











| UNC Final Modification Report | At what stage is this document in the process? |
|--|---|
| <h1>UNC 0746:</h1> <h2>Application of Clarificatory change to the AQ amendment process within TPD G2.3 from 1st April 2020</h2> | <div>01 Modification</div> <div>02 Workgroup Report</div> <div>03 Draft Modification Report</div> <div>04 Final Modification Report</div> |
| <p>Purpose of Modification:</p> <p>Following the implementation of UNC 0736S Clarificatory change to the AQ amendment process within TPD G2.3 this modification applies the change to all relevant transactions which occurred from 01 April 2020</p> | |
|  | <p>The Panel does not recommend implementation.</p> |
|  | <p>High Impact: Shippers</p> |
|  | <p>Medium Impact: Transporters</p> |
|  | <p>Low Impact: Customers</p> |

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| Timetable | |  0121 288 2107 |
| Modification Timetable: | | Proposer: Steve Mulinganie |
| Modification consideration by Panel | 17 September 2020 |  enquiries@gasgovernance.co.uk |
| Initial consideration by Workgroup | 24 September 2020 |  steve.mulinganie@gazprom-energy.com |
| Workgroup Report presented to Panel | 17 June 2021 |  07517 998178 |
| Workgroup Report presented to Panel | 17 June 2021 | Transporter: Guv Dosanjh |
| Draft Modification Report issued for Consultation | 17 June 2021 |  Gurvinder.Dosanjh@cadentgas.com |
| Consultation Close-out for Representations | 09 July 2021 |  07773151572 |
| Final Modification Report available for Panel | 13 July 2021 | Systems Provider: Xoserve |
| Modification Panel Recommendation | 15 July 2021 (at short notice) |  UKLink@xoserve.com |
| Note to Panel: It was suggested at the final Workgroup meeting that Panel consider accepting the Final Modification Report at the July Panel at short notice, although recognising that other Panel commitments may prevent this. | | |

1 Summary

What

The Uniform Network Code (UNC) currently allows for the amendment of a Supply Point Annual Quantity (AQ) when the AQ does not reflect the expected consumption of gas over the following 12-month period. Three 'eligible causes' (G2.3.21) exist which a User can utilise in order to justify the requirement for an AQ amendment. This is intended to cover exceptional circumstances where a "new" Shipper takes over a site and needs to take corrective action.

2.3.20 The Registered User may request a change in the Annual Quantity of a Supply Meter Point on the grounds that the most recently calculated Annual Quantity does not reflect the expected (seasonally adjusted where relevant) consumption of gas over the 12 months following the date of the request due to an eligible cause which occurred after the Read Date of the AQ Opening Reading used in the most recent calculation of the Annual Quantity.

2.3.21 For the purpose of paragraph 2.3.20 "eligible cause" means:

- (a) the confirmed theft of gas (which resulted in the metered consumption in the AQ Metered Period at the Supply Meter Point being less than the actual consumption);
- (b) the installation, replacement or removal of Consumer's Plant which results in a material change in the basis on which gas is consumed; or
- (c) the commencement of a new business activity or discontinuance of an existing business activity at the consumer's premises.

The AQ amendment process, defined by UNC Modification 0432 - Project Nexus – Gas Demand Estimation, Allocation, Settlement and Reconciliation reform and refined by UNC Modification 0610 - Project Nexus - Miscellaneous Requirements, was always meant to be an exceptions process only and not designed to facilitate mass AQ amendment process changes.

