



Annex

A19.01 Non Customer Funded Pipeline Diversions

December 2019

As a part of the NGGT Business Plan Submission

This annex addresses the requirement set out in section 6.28 of Ofgem's Sector-specific methodology decision: *'6.28: As part of NGGT's well justified business plan we expect an explanation of all of the relevant circumstances that give rise to non-customer funded diversions for our consideration'*.

Background

1. For every high pressure (> 7 Barg) transmission pipe section, in each piece of land under separate ownership, National Grid strives to hold a Deed of Grant of Easement (England and Wales – Deed of Grant of Servitude in Scotland, "the Deeds") with each of the separate land owners. National Grid has inherited the majority of the Transmission network with the associated legal rights. The Deeds confer a legal right in perpetuity allowing National Grid to construct, inspect, and maintain its pipelines. The easement is usually granted with a one-off capital payment, but also contains terms which indemnify the Grantor, the Landowner, against all future substantiated losses arising from the exercise of the rights.
2. A landowner may obtain consent to develop over or mine minerals beneath a National Transmission System (NTS) asset. The Deed protects the asset from such development/mining operation and provides the landowner with the right to claim compensation for any quantifiable and justifiable losses as a result of the asset. (Quarry and Loss claim).

Customer Funded Pipeline Diversions

3. In the case of roads or railway developments, we are usually approached directly by a third-party customer (for example the Highways Agency) to facilitate a diversion or protection of our pipeline.
4. The Deed of Grant, and the terms and restrictions that it contains, is a legal agreement between National Grid and the Grantor (the landowner) and as such applies to these parties only. Therefore, third-party customers are not covered by the terms of the Deed and all costs associated with the diversion would be recharged to the third-party customer on a cost pass-through basis.
5. This type of diversion is known as a customer funded pipeline diversion.

Non-Customer Funded Pipeline Diversions

6. There are some occasions where the cost of a pipeline diversion cannot be recharged. These are known as non-customer funded pipeline diversions.
7. Non-customer funded pipeline diversions can arise when;
 - National Grid discharge liability for a Quarry and Loss revenue claim by choosing to divert the asset where this is the most economic option, rather than pay compensation; or,

- Where legacy Deeds exist entered into by one of National Grid’s predecessors that have bespoke liabilities that require National Grid, at the request of the Grantor, to pay for pipeline protection and/or diversion to enable land development.

8. With regards to non-customer funded pipeline diversions as a result of a Quarry and Loss claim, National Grid assess the claim to evaluate the value of loss and whether it is more cost effective to pay compensation, divert, protect or decommission the pipeline. Our approach is to respect the legal rights of owners upon whose land our assets are situated, while protecting the commercial interests of wider users of the gas transmission system. These users include gas consumers who ultimately pay the cost of non-customer funded diversions through transmission charges.
9. With regards to Legacy Deeds, these pre-existing consents mean that the normal arrangements that protect our pipelines from development, and which give us sufficient foresight, are effectively by-passed. These liabilities require us to develop and deliver the pipeline diversion at our expense and/or pay compensation to the land owner to mitigate against any loss of development caused by the presence of the pipeline. In addition, there may be other onerous conditions that place a legal obligation on National Grid, for example, to adhere to tighter timescales than would normally be expected for pipeline diversion works.
10. Costs incurred for a non-customer funded pipeline diversion that is undertaken as part of a Quarry and Loss claim will be recovered through the Quarry and Loss Uncertainty Mechanism (provided the materiality threshold is reached).
11. Costs incurred for a non-customer funded pipeline diversion that is related to a Legacy Deed will be recovered through the Pipeline Diversions Uncertainty Mechanism.
12. The below diagram illustrates the difference between customer and non-customer funded pipeline diversions:

