and as soon as reasonably practicable after the Invoice Due Date will, notify the Shipper that the Transporter will give a Termination Notice to the Shipper if the Shipper does not pay the outstanding amount of the Net Invoice Amount in full within five (5) Business Days from the date of such notice.
- 667) Where the Transporter has given notice to a Shipper under paragraph 666) and the Shipper has not paid the outstanding amount of the Net Invoice Amount in full by the fifth (5th) Business Day following the date of such notice, the Transporter shall be entitled to give a Termination Notice ) to the Shipper to the effect that the Shipper shall cease to be a Shipper with effect from the Day following the date of the Termination Notice, provided that any such Termination Notice shall be issued as soon as reasonably practicable after such fifth (5th) Business Day.
- 668) The Transporter will send a copy of any notice given under paragraph 666) or 667) to URCA.

669) Where the Transporter has given notice to a Shipper under paragraph 666), and until the Net Invoice Amount under the relevant Balancing Invoice is paid in full, the Transporter will not pay and (irrespective of the Invoice Due Date) shall be entitled to withhold payment pursuant to any Balancing Invoice in respect of, any amounts payable to the Shipper in respect of Balancing Charges.

### **16.3.13 Security Enforcement**

670) The Transporter may make a call upon a guarantee or take any step to enforce and realise any security provided in accordance with this part at any time after the Transporter has given notice to the Shipper under paragraph 666) if any part of the Net Invoice Amount under any Balancing Invoice remains outstanding.

671) It shall not be a condition to the Transporter giving a Termination Notice under paragraph 667) that the Transporter shall first have made any call upon any guarantee or taken any steps to enforce or realise any security provided in accordance with this part.

### **16.3.14 Enforcement and recovery steps**

672) For the purposes of this paragraph:

- (a) "**Transportation Debt**" means unpaid indebtedness of a Defaulting Shipper (as defined in part 16.4.1) in respect of any amount payable under the Code other than Balancing Charges;
- (b) "**Balancing Debt**" means unpaid indebtedness of a Defaulting Shipper in respect of Balancing Charges;
- (c) "**Recovery Steps**" are any steps (including but not limited to any proceedings in any court, and including the defence of any counterclaim or other claim, proceeding or application made or brought by the Shipper or a guarantor in connection with any such step taken by the Transporter) taken by the Transporter to recover any Balancing Debt or Transportation Debt from a Defaulting Shipper or any guarantor of the Defaulting Shipper, or to enforce or realise any security provided by a Defaulting Shipper, or to enforce any judgment against a Defaulting Shipper, or to make any claim in any insolvency proceedings relating to a Defaulting Shipper;
- (d) "**Recovered Amounts**" means amounts recovered (by way of payment of debt or damages or otherwise) by the Transporter as a result of taking Recovery Steps;
- (e) "**Recovery Costs**" means all fees, costs and expenses (including any payments the Transporter may be required to make by way of damages or costs or otherwise by any court) incurred by the Transporter in taking Recovery Steps (but not including amounts in respect of the Transporter's own internal costs and expenses);
- (f) Recovered Amounts or Recovery Costs are:
  - a) "**Balancing Exclusive**" where such amounts or costs were recovered or incurred:
    - (1) in respect of or pursuant to Recovery Steps relating wholly to a guarantee or security which secures only Balancing Debt; or



- (2) after the Transporter has informed the Shipper Credit Forum that the Transporter has decided not to take further Recovery Steps in respect of Transportation Debt;
  - b) "**Transportation Exclusive**" where such amounts or costs were recovered or incurred:
    - (1) in respect of or pursuant to Recovery Steps relating wholly to a guarantee or security which secures only Transportation Debt; or
    - (2) after the Transporter has been requested by the Shipper Credit Forum not to take further Recovery Steps in respect of the relevant Balancing Debt;
- and otherwise are "**Shared Recovery Amounts**" or "**Shared Recovery Costs**";
- (g) Recovered Amounts and Recovery Costs are "**Associated**" where such amounts are recovered pursuant to Recovery Steps taken in which such costs are incurred.
- 673) The Transporter agrees that it will, subject to the further provisions of this part 16.3.14, take all reasonable steps to recover Balancing Debt from a Defaulting Shipper, and to make calls upon and enforce payment under the guarantee(s) of a Defaulting Shipper and to enforce and realise the security provided by a Defaulting Shipper; provided that nothing in this part shall require the Transporter to initiate or continue any Recovery Steps where to do so would in the Transporter's reasonable opinion expose the Transporter or any representative of the Transporter to any material risk or liability against which the Transporter is not adequately protected by virtue of paragraphs 675) and 677).
- 674) The Transporter will consult with the Shipper Credit Forum and keep the Shipper Credit Forum reasonably informed as to the Recovery Steps it takes in relation to Balancing Debt, and circumstances in which the Transporter does not consider it commercially worthwhile to take or continue to take such Recovery Steps in relation to Transportation Debt; and will and shall be entitled to discontinue taking Recovery Steps (other than any steps necessary for such discontinuance) where the Shipper Credit Forum has authorised it to do so.
- 675) The Transporter shall be entitled to apply any Recovered Amounts first in or towards payment of the Associated Recovery Costs.
- 676) The balance (after application in accordance with paragraph 675) of any Recovered Amounts will be applied as follows:
- (a) in the case of Balancing Exclusive Recovered Amounts in or towards satisfaction of the Balancing Debt in accordance with part 4 in the month in which the Transporter receives payment in respect of the Recovery Amount;
  - (b) in the case of Transportation Exclusive Recovered Amounts in or towards satisfaction of any Transportation Debt; and
  - (c) in the case of Shared Recovered Amounts, on a pro rata basis determined by the proportion of the Balancing Debt to the Transaction Debt and the portion applied to the Balancing Debt shall be applied in accordance with Part E in the months in which the Transporter receives payment in respect of the Recovery Amount.

677) Where the amount of the Transporter's Recovery Costs exceeds the amount (if any) of the Associated Recovery Amounts then the Shippers shall be liable to pay the Transporter such excess amount, to be apportioned amongst the Shippers in accordance with the Balancing Reconciliation as set out in part 4.8.

## **16.4 Shipper Termination**

### **16.4.1 Shipper Default**

678) For the purposes of this part, there shall have occurred a "**Shipper Default**" in relation to a Shipper (the "**Defaulting Shipper**") if any of the following events or circumstances occur:

(a) where in relation to any amount (or amounts in aggregate) of not less than \$10,000 which has become due for payment by the Defaulting Shipper under the Code (excluding for the avoidance of doubt amounts the subject of an Invoice Dispute which have not become due for payment);

(i) the Defaulting Shipper has not paid the amount in full by the fifth (5th) Business Day after the due date for payment;

(ii) on or after such date the Transporter has given the Defaulting Shipper notice requiring payment of such amount; and

(iii) the Defaulting Shipper has not paid such amount in full by the fifth (5th) Business Day after the date of the Transporter's notice under subparagraph (ii); or

(b) where:

(i) the Defaulting Shipper has committed a Material Breach, other than a breach referred to in paragraph 680) or paragraph 678)(a); and

(ii) the breach is capable of remedy by the Defaulting Shipper; and

(iii) the Transporter has given the Defaulting Shipper notice of such breach, making reference to this part; and

(iv) within fourteen (14) Business Days of the notice under subparagraph (iii), the Defaulting Shipper does not either:

(1) remedy the breach in all material respects, where the breach is capable of remedy within such period of fourteen (14) Days; or

(2) where the breach is not so capable of remedy within fourteen (14) Days, provide to the Transporter a programme which is acceptable to the Transporter in its sole discretion (setting out the steps to be taken by the Shipper and the timetable for taking such steps) for the remedy of the breach as soon as is reasonably practicable; and

(v) in the case of paragraph 678)(b)(iv)(i)(2), the Defaulting Shipper does not:

(1) remedy the breach in all materials respects with all reasonable diligence and so far

as reasonably practicable in accordance with the programme provided under that paragraph or a revised programme pursuant to paragraph 678)(b)(iv)(i)(2); and

(2) where notwithstanding the reasonable diligence of the Shipper it is not reasonably practicable for the Shipper to remedy the breach in accordance with that programme, provide to the Transporter a revised programme which is acceptable to the Transporter in its sole discretion; and

(vi) the breach remains unremedied in any material respect after the expiry of seven (7) Days after a further notice by the Transporter to the Defaulting Shipper to the effect that the Defaulting Shipper has not complied with paragraph 678)(b)(iv) or 678)(b)(iv); or

(c) where:

(i) the Defaulting Shipper commits a Material Breach, other than either a breach referred to in paragraph 680) or paragraph 678)(a); and

(ii) the breach is not capable of remedy; and

(iii) the Transporter has given notice (making reference to this part 16.4) of the breach to the Defaulting Shipper; or

(d) where:

(i) the Defaulting Shipper proposes or enters into an arrangement or composition with or for the benefit of its creditors, or the Defaulting Shipper takes proceedings or any other steps with a view to rescheduling or deferring all or substantially all of its debts which it will be unable to pay when due; or

(ii) the Defaulting Shipper ceases or threatens to cease to carry on its business, otherwise than for the purposes of bona fide restructuring, amalgamation or merger; or

(iii) any petition or other application is presented or any order is made or a resolution passed or any other steps whatsoever are taken for the liquidation or winding-up of the Defaulting Shipper, otherwise than for the purposes of bona fide restructuring, amalgamation or merger; or

(iv) a receiver and/or manager is appointed over all or any part of the assets of the Defaulting Shipper; or

(v) an application or an order is made for the appointment of a judicial manager in relation to the Defaulting Shipper, or any meeting of the Defaulting Shipper is convened for the purpose of considering any resolution to present an application for such an order; or

(e) where the Defaulting Shipper fails to provide the required security for Transportation Code Indebtedness in accordance with paragraphs 620) or 625);

(f) where the Defaulting Shipper fails to comply with a demand for additional security made in accordance with paragraph 658) or fails to provide the required security in accordance with

paragraph 651); or

- (g) where the Defaulting Shipper fails to pay the amount of any compensation awarded by the Compensation Resolution Panel pursuant to parts 4, 7 or 8 by the due date of such payment.

679) For the purposes of paragraphs 678)(b) and (c), and subject to paragraph 680), a breach is a "**Material Breach**" if the breach of the relevant provision would or would be likely to affect the ability of the Party committing such breach to comply with any of its other obligations under this Code.

680) For the purposes of paragraphs 678)(b) and (c), the following breaches are excluded:

- (a) a breach which results from a breach by the Transporter of the Code or an Ancillary Agreement;
- (b) the injection by the Shipper of Injection Non-Compliant Gas; and
- (c) a breach other than a wilful or reckless breach of a provision of the Code where the Code specifically provides some other remedy for such breach and such other remedy may reasonably be considered to be adequate in the circumstances.

#### **16.4.2 Shipper Termination**

681) Upon the occurrence of a Shipper Default, and at any time after such occurrence at which the Shipper Default is continuing, the Transporter may give notice (a "**Termination Notice**") to the Defaulting Shipper to the effect that the Shipper shall cease to be a Shipper with effect from the date (which may be any date on or after the date on which the Termination Notice is given) specified in the Termination Notice.

682) Where the Transporter gives a Termination Notice to a Defaulting Shipper, with effect from the date specified in the Termination Notice:

- a) the Defaulting Shipper shall cease to be a Shipper, effective from the date referred to in paragraph 681); and
- b) all Registered Capacity Rights of the Defaulting Shipper under the Code, except where any Transferee Shipper has elected to retain such Registered Capacity Rights, shall revert to the Transporter in accordance with the provisions of part 2.4.

683) The giving of a Termination Notice and the application of paragraph 682) shall not affect the rights and obligations of the Transporter and the Defaulting Shipper under the Code and the Transportation Framework Contract (including rights and obligations in respect of the Shipper Default, and in respect of amounts including interest payable by either Party, and rights and obligations arising pursuant to any provision of the Code in respect of the Shipper ceasing to be a Shipper) accrued up to the date referred to in paragraph 682) which shall continue to be enforceable notwithstanding that paragraph.

684) Where the Transporter has given a Termination Notice, it shall be entitled to inform such persons as it thinks fit that it has done so.

685) The "**Shipper Discontinuance Date**" is the date on which a Shipper ceases to be a Shipper in accordance with this subpart 682).

## 16.5 Confidentiality

### 16.5.1 Confidential Information

686) In this part, "**Confidential Information**" means:

- (a) for the purposes of the Transporter's obligations under paragraph 689):
  - a) any information relating to the affairs of a Shipper which is obtained by the Transporter pursuant to or in the course of implementation of the Code; and
  - b) the terms of any Transportation Framework Contract and Ancillary Agreement;
- (c) for the purposes of a Shipper's obligations under paragraph 690):
  - (i) any information relating to the affairs of the Transporter or of another Shipper which is obtained by the Shipper pursuant to or in the course of the implementation of the Code; and
  - (ii) the terms of any Transportation Framework Contract and Ancillary Agreement to which that Shipper is party.

687) In this part, "**Receiving Party**" means the person to whom a Disclosing Party (as defined in part 16.5.3) discloses Confidential Information.

688) For the purposes of paragraph 686), the terms of the Code are not Confidential Information.