This expectation was outlined within the relevant Project Nexus Business Requirements Definition document (BRD) where it stated:

"8.6.1¹ This is an exception process to amend the AQ in certain circumstances. **This process is not to be used for 'normal' AQ increases or decreases whereby the submission of reads will update the AQ over time.**"

However, we have seen a large-scale utilisation of this process as identified in the DNCMF (see below)

¹ [Annual Quantity Business Requirements Definition for Project Nexus V6.0](#)

Report measures the count of Shipper Portfolio of MPRNs where AQ Correction process Used

Changes in total number of AQ corrections used

**Reason Code 01-
Confirmed Theft**

↑ 1 Monthly Change

↓ 1 Annual Change

**Reason Code 02- Change in
Consumer Plant**

↑ 13674 Monthly Change

↑ 15608 Annual Change

**Reason Code 03- Commencement
of New Business**

↑ 1756 Monthly Change

↑ 1760 Annual Change

**Reason Code 04-
Tolerance Change**

↑ 152 Monthly Change

↑ 225 Annual Change

We would note that these changes were undertaken at the same time as the industry was seeking to collectively address the adverse impacts of COVID-19. The industry changes relating to the ability to amend customers AQ's and SOQ's (Mod 0721 (Urgent) - Shipper submitted AQ Corrections during COVID-19 & Mod 0725 (Urgent) Ability to Reflect the Correct Customer Network Use and System Offtake Quantity (SOQ) During COVID-19) were rejected by Ofgem.

This Modification seeks to apply the changes arising from the implementation of UNC 0736S Clarificatory change to the AQ amendment process within TPD G2.3 retrospectively from the 01 April 2020 thus remedying the detrimental transfer of costs, (estimated for Cadent at £3.9m for revenues in 2020/21 but also financially impacting other Networks), to other Users arising from the use of these arrangements by a User.

Why

This Modification seeks to apply the changes arising from the implementation of UNC 0736S Clarificatory change to the AQ amendment process within TPD G2.3 retrospectively from the 01 April 2020 thus remedying the detrimental transfer of costs (estimated for Cadent at £3.9m for revenues in 2020/21 but also financially impacting other Networks) to other Users arising from the use of these arrangements by a User.

How

This change will also apply retrospectively from the 01 April 2020 thus addressing thus remedying the detrimental transfer of costs (estimated for Cadent at £3.9m for revenues in 2020/21 but also financially impacting other Networks) to other Users arising from the use of these arrangements by a User.

2 Governance

Requested Next Steps

This Modification should be:

- Considered a material change and subject Authority Direction.
- Assessed by a Workgroup.

3 Why Change?

This Modification seeks to apply the changes arising from the implementation of UNC 0736S Clarificatory change to the AQ amendment process within TPD G2.3 retrospectively from the 01 April 2020 thus remedying the detrimental transfer of costs (estimated for Cadent at £3.9m for revenues in 2020/21 but also financially impacting other Networks) to other Users arising from the use of these arrangements by a User.

4 Code Specific Matters

Reference Documents

[Annual Quantity Business Requirements Definition for Project Nexus V6.0](#)

[All versions of Nexus AQ BRDs](#)

Knowledge/Skills

None required.

5 Solution

Business Rules

Business Rule 1: The changes arising from the implementation of UNC Modification 736S²: Clarificatory change to the AQ amendment process within TPD G2.3, will be applied retrospectively in relation to AQ amendments using Reason Code 3 which became effective between 01 April 2020 and 14 January 2021.

Guidance: All relevant AQ amendments using Reason Code 3 between 01 April 2020 and 14 January 2021 will be considered in accordance with Modification 0736S i.e. that the relevant Shipper warrants it did not pick up the MPRN from the same affiliate group when it undertook an AQ amendment using Reason Code 3.

Guidance: For reference, the relevant sections of TPD G2.3.24 are set out below:

- 2.3.24 A User may only give notice requesting a change in the Annual Quantity of a Supply Meter Point under paragraph 2.3.20 for an eligible cause under paragraph 2.3.21(c) where the following conditions are satisfied:
- (a) the notice is given submitted no later than three (3) months after the Supply Point Registration Date;
 - (b) the User has submitted a notification under paragraph 2.3.30;
 - (c) the User was not, prior to the Supply Point Registration Date, and the Existing Registered User for of the Supply Point in which the Supply Meter Point is comprised is neither
 - (i) the User submitting the request for a change in the Annual Quantity; or
 - (ii) a 25% Affiliate of such User.

