

## DCP 385 'No Retrospective Capacity Reductions'

### Draft Legal Text

Add new Clause 12.1~~23~~A to Section 3 of Schedule 2B as follows:

#### General

12.12 Except where a variation requires a Modification, either Party may propose a variation to the Maximum Import Capacity and/or Maximum Export Capacity by notice in writing to the other Party. The Company and the Customer shall negotiate in good faith such a variation, but where it is not agreed section 23 of the Act may entitle either Party to refer the matter to the Authority.

12.13 Any reduction in the Maximum Import Capacity or the Maximum Export Capacity pursuant to Clause 12.12 shall, where the Parties have within the preceding 12 months agreed the Maximum Import Capacity or the Maximum Export Capacity (as applicable), only take effect following the expiry of 12 months from the date of such previous agreement (unless the Company expressly agrees otherwise).

12.13A No reduction in the Maximum Import Capacity or the Maximum Export Capacity pursuant to Clause 12.12 shall have effect prior to the first day of the month following the date of the notice properly given under Clause 12.12, stating the required capacity (being, if the reduction initially requested is not agreed, the request for the reduction which is subsequently agreed).

12.14 For the avoidance of doubt, all notices under this Clause 12 shall be sent, and shall be deemed to be served and received, in accordance with Clause 23.

Add new Clause 13.7~~6~~A to Section 4 of Schedule 2B as follows:

13.6 Except where a variation requires a Modification, either party may propose a variation to the Maximum Import Capacity and/or Maximum Export Capacity by notice in writing to the other Party. The Company and the Customer shall negotiate in good faith such a variation, but where it is not agreed section 23 of the Act may entitle the Customer to refer the matter to the Authority.

13.7 Any reduction in the Maximum Import Capacity or the Maximum Export Capacity pursuant to Clause 13.6 shall, where the Parties have within the preceding 12 months agreed the Maximum Import Capacity or the Maximum Export Capacity (as applicable), only take effect following the expiry of 12 months from the date of such previous agreement (unless the Company expressly agrees otherwise).

13.7A No reduction in the Maximum Import Capacity or the Maximum Export Capacity pursuant to Clause 13.6 shall have effect prior to the first day of the month following the date of the notice properly given under Clause 13.6, stating the required capacity (being, if the reduction initially requested is not agreed, the request for the reduction which is subsequently agreed)."