### 16.5.2 Transporter and Shipper obligations

689) The Transporter shall procure that Confidential Information is not disclosed to any person other than:

- (a) any officer or employee of the Transporter;
- (b) its shareholder(s) or their professional advisers or consultants to the extent reasonably necessary for the performance of their duties;
- (c) a professional adviser or consultant to the Transporter to the extent reasonably necessary for the performance of his duties;
- (d) to any bona fide intended transferee or assignee of the whole or a significant part of the issued share capital of the Transporter or any Affiliate thereof or of the Transporter's interest under or related to the Code, any relevant Transportation Framework Contract or any relevant Ancillary Agreement;
- (e) to any bank or financial institution proposing to provide or arrange the provision of financial accommodation to or debt securities for the Transporter, where and to the extent that the disclosure of such information is reasonably required for the purposes of the provision or arrangement of such financial accommodation or debt securities;

- (f) to the extent required by a Legal Requirement or the requirement of a recognised stock exchange or requested by any governmental agency;
- (g) to the extent required by the order of any court having competent jurisdiction over the Transporter; or
- (h) to any person appointed by or on behalf of the Transporter as an Expert pursuant to the terms of the Code (in accordance with part 16.9) to the extent reasonably necessary for the performance of his duties or to the extent required for the purposes of dispute resolution in accordance with part 16.9,

in any such case in accordance with the requirements of paragraph 691).

690) Each Shipper shall procure that Confidential Information is not disclosed to any person other than:

- (a) any officer or employee of the Shipper;
- (b) its shareholder(s) or their professional advisers or consultants to the extent reasonably necessary for the performance of their duties;
- (c) a professional adviser of or consultant to that Shipper to the extent reasonably necessary for the performance of his duties;
- (d) to any bona fide intended transferee or assignee of the whole or a significant part of the issued share capital of the Shipper or any Affiliate thereof or of the Shipper's interest under or related to the Code, any relevant Transportation Framework Contract or any relevant Ancillary Agreement;
- (e) to any bank or financial institution proposing to provide or arrange the provision of financial accommodation to the Shipper, where and to the extent that the disclosure of such information is reasonably required for the purposes of the provision or arrangement of such financial accommodation;
- (f) to the extent required by a Legal Requirement or a requirement of a recognised stock exchange or requested by any governmental agency;
- (g) to the extent required by the order of any court having competent jurisdiction over the Shipper; or
- (h) to any person appointed by or on behalf of the Shipper as an Expert pursuant to the terms of the Code (in accordance with part 16.9) to the extent reasonably necessary for the performance of his duties or to the extent required for the purposes of dispute resolution in accordance with part 16.9,

in any such case in accordance with the requirements of paragraph 691).

691) Where Confidential Information is disclosed by the Transporter as permitted under paragraph 689) or by a Shipper as permitted under paragraph 690), the Disclosing Party shall (without prejudice

to its obligations under paragraph 689) or 690) take all reasonable steps to procure that the Receiving Party:

- (a) is aware of the Disclosing Party's obligations under paragraph 689) or 690) in relation thereto; and
- (b) does not use or disclose the information other than as is permitted in accordance with paragraph 689) or 690), as the case may be.

### **16.5.3 Exceptions**

692) For the purposes of this paragraph 5, "**Disclosing Party**" and "**Protected Party**" shall be construed as follows:

- (a) for the purposes of the Transporter's obligations under paragraph 689), the Disclosing Party is the Transporter and the Protected Party is the Shipper to whose affairs any Confidential Information relates; and
- (b) for the purposes of a Shipper's obligations under paragraph 690), the Disclosing Party is such Shipper and the Protected Party is the Party (either the Transporter or another Shipper) to whose affairs any Confidential Information relates.

693) Nothing in paragraphs 689) or 690) shall apply:

- a) to the disclosure or use by the Disclosing Party of Confidential Information to which the Protected Party has consented in writing;
- b) to any Confidential Information which:
  - i) before it is obtained by the Disclosing Party is in the public domain; or
  - ii) after it is obtained by the Disclosing Party enters the public domain,in either case otherwise than as a result of a breach by the Disclosing Party of its obligations under paragraph 689) or 690);
- c) to any Confidential Information to the extent that the Disclosing Party is expressly permitted or required to disclose that information under the terms of any agreement or arrangement made with the Protected Party or to which it is party (including the Code and the Transportation Framework Contract or an Ancillary Agreement to which the Protected Party is party);
- d) to the disclosure of any Confidential Information to URCA, where the Disclosing Party considers in good faith that the Protected Party may be in breach of a condition of the Transporter's Licence or the Shipper's Licence (as the case may be) to the extent reasonably necessary to draw such possible breach to the attention of URCA;
- e) to any Confidential Information to the extent that the Receiving Party, at the time of receipt of such Confidential Information from the Disclosing Party, is independently aware of such Confidential Information, other than as a result of a person being in breach of the Code, any Transportation Framework Contract or any Ancillary Agreement; and

- f) to any Confidential Information to the extent that the Receiving Party, after receipt of such information from the Disclosing Party, lawfully acquires from another independent source, such information, other than as a result of a person being in breach of this part (or any other confidentiality obligation).
- 694) The provisions of part 16.5.1 to 16.5.3 shall continue, for a period of five (5) years after the expiry or termination of each Transportation Framework Contract, to bind the Transporter and the relevant Shipper.
- 695) Nothing in the Code, the Transportation Framework Contract or an Ancillary Agreement shall be construed as requiring the Transporter to disclose or use any information in breach of any requirement of the Transporter's Licence.

#### **16.5.4 Data ownership**

- 696) Subject to paragraph 697)(a), the data, including metering data, which is processed by or recorded or maintained on the GTSS (including all intellectual property rights in such data) shall belong to the Transporter; and subject to paragraph 697)(b) the Transporter may, but without prejudice to part 16.5.2 or any other requirement of the Code, use and deal with such data as it thinks fit.
- 697) Where pursuant to the Code a Shipper provides or arranges for the provision of data to the Transporter:
- (a) such data (as provided to the Transporter by the Shipper) shall belong to the Shipper;
  - (b) the Shipper hereby grants to the Transporter a perpetual, non-exclusive, royalty-free licence (which shall survive the Shipper Discontinuance Date) in respect of such data and all intellectual rights therein to use, copy, adapt and deal with such data for the purposes of performance and implementation of the Code and for other purposes contemplated by the Code, but not otherwise; and
  - (c) paragraph 696) shall apply in respect of data derived (pursuant to any process) by the Transporter from such data and in all compilations created by or on behalf of the Transporter of such data.

- 698) Where pursuant to the Code the Transporter provides data to a Shipper or data which is recorded or maintained on the GTSS is available to a Shipper, the Shipper shall (but without prejudice to part 16.5.2) be entitled without charge to use such data for the purposes of performance and implementation of the Code, and for other purposes contemplated by the Code, but not otherwise.

## **16.6 Liability**

### **16.6.1 Limitation**

- 699) Subject to the further provisions of this part, each Party agrees and acknowledges that to the extent permitted by applicable law:
- (a) no Party shall be liable to any other Party for loss or damage howsoever arising and whether



as a claim in contract, tort, strict liability, breach of statutory duty or otherwise arising out of any act or omission of a Party in the execution or the purported execution of any function, power, duty or obligation under this Code, a Transportation Framework Contract or an Ancillary Agreement except to the extent that such loss or damage arises directly out of any material breach of contract, wilful misconduct by or any negligent act or omission of the Party in the execution or purported execution of any function, power, duty or obligation under this Code, a Transportation Framework Contract or an Ancillary Agreement and which at the Relevant Date (as defined in paragraph 700) was reasonably foreseeable as likely to occur in the ordinary course of events as a result of such material breach of contract, wilful misconduct by or negligent act or omission of the Party; and

(b) no Party shall in any circumstances be liable to any other Party for:

(i) any loss or deferment of profit or anticipated earnings or saving, loss of revenue, loss of use, loss of contract, loss of goodwill, or increased cost of working and wasted effort or expenditure; or

(ii) any indirect or consequential loss; or

(iii) except as provided in paragraph 704), loss resulting from the liability of any other Party to any other person howsoever and whensoever arising.

700) For the purposes of paragraph 699)(a), the "**Relevant Date**" is the earlier of the date of the Transportation Framework Contract and an Ancillary Agreement between the Parties, except that where the loss or damage would not have arisen but for a modification (pursuant to the Modification Rules or the Transporter's Licence) of the Code, the Relevant Date shall be the date of such modification.

701) Subject to paragraph 704), the liability of the Transporter to the Shipper(s) pursuant to paragraph 699)(a) in respect of any claim or a series of related claims shall not exceed:

(a) in the case of the liability of the Transporter to any one Shipper, an amount of \$500,000; and

(b) in the case of the liability of the Transporter to all Shippers, an aggregate amount of \$5,000,000.

702) The liability of the Shipper(s) to the Transporter pursuant to paragraph 699)(a) shall not be subject to any monetary limit.

703) The provisions of this part is without prejudice to the payment obligations of any party under any provision of the Code, a Transportation Framework Contract or an Ancillary Agreement.

704) Nothing in the Code, a Transportation Framework Contract or an Ancillary Agreement shall exclude or limit the liability of any Party for death or personal injury resulting from any material breach of contract, wilful misconduct or negligence of such Party.

### **16.6.2 Exclusion of certain rights and remedies**

- 705) The rights and remedies set out in the Code, the Transportation Framework Contract and any Ancillary Agreement are intended to be the exhaustive rights and remedies of the Parties with respect to the Code, the Transportation Framework Contract and such Ancillary Agreement and the provisions of this part insofar as it relates to limitations of liability and nature of loss shall apply to all liabilities and claims of any kind, whether as a result of a breach of any contractual obligation, representation or warranty, negligence, nuisance, breach of statutory duty, strict liability or otherwise howsoever arising on the part of each Party.
- 706) Without prejudice to paragraph 705), where any provision of the Code, the Transportation Framework Contract or any Ancillary Agreement provides for any amount to be payable by a Party upon or in respect of that Party's breach of any provision of the Code, the Transportation Framework Contract or an Ancillary Agreement, each Party agrees and acknowledges that the remedy conferred by such provision shall be in substitution of any remedy in damages in respect of such breach or the event or circumstance giving rise thereto.
- 707) For the avoidance of doubt, nothing in this part shall prevent any Party from or restrict it in enforcing any obligation (including suing for a debt) owed to it under or pursuant to the Code, the Transportation Framework Contract or an Ancillary Agreement.

### **16.6.3 Liquidated damages**

- 708) Where any provision of this Code, the Transportation Framework Contract or an Ancillary Agreement provides for any amount to be payable by a Party upon or in respect of that Party's breach of any provision of this Code, the Transportation Framework Contract or such Ancillary Agreement, each Party agrees and acknowledges that such provision has been the subject of discussion and negotiation, and that the amount provided to be payable represents no more than a genuine pre-estimate of the loss of the Party to which such amount is payable and does not represent compensation in respect of any of the loss or damage referred to in paragraph 699).

### **16.6.4 Indemnities**

- 709) The amount(s) for which the Transporter may be liable to the Shipper(s) pursuant to any indemnity provided for in the Code, the Transportation Framework Contract or an Ancillary Agreement in respect of any claims or a series of related claims pursuant to such indemnity shall not exceed:
- (a) in the case of the liability of the Transporter to any one Shipper, an amount of \$500,000; and
  - (b) in the case of the liability of the Transporter to all Shippers, an aggregate amount of \$5,000,000.
- 710) The amount(s) for which the Shipper(s) may be liable to the Transporter pursuant to any indemnity provided for in the Code, the Transportation Framework Contract or an Ancillary Agreement in respect of any claims or a series of related claims pursuant to such indemnity shall not be subject to any monetary limit.

### **16.6.5 Effect of this paragraph**

711) Each provision of this part shall be construed as a separate and severable contract term, and shall as respects any Shipper ceasing to be a Shipper, survive that Shipper's ceasing to be a Shipper.

712) Each Party acknowledges and agrees that the provisions of this part have been the subject of discussion and negotiation and are fair and reasonable having regard to the circumstances as at the earlier of the date of the Transportation Framework Contract and an Ancillary Agreement (as the case may be).

## **16.7 Force Majeure**

### **16.7.1 Definition**

713) For the purposes of the Code, the Transportation Framework Contract and an Ancillary Agreement, subject to paragraph 714), "**Force Majeure**" means any event or circumstance, or any combination of events and/or circumstances, which is not reasonably foreseeable or, if reasonably foreseeable is beyond the reasonable control of a Party ("**Affected Party**") and which, by the exercise of due diligence, the Affected Party has been unable to prevent or overcome and which causes or results in the failure of the Affected Party to perform or its delay in performing any of its obligations owed to any other Party or Parties (each an "**Other Party**") under the Code, the Transportation Framework Contract or an Ancillary Agreement including, without limitation:

- a) damage to such plant, pipeline, equipment or other installation caused by or attributable to a third party;
- b) war declared or undeclared, threat or war, act of public enemy, terrorist act, blockade, revolution, riot, insurrection, civil commotion, public demonstration, sabotage, act of vandalism;
- c) acts of God or forces of nature;
- d) strikes, lockouts, labour or other industrial disturbances (including sabotage) and civil disturbances;
- e) accident to, fire affecting, explosion, fault or failure of, plant, pipeline, equipment or other installation which the Affected Party could not prevent or overcome by the exercise of the degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a Reasonable and Prudent Operator;
- f) epidemics and quarantine restrictions;
- g) government restraint or the coming into force of any Legal Requirement other than any Legal Requirement imposed as a result of a breach by the Transporter of this Code or any other Legal Requirement; and
- h) civil emergencies affecting or threatening the safe operation of the Transportation System.