Business Rule 2: The CDSP will in relation to all changes in scope of BR1 require the relevant User to warrant to the CDSP within 20 Supply Point Business Days of a request from the CDSP, which shall be submitted as

² [UNC Modification 736S : Clarificatory change to the AQ amendment process within TPD G2.3](#)

soon as reasonably practicable following implementation, that all AQ amendments using Reason Code 3 undertaken in accordance with BR1 were compliant with the requirements of TPD G2.3.24(c).

Guidance: The CDSP will request require the relevant Shipper to confirm within 20 Supply Point Business Days of notification that any AQ amendments using Reason Code 3 made between the 01 April 2020 and the 14 January 2021 comply with the requirements of Modification 736S.

Business Rule 3: If the User fails to submit a response in accordance with BR2 or does not warrant that that all AQ amendments using Reason Code 3 undertaken in accordance with BR1 are compliant with the requirements of TPD G2.3.24(c) then for those AQ amendments where either the User fails to submit a response or confirmation of compliance with BR1 is not received then TPD G2.3.31 will apply and the relevant AQ amendment using Reason Code 3 shall be deemed to not have applied and any avoided costs will be recovered by the CDSP. The period of adjustment will be defined from the date the AQ amendment became effective until such time that that AQ, (which determines the Transportation Charges e.g. for Class 3 and 4 sites the FYAQ and for Class 1 and 2 sites the AQ (Rolling) is revised, (note a revision to the FYAQ for Class 3 and 4 sites should be considered the end of the period of adjustment other than where a revision of this value is a result of the Applicable Demand Model determining Seasonal Normal Demand), or there is a Change of Shipper or in the event neither of these activities have occurred, the date of implementation of this modification.

Guidance: If the Shipper confirms the relevant AQ amendment was not done in accordance with 0736S or fails to submit a response within the 20 Supply Point Business Days window then the CDSP will recover any avoided costs. The period of recovery will be from the date the AQ amendment became effective until one of the following:

The earliest date of any subsequent AQ revision to the AQ which determines the Transportation Charges e.g. for Class 3 and 4 sites the FYAQ and for Class 1 and 2 sites the AQ (Rolling). Note, a revision to the FYAQ for Class 3 and 4 sites should be considered the end of the period of adjustment other than where a revision of this value is a result of the Applicable Demand Model determining Seasonal Normal Demand.

The earliest date at which a Change of Supplier event occurred, or

In the absence of the above, the date of implementation of this modification.

Business Rule 4: Where a relevant Supply Point AQ which determines the Transportation Charges e.g. for Class 3 and 4 sites the FYAQ and for Class 1 and 2 sites the AQ (Rolling), has not been revised subsequent to the AQ Correction determined as invalid by BR2, either by AQ calculation (in accordance with TPD G2.3) or amendment (in accordance with TPD G2.3.20), (note, a revision to the FYAQ for Class 3 and 4 sites should be considered the end of the period of adjustment other than where a revision of this value is a result of the Applicable Demand Model determining Seasonal Normal Demand), and it remains in the portfolio of the Shipper which carried out such erroneous AQ amendment, (in contravention of TPD G2.3.24(c)(ii)), then Xoserve will have the vires to amend the AQ back to the value prior to the erroneous AQ amendment.

Guidance: This allows the CDSP the vires to amend an erroneous AQ.

6 Impacts & Other Considerations

Does this modification impact a Significant Code Review (SCR) or other significant industry change projects, if so, how?

No impact identified.

Consumer Impacts

This Modification seeks to apply the arrangements established by Modification 736S, retrospectively from the 01 April 2020 thus remedying the detrimental transfer of costs, (estimated for Cadent at £3.9m for revenues in 2020/21 but also financially impacting other Networks) to other Users arising from the use of these arrangements by a User which will ultimately be borne by consumers of other Users.

Consequential effect of implementation.

Should the Modification be implemented, qualifying AQ amendments would be corrected to a point in time, resulting in additional transportation revenue, above the levels predicted by the DNOs. Since revenues are capped, the excess money would need to be returned to shippers through a subsequent reduction in transportation charges.

Since the reduction in transportation charges would be applied generally, transportation charges for all customer groups would see some degree of reduction, and hence it is not possible to identify specific customer groups as beneficiaries.

In terms of when the transportation charge reductions would materialise, this depends on the magnitude of the additional recovery: if the additional revenue was significant, it would be returned within Formula Year Y, or if the recovery did not trigger a within year resetting of charges, the reduction would materialise in Formula Year (Y+1).

A view expressed at the Workgroup was that it was most likely that monies collected in year Y, that could give rise to an over-recovery, would simply work through in the subsequent year's charges.

Should the modification be approved, the retrospective application of the UNC Modification 736S rules would result in some shipper(s) facing increased AQs with associated additional transportation charges for the period in question. When asked about the appropriateness of this, some participants in the Workgroup were of the view that implementation would determine charges that should previously have been due under the UNC and, as such, payment of the additional monies is settling charges that have effectively been deferred.

Cross Code Impacts

Workgroup concurs with the view of the proposer that in terms of changes to the IGT UNC, there are no cross-code impacts, although it has been subsequently pointed out that implementation would trigger AQ amendments at qualifying Supply Points located on CSEPs.

EU Code Impacts

No impact

Impacts and other considerations continued

Workgroup Impact Assessment

As part of the discussions at Workgroup the matter of retrospectivity was discussed. In terms of why retrospection should apply was set out by some Workgroup participants on the basis that the Reason Code 3, (RC3), AQ amendments in question would not be permitted following the implementation of Modification 736, (and assuming the rational for implementation of Modification 736 was sound), any qualifying historical AQ amendments actioned on the basis of RC3 during the specified period should be reversed.

Essentially, the view of the participants advocating retrospectivity was that the narrative contained in the Modification presents sufficient justification to support the case for the retrospective application of Modification 736.

During April and May Workgroup, discussion took place on the relevance of TPD Section S1.8³: Invoice Adjustment, in relation to changes generated by the application of the modification.

On the matter of relevance, views were not definitive either way, but it was noted that:

- There is an opportunity for transporters to give advance notice if there is a likelihood that the 18-month period may be exceeded;
- Prompt implementation would mean that the process could be resolved within the 18-month window; and
- The legal text, (paragraph 27.6) contains its own specific reference to TPD Section S.

In short, the Workgroup believes that any issues with the application of the invoicing rules should be manageable by utilising existing mechanisms, but the Workgroup thought it worthy to draw the industry's attention to the discussion that took place.

Central Systems Impacts

A change will be required to identify the AQ corrections in question and a process implemented to manage these depending on their circumstance. A DSC Change Proposal has been raised to deliver the solution for Modification 0746 (XRN5286).

Rough Order of Magnitude (ROM) Assessment

Information provided by the CDSP at the April Workgroup suggested that a system solution could be provided at a cost of between £50,000 to £65,000.

The solution would use a modified charge adjustment tool, and because of the relatively low level of development required, the CDSP is of the view is that this could be deployed outside of a major system release, most likely included as an element of a minor release, (although the exact deployment date would be a matter for the DSC Change Management Committee).

³ Link to: [TPD Section S](#)

7 Relevant Objectives

| Impact of the modification on the Relevant Objectives: | |
|--|-------------------|
| Relevant Objective | Identified impact |
| a) Efficient and economic operation of the pipe-line system. | None |
| b) Coordinated, efficient and economic operation of (i) the combined pipe-line system, and/ or (ii) the pipe-line system of one or more other relevant gas transporters. | None |
| c) Efficient discharge of the licensee's obligations. | None |
| d) Securing of effective competition: (i) between relevant shippers; (ii) between relevant suppliers; and/or