

## CODE MODIFICATION A071

### Proposed Legal Drafting to give effect to Code Modification A071 as directed by the Commission for Energy Regulation

1. Part A (*Definitions*) shall be amended by the inclusion of the following new ~~Definitions of Capacity Charge Rebate~~ as follows:

"Affected Entry Point" has the meaning given to it in Part G (Technical) Section 5.10.2;

"Affected IP Entry Point" has the meaning given to it in Part G (Technical) Section 5.10.2;

"Capacity Charge Rebate" has the meaning given to it in Part G (*Technical*) (Section 5.10.1).

2. Part G (*Technical*) Section 5 shall be amended as set out in the attached Part G (*Technical*) Section 5.
3. Part H (*Operations*) shall be amended as follows:

Section 2.3.1 shall be amended as follows:

2.3.1 "**Restricted Capacity Day**" means a Day declared by the Transporter on which a Shipper is unable to deliver to the Transportation System or offtake from the Transportation System its Nominated Quantity, IP Nominated Quantity, Renominated Quantity or IP Renominated Quantity, as the case may be, including as a result of Maintenance and where:

- (a) there is reduced capacity on the Transportation System or any localised part thereof for reasons of physical or operational constraint, or
- (b) the inability to deliver or offtake is at an Interconnection Point which is Contractually Congested and the Transporter anticipates that it may not be in a position to buyback capacity from Shippers at all or in sufficient quantities or within an appropriate time period.

2.3.2 The Transporter may declare a Restricted Capacity Day and instruct each Shipper affected by the Restricted Capacity Day by issuing an OFO(s) and each Shipper shall be required to comply with an OFO in accordance with its terms.

2.3.3 The Transporter may issue an OFO(s) before and/or during a Restricted Capacity Day and shall specify in any such OFO if the Restricted Capacity Day is due to Maintenance at an Entry Point or at an IP Entry Point.

4. Part I (*Legal and General*) Section 2.4 shall be amended as follows:

2.4 Subject to Sections 2.15, 2.1, 2.3, 2.12.1 and 9.4.7 (and other than as expressly provided in ~~Part C (Capacity) Section 4.4 (Back Up Capacity Charges)~~~~Part G (Technical) Section 5.10 (Capacity Charge Rebate)~~ and in Part G (*Technical*) Section 1.5 (*Off-Spec Gas*)), under no circumstances shall the Transporter be liable to a Shipper under this Code and/or the Framework Agreement and/or any Ancillary Agreement entered into by the Shipper for any loss or damage howsoever arising and by whomsoever caused whether for breach of contract, tort or generally at common law, equity or otherwise howsoever else arising in respect of the Transporter's acts or omissions, (whether under this Code and/or the Framework Agreement and/or any applicable CSA, Interconnection Agreement or IP OBA Provisions and/or any Ancillary Agreement entered into by the Shipper) (including, for the avoidance of doubt, in respect of any liability which may otherwise arise in respect of any incorrect, incomplete or inaccurate information) save for:

2.4.1 Transmission System Shrinkage Gas Costs payable by a Shipper to the extent that such costs have arisen solely as a result of the failure of the Transporter to act as a Reasonable and Prudent Operator provided that the Transporter's liability for such costs in any one Gas Year shall not exceed the total limitation sum of twenty five thousand three hundred and ninety five Euro (€25,395) (adjusted annually in accordance with CPI). For the avoidance of doubt, the Transporter shall have no liability to any Shipper in respect of any Distribution System Shrinkage Costs in respect of any period of time during which such costs are included in the Tariff;

2.4.2 any losses incurred by a Shipper directly arising from a failure by the Transporter to act as a Reasonable and Prudent Operator (i) in performing its obligations under this Code and/or any Ancillary Agreement or any Interconnection Agreement to accept quantities of Natural Gas made available for delivery to the Transportation System by or for a Shipper in accordance with the terms of this Code and/or any Ancillary Agreement and/or (ii) in performing its

obligations under this Code and/or any Ancillary Agreement to make Natural Gas available for offtake by a Shipper in accordance with the terms of this Code and/or any Ancillary Agreement other than quantities of Natural Gas to be offtaken pursuant to Interruptible CSEP Exit Nominations or IP Nominations which are Interruptible in accordance with this Code, provided that:

- (a) the Transporter's liability for such losses shall be subject to a minimum period of continuous interruption of fifteen (15) minutes (and disregarding any such period of interruption for operational reasons and/or in accordance with any applicable Interconnection Agreement) in the case of any such failure of the Transporter in relation to an Interconnection Point, an Entry Point connected to the Transmission System, a LDM Exit Point or the Sub-Sea I/C Offtake;
- (b) the Transporter's liability for such losses shall be subject to a minimum period of continuous interruption of fifteen (15) minutes (following notification by a Shipper) in the case of any such failure of the Transporter in relation to a TCDM Exit Point and provided further that any such liability shall not exceed the amount of Capacity Charges which the Transporter calculates as being payable by the Shipper in relation to DM Exit Capacity held by the Shipper in respect of the affected TCDM Exit Point on the Day(s) on which the continuous interruption of fifteen (15) minutes occurs and on the basis of such Capacity Charges being calculated as being payable on a daily basis;
- (c) the Transporter's liability for such losses shall be subject to a minimum period of continuous interruption of forty eight (48) hours (following notification by a Shipper) in the case of any such failure by the Transporter in relation to a Supply Point and provided further that where the continuous interruption continues in excess of forty eight (48) hours any such liability shall not exceed the amount of Capacity Charges which the Transporter calculates as being payable by the Shipper in relation to the affected Supply Point Capacity held by the Shipper in respect of such Supply Point for any period of continuous interruption which exceeds forty eight (48) hours and on the basis of such Capacity Charges being calculated as being payable on a daily basis; and

- (d) the Transporter's liability to each Shipper in respect of each incident (or series of related incidents) arising as a result of a failure by the Transporter to act as a Reasonable and Prudent Operator (and taking into account and including such other liabilities as the Transporter may be liable for, to such Shipper under this Code and/or any Ancillary Agreement in respect of any such incident (or series of related incidents)) shall not exceed a total limitation sum of one hundred and twenty six thousand nine hundred and seventy four Euro (€126,974) (adjusted annually in accordance with CPI); and

2.4.3 any losses incurred by a Shipper directly arising as a result of the Wilful Misconduct of the Transporter (i) in performing its obligations under this Code and/or any Ancillary Agreement to accept quantities of Natural Gas made available for delivery to the Transportation System by a Shipper in accordance with the terms of this Code and/or any Ancillary Agreement and/or (ii) in performing its obligations under this Code and/or any Ancillary Agreement to make Natural Gas available for offtake by a Shipper in accordance with the terms of this Code and/or any Ancillary Agreement, other than Natural Gas nominated for offtake pursuant to Interruptible CSEP Exit Nominations, Natural Gas nominated pursuant to IP Nominations which are Interruptible in accordance with this Code provided that:

- (a) the Transporter's liability for such losses shall be subject to a minimum period of continuous interruption of fifteen (15) minutes (and disregarding any periods of interruption for operational reasons and/or interruption as contemplated by any applicable Interconnection Agreement) in the case of any such failure of the Transporter in relation to an IP Entry Point or Entry Point connected to the Transmission System, a LDM Exit Point or the Sub-Sea I/C Offtake;
- (b) the Transporter's liability for such losses shall be subject to a minimum period of continuous interruption of fifteen (15) minutes (following notification by a Shipper) in the case of any such failure of the Transporter in relation to a TCDM Exit Point and provided further that any such liability shall not exceed the amount of Capacity Charges which the Transporter calculates as being payable by the Shipper in relation to DM Exit Capacity held by the Shipper in respect of the affected TCDM Exit Point on the Day(s) on which the continuous interruption of fifteen (15)

minutes occurs and on the basis of such Capacity Charges being calculated as being payable on a daily basis;

- (c) the Transporter's liability for such losses shall be subject to a minimum period of continuous interruption of forty eight (48) hours (following notification by a Shipper) in the case of any such failure by the Transporter in relation to a Supply Point and provided further that where the continuous interruption continues in excess of forty eight (48) hours any such liability shall not exceed the amount of Capacity Charges which the Transporter calculates as being payable by the Shipper in relation to the affected Supply Point Capacity held by the Shipper in respect of such Supply Point for any period of continuous interruption which exceeds forty eight (48) hours and on the basis of such Capacity Charges being calculated as being payable on a daily basis; and
- (d) the Transporter's liability to each Shipper in respect of each incident (or series of related incidents) arising as a result of the Wilful Misconduct of the Transporter (and taking into account and including such other liabilities as the Transporter may be liable for, to such Shipper under this Code and/or any Ancillary Agreement in respect of such incident (or series of related incidents)) shall not exceed a total limitation sum of four hundred and forty four thousand four hundred and eight Euro (€444,408) (adjusted annually in accordance with CPI).

5. Amend Part I (*Legal and General*) Section 11.3.6 by inserting a new 11.3.6 (p) as follows::

(p) any applicable Capacity Charge Rebate