714) The following events shall not be treated as Force Majeure:

- (a) changes in market conditions, including changes which directly or indirectly affect the demand for or price of gas, including the demand for, or price of, the transportation services of that gas or any commodity used in the pricing thereof or the ability to make a profit or to receive a satisfactory rate of return for the transportation of gas;
- (b) inability or failure to pay amounts when due;
- (c) the imposition of sanctions by any Competent Authority due solely to the failure of the Party in question to comply with any law or regulation;
- (d) the withdrawal or expiration, or failure to obtain, any necessary consent, confirmation, authorisation or other approval of any Competent Authority which the Party acting as a Reasonable and Prudent Operator, can apply for and obtain, maintain or extend or could have applied for and obtained, maintained or extended;
- (e) the breakdown, failure or non-operation of plant or machinery:
  - (i) caused by normal wear and tear;
  - (ii) caused by the non-availability of standby equipment or spare parts which could have been avoided by acting in accordance with the standard of a Reasonable and Prudent Operator;
  - (iii) which has been caused by an equipment or component failure which does not cause direct, actual and demonstrable damage to the fitness and purpose of such machinery (beyond the failure of the equipment or component itself); or
  - (iv) which has been caused by a design or manufacturing defect which is patent, known or foreseeable. For the purposes of this paragraph (iv), a defect shall be regarded as “**foreseeable**” if the Affected Party has been notified of such defect in relation to the affected machinery by the equipment manufacturer or vendor or by another owner or operator of similar such machinery or has actual knowledge of such defect or the symptoms thereof, all prior to entering into a contract for the purchase of such machinery;
- (a) the inability to obtain or maintain permits or licences, pipeline rights of way, easements or their equivalent from the Competent Authority;
- (b) any event or circumstance comprising, or resulting from, any Wilful Misconduct by the Affected Party (in the performance of the Code, the Transportation Framework Contract, an Ancillary Agreement or otherwise);
- (c) any event which otherwise would be considered a Force Majeure under the Code, the Transportation Framework Contract or an Ancillary Agreement but which is the result of any breach or infringement of, or non-compliance with any contract, agreement, covenant, undertaking, promise, law, decree, circular, regulation, decision, directives enactment, licence, approval, consent, permission, exemption or other obligation whatsoever by the Affected Party; and

- (d) the inability to obtain financing, or financing on commercially acceptable terms, for the construction and/or operation of a Party's facilities.

### **16.7.2 Effect of Force Majeure**

- 715) Subject to paragraph 716), the Affected Party shall be relieved from liability (including any requirement under the Code, the Transportation Framework Contract or an Ancillary Agreement to make payment of any sum or to take any other action) for any delay or failure in the performance of any obligation under the Code, the Transportation Framework Contract or an Ancillary Agreement which is caused by or results from Force Majeure.
- 716) The Affected Party shall be relieved from liability under paragraph 715) only for so long as and to the extent that the occurrence of Force Majeure and/or the effects of such occurrence could not be overcome by measures which the Affected Party might reasonably be expected to take with a view to resuming performance of its obligations under the Code, the Transportation Framework Contract or an Ancillary Agreement.
- 717) Where the Affected Party is the Transporter and the effect of the Force Majeure prevents the Transporter from complying with its obligations under paragraph 93), Shippers shall be relieved of their obligations to pay Capacity Charges to the extent the Force Majeure affects a Shipper's Firm Capacity Rights.
- 718) If an Affected Party is relieved of the performance of any of its obligations under the Code, the Transportation Framework Contract or an Ancillary Agreement by virtue of Force Majeure, then any Party may terminate the Transportation Framework Contract and/or the affected Ancillary Agreement(s) if:
  - a) that relief continues for at least thirty (30) consecutive Months and is continuing; and
  - b) the Party seeking to terminate the Transportation Framework Contract and/or the affected Ancillary Agreement(s) has given not less than ninety (90) Days' notice to the other Party, which notice shall be given not later than sixty (60) Days after the expiration of the period of thirty (30) Months referred to in paragraph (a) and shall specify a date, after the expiry of that notice period, on which the Transportation Framework Contract and/or the affected Ancillary Agreement(s) shall terminate, provided that such notice shall not be effective if, upon the expiry of that notice period, the relevant event of Force Majeure and its effects have ended.

### **16.7.3 Information**

- 719) Following any occurrence of Force Majeure the Affected Party shall:
  - (a) as soon as reasonably practicable notify each Other Party who may be effected by the occurrence of Force Majeure giving full particulars of the occurrence and nature of the Force Majeure, the expected duration thereof (insofar as the same can reasonably be assessed) and the obligations of the Affected Party performance of which is affected thereby; and
  - (b) from time to time thereafter provide to each Other Party reasonable details of:
    - (i) developments in the matters notified under paragraph (a); and

- (ii) the steps being taken by the Affected Party to overcome the Force Majeure occurrence or its effect and to resume performance of its relevant obligations.

#### **16.7.4 Remedy**

720) Following any occurrence of Force Majeure, the Affected Party shall make all reasonable efforts to remedy such inability to perform its obligations under the Code, the Transportation Framework Contract and the affected Ancillary Agreement(s) with all reasonable dispatch, provided however, that at the discretion of the Affected Party, such remedy shall not require the settlement of strikes or lockouts by accession to the demands of any persons where such demands affect the Affected Party.

### **16.8 Notices and Communications**

#### **16.8.1 General**

721) The Code contemplates that Code Communications may be given by the following means:

- a) GTSS, in accordance with part 14; or
- b) delivery or post or facsimile or electronic mail or (in certain cases) telephone in accordance with paragraphs 723) and 724),

722) subject to and in accordance with the provisions of the Code.

723) For the purposes of the Code, a "**Conventional Notice**" is a notice or communication which is or may be given by any of the means in part 16.8.2.

724) Subject to part 14, and except where the means by which a Code Communication is to be given is specified in the Code, the particular means by which each Code Communication is to be given is set out in the GTSS Manual provided that where in any case such means is not so specified, such communication shall be given as a Conventional Notice.

725) Any reference in the Code to the time or date of any Code Communication, or the giving or making of a Code Communication, is a reference to the time or date when (in accordance with this paragraph or Part O or the GTSS Manual) the Code Communication is deemed to have been received by the Party to which it was sent.

726) Subject to paragraph 727), a Code Communication which is given after 24:00 hours on a Day, or such other time as may be specified in the GTSS Manual in respect of such Code Communication, may be deemed to have been received on the following Day.

727) Paragraph 726) does not apply in respect of:

- a) a Nomination, notice of Capacity Right Transfer or notice of Cumulative Commodity Variance Transfer;
- b) a communication to be made in accordance with Part M during System Stress; or
- c) any other communication to be made by GTSS or by telephone or by facsimile or electronic mail where the context requires that such communication be treated as received within the Day on

which it is given.

728) Where any provision of the Code or the GTSS Contingency Procedures specify any requirement to be complied with by any Party in respect of any specific Code Communication, such requirement shall be in addition to and (to the extent inconsistent) in substitution for the provisions of this part 16.8.

### **16.8.2 Notices by delivery, post, facsimile or electronic mail**

729) References in this part 16.8.2 to a notice are to any Code Communication or other notice or communication to be given by one Party to another under the Transportation Framework Contract, other than one which is given as a GTSS Communication or by telephone.

730) Any notice shall be in writing and shall be addressed to the recipient Party at the recipient Party's address or facsimile number or electronic mail address referred to in paragraph 731), and marked for the attention of the representative (identified by name or title) referred to in that paragraph, or to such other address or facsimile number or electronic mail address and/or marked for such other attention as the recipient Party may from time to time specify by notice in accordance with this part 16.8.2 to the Party giving the notice.

731) The initial address or facsimile number or electronic mail address of a Party, and representative for whose attention notices are to be marked, shall be as specified by a Shipper pursuant to paragraph 611)a)i) or by the Transporter pursuant to paragraph 613)a)i)

732) Any notice given by delivery shall be given by letter delivered by hand, and any notice given by post shall be sent by either prepaid registered post or ordinary post (airmail if overseas).

733) Any notice shall be deemed to have been received:

- a) in the case of delivery by hand, when delivered;
- b) in the case of post, forty-eight (48) hours after posting or (if sent airmail overseas or from overseas) on the fifth (5th) Business Day following the Business Day of posting and in proving the same, it shall be sufficient to show the envelope was addressed, stamped and posted; or
- c) in the case of facsimile or electronic mail, instantaneously, and in proving the same, it shall be sufficient to show that a successful transmission receipt has been retained or the electronic mail was sent.

734) Where a notice is sent by facsimile or electronic mail:

- a) the Party giving the notice shall (but without prejudice to paragraph 733)(c)), if requested by the recipient Party, resend as soon as reasonably practicable the notice by facsimile or electronic mail; and
- b) in the case of a Termination Notice, the Transporter will in any event, within two (2) Business Days following the sending of such facsimile or electronic mail, send to the recipient Party a copy of the notice by prepaid registered post (and by airmail if overseas).

735) A Party may specify different addresses or facsimile numbers or electronic mail addresses and representatives pursuant to paragraph 730) for the purposes of notices of different kinds or relating to different matters.

### **16.8.3 Communication by telephone**

736) For the purposes of enabling Code Communications to be given (where required or permitted to be so given) by telephone:

- a) the Transporter shall provide to each Shipper and each Shipper shall provide to the Transporter not more than four (4) telephone numbers (or such other number as they may agree) and details (by name or title) of the representative to whom the Party giving such a communication should speak;
- b) each Party shall use reasonable endeavours to ensure that a Party seeking to give such communication will at any time be able to contact a representative (of the first Party) by means of one of such telephone numbers; and
- c) (the Transporter and each Shipper shall, if either of them shall so request, establish such further procedures as may be reasonable and appropriate for the purposes of ensuring:
  - (i) that a Code Communication being given by telephone may be identified by the recipient as such; and/or
  - (ii) that such communications may be given securely, without delay and effectively.

737) Where a Party seeking to give a Code Communication by telephone is unable to contact a representative of the receiving Party, such Party must give the communication by facsimile or electronic mail and the communication will not be deemed to have been given except in accordance with paragraph 733)c).

738) Unless otherwise agreed between the relevant Parties a telephone notice may not be given as a message recorded on a telephone answering device.

739) Where a Code Communication is given by telephone:

- a) the Transporter will promptly after the telephone communication is completed make and keep a record in which the time and content of the telephone notice is logged, but may do so by recording the telephone communication where it has notified the Shipper (on the occasion or on a standing basis) of its intention to do so; and
- b) the Code Communication shall be treated as given at the time at which the telephone communication is completed.

740) A Party may specify different telephone numbers and representatives pursuant to paragraph 736) for the purposes of receiving by telephone Code Communications of different kinds or relating to different matters.



## 16.9 Dispute Resolution

### 16.9.1 Introduction

- 741) Unless the Parties otherwise agree, where the Dispute relates to:
- a) quality of gas either injected into, or offtaken from, the Transportation System;
  - b) the calibration of meters in the Transportation System;
  - c) the quantity of gas either injected into, or offtaken from, the Transportation System; or
  - d) any other technical area where the Parties are of the opinion that the Dispute will be more suitably resolved by means of Expert Determination, rather than by means of arbitration in accordance with part 16.9.10,
- 742) the Dispute shall be determined in accordance with parts 16.9.3 to 16.9.9 (inclusive) ("**Expert Determination**") and subject to paragraph 743), no party shall commence proceedings in any court in respect of or otherwise in connection with such Dispute.
- 743) Nothing in this part shall prevent any Party from seeking interim or interlocutory relief in any court.

### 16.9.2 Expert Determination

- 744) A Dispute which is to be referred to or resolved by Expert Determination shall be determined by an individual appointed as expert in accordance with parts 16.9.3 and 16.9.4.
- 745) No person shall be nominated as a proposed expert under parts 16.9.3 and 16.9.4 unless that person has the requisite qualifications to resolve a dispute referable under the Code to Expert Determination by virtue of his education, experience and training.

### 16.9.3 Initial notice and selection of expert

- 746) Any party to a Dispute which is to be resolved by or referred to Expert Determination may give notice of the Dispute in accordance with paragraph 747).
- 747) The notice shall be given to each other Party and shall provide brief details of the issues to be resolved ("**Dispute Notice**").
- 748) The Parties shall endeavour, within fifteen (15) Business Days after the Dispute Notice was given, to agree upon the selection of an expert, and may meet for this purpose.
- 749) If within fifteen (15) Business Days after the Dispute Notice was given the Parties shall not have agreed upon the selection of an expert, any Party may inform URCA in writing of such Dispute, giving details of the nature and complexity of such Dispute, and thereby request URCA to appoint a single expert for the determination of such Dispute within thirty (30) Business Days from the date of the Dispute Notice, upon which request URCA shall, after taking such independent advice as it may deem necessary select an expert for the purpose of determining such Dispute.

#### **16.9.4 Appointment of the Expert**

750) Upon the selection of an expert, the Parties shall forthwith notify the expert selected of his selection and request him to confirm within five (5) Business Days whether or not he is willing and able to accept the appointment.

751) The notification to the expert shall include the following:

- a) the names of the Parties and a summary of the Dispute;
- b) a request that the expert will enter into a confidentiality undertaking as required by paragraph 775) and provide the confirmation required under part 16.9.7;
- c) a request for confirmation of the expert's scale of fees;
- d) a statement that the expert's fees and expenses will be paid as provided in part 16.9.9;
- e) a statement that the information disclosed in the notification is confidential and that it should not be disclosed, copied or revealed whether the appointment is accepted or not;
- f) a copy of this part 16.9;
- g) a request for confirmation that the expert is able and willing to act in accordance with the procedure set out herein; and
- h) a request for confirmation that the expert is not a present employee, officer or agent, or consultant to, any of the Parties.

752) If the selected expert is unwilling or unable to accept the appointment, or has not entered into a confidentiality undertaking as required by paragraph 775), or shall not have confirmed his willingness and ability to accept such appointment within the period required under paragraph 750), or the amount of his remuneration or terms of his appointment are not agreed within the period required under paragraph 753)b), then (unless the Parties are able to agree upon the appointment of another expert) the matter shall be referred (by any Party) to URCA pursuant to paragraph 749) and the process shall be repeated until the provisions in this paragraph 752) have been met.

