



Irish Offshore  
Operators'  
Association

## Irish Offshore Operators' Association

Suite No. 2119, Fitzwilliam Business Centre, 26, Upper Pembroke Street, Dublin 2, Ireland  
Tel: +353 1 637 3996 Fax + 353 662 0365 Email: [info@iooa.ie](mailto:info@iooa.ie) Website: [www.iooa.ie](http://www.iooa.ie)

---

Mr. Andrew Kelly,  
Gas Networks Ireland,  
Gasworks Road,  
Cork

14 September 2016

By email: [Andrew.kelly@gasnetworks.ie](mailto:Andrew.kelly@gasnetworks.ie); [marketdevelopments@gasnetworks.ie](mailto:marketdevelopments@gasnetworks.ie)

**Re: Code Modification Proposal A078: *Overrun Charges at Domestic Entry Points***

Dear Andrew ,

IOOA welcomes the opportunity to respond to Code Modification Proposal A078. Please note this response is not confidential.

For the avoidance of doubt, IOOA supports implementation. Based on experience in other markets and the clear direction set in EU energy legislation, capacity allocation and utilisation arrangements are key areas in the design and effective operation of competitive energy markets. In particular, as well as ensuring that all capacity is brought to market on non-discriminatory terms, it is also crucial to ensure the existence of ex-ante rules aimed at mitigating any subsequent attempt at capacity hoarding.

This realisation is not new to the Irish market or Irish market participants - the Code of Operations already contains anti-capacity hoarding measures for application at domestic entry points (see paragraphs 1.2 and 1.3 of Section C). In part, this may be due to the fact that it drew upon the content of similar Codes and lessons of market development elsewhere and recognized the need for such provisions.

With regards to A078 itself, IOOA sees it as an interim measure. Its sole purpose is to give immediate effect to the existing anti-capacity hoarding measures in the Code of Operations. In the longer run, we would support continued industry discussion to identify a more enduring solution rather than relying on adjustments to the applicable overrun charge.

It is also important to note that the proposal does not seek to take capacity rights away from parties. Rather A078 is predicated on bringing booked but unutilised capacity back to market (in other jurisdictions this may be done by making the capacity available on an interruptible basis). Even then, the proposal would only apply in the event that all original capacity has been booked.

On the basis of the above, justification for A078 would appear self-evident. Indeed, in other markets a proposal to ensure that effective *Use-It-Or-Lose* (UIOLI) rules were in place would be seen as sensible and non-contentious. IOOA was therefore surprised at the nature of discussions at the recent Code Modification Forum (some of those present may be involved in similar discussions in other markets but possibly take a different view). In summary:

---



## Irish Offshore Operators' Association

Suite No. 2119, Fitzwilliam Business Centre, 26, Upper Pembroke Street, Dublin 2, Ireland  
Tel: +353 1 637 3996 Fax + 353 662 0365 Email: [info@iooa.ie](mailto:info@iooa.ie) Website: [www.iooa.ie](http://www.iooa.ie)

---

Irish Offshore  
Operators'  
Association

- We do not believe it appropriate to suggest that trying to place other market participants in the position of distressed purchasers (of capacity) is a legitimate market activity - it is not and we consider it deeply worrying that anyone would apparently think otherwise;
- References to competition law as a means of dealing with capacity hoarding miss a fundamental point: one of the key functions of the Code of Operations (as with similar Codes elsewhere) is to try and prevent constant and expensive recourse to the courts, in this case by ensuring non-discriminatory access to capacity and anti-capacity hoarding rules as first line of defence; and
- The fact that some market participants consider that capacity hoarding is an unattractive option is simply not good enough for IOOA or indeed the credibility of Irish market arrangements. Several of our members will have invested billions of euros in the Irish market and they need more than the commercial judgement of others that in all circumstances they will not be held to ransom in trying to get their gas to market. Indeed, if parties really believed this line of argument, they should logically be more than happy to agree to any Code compensation provisions on the basis that they would never be invoked.

With regards to the applicable overrun charge, following discussions at the recent Code Modification Forum IOOA considers that it may be appropriate to reconsider the proposal to set it at 1/365th of the applicable annual entry charge. Taking on board comments made at the meeting with regards to multipliers, there *may* be merit in considering setting the proposed overrun charge equivalent to the level of the multiplier applicable at the time. However, a significant consideration in any such move would be the extent to which any capacity made available was interruptible or firm.

As a final comment and for the avoidance of doubt, please note that IOOA is asking for nothing more than an existing Code provision to be enforced. Any subsequent decision not to approve A078 would potentially raises fundamental questions regarding the role, reliability and certainty offered by the Code of Operations.

I trust that you have found these comments useful. Please do not hesitate to contact me should you have any questions or further clarification is required.

Yours sincerely,

Brian McGlinchey  
Chairman IOOA Gas Sub-Committee and on behalf of:

AzEire Petroleum  
Cairn Energy,  
Eni,  
Faroe Petroleum,  
Fastnet Oil & Gas,  
PSE Kinsale Energy,

---



## Irish Offshore Operators' Association

Suite No. 2119, Fitzwilliam Business Centre, 26, Upper Pembroke Street, Dublin 2, Ireland  
Tel: +353 1 637 3996 Fax + 353 662 0365 Email: [info@iooa.ie](mailto:info@iooa.ie) Website: [www.iooa.ie](http://www.iooa.ie)

---

Irish Offshore  
Operators'  
Association

Kosmos Energy,  
Lansdowne Oil & Gas,  
Providence Resources,  
Repsol,  
San Leon Energy,  
Serica Energy,  
Shell,  
Statoil,  
Vermilion Energy Ireland,  
Woodside.

Cc: Patrick Shannon Chairman IOOA  
IOOA Management Committee  
IOOA Gas Sub-Committee  
Karen Trant CER ([ktrant@cer.ie](mailto:ktrant@cer.ie))  
Colm O'Gormain CER ([cogormain@cer.ie](mailto:cogormain@cer.ie) )