

## NATIONAL GRID NTS

### REMIT ARTICLE 4 – FREQUENTLY ASKED QUESTIONS (ISSUE 2, July 2020)

#### **IMPORTANT NOTICE**

***This Frequently Asked Questions (FAQs) document does not constitute legal advice. It is the responsibility of each market participant to satisfy itself as to its compliance with its obligations under REMIT (Regulation (EU) No 1227/2011<sup>1</sup>).***

***Furthermore, National Grid Gas Plc (National Grid) will always assess its REMIT Article 4 obligations on a case by case basis, and nothing in these FAQs is to be construed as binding National Grid to a particular course of action or as restricting or fettering National Grid's discretion to decide how best to discharge its obligations in any particular set of circumstances.***

***Finally, National Grid accepts no responsibility or liability for anything contained in these FAQs, and to the fullest extent permitted by law excludes liability for all and any loss or damage (direct or indirect, consequential, special or otherwise) suffered by any person firm or company placing reliance on any of the statements made in these FAQs.***

As Gas System Operator in Great Britain, National Grid is asked questions from time to time about our approach to REMIT (Regulation (EU) No 1227/2011), and in particular the public disclosure obligation in REMIT Article 4 insofar as it relates to the National Transmission System (NTS).

These FAQs seek to assist our stakeholders and market participants more generally by outlining our general approach to the discharge of our obligations under REMIT Article 4 in relation to the NTS. Whilst National Grid has prepared these FAQs in good faith, for a definitive statement of obligations under REMIT reference should always be made to REMIT itself and its Implementing Regulations<sup>2</sup>, as well as associated UK Statutory Instruments<sup>3</sup>, together with associated guidance issued by Ofgem<sup>4</sup> and ACER<sup>5</sup>. If in doubt, market participants should always seek their own legal advice.

National Grid may update or withdraw these FAQs from time to time at its discretion.

<sup>1</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32011R1227&from=EN>

<sup>2</sup> Commission Implementing Regulation (EU) No 1348/2014 of 17<sup>th</sup> December 2014 on data reporting implementing Article 8(2) and Article 8(6) of Regulation (EU) No 1227/2011 of the European Parliament and of the Council on wholesale energy market integrity and transparency (<https://eurlex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32014R1348&from=EN>)

<sup>3</sup> The Electricity and Gas (Market Integrity and Transparency (Enforcement etc.) Regulations 2013 and The Electricity and Gas (Market Integrity and Transparency (Criminal Sanctions) Regulations 2015

<sup>4</sup> <https://www.ofgem.gov.uk/publications-and-updates/ofgem-open-letter-remit-inside-information>

<sup>5</sup> <https://documents.acer-remit.eu/wp-content/uploads/5th-Edition-ACER-Guidance.pdf>. Please note that ACER's guidance document is updated from time to time.

**Q: What approach does NG NTS adopt to the discharge of its obligations under REMIT Article 4?**

**A:** We treat our obligation to make timely and effective disclosure as applying whenever we possess *inside information* which relates to a business or facilities which we, or our parent undertaking or related undertaking, owns, controls or operates, whether in whole or in part. In most day-to-day cases, this will therefore extend to our NTS pipeline network in Great Britain and associated operational assets.

**Q: What about the gas terminals, including the interconnectors?**

**A:** These terminals do not form a part of the NTS, and neither we nor any parent or related undertaking has any ownership or control of, or operational responsibility for, any of them. We would therefore envisage that the operators of those terminals would either make their own Article 4 disclosures or facilitate publication of *inside information* on behalf of their own stakeholder market participants in accordance with ACER guidance.

**Q: What about the gas distribution networks?**

**A:** Similarly, the gas distribution networks do not form a part of the NTS, and neither we nor any parent or related undertaking has any ownership or control of, or operational responsibility for, any of them.

**Q: How do you judge whether an NTS unplanned asset outage is *inside information* that should be the subject of an Article 4 disclosure, and in particular, how do you assess likely impact on prices?**

**A:** We apply the *inside information* conditions in REMIT, notably by assessing whether the outage information is of a sufficiently precise nature, whether it has already been made public, and whether, if made public, it would be likely to significantly affect the prices of wholesale energy products.

When assessing likely impact on prices, in general terms we will initially consider and judge whether the outage can be expected to have an effect on end of day (EOD) notified flows in and out of the NTS.

We may form the view that those EOD notified flows will not be impacted, for example because of the immaterial nature of the outage or its impact, or because we believe we can quickly get the asset back into service. In such a case, our assumption will ordinarily be that (absent of other relevant factors) the underlying asset outage will be unlikely to have any significant effect on wholesale market prices, and that in consequence we will not be in possession of *inside information* which requires public disclosure.

Conversely, where our judgement is that EOD notified flows may be affected by the outage, then we would expect to be taking operational/commercial actions to manage those flows, including scaling back interruptible/offpeak capacity. Where by doing so we can manage EOD notified flows consistent with sold firm contracted capacity levels, then as above, our assumption will ordinarily be that (absent of other relevant factors) the underlying asset outage will be unlikely to have any significant effect on wholesale market

prices, and that in consequence we will not be in possession of *inside information* which requires public disclosure.

If, however, despite taking such operational/commercial actions, we determine that EOD notified flows cannot be maintained to sold firm contracted levels, then we would expect to be taking further constraint management actions, for example locational trading and/or firm capacity buy backs, and ultimately Terminal Flow Advice (TFA) notifications for Entry Points may be required. In such circumstances, our assessment may be that the information, if made public, would likely have a significant effect on wholesale market prices, in which case we will consider ourselves to be in possession of *inside information* which requires public disclosure.

It should be stressed that all scenarios are different, and in assessing whether a particular unplanned outage is inside information that should be the subject of an Article 4 disclosure, we will take into account all relevant circumstances, and of course ACER guidance. For example, we will consider whether the same magnitude of impact on EOD notified flows has previously had any effect on wholesale market prices, and we will also seek to be consistent in terms of similar events, which we have previously treated as *inside information*.

As a market participant, we do of course trade on the wholesale markets for a range of products, and are well placed to make these assessments.

**Q Do you apply an indicative threshold when deciding whether to make an Article 4 disclosure?**

**A:** We appreciate that even a relatively small effect on EOD notified flows could have a significant consequential impact on wholesale market prices, depending on system conditions. For this reason, for any unplanned outage which we judge will restrict EOD notified flows to the extent that sold firm contracted capacity levels cannot be maintained, to whatever degree, we will always seek to assess the likely impact on wholesale market prices.

Whilst we have historically adopted an indicative 20mcm threshold to EOD notified flow impact, above which we will assume a significant impact on wholesale market prices and will expect to make an Article 4 disclosure, we are very mindful that both ACER and Ofgem have declined to stipulate indicative thresholds. Our own view, for the reason given above, is that the adoption of any indicative threshold should not preclude assessment of impact on wholesale market prices where the threshold is not reached.

Accordingly, whilst we are aware that some market participants may adopt a lower threshold, our view is that any threshold should be indicative only, above which an Article 4 disclosure will generally be made, and below which an Article 4 disclosure may be made depending on the assessment of impact on wholesale market prices.

**Q: Do you contemplate making an Article 4 disclosure where notified end of day flows are at risk because of challenging supply and demand patterns, rather than a specific unplanned NTS asset outage?**

**A:** We note that, according to REMIT, the Article 4 disclosure obligation applies to any information relating to the market participant's business or facilities, and information is itself defined in wide terms as incorporating information relating to the capacity and use of facilities (including planned or unplanned outages of those facilities).

Accordingly, if we judge that supply and demand patterns on the NTS are such that EOD notified flows cannot be maintained to sold firm contracted levels after taking operational/commercial actions and/or scaling back interruptible/off peak capacity, then our assessment may be that information, if made public, would likely have a significant effect on wholesale market prices, in which case we will consider ourselves to be in possession of *inside information* which requires public disclosure.

Where supply and demand patterns on the NTS are made challenging by a planned or unplanned outage of the assets of a third party, such as a terminal operator, then we would expect that third party to comply with its own REMIT obligations, which may extend to making or facilitating Article 4 disclosures if that outage is assessed by the relevant market participant as *inside information*.

**Q: Where do you publish Article 4 inside information?**

**A:** We will publish all Article 4 *inside information* on the GB REMIT Central Collection and Publication Service: <https://www.remit.gb.net/>