753) The Parties shall use their reasonable endeavours to ensure that the terms of the contract of appointment of the expert are agreed with such person within ten (10) Business Days following his confirmation of ability and willingness to act, and agree that if the Parties are unable to agree with the expert the amount of his remuneration or any other terms of his appointment then:

- a) if one or more of the Parties is willing to agree what the expert proposes, such amount or terms shall be determined by URCA whose decision shall be final and binding on the Parties to the dispute and whose costs of such reference shall be borne by the Parties to the Dispute equally; and
- b) if none of the Parties is willing to agree what the expert proposes, or the expert is not willing to agree what is determined pursuant to paragraph 753)a), another expert shall be selected in accordance with paragraph 752).

754) The expert shall be an independent contractor and the relationship of the Parties and the expert shall in no event be construed to be that of principal and agent or master and servant.

755) The expert shall not be a present employee, officer or agent, or consultant or counsel to, any of the Parties.

#### **16.9.5 Timetable and Procedure**

756) The expert shall, as soon as practicable after the confirmation of his appointment, by giving reasonable notice to each Party convene a meeting with the Parties at which he shall raise any matters upon which he requires clarification and, if necessary, define the Dispute and give directions as to the future conduct and procedural requirements of the Dispute.

757) The expert may, from time to time, give such procedural directions in connection with the Dispute as he sees fit.

758) The Parties shall, not later than fourteen (14) Business Days after the appointment of the expert, submit to the expert and to each other Party written submissions together with all supporting documentation, information and data which they wish to submit in respect of the Dispute; and the Parties may also submit to the expert a statement of facts which has been agreed among the Parties.

759) Each Party may, not later than twenty eight (28) Business Days after the appointment of the expert, submit to the expert and each other Party written submissions together with any additional supporting documentation, information and data, in reply to the submissions made under paragraph 758).

760) The expert shall disregard any documentation, information, data or submissions supplied or made by any party later than twenty eight (28) Business Days after his appointment unless the same are provided in response to a request from the expert.

761) If the expert shall wish to obtain independent professional, including legal advice and/or technical advice and/or secretarial assistance in connection with the Dispute:

- a) he shall first provide the Parties with details of the name, organisation and estimated fees of the professional, technical adviser, or secretarial assistance, as the case may be; and
- b) he may engage such adviser or assistant with the consent of the Parties (which consent shall not be unreasonably withheld) for the purposes of obtaining such professional, technical advice and/or secretarial assistance as he may reasonably require.

762) Any communications between the Parties and the expert shall be made or confirmed in writing and a copy of such communications shall be provided simultaneously to the other Parties.

763) At any time after the period referred to in paragraph 759) expires, with the written consent of the Parties, the expert may (but shall not be required to) convene a hearing upon giving the Parties reasonable notice.

764) The expert shall submit his final determination, which shall be a report in writing giving reasons for his determination of the Dispute, to the Parties not later than forty five (45) Business Days

following his appointment or such other time as agreed by the Parties in writing.

765) If the expert fails to submit the final determination within a reasonable period, but in any event not later than sixty (60) Business Days from the date of his appointment, another expert may be appointed in accordance with the provisions of this part and the appointment of the previous expert shall cease unless before the appointment of the new expert, the previous expert shall have submitted his final determination hereunder, in which case the new expert shall be forthwith informed that his services will not be required.

766) If the expert becomes unwilling or unable to act, or does not act, in the matter in respect of which he is appointed, then the Parties or, failing which, URCA shall select and appoint an expert in accordance with the procedures set out in this part.

767) Any meetings held in connection with the Dispute shall be held in the Bahamas and shall only take place if all Parties have been given reasonable notice that such meeting is to take place.

#### ***16.9.6 Effect of determination***

768) The expert's final determination shall (unless given after the appointment of another expert under paragraph 765)) be final and binding on the Parties except in the event of fraud or manifest error or failure by the expert to disclose any relevant interest pursuant to part 16.9.7 in which case another expert may be appointed in accordance with the provisions of this part.

769) The expert's final determination shall be enforceable by a court of competent jurisdiction on the same basis as obligations between private parties.

770) Except as provided in paragraph 768), no Party shall commence proceedings in respect of or refer to any court any finding by the expert, whether made at any time after his appointment or in his determination, as to the Dispute or the construction of or otherwise in respect of the Code, the Transportation Framework Contract or the relevant Ancillary Agreement.

#### ***16.9.7 Conflict of interests***

771) The expert shall confirm to the Parties before his appointment that he does not hold any interest or duty which would or potentially would conflict with the performance of his duties under his contract with the Parties or else disclose fully to the Parties any such conflict or potential conflict.

772) If after his appointment, the expert becomes aware of any interest or duty which conflicts or potentially conflicts with the performance of his duties under his contract with the Parties, the expert shall inform the Parties forthwith of such conflict giving full details thereof.

773) Any Party may within five (5) Business Days of the disclosure of any such conflict or potential conflict object to the appointment or continued appointment of an expert, in which case the expert shall not be or shall cease to be appointed and a new expert shall be selected and appointed in accordance with this part.

#### ***16.9.8 Confidentiality***

774) The Parties and the expert shall keep the fact that the Expert Determination is taking place and

its outcome confidential.

775) The expert shall enter into a confidentiality undertaking on such terms the Parties may require and shall cause any professional or technical advisers and any secretarial assistants to enter into confidential undertakings in the same terms.

#### **16.9.9 Costs**

776) Each Party shall bear its own costs including without limitation costs of providing documentation, information, data, submissions or comments under this part and all costs and expenses of all witnesses and other persons retained by it provided that where any Dispute is determined in favour of the Transporter such costs shall be payable by the Shipper(s) involved in the Dispute.

777) The expert shall provide the Parties with a breakdown of:

- a) his fees; and
- b) his reasonable expenses, including the fees of and reasonable expenses incurred by any technical or professional advisers or any secretarial assistance engaged pursuant to paragraph 761).

778) The expert's fees and expenses under paragraph 777) shall be payable by the Parties in equal amounts, unless the expert (having regard to the conduct of the Parties with respect to the Dispute in question) shall direct in his final determination that such costs and expenses should be borne by one or some only of the Parties, in which case the Parties shall pay such fees and expenses in accordance with such direction.

779) If the terms of the expert's appointment provide for the payment of his fees and expenses before the delivery of the final determination, the Parties shall pay such fees and expenses in equal amounts, and shall make adjustment payments inter se following any such direction as is referred to in paragraph 778).

780) The expert shall not be held liable for any act or omission unless it shall be shown that the expert has acted negligently, fraudulently or in bad faith.

#### **16.9.10 Arbitration**

781) Where there is a Dispute to which part 16.9.2 or the Compensation Resolution Procedures do not apply, any Party shall refer the Dispute to be finally resolved by arbitration

782) The law governing the procedure of the arbitration shall be the law of the Bahamas and the language of the arbitration shall be English.

783) The tribunal shall consist of one (1) arbitrator to be appointed by mutual agreement of the Parties or failing such agreement within thirty (30) Days, by the Chairman of the Arbitration Court chosen by the parties.

784) Paragraph 755) and part 16.9.7 shall apply, mutatis mutandis, in relation to the appointment of the arbitrator save that references to the 'expert' therein shall be replaced with references to the 'arbitrator'.

785) The award or order made by the arbitrator shall be final and binding on the Parties except in the event of fraud or manifest error or failure by the arbitrator to disclose any relevant interest pursuant to part 16.9.7 in which case another arbitrator may be appointed in accordance with paragraph 783).

786) Except as provided in paragraph 785), no Party shall commence proceedings in respect of or refer to any court any finding by the arbitrator, whether made at any time after his appointment or in his award or order, as to the Dispute or the construction of or otherwise in respect of the Code, the Transportation Framework Contract or the relevant Ancillary Agreement.

## **16.10 Miscellaneous**

### **16.10.1 Assignment**

787) Subject to paragraph 789), a Party may assign its rights under the Code, the Transportation Framework Contract and an Ancillary Agreement:

- a) to an Affiliate of such Party, provided that the assigning Party shall continue to be bound by and liable under the Code, the Transportation Framework Contract and such Ancillary Agreement; and
- b) with the prior agreement in writing of each relevant other Party, which shall not unreasonably be withheld, to any person.

788) Except as provided in paragraph 787), a Party shall not assign or transfer and shall not purport to assign or transfer any of its rights or obligations under the Code, the Transportation Framework Contract or an Ancillary Agreement.

789) No assignment shall be made to a person unless:

- a) such person enters into an agreement with each relevant other Party covenanting to be bound by the Code; and
- b) where the assigning Party is the Transporter, that person holds a Transporter's Licence; or
- c) where the assigning Party is a Shipper, that person has complied with the requirements which (if the person were an Applicant Shipper) it would be required under part 16.1.3 to comply with.

790) Any credit limit required under the Code shall be determined separately for a person to whom a Shipper assigns its rights under paragraph 787), and the assigning Party may not assign its own credit limit.

791) A reference in the Code or the Transportation Framework Contract to any Party shall include a reference to that Party's successors and permitted assigns.

### **16.10.2 Waiver**

792) No delay by or omission of any Party in exercising any right, power, privilege or remedy under the Code, the Transportation Framework Contract or any Ancillary Agreement shall operate to impair such right, power, privilege or remedy or be construed as a waiver thereof.

793) Any single or partial exercise of any such right, privilege or remedy shall not preclude any other or future exercise thereof or the exercise of any other right, power, privilege or remedy.

#### **16.10.3      *Language***

794) Every Code Communication and every notice or other communication to be given by one Party to another under the Code or the Transportation Framework Contract shall be in the English language.

#### **16.10.4      *Severance***

795) If any provision of the Code, the Transportation Framework Contract or any Ancillary Agreement is or becomes invalid, unenforceable or illegal, or is declared to be invalid, unenforceable or illegal by any court of competent jurisdiction or by order or Directive of any other Competent Authority, such invalidity, unenforceability or illegality shall not prejudice or affect the remaining provisions of the Code or the Transportation Framework Contract which shall continue in full force and effect notwithstanding the same.

#### **16.10.5      *Entire Agreement***

796) The Code, the Transportation Framework Contract and each Ancillary Agreement made between the Parties contain or expressly refer to the entire agreement between the Parties with respect to the subject matter thereof and supersede all previous agreements or understandings between the Parties with respect thereto; and any warranty, condition or other term implied at law or by custom is (to the fullest extent permitted by law) expressly excluded therefrom.

797) Each Party acknowledges that in entering into the Transportation Framework Contract and an Ancillary Agreement, it does not rely on any representation, warranty or other understanding not expressly contained in the Code, the Transportation Framework Contract or such Ancillary Agreement.

798) Nothing contained in a document (other than the Transportation Framework Contract or an Ancillary Agreement) referred to in the Code beyond what is expressly contemplated by the Code as being contained in such document or is necessary for the purposes of giving effect to a provision of the Code, shall modify or have any effect for the purposes of the Code or be construed as relevant to the interpretation of the Code.

#### **16.10.6      *Jurisdiction***

799) Subject and without prejudice to the provisions of part 16.9.2 as to Expert Determination and part 16.9.10 as to dispute resolution by way of arbitration, all the Parties irrevocably agree that the courts of the Bahamas are to have exclusive jurisdiction to settle any disputes which may arise out of or in connection with the Code, the Transportation Framework Contract and an Ancillary Agreement and that accordingly any suit, action or proceeding (collectively "**Proceedings**") arising out of or in connection with the Code, the Transportation Framework Contract or an Ancillary Agreement may be brought in such courts.

800) Each Party irrevocably waives any objection which it may have now or hereafter to the laying of the venue of any Proceedings in the courts of Bahamas and any claim that any such proceedings have been brought in an inconvenient forum and further irrevocably agrees that a judgment in any

proceedings brought in the Bahamas courts shall be conclusive and binding upon such Party and may be enforced in the courts of any other jurisdiction.

801) The Code, the Transportation Framework Contract and all Ancillary Agreements shall be governed by and construed in all respects in accordance with Bahamian law.



## Annex A – Gas Entry (and Offtake) Conditions

Properties	Gas Specification parameters	
Calorific Value:	Minimum	948 Btu/scf
	Maximum	1350 Btu/scf
Wobbe Index:	Minimum	1213 Btu/scf
	Maximum	1396 Btu/scf
Hydrocarbon Dew point:	Maximum	55°F @ 725 psi
Water Dew point:	Maximum	49°F @ 725 psi
Free Liquids	Maximum	zero
Total Sulphur	Maximum	30 ppm by volume
Oxygen:	Maximum	0.1% by volume
Hydrogen sulphide:	Maximum	8 ppm by volume
Methane	Minimum	80% by volume of total reactants
Carbon Dioxide	Maximum	5% by volume
Nitrogen	Maximum	5% by volume
Total Inerts (including CO <sub>2</sub> )	Maximum	10% by volume
Particulate size	Maximum	10 microns
Particulate quantity	Maximum	3 ppm by weight
Potassium and Sodium	Maximum	0.5 ppm by weight
Lead	Maximum	1 ppm by weight
Magnesium	Maximum	2 ppm by weight
Mercury	Maximum	500µg/m <sup>3</sup>

## Annex B – Form of Capacity Certificate

<b>A Shipper Details</b>		
A.1	Shipper Nam	
A.2	Shipper ID	
A.3	Shipper Address	
A.4	Capacity Certificate Number	
<b>B Capacity Details</b>		
B.1	Transmission Network Injection Point Name	
B.1.1	Entry Capacity Type	Firm / Non-Firm
B.1.2	Entry Capacity Quantity (in mmBtu per balancing period)	
B.1.3	Minimum Required Injection Pressure (in Bar(s))	
B.1.4	Exact Point of Injection	
B.2	Eligible Offtake Point Name	
B.2.1	Exit Capacity Type	Firm / Non-Firm / Authorised Exit Capacity
B.2.2	Exit Capacity Quantity (in mmBtu per balancing period)	
B.2.3.	Minimum Required Offtake Pressure (in Bar(s))	
B.2.4	Exact Point of Offtake	
<b>C Duration</b>		
C.1	Capacity Right Start Date	(in DD/MM/YYYY format)
C.2	Capacity Right End Date	(in DD/MM/YYYY format)
C.3	Capacity Duration	Years   Months   Days

Signed for and on behalf of the Transporter

.....

Company:

Designation:

Date:

## Annex C – Form of Distribution Network Offtake Point Registration Certificate

<b>A</b>	<b>Shipper Details</b>
A.1	Shipper Name
A.2	Shipper ID
A.3	Shipper Address
A.4	Distribution Network Offtake Point Registration Certificate
<b>B</b>	<b>Customer Details</b>
B.1	Customer Name
B.2	Customer Address
<b>C</b>	<b>Customer Offtake Point Details</b>
C.1	Minimum Required Distribution Offtake Pressure (in Bar(s))
C.2	Maximum Instantaneous Rate of Offtake (in mBtu per hour)
C.3	Exact Point of Offtake
C.4	Additional Information on Customer's Installed Gas Plant and Equipment

Signed for and on behalf of the Transporter

.....

Company:

Designation:

Date:

# Annex D - Form Of Waiver of Capacity Right Renewal Options

Date: []

Addressee: []

Address: []

## Notice Pursuant To Paragraph 33) of the Gas Network Code

### Waiver of Capacity Right Renewal Options

We, [insert name of Shipper], refer to the Registered Firm Capacity Right (capacity certificate number: \_\_\_\_\_) in relation to a segment of the Transmission Network from Transmission Network Injection Point \_\_\_\_\_ to Eligible Offtake Point \_\_\_\_\_ issued to us pursuant to the Gas Network Code. Capitalised words and expressed used in this notice and not otherwise defined in this notice shall have the same meanings ascribed to them under the Gas Network Code.

We wish to waive, in accordance with paragraph 33) of the Gas Network Code, our Capacity Right Renewal Options, in full, in relation to [\_\_\_\_\_ mMBtu/Balancing Period of each of the Entry Capacity Right and the Exit Capacity Right pursuant to] such Registered Firm Capacity Right (“**Relevant Capacity Right**”).

We hereby, on and with effect from the date of this notice, do unconditionally and irrevocably:

- a) waive any and all of our Capacity Right Renewal Options in relation to the Relevant Capacity Right, and all rights, claims or remedies of whatsoever kind or nature, in law, equity or otherwise, which we have, may have had, now have or may in the future have, in relation to the Capacity Right Renewal Options in relation to the Relevant Capacity Right;
- b) fully and forever release and discharge the Transporter from any and all obligations or liabilities which the Transporter may have in relation to the Capacity Right Renewal Options in relation to the Relevant Capacity Right; and
- c) acknowledge that we do not have any right, entitlement or option to renew or extend the duration of the Relevant Capacity Right beyond the Capacity Right End Date for such Registered Firm Capacity Right (whether arising under or in connection with the Gas Act, the Gas Network Code or any applicable law, regulation or code) and undertake that we shall not seek to exercise or enforce (or take any step whatsoever in an attempt to exercise or enforce) any such right, entitlement or option, including without limitation, the Capacity Right Renewal Options in relation to the Relevant Capacity Right.

Signed for and on behalf of [insert name of Shipper]

.....

Name:

Company:

Designation:

---

Acceptance of above notification under Gas Network Code paragraph 33)

Signed for and on behalf of the Transporter

.....

Name:  
Company:  
Designation:  
Date:

# Annex E – Validation Rules

## 1 Purpose

This document provides a description of the Validation Rules referred to in part 10.1.1 of the Network Code and an explanation of the Validation process under the Gas Transportation IT System Solution (GTSS).

Words and expressions used in this document shall have the meanings specified in the Network Code and/or the Gas Metering Code (as the context may require).

## 2 Introduction

There are two primary types of meters. Those that provide hourly data, which are called Balancing Period Meters (BPM) and those that provide non hourly data which are called Non Balancing Period Meters (NBPM).

The Balancing Period Meters (BPM) incorporates Balancing Period Read Meters (BPRM) and Balancing Period Capable Meters (BPCM). The Non Balancing Period Meters (NBPM) incorporates Daily Read Capable Meters (DRCM).

Each Meter Reading for both of the BPM and NBPM meter types will be submitted and validated by GTSS in accordance with the Validation Rules set out in this document. A submitted Meter Reading will be a Valid Meter Reading and stored in the GTSS if it satisfies the GTSS validation process.

If the Meter Reading does not pass the validation process, then it will be rejected and the Meter Reading will not be stored in GTSS. A notification will be sent to the Shipper, informing them of the rejection of the Meter Reading and the reason for rejection.

Where a Meter Reading is not received, or is rejected, it will be substituted by a profiled value. There is a procedure known as the System Point Profile Methodology which provides details of how profiling works.

## 3 Meter Reading Validation Rules

### 3.1 Common Validation for BPM and NBPM

Common Validation will be applied to both BPMs and NBPMs.

The following Validation conditions shall apply to the Meter Reading Input File:

- a) The Meter Reading Input File must be in a valid file format based on the requirements of the GTSS Manual.
- b) The Validation routine will check whether a Meter exists within the GTSS database.
- c) The Meter must be commissioned to accept readings. Therefore, the active meter flag within the GTSS (which indicates the status of a meter) must be set to position “Y” in order to accept Meter Readings.

- d) Meter Reading, which is an energy value measured by mMBTU, is to be provided in the standard format 123456789.1234 (as defined in the GTSS Manual).
- e) The date, time and year of the Meter Reading must follow the format of YYYYMMDDHHMMSS (as defined in the GTSS Manual).
- f) The date of the Meter Reading must be equal to or greater than the effective start date assigned to the Meter and less than the effective end date of the Meter , i.e. the meter is registered and commissioned to accept Meter Readings.
- g) The date and time of the Meter Reading must not be a future date and time.

## **3.2 Specific Validation**

The following are meter type specific Validation Rules:

### **3.2.1 For Balancing Period Meter (BPM)**

- a) The BPM Meter Reading must be obtained or provided in accordance with paragraphs 451)(a) and 455)(b) of the Network Code.
- b) The BPM Meter Reading start and end date and time is to be checked to ensure that it registers a reading for an entire Balancing Period. A Balancing Period is a period of one hour.
- c) The Meter Reading must be within the minimum and maximum allowed values for each meter.

### **3.2.2 For Non Balancing Period Meter (NBPM)**

- a) The NBPM Meter Reading must be provided in accordance with paragraph 455)(b) of the Network Code.
- b) The NBPM Meter Reading is typically taken daily in the case of Daily Read Capable Meters (DRCM), or several weeks apart in the case of Manually Read Meters (MRM). The minimum period represented by a Meter Reading is one Balancing Period. However, the period represented by a Meter Reading typically covers several Balancing Periods.
- c) The period for a new NBPM Meter Reading must not overlap the period for a previous Meter Reading's with the exception of the following:
  - (i) A revised NBPM Meter Reading with the same period as the previously submitted NBPM Meter Reading can be used as a substitute Meter Reading i.e. the revised meter reading must have the same start date time and end date time with the previously submitted NBPM Meter Reading.
  - (ii) A revised NBPM Meter Reading with the same start date and time and a later end date and time than the previous NBPM Meter Reading can be used as a substitute MBPM Meter Reading.

GTSS will not accept a revised NBPM Metering Reading that starts earlier than the previous NPBM Meter Reading start date. The reason is the end date of the previous NBPM Meter Reading coincides

with the start date of this NBPM Meter Reading. There cannot be any gaps or overlaps.

- d) The NBPM Meter Reading must be within the minimum and maximum allowed values for each meter.



# Annex F - System Point Profile Methodology

## 1 Purpose

Part 15 of the Network Code sets out the requirement for the Transporter to include a method for estimating gas quantities injected into, and offtaken from, the Transportation System during each Balancing Period. This document provides a description of the system point profile methodology (the “**Methodology**”) which is used by the Gas Transportation IT System Solution (GTSS) for the purpose of estimating gas quantities as specified in Part 15 of the Network Code.

The Methodology covered in this document includes:

- a) Proxy Day Profiling; and
- b) Day Type Profiling.

This is the document referred to in the Network Code as the System Point Profile Methodology which has been approved by URCA. Words and expressions used in this document shall have the meanings specified in the Network Code and/or the Gas Metering Code (as the context may require).

When Meter Readings are either not available to, or not provided to, the Transporter in accordance with Part 10 of the Network Code, the process of calculating the quantity of gas either injected at, or offtaken from, a System Point will be based upon profiling carried out in accordance with the Methodology. The profiled gas quantities are estimated by using historical data.

There are two primary types of meters. Those that provide hourly data, which are called Balancing Period Meters (BPM) and those that provide non-hourly data which are called Non Balancing Period Meters (NBPM). Non-hourly data consists of a reading and a date. The consumption is the difference between the two readings.

BPM consist of Balancing Period Read Meters (BPRM) and Balancing Period Capable Meters (BPCM). NBPM consist of Daily Read Capable Meters (DRCM).

The Bahamas natural gas market has hourly Balancing Periods. The estimation process under the Methodology is based upon hourly historical data. The historical data of individual customers can be grouped together into classes, based on similarities in the customer’s usage patterns. The profile created from the data is of a typical customer within that class.

There are many different options for creating profiles for customers within a particular class. The Bahamas market will use identifiable parameters to profile gas quantities for each class of customer. There are two primary types of profiles, and these are used for the two main types of meters: Balancing Period Meters (BPM) and Non-Balancing Period Meters (NBPM).

## 2 Proxy Day Profiling

If a Meter Reading has not been obtained, or provided for any Meter at a System Point, in accordance with Part 10 of the Network Code the Transporter shall use profiling for the purpose of calculating the quantity of gas injected into, or offtaken from, such System Point, which will be used by the Transporter

in the Initial Settlement process.

The Proxy Day methodology selects the most appropriate day from the historical data to be used in providing the profiled gas quantity for the Balancing Period in the day when a Meter Reading has not been provided, or made available to the Transporter in accordance with Part 10 of the Network Code. Each day in the selected historical set of data is evaluated using the parameters specified in part 2.2 below and the most appropriate one is chosen. The profiled quantity is then provided for use in the Initial Settlement process.

## **2.1 Source of Meter Data**

The source of historical data used for the purposes of profiling any quantity of gas injected or offtaken at such points shall be based upon historical data from the Meter at such points.

If, on the date the Network Code comes into effect in the Bahamas, historical meter data is not provided by the Shipper, or data has not been obtained from the market trials the Transporter will create a default record.

If new Meters are installed after the date the Network Code becomes effective, the Transporter may choose a Meter, or group of Meters, as the source of meter data for use in profiling the quantity of gas offtaken from the relevant Meter, or create a default record. When historical data has been collected for a new Meter, the source of the meter data can be redirected to the historical meter data of the new Meter.

## **2.2 Parameters for creation of the Proxy Day Profile methodology**

The parameters which will apply for the purpose of profiling quantities of gas are discussed below under their respective headings. These cover:

- a) Day Model
- b) Dynamic or Static Profile
- c) Weather
- d) Date Grouping (Date Exceptions i.e. holidays)
- e) Review Period

### **2.3.1 Day Model**

The selection of the Day Model is used to limit the number of similar days used in the comparison.

The Transporter has chosen a Day Model based upon 11 types of Day. The sixteen days are the days of the week (i.e. Monday, Tuesday, Wednesday, Thursday, Friday, Saturday and Sunday); New Year's Eve; New Year's Day;; Christmas Eve; and Christmas Day.

Therefore if a Meter Reading is not provided for a Balancing Period which occurred during a Tuesday (which is not a Tuesday falling on one of the listed holidays), then only a Tuesday will be selected to

determine the profiled quantity for that Balancing Period.

### **2.3.2 Dynamic Parameter**

The parameter selected for the Proxy Day profile is Dynamic, to maintain alignment with the possible changing patterns of Customers. The selection of Dynamic means a profile will be created each time missing data is detected.

### **2.3.3 Weather**

The Weather parameter that is used is temperature in degrees Centigrade. When meter reading data is missing, the temperature for the Balancing Period is used to compare against the historical records. The Balancing Period with the most closely matched temperature is selected. The meter reading for that Balancing Period is then substituted for the missing reading.

### **2.3.4 Date Grouping (Date Exceptions i.e. holidays)**

Public holidays shall have the same profiling as the Day Model applied to a Sunday.

### **2.3.5 Review Period**

The number of days for the review period specifies how many days will be used in reviewing the alternative days. This limits the maximum number of days in the period. This parameter has been set to 730 days to enable collection of two years of data.

## **2.4 Example**

No Meter Reading has been provided to, or obtained by, the Transporter in respect of Balancing Periods from 7:00 am to 8:00am and 8:00 am to 9:00 am on Monday 23 November at the premises of a Customer.

GTSS will automatically create a profile set of data to substitute for the missing Meter Reading. GTSS seeks the source of meter data. If the Customer has a BPM Meter installed, the source of meter data has been set to its BPM Meter, as this will provide consumption patterns of such Customer's use.

Using the methodology, GTSS notes that the profile is Proxy Day profiling and knows it has to find from the same type of day a profiled reading for the Balancing Periods in which the Meter Reading was not available (i.e. since no Meter Reading has been provided for Balancing Period from 7.00 am to 8.00 am and from 8.00 am to 9.00 am on a Monday, the Mondays with data in that equivalent Balancing Period are used to select a profiled reading).

The "Dynamic or Static" parameter is set to Dynamic and so will calculate the profile rather than obtain a pre-existing profile from the database (Static uses pre-existing profiles). The day type parameter confirms the day is a Monday and Monday is a valid group and so only looks at data for Mondays. The last 730 days data will be examined as the Review Period parameter is set to 730 days. If this parameter were not set then all months from the commencement of operation of the system until the present day would be reviewed (provided no data has been archived).

As the 23 November was not a holiday the "Date Groupings (Date Exceptions i.e. holidays)" parameter did not apply. If the day had been, then the day selected would have been the day the Public Holiday

group is linked to, which is a Sunday and only Sunday data would have been reviewed.

### **3 Day Type Profiling**

If a Meter Reading has not been obtained, or provided for any Meter at a System Point, in accordance with Part 10 of the Network Code the Transporter shall use profiling for the purpose of calculating the quantity of gas injected into, or offtaken from, such System Point, which will be used by the Transporter in the Initial Settlement process.

The Day Type methodology averages the meter reading data to provide an approximation for each Balancing Period in each Day arising between the days when the Meter was read. All the days in the selected historical set of data are used to calculate the average.

In the Initial Settlement process the quantity of gas offtaken in each Balancing Period for any Meter at a System Point can be based upon profiling using the Day Type Methodology.

If no Meter Reading is available to the Transporter for any Meter at a System Point as required in accordance with Part 10 the profiled quantity applied at Initial Settlement for each Balancing Period at such Meter will continue to apply at Final Settlement in respect of those Balancing Periods which arose in the month to which the Final Settlement applies. The profiling approach selected is known as the Day Type methodology.

#### **3.1 Source of Meter Data**

A meter or group of meters is listed as the source of data for use by the Day Type Methodology. There are multiple ways of obtaining suitable profiles for customers. Firstly you could use the meter readings from a similar set of customers who have BPM meters. Alternatively, a representative sample of customers could be provided with BPM meters, as a research project. These sample meters could be used to calculate a class profile. Or a default could be created by the Transporter. The profile for any Meter at a System Point will use the similar set of customers who have BPM meters, or use BPM meters at the relevant points, as an approximation.

#### **3.2 Parameters for creation of the Day Type Profile methodology**

The parameters are discussed below under their respective headings. These cover:

- a) Day Model
- b) Dynamic or Static Profile
- c) Date Grouping (Date Exceptions i.e. holidays)

##### **3.3.1 Day Model**

The selection the Day Model is used to limit the number of similar days used in the comparison.

The Transporter has chosen a Day Model based upon 11 types of Day. The sixteen days are the days of the week (i.e. Monday, Tuesday, Wednesday, Thursday, Friday, Saturday and Sunday); New Year's Eve, New Year's Day; Christmas Eve; and Christmas Day. Therefore if a profiled

quantity is required for a Balancing Period in a Tuesday, then only a Tuesdays will be selected for this purpose.

### 3.3.2 Static Parameter

The parameter selected for the Day type profile is Static, as the patterns with NBPM is expected to be relatively unchanged over time.

The selection of Static means the profile will be extracted from the database of profiles. As the name implies Static profiles are unchanging. The missing data is replaced using the same profile. Over time Static profiles are reviewed to ensure they accurately reflect the actual consumption pattern.

Static profiles have the advantage of consistency and are appropriate for data that is relatively constant.

### 3.3.3 Date Grouping (Date Exceptions i.e. holidays)

Public holidays shall have the same profiling as the Day Model applied to a Sunday.

## 3.4 Example

The day is in early April in the year 2025. The Final Settlement run for the month of November for the year 2023 is about to be run. Unfortunately the meter data for several Industrial customers using NBPM for the last two weeks of November 2023 still has not arrived.

Using the methodology, GTSS notes that the profile is Day Type and knows if it was to create a profile for the first time it would have to average the data of the same Day and the same Balancing Periods.

The “Dynamic or Static” parameter is set to Static and so seeks the existing Static profile. A profile has already been constructed. There is one Static profile for each day of the week for Industrial customer classes. The methodology day type confirms the missing days are from Monday to Sunday for two weeks. Each missing day uses its appropriate day type, e.g. Monday uses the Monday Static profile, similarly for each of the other days of the week.

As the last two weeks of November did not contain a holiday, the “Date Groupings (Date Exceptions i.e. holidays)” parameter did not apply.

## 4 Determination of Profiled Offtake Quantity

For the purpose of Initial and Final Settlement in accordance with Part 4 of the Network Code, the Transporter shall determine the Profiled Offtake Quantity,  $p_i$ , for the Balancing Period for the relevant Shipper  $i$  in accordance with the following formula:

$$p_i = R_H * W_{t_i}$$

Where

$p_i$  is the Profiled Offtake Quantity for the Balancing Period in respect of Shipper  $i$ ;

$R_H$  is the historical Offtake Quantity of the meter source which is based on the relevant Methodology;

and

$$W_{t_i} = \frac{X_i}{\sum_i^T X_i}$$

Where

$X_i$  is the average monthly offtake quantity per Distribution Network Offtake Point of Shipper  $i$  in the particular Distribution Network in respect of which the Shipper is the Registered Shipper or a Sharing Registered Shipper; and

$T$  is the total number of Shippers in the particular Distribution Network.

The Transporter shall review the weights,  $W_{t_i}$ , not less than once every three (3) Months and make revisions, if any, to the weights in respect of each Shipper.

# Annex G - System Stress Procedures

## 1 Objective

The System Stress Procedures contained in this document have been developed and issued by the Transporter pursuant to Part 11 of the Network Code.

This document sets out the procedures to be followed and actions to be taken by the Transporter, Shippers and their customers to maintain or re-establish the secure and safe operation of the Transportation System in the event of impending or during System Stress.

In order to maintain the required pressures in the Transportation System and to ensure that there is sufficient gas in the Transportation System to meet the demand, the users of the Transportation System are reliant upon the performance of the regasification facilities. The purpose of this document is, therefore, to address the situation where either there are insufficient supplies to the Transportation System from the upstream producers or there is a critical transportation constraint at some point on the gas supply chain which will, in the Transporter's opinion, constitute a System Stress situation.

Capitalised terms defined in the Network Code shall have the meanings ascribed thereto when used in this document.

## 2 Definition of System Stress

The existence of System Stress shall be determined by the Transporter in its sole judgement and irrespective of either its cause or whether or not the Transporter or any other person may have contributed to the System Stress.

The Transportation System shall be in a state of System Stress when any of the following conditions exist:

- a) the safe and reliable conveyance of gas in the Transportation System is at risk;
- b) the maintenance of safe and reliable pressures in the Transportation System is at risk;
- c) the existence of such other circumstances affecting the Transportation System that constitutes or is likely to constitute a gas emergency; or
- d) where the Power System Operator has advised the Transporter that an interacting system stress condition may occur on the electricity network.

The circumstances which may cause the Transportation System to enter into a state of System Stress include, but are not limited to, the following:

- a) the amount of gas injected into the Transportation System is not able to meet demand which results in excessive Imbalances;
- b) system pressures fall outside the Prescribed Security Limits;
- c) gas quality characteristics are outside specification at Transmission Network Injection Points resulting in the rejection of such gas at such Transmission Network Injection Point;

- d) Force Majeure;
- e) damage to the Transportation System;
- f) damage to a receiving terminal; or
- g) malfunction or operation of equipment in a receiving terminal or another critical installation that has substantial impact on gas flow.

System pressures are the key determinants of the security of the Transportation System. The Transportation System shall be deemed to have entered into a state of System Stress when the Prescribed Security Limits are breached. The term “**Prescribed Security Limits**” shall mean the limits of the operating pressure range of key Transportation System elements which may be prescribed and published by the Transporter from time to time.

### 3 Notification Procedure

#### 3.1 Notification Protocol

Responsible Party	Action	Communication
Shipper	Notify the Transporter as soon as practicable after becoming aware of any event or situation of the kind described in paragraph 2 including any action taken by the Shipper or its customers under their own safety, emergency or response procedure.	By telephone and facsimile
Shipper	Liaise closely with the Transporter in complying with and executing the Transporter’s directions during System Stress.	By telephone and facsimile
Transporter	Notify Shippers, URCA, the Power System Operator (PSO) and any Upstream Facility Operator (UFO) upon the declaration of System Stress and issue of System Stress Notice.	By telephone and GTSS system
Transporter	Notify Shippers to execute System Stress directions or instructions given by the Transporter in order to restore the Transportation System.	By telephone and facsimile
Transporter	Notify Shippers to execute System Stress Curtailment Plan.	By telephone and facsimile
Transporter	Notify URCA and the PSO on implementation of the	By telephone



	System Stress Curtailment Plan.	
Transporter	Notify Shippers, the EMA, the PSO and the UFO of the Code Re-start Time	By telephone and

### 3.2 Emergency Contact Details

Shippers shall provide the Transporter with:

- a) An emergency telephone number and facsimile at which a representative of the Shipper or any UFO is contactable by the Transporter, 24 hours a day; and
- b) The name and title of the Shipper's or UFO's representative who shall be a person having appropriate authority to act on behalf of the Shipper or the UFO.

The System Control Centre of the Transporter will be the centre that communicates and liaises with the relevant parties. Contact numbers of the System Control Centre shall be made available to all relevant parties.

Shippers shall notify the Transporter of a change to the contact details and where possible in advance and vice versa.

## 4 Pre-emption Procedure

Pre-emption measures are vital in maintaining the secure and safe operation of the Transportation System.

Shippers and its major customers who operate power generating plants are equipped with the essential systems to monitor, control and manage their facilities which include gas receiving terminals, metering stations and power generation plants. Gas supply pressure and status of Emergency Shut Down Valve (ESDV) at the facilities are closely or real-time monitored by the Shipper and its major customers.

In addition, the Transporter real-time monitors the gas pressure that enters into its Transportation System and the status of ESDV at the Transmission Network Injection Points and, in the event it notices any abnormal pressure readings, will notify the Shippers accordingly.

These monitoring activities or notifications provide early warnings to the Shipper and its major customers who can take pre-emption measures (as described in the PSO's Standard Operating Procedure for Natural Gas Supply Disruption) to respond to a significant reduction in gas supply pressure which may be caused by a fault at the gas receiving terminal or at the production facilities. The pre-emption measures must be taken swiftly to minimise impact on the power system as the loss of adequate gas supply pressure to the power generating plants could occur within minutes.

In a situation where a gas supplier notifies the Shipper or the Shipper becomes aware of any reduction or curtailment of gas supply, the Shipper must take swift pre-emption measures such as implementation of the Shipper's allocation plan and procedures to effectively manage its reduced gas supply to avoid or reduce any significant gas imbalance or impact on the Transportation System.

The Shipper shall notify the Transporter of any measures taken by the Shipper and its major customers.

## **5 Response Procedure**

### **5.1 Response Measures**

The Transporter shall notify each Shipper, URCA and the PSO of any declaration of System Stress when the Transportation System enters into a state of System Stress. A System Stress Notice shall be issued to each Shipper in accordance with Part 11 of the Network Code.

During a declared state of System Stress, the Transporter may issue instructions or directions as it reasonably considers necessary to address the System Stress and restore the Transportation System to a normal operating state. Directions which may be issued by the Transporter include, but are not limited to, the following:

- (a) increase or decrease the quantity of gas to be injected into the Transportation System;
- (b) increase or decrease the quantity of gas to be offtaken from the Transportation System; or
- (c) Implementation of the System Stress Curtailment Plan.

The strategy employed to restore the Transportation System to a normal operating state will be dependent on the circumstances that gave rise to the System Stress. In circumstances such as Force Majeure or serious damage to the Transportation System, the Transporter may be required to take action such as isolation of a damaged part of its Transportation System so as to contain the situation.

### **5.2 Implementation of Response Direction**

Upon receipt of a System Stress Notice, each Shipper shall advise all relevant officers and, where relevant, its customers, of the existence of the state of System Stress. A Shipper may execute its own safety, emergency or response procedures if it deems necessary.

During a declared state of System Stress, each Shipper shall:

- a) to the extent within the Shipper's power, comply with the Transporter's instructions or directions that may include, but are not limited to, the following:
  - (i) inject gas into the Transportation System in such quantities and such rates as the Transporter may specify;
  - (ii) offtake gas from the Transportation System in such quantities and such rates as the Transporter may specify; or
- b) execute the System Stress Curtailment Plan; or
- c) co-operate with the Transporter to enable the Transporter to implement its System Stress response procedures.

## **6 Restoration of Transportation System**

When the circumstances that caused the System Stress have ceased and upon restoration of the

Transportation System to normal operation, the Transporter shall notify each Shipper, URCA, the UFO and the PSO of the cessation of System Stress. The Transporter shall issue a Code Re-start Notice to each Shipper which shall specify the Code Re-start Time.

The Transporter shall issue instructions to relevant Shippers in the restoration process. If the System Stress Curtailment Plan is implemented during System Stress, then the order of restoration of supply shall be as described in such plan.

# Annex H – System Stress Curtailment Plan

## 1 Objective

The System Stress Curtailment Plan contained in this document has been developed and issued by URCA pursuant to Part 11. The System Stress Curtailment Plan sets out the curtailment principles and categories of Customers with respect to which their loads will be curtailed should it become necessary in the event of System Stress. Curtailment will be implemented after due consideration so as to safeguard the security and safety of the Transportation System.

Capitalised terms defined in the Network Code shall have the meanings ascribed thereto when used in this document.

## 2 Curtailment Table

The Curtailment Table identifies the general order in which certain categories of Customers will have their loads curtailed. The order of curtailment presented in the Curtailment Table is intended to rapidly and effectively arrest further deterioration in the condition of the Transportation System during a state of System Stress, which is crucial due to the limited line pack in the Transportation System and the composition of loads.

Order/Category	Type of Customer
1	Power Generating Plants
2	Customers with nominal Maximum Daily Quantity (MDQ) $\geq 5$ BBtu/day based upon the previous 3 months gas consumption.
3	Customers with nominal Maximum Daily Quantity (MDQ) $\geq 2.5$ BBtu/day and $< 5$ BBtu/day based upon the previous 3 months gas consumption.
4	Non-Residential and Non-Essential Service Customers with MDQ $< 2.5$ mmBtu/day based upon the previous 3 months gas consumption
5	All Residential and Essential Services Customers

If the Transporter is required to implement the System Stress Curtailment Plan, then the Transporter will do so, to the extent that it is reasonably practicable in all the circumstances, in accordance with the following guidelines:

- a) The order in which curtailment is to be implemented shall commence with Customers from Category 1 and descend to Customers from Category 5 as set out in the Curtailment Table.
- b) The order and extent to which each Customer within Category 1, Category 2 and Category 3 shall

be curtailed shall be determined by the application of the Curtailment Principles set out in paragraph 3 below.

- c) If a constraint exists in a particular part of the Transportation System, then curtailment may be confined to the region pertaining to that particular part, if practicable.
- d) Essential Services Customers refers to hospitals.

### **3 Curtailment Principles**

The Curtailment Principles to be applied by the Transporter in determining the order and extent to which each Customer within Category 1, Category 2 and Category 3 shall be curtailed during a state of System Stress are as follows:

- a) Customers who are offtaking gas from such part of the Transportation System affected by an upstream causality event (e.g. upstream supply reduction or interruption) shall be curtailed in priority to those Customers who are not offtaking gas from such part of the Transportation System.
- b) Customers who are overrunning their Available Firm Capacity Rights shall be curtailed in priority to those Customers who are not in overrun.
- c) Customers with the ability to “hotswitch” to an alternative fuel source shall be curtailed in priority to those Customers who do not have this ability.
- d) Customers whose offtakes and/or activities are less essential for the purposes of ensuring the security or restoration of the power system or the Transportation System shall be curtailed in priority to those Customers whose offtakes and/or activities are more essential for such purposes.

The Curtailment Principles set out above are in no particular order and shall be applied by the Transporter to the extent that it is reasonable and practicable to do so in the context of any constraints or other circumstances that may exist at the relevant time.

### **4 Curtailment Procedure**

The implementation of the System Stress Curtailment Plan is necessary to safeguard the security and safety of the Transportation System. The Transporter will issue curtailment instructions to Shippers who must effect the physical curtailment of their respective customers.

Shippers must contact their customers to arrange the necessary load curtailments and use their best endeavours to ensure that their customers act in a manner which enables Shippers to comply with their obligations under Part M of the Network Code.

The Transporter will require the full cooperation of Shippers to implement the System Stress Curtailment Plan effectively. In the last resort, Transporter may perform selective isolation of the Transportation System if it is reasonably practicable to do so.

### **5 Restoration of Supply**

When the Transportation System returns to its normal operating state, the order of restoration shall follow the reverse order of curtailment as set out in the Curtailment Table and the reverse order in which Customers within each defined category had been curtailed, provided no circumstance that requires a different restoration strategy exists.

# Annex I - Compensation resolution procedures

## 1 Status of Procedures

These Procedures constitute the Compensation Resolution Procedures as referred to in:

- a) Part 4.7.3;
- b) Parts 7.3.2 and 7.3.3; and
- c) Parts 8.3.3 and 8.3.4,

but do not form part of the Network Code.

## 2 Interpretation

In these Procedures, the following words and expressions shall, unless the context otherwise requires, have the following meanings:

**"Claim"** means any claim for compensation arising out of or in connection with:

- a) Transporter Injection Imbalances;
- b) Injection Non-Compliant Gas; or
- c) Offtake Non-Compliant Gas;

**"Compensation Notice"** means a notice issued by:

- a) a Shipper in accordance with paragraph 293);
- b) a Shipper in accordance with paragraph 375);
- c) the Transporter in accordance with paragraph 384);
- d) a Shipper in accordance with paragraph 413); or
- e) the Transporter in accordance with paragraph 423);

**"Gas Licensee"** means a person who holds a licence issued by URCA pursuant to the Act;

**"Independent Expert"** means a person who:

- (a) is not a director, officer, employee or agent of URCA or a Gas Licensee; and
- (b) possesses a level of legal and commercial knowledge and expertise that can be applied to a Claim which is acceptable to URCA;

**"Panel Chairman"** means a member of the Compensation Resolution Panel appointed by URCA to act in such capacity from time to time;

“Panel Majority” means in relation to a Claim to be resolved by the Compensation Resolution Panel, a majority (in number) of the votes which have been cast by the Panel Members in favour of a resolution to the Claim;

“Panel Member” means a member of the Compensation Resolution Panel appointed by URCA from time to time;

“Panel Secretary” means a member of the Compensation Resolution Panel appointed by URCA to act in such capacity from time to time;

“Parties” means the Transporter and the Shipper or Shippers who are a party to a Claim, and “Party” shall be construed accordingly;

“Procedures” means the procedures contained herein, as the same may, from time to time, be modified pursuant to a direction of URCA.

Terms used in these Procedures which are defined in the Act or the Network Code shall have the same meaning as set out in the Act or (as the case may be) the Network Code.

The headings in these Procedures are used for ease of reference only and shall not be taken into account in construing these Procedures.

The references in these Procedures to the Network Code are made for the purposes of interpretation and reference only and no provisions in the Network Code shall (whether in whole or in part) form any part of or otherwise be incorporated howsoever into these Procedures, unless otherwise expressly stated.

### **3 Panel Resolution**

#### **3.1 General**

All Claims shall be resolved in accordance with these Procedures (“Panel Resolution”) and no party shall commence proceedings in any court in respect of or otherwise in connection with such Claim.

A Claim which is to be referred to or resolved by Panel Resolution shall be resolved by a panel composed of the Panel Chairman and Independent Experts (if any), which panel shall be referred to as the “Compensation Resolution Panel”.

In the event of a Claim:

- a) URCA shall appoint the Panel Chairman as soon as practicably after receipt of a Compensation Notice;
- b) the Panel Chairman shall determine whether two (2) Independent Experts shall be appointed to the Compensation Resolution Panel provided that where the Claim pertains to Compensation Resolution procedures, there shall be two (2) Independent Experts appointed to the Compensation Resolution Panel;
- c) if the Panel Chairman determines that two (2) Independent Experts shall be appointed to the Compensation Resolution Panel:



- (i) in the event that there are two (2) Parties to a Claim, each Party shall nominate one (1) Independent Expert within the period stipulated in part 3.2;
- (ii) in the event that there are more than (2) Parties to a Claim, the Parties shall jointly nominate the two (2) Independent Experts within the period stipulated in paragraph 3.2.1(a) of this annex;
- (iii) in the event that the Panel Chairman does not receive nominations for two (2) Independent Experts pursuant to paragraph (c)(i) or (c)(ii) ABOVE within the period stipulated in part 3.2, the Panel Chairman shall appoint the two (2) Independent Experts on behalf of the Parties within fourteen [14] Business Days).

In the event that during the hearing of a Claim, the Panel Chairman notifies URCA that he wishes to cease to be a member of the Compensation Resolution Panel or a vacancy for the Panel Chairman position otherwise arises on the Compensation Resolution Panel:

- a) if the Compensation Resolution Panel then comprises of the Panel Chairman and two (2) Independent Experts, URCA shall, by notice to the Panel Secretary, appoint another Panel Chairman;
- b) if the Compensation Resolution Panel then comprises only of the Panel Chairman, the hearing of the Claim shall be vacated and fresh proceedings commenced under a newly constituted Compensation Resolution Panel following these Procedures.

In the event that during the hearing of a Claim, an Independent Expert notifies the Authority that he wishes to cease to be a member of the Compensation Resolution Panel or a vacancy for the Independent Expert position otherwise arises on the Compensation Resolution Panel, the Panel Chairman shall, by notice to the Panel Secretary and the Parties to a Claim, appoint another Independent Expert.

### **3.2 Timetable and Procedure**

The Panel Chairman shall:

- a) within seven (7) Business Days of his appointment as Panel Chairman, notify each Party of the Claim and if required under part 3.1, shall request the Parties to submit their nomination for the two (2) Independent Experts, within seven (7) Business Days from the date of such notice;
- b) within fourteen (14) Business Days from the date of the notice under paragraph (a), establish the Compensation Resolution Panel to hear the Claim in accordance with part 3.1; and
- c) convene a hearing with the Parties (which shall, subject to part 3.3, be convened no later than seven (7) Business Days after the date of establishment of the Compensation Resolution Panel) at which the Compensation Resolution Panel shall raise any matters upon which the Compensation Resolution Panel requires clarification and, if necessary, define the Claim and give directions as to the future conduct and procedural requirements of the Claim.

The Parties shall, not later than five (5) Business Days after the hearing referred to in paragraph (c) above, submit to the Compensation Resolution Panel and to each other Party written submissions together with all supporting documentation, information and data which they wish to submit in respect of the Claim;

and the Parties may also submit to the Compensation Resolution Panel a statement of facts which has been agreed among themselves.

Each Party may, not later than ten (10) Business Days after the hearing referred to in paragraph (c) above, submit to the Compensation Resolution Panel and each other Party written submissions together with any additional supporting documentation, information and data, in reply to the submissions. At any time after the period expires, the Compensation Resolution Panel may (but shall not be required to) convene a subsequent hearing or hearings upon giving the Parties reasonable notice.

Any communications between the Parties and the Compensation Resolution Panel shall be made or confirmed in writing and a copy of such communications shall be provided simultaneously to the other Party(ies). The Compensation Resolution Panel shall disregard any documentation, information, data or submissions supplied or made by any Party later than ten (10) Business Days after the hearing referred to in paragraph (c) above unless the same are provided in response to a request from the Compensation Resolution Panel.

Each Panel Member shall be entitled to one vote and the Compensation Resolution Panel shall resolve a Claim by Panel Majority and submit its resolution (the “**Panel Resolution**”) in writing to the Parties not later than twenty (20) Business Days after the hearing referred to in paragraph (c) above or such other time as may be agreed by the Parties in writing.

The Compensation Resolution Panel may, from time to time, give such procedural directions in connection with the Claim as it sees fit. If the Compensation Resolution Panel shall wish to obtain independent professional assistance in connection with the Claim, including legal advice and/or technical advice and/or secretarial assistance:

- a) the Compensation Resolution Panel shall first provide the Parties with details of the name, organisation and estimated fees of the legal or technical adviser, or secretarial assistant (as the case may be); and
- b) the Compensation Resolution Panel may engage the legal or technical adviser, or the secretarial assistant, with the consent of the Parties (which consent shall not be unreasonably withheld) for the purposes of obtaining such advice or assistance as the Compensation Resolution Panel may reasonably require.

If any Panel Member becomes unwilling or unable to act, or does not act, on the matter in respect of which he is appointed, then URCA shall replace the Panel Member in accordance with part 3.1.

All hearings held in connection with the Claim shall be held in the Bahamas and shall only take place if all Parties have been notified in accordance with this part that such hearing is to take place.

### **3.3 Challenge of Panel Members**

Any Panel Member may be challenged if circumstances exist that give rise to justifiable doubts as to the Panel Member’s impartiality of independence.

A Party may challenge the Panel Member he nominated only for reasons he becomes aware of after the appointment has been made.

A Party who intends to challenge a Panel Member shall send a notice of challenge within fourteen (14) days after the circumstances giving rise to the challenge became known to that Party.

The notice of challenge shall be sent to URCA, the other Party(ies), and the Panel Members including the Panel Member who is being challenged. The notice of challenge shall be in writing and shall state the reasons for the challenge. URCA may order a suspension of the hearing of the Claim until the challenge is resolved.

When a Panel Member is challenged by one Party, the other Party(ies) may agree to the challenge. The challenged Panel Member may also withdraw from his office. In neither case does this imply acceptance of the validity of the grounds for the challenge. In those instances, the procedure provided in part 3.1 to appoint Panel Members shall be used to appoint the substitute Panel Member, even if a Party had failed to exercise his right to nominate during the initial process of appointing the challenged Panel Member. The time limit provided in those paragraphs shall commence from the date of receipt of the other Party's/Parties' agreement to the challenge or the challenged Panel Member's withdrawal.

If the other Party(ies) does not agree to the challenge and the Panel Member who is being challenged does not withdraw voluntarily within seven (7) days of receipt of the notice of challenge, URCA shall decide on the outcome of the challenge.

- a) If URCA sustains the challenge, a substitute Panel Member shall be appointed in accordance with the procedure provided in part 3.1 to appoint Panel Members, even if a Party failed to exercise his right to nominate during the initial process of appointing the challenged Panel Member. The time limit provided in those paragraphs shall commence from the date of the URCA's decision to sustain the challenge.
- b) If URCA dismisses the challenge, the Panel Member shall continue with the hearing.

URCA may fix the costs of the challenge and may direct who and how such costs should be borne.

URCA's decision made under this part shall be final and shall not be subject to appeal.

### **3.4 Effect of Panel Resolution**

Subject to part 6, the Panel Resolution shall be final and binding on the Parties except in the event of fraud or manifest error or failure by any Panel Member to disclose any relevant interest pursuant to part 4. Except as provided in this paragraph, no Party shall commence proceedings in respect of, or refer to any court, any findings of the Compensation Resolution Panel or the Panel Resolution in relation to a Claim.

The Panel Resolution shall be enforceable by a court of competent jurisdiction on the same basis as obligations between private parties.

## **4 Conflict of interests**

Each Panel Member shall confirm to URCA and the Parties before his appointment that he does not hold any interest or duty which would or would potentially conflict with the performance of his duties as a Panel Member or else disclose fully to the Parties any such conflict or potential conflict.

If after his appointment to the Compensation Resolution Panel, the Panel Member becomes aware of any interest or duty which conflicts or potentially conflicts with the performance of his duties as a Panel Member, the Panel Member shall inform URCA and the Parties forthwith of such conflict giving full details thereof.

Any Party may, within five (5) Business Days of the disclosure of any such conflict or potential conflict, object to the appointment or continued appointment of the Panel Member, in which case the Panel Member shall not be or shall cease to be appointed and a Panel Member shall be appointed in his place by URCA.

## 5 Costs

### 5.1 Costs of the Parties

Each Party shall bear its own costs including, without limitation, costs of providing documentation, information, data, submissions or comments under these Procedures and all costs and expenses of all witnesses and other persons retained by it.

### 5.2 Costs of the Compensation Resolution Panel

URCA shall decide on the terms of appointment, including any remuneration, disbursements, fees and other costs of the Panel Members and any professional advisers appointed by the Compensation Resolution Panel to assist in the Claims process.

- a) Any remuneration, disbursements, fees and other costs of the Panel Members and any professional advisers appointed by the Compensation Resolution Panel to assist in the Claims process shall initially be paid by the Transporter on behalf of all Shippers as and when they arise and the Transporter shall prepare a statement of such remuneration, disbursements, fees and other costs which have been paid by the Transporter at the end of each Claim.
- b) A statement issued pursuant to paragraph a) above shall, if requested by URCA, be audited by an independent accountant appointed by the Transporter and the cost of such an audit (which shall be paid by the Transporter in the first instance on behalf of all Shippers) shall be included as an additional cost item in a revised statement.
- c) The statement amount referred to in paragraph a) or the revised statement amount referred to in paragraph (b) shall be borne by and recovered from each Shipper as a debt to the Transporter in an amount determined in accordance with the following formula:

$$C_S = C_T * \left( \frac{S_{TT}}{T_{ST}} \right)$$

where:

$C_S$  is the statement amount to be paid by Shipper 's';

$C_T$  is the total statement amount;

$S_{TT}$  is the sum of the Shipper Aggregate Injection Quantity and the Shipper Aggregate Offtake Quantity

for Shipper 's' in respect of all Balancing Periods at Final Settlement in the Month to which the Claim relates; and

$T_{ST}$  is the sum of the Shipper Aggregate Injection Quantity and the Shipper Aggregate Offtake Quantity for all Shippers in respect of all Balancing Periods at Final Settlement in the Month to which the Claim relates.

The Transporter shall invoice the amounts payable by each Shipper pursuant to this part as a “**Miscellaneous Invoice**” under Part 13 of the Code.

## **6 Powers of URCA**

Notwithstanding any provisions contained in these Procedures, all Panel Resolutions shall be reviewed by URCA and following such review, URCA shall endorse, reject, reverse or modify any Panel Resolution, and such decision of URCA shall be final and binding on the Parties.

## **7 Notices**

Unless otherwise expressly provided, any document, notice or other communication to be given to or made by any person pursuant to or in accordance with these Procedures shall be in writing.

Any document (including, but without limitation, any representation, objection or report), notice or other communication may be delivered to the relevant person or sent by pre-paid registered letter, facsimile transmission or electronic mail to the address, facsimile transmission number or electronic mail address of that person specified by that person for the time being as being that person's address, facsimile transmission number or electronic mail address and shall be effective notwithstanding any change of address, facsimile transmission number or electronic mail address which is not notified by that person.

Each such document, notice or other communication shall be treated as having been given or made and delivered:

- a) if by letter, 48 hours following posting or on the fifth (5th) Business Day following posting (if sent by airmail overseas or from overseas) and in proving the same it shall be sufficient to show that the envelope containing the same was duly addressed, stamped and posted;
- b) if by hand, when left at the relevant address; and
- c) if by facsimile transmission or electronic mail upon receipt by the addressee of the complete text of the document and in proving the same it shall be sufficient to show that a successful transmission receipt has been received or the electronic mail was sent.

## **8 Rights of Parties/Exclusion of liability**

Nothing in these Procedures shall prevent any person from asserting any rights they may have under any applicable law or under the Code.

No suit or other legal proceeding shall lie against the Compensation Resolution Panel or any Panel Member, for anything which is in good faith done or not done in the purported execution of the functions, powers or duties of such office.



## Annex J –Calculation of System Wide Heating Value

This Annex sets out the method by which the System Wide Heating Value referred to in paragraph 469) is to be calculated.

If the Transporter is able to ascertain the source and proportion of gas being supplied to the Registered Shipper using network flow analysis, the applicable System Wide Heating Value shall be derived based on the results of the network flow analysis and the gas chromatograph reading(s) obtained from the relevant Transmission Network Injection Point(s) and/or Transmission Network Offtake Point(s) for the relevant Balancing Period.

In all other cases, the System Wide Heating Value Calculation shall be calculated by the Transporter in accordance with the following formula:

$$SWHV = \frac{\sum_1^n HV_{individual} * V_{individual}}{\sum_1^n V_{individual}}$$

where :

*SWHV* is the System Wide Heating Value

*HV<sub>individual</sub>* is the heating value (expressed in Btu/scf) recorded by each BPRM Meter Installation at the Transmission Network Injection Points in respect of which the Transporter has a Valid Meter Reading for the relevant Balancing Period;

*V<sub>individual</sub>* is the volume (expressed in scf) by each BPRM Meter Installation at the relevant Transmission Network Injection Point in respect of which the Transporter has a Valid Meter Reading for the relevant Balancing Period;

*n* is the number of BPRM Meter Installations at Transmission Network Injection Points in respect of which the Transporter has a Valid Meter Reading for the relevant Balancing Period.

# Annex K – Scheduled Injection and Offtake Quantities

## 1 Purpose

A Buyer of regasified LNG nominates to its Seller the quantities of regasified LNG to be delivered pursuant to a gas sales agreement between the Buyer and Seller in each Balancing Period. The Seller in turn nominates to a LNG Terminal Operator the quantities of regasified LNG to be injected in the Balancing Period by the LNG Terminal Operator into the Transmission Network. Such injection by the LNG Terminal Operator is pursuant to a Terminal Use Agreement between the Seller and the LNG Terminal Operator, and to a System Entry Agreement between the Terminal Operator and the Transporter. In respect of such quantities of regasified LNG, the relevant Shipper(s) will nominate in accordance with Part 3 for the purpose of scheduling the amount of regasified LNG to be injected and offtaken from the Transmission Network in the Balancing Period taking into account the Available Pipeline Capacity Amount of the Shipper(s) and the Seller's nominations to the LNG Terminal Operator. This Annex sets out the procedure and methodology referred to in paragraph 187) for determining the quantities of gas to be injected into, and offtaken from, the Transmission Network (and accordingly the Scheduled Injection Quantities and Scheduled Offtake Quantities for each Shipper) to be included by Transporter in the Final Operating Schedule and Revised Operating Schedule.

For the purposes of the Code:

- (a) a **“GNC Nominated Quantity”** means, in respect of a Shipper, a quantity of regasified LNG (expressed in mmBtu/Balancing Period) deemed to have been nominated by the Shipper for injection and offtake at a Transmission Network Injection Point and Eligible Offtake Point by the Shipper in each Balancing Period;
- (b) a **“GSA Nominated Quantity”** means, in respect of a Seller, a quantity of regasified LNG nominated by the Seller to a LNG Terminal Operator and accepted by the LNG Terminal Operator in accordance with a Terminal Use Agreement between them, for injection by the LNG Terminal Operator into the Transmission Network for delivery to the relevant Buyer(s) in a Balancing Period;
- (c) a **“GSA Nomination”** means a nomination (including revisions thereto) submitted by a Seller to a LNG Terminal Operator (pursuant to a Terminal Use Agreement between the Seller and the LNG Terminal Operator) in respect of a quantity of regasified LNG to be injected by the LNG Terminal Operator into the Transmission Network in a Balancing Period;
- (d) a **“Terminal Operator Scheduled Quantity”** means, in respect of a LNG Terminal Operator, a quantity of regasified LNG scheduled for injection by the LNG Terminal Operator into the Transmission Network in a Balancing Period (expressed as mmBtu/Balancing Period); and
- (e) a **“Terminal Use Agreement”** means an agreement between a Seller and a LNG Terminal Operator for the provision of LNG unloading, regasification, storage and related services by the Terminal Operator to the Seller.

For the purposes of the Code, a GSA Nomination is made by a Seller to a LNG Terminal Operator where the Seller has submitted the GSA Nomination, and the LNG Terminal Operator has accepted the GSA Nomination, in accordance with this Annex and the Terminal Use Agreement between them.

Each Seller shall use its reasonable endeavours to submit accurate GSA Nominations in accordance with



this Annex for the quantities of regasified LNG which it intends or anticipates to be injected into the Transmission Network for delivery to its Buyer(s) in each Balancing Period.

The LNG Terminal Operator shall use its reasonable endeavours to determine, and submit to the Transporter and the relevant Seller(s), accurate Terminal Operator Scheduled Quantities in accordance with this Annex.

## **2. Scheduling Procedure And Methodology**

### **2.1 GSA Nomination**

Each GSA Nomination shall specify:

- a) the identity of the Seller;
- b) the relevant LNG Terminal Operator;
- c) the Balancing Period which the GSA Nomination applies; and
- d) the GSA Number(s) of the Gas Sales Agreement(s) under which the Seller intends or anticipates a quantity of regasified LNG to be injected into the Transmission Network by the LNG Terminal Operator for delivery to the Buyer(s) under the Gas Sales Agreement(s) in the Balancing Period (such quantity being the Seller's GSA Nominated Quantity expressed as mmBtu/Balancing Period quantity). The Seller shall specify:
  - (i) in respect of each Gas Sales Agreement, the Certificate Number(s) of the Capacity Certificate(s) based on which the relevant Shipper(s) will make Nomination(s) (in accordance with Part C) for the Seller's GSA Nominated Quantity to be injected and offtaken by the Shipper(s) at the relevant Transmission Network Injection Point(s) and relevant Eligible Offtake Point(s) for delivery to the relevant Buyer(s); and
  - (ii) in respect of each Gas Sales Agreement and each Capacity Certificate, the Seller's GSA Nominated Quantity.

### **2.2 GNC Nominated Quantity**

Upon receipt by a LNG Terminal Operator of a GSA Nomination from a Seller in respect of a Balancing Period, the LNG Terminal Operator shall determine the GNC Nominated Quantity in respect of the Balancing Period and each Shipper who has made Nomination(s) (in accordance with Part 3, for regasified LNG to be injected by the LNG Terminal Operator into the Transmission Network) in the Balancing Period, provided such GSA Nomination is received no later than ninety (90) minutes before the start of the Balancing Period. The LNG Terminal Operator shall disregard the GSA Nomination provided it is received later than ninety (90) minutes before the start of the Balancing Period. The LNG Terminal Operator shall determine the GNC Nominated Quantity of the Shipper based on such Nomination(s) of the Shipper prevailing at the time such GSA Nomination is received by the LNG Terminal Operator and no later than ninety (90) minutes before the start of the Balancing Period.

### **2.3 Terminal Operator Scheduled Quantity**

Upon receipt by a LNG Terminal Operator of a GSA Nomination from a Seller in respect of a Balancing Period, the LNG Terminal Operator shall determine its Terminal Operator Scheduled Quantity in respect of the Balancing Period and the Seller, provided such GSA Nomination is received no later than ninety (90) minutes before the start of the Balancing Period. The LNG Terminal Operator shall disregard the GSA Nomination provided it is received later than ninety (90) minutes before the start of the Balancing Period. The LNG Terminal Operator shall determine such Terminal Operator Scheduled Quantity in accordance with the following methodology:

- a) the Terminal Operator Scheduled Quantity shall be based on such GSA Nomination of the Seller;  
and
- b) in respect of each Gas Sales Agreement and each Capacity Certificate specified in such GSA Nomination, if the GSA Nominated Quantity:
  - (i) is less than or equal to the GNC Nominated Quantity, the Terminal Operator Scheduled Quantity shall be set equal to the GSA Nominated Quantity; or
  - (ii) is more than the GNC Nominated Quantity, the Terminal Operator Scheduled Quantity shall be set equal to the GNC Nominated Quantity; and
- c) the LNG Terminal Operator shall inform the Seller of such Terminal Operator Scheduled Quantity not later than sixty (60) minutes before the start of the Balancing Period.

## **2.4 Regasified LNG Scheduled Injection and Offtake Quantities**

In respect of each Balancing Period and each Shipper, the quantity of regasified LNG to be injected into a Transmission Network Injection Point for offtake at an Eligible Offtake Point by the Shipper (and accordingly the Scheduled Injection Quantity and Scheduled Offtake Quantity for the Shipper) shall be determined in accordance with the following methodology:

- a) the Scheduled Injection Quantity is the sum of the Terminal Operator Scheduled Quantity prevailing at ninety (90) minutes before the start of the Balancing Period in respect of the Capacity Certificate(s) held by the Shipper between such Transmission Network Injection Point and Eligible Offtake Point;
- b) the Scheduled Offtake Quantity is the Scheduled Injection Quantity multiplied by the Network Shrinkage Factor;
- c) such Scheduled Injection Quantity and Scheduled Offtake Quantity shall be determined by each LNG Terminal Operator and the Transporter respectively; and
- d) each LNG Terminal Operator shall inform the Transporter of such Scheduled Injection Quantity not later than sixty (60) minutes before the start of the Balancing Period.