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Subject

BBLC's response to consultation on UNC Modification Proposal 0729 – "Applying a discount to the Revenue Recovery Charge at Storage Points"

BBLC welcomes the opportunity to respond to this consultation.

BBLC does not support implementation of this proposal.

The Proposer's primary justification for making the proposed changes to the UNC and National Grid Transmission's (NGG) transportation charges is to:

- ensure compliance with the EU Tariff Code (TAR), and
- avoid cross-subsidisation.

BBLC does not consider that the Proposal meets either of these stated aims and as such the Proposal does not meet the relevant objectives.

BBLC does not consider that the Proposal has any material impact on relevant objectives a, b, c, e or f.

Relevant objective g) Compliance with the Regulation and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators.

During the latter stages of the lengthy industry discussions over establishing TAR compliant arrangements in Great Britain Ofgem stated in its "*UNC678/A/B/C/D/E/F/G/H/I/J: Amendments to Gas Transmission Charging Regime - minded to decision and draft impact assessment*" document that only two, out of the multiple alternative Proposals, were compliant with the TAR – 0678 and 0678A: neither of these two UNC Proposals proposed a storage related discount to revenue recovery charges. None of the other Proposals, including those that included specific Revenue Recovery Charge (RRC) discounts for storage sites, were considered to be TAR compliant. Thus, if Ofgem considered that a specific storage related discount to the proposed RRC methodology was

necessary in order for the GB market tariff arrangements to comply with TAR then neither 0678 nor 0678A would have been deemed compliant and as such would not have met the relevant objectives. Both would, therefore, have been rejected by Ofgem. Ofgem directed that Modification Proposal 0678A should be implemented; this demonstrates that Ofgem did not consider that TAR mandates a storage related discount on revenue recovery charges. Indeed, BBLC notes that the above Ofgem document also states that *“beyond exclusion of Existing Contracts from RRCs, we consider that any alternative arrangements for revenue recovery exclusions (importantly, which are not mandated by the TAR NC) could act as a form of discrimination.”*

Article 9 of TAR states that *“A discount of at least 50 % shall be applied to capacity-based transmission tariffs at entry points from and exit points to storage facilities”*. However, BBLC notes that Art.9 specifically limits the application of this discount to *“capacity-based transmission tariffs”*. BBLC also notes that Chapter One - Article 3 “Definitions” of the accompanying TAR implementation document “Implementation Document for the Network Code on Harmonised Transmission Tariff Structures for Gas - Second Edition”, published by ENTSOG adds further clarity to the definition of the term - ‘capacity-based transmission tariffs’. Chapter One - Article 3 of this document states that TAR incorporates, and applies, the definitions set out in the Gas Directive, Regulation and the other EU network Codes. This ENTSOG document further clarifies that ‘capacity-based transmission tariffs’ are derived from ‘reference price’ which in turn is derived from applying the Reference Price Methodology (RPM). It also states that reference prices are used to calculate reserve prices and that *“Such reserve prices are the capacity-based transmission tariffs for standard capacity products established by Article 9 of the CAM NC”*. BBLC therefore consider that the definition of ‘capacity-based transmission tariffs’ is limited and does not extend to include tariffs such as NGG’s Revenue Recovery Charge.

Modification Proposal 0729 also refers to TAR Art.20 which provides for the reconciliation of allowed revenue. BBLC notes that TAR also envisages how such under or over-recovery could be managed and which industry parties should be involved. TAR Art.4 refers to recovering a part of the transmission services revenue through a Revenue Recovery Charge. TAR describes this “complementary revenue recovery charge” as one for managing under or over-recovery of revenue. TAR goes on to define that such tariffs should be applied at all points other than Interconnectors and calculated on the basis of forecasted or historical capacity allocations and flows, or both. BBLC notes that TAR does not exempt, nor mandate a reduction for, storage sites from this defined revenue reconciliation mechanism.

As a consequence, BBLC believes that the Proposer’s assertion that the changes proposed within Modification Proposal 0729 are required in order to comply with TAR is not correct and therefore the Proposal does not further relevant objective (g) ‘Compliance with the Regulation and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators’.

Relevant objective d) Securing of effective competition.

BBLC considers that Interconnectors, along with other parties such as LNG importation facilities and demand-side response providers, are in direct competition with storage operators for the provision of flexibility and security of supply (SOS) services to NGG. The 0678 related CEPA report¹ modelling identified a causal link between applying tariff discounts at storage sites and reductions in bi-direction interconnector revenues. Ofgem also previously confirmed in several of its documents, including its decision to derogate BBL Company (BBL) from certain Articles of Commission Regulation (EU) 2017/460², that Interconnectors, LNG facilities and storage facilities are in direct competition as alternative providers of gas supply and network flexibility. Therefore, BBLC concurs with Ofgem's view, stated in its UNC Proposal 0678 'minded to' document referred to above³, that excluding storage connection points from, or in this case providing a discount to, revenue recovery charges could act as a form of undue discrimination unless objectively justified. Without a clear TAR obligation for such discounts to be applied BBLC does not consider that 0729 provides such justification when measured against other flexibility and SOS providers and as such the Proposal does not further this relevant objective.

BBLC believes that providing tariff discounts solely to one flexibility / SOS provider, coupled with recovering at least some part of the associated under-recovered revenue from its competitors, undermines competition. Therefore, if the transportation tariff discount proposed in 0729 is deemed to be justified on the basis of the services provided by storage sites then BBLC considers that such discount should also be extended to other parties that provide the same or similar services to NGG.

BBLC notes that the magnitude of market / competition distortion, potentially created by introducing a discount to RRC for storage sites only, depends on the materiality of the revenue redistributed via the RRC process. Given the fundamental changes to the GB charging regime to be introduced by Modification 0678A, BBLC believes that it is impossible to forecast the magnitude of such distortion at this time. However, to the extent that the new charging regime coupled with this Proposal does result in future revenue recovery re-distributional effects that are beneficial to storage sites then this Proposal can be seen to be potentially discriminatory and also creates a subsidy between storage and non-storage Users. BBLC therefore considers that the Proposal it is at odds with this relevant objective.

In conclusion, BBLC believes that Modification Proposal 0729 is not required to ensure compliance with the EU Tariff Code and were it to be implemented BBLC considers that the Proposal would unduly discriminate against non-storage providers of flexibility services and thus be anti-competitive.

Yours sincerely,

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Regulatory Affairs

¹ https://www.ofgem.gov.uk/system/files/docs/2020/05/cepa_unc678_analytical_report.pdf

² https://www.ofgem.gov.uk/system/files/docs/2019/01/190118_ofgem_bbl_derogation_decision.pdf

³ UNC678/A/B/C/D/E/F/G/H/I/J: Amendments to Gas Transmission Charging Regime - minded to decision and draft impact assessment – Ofgem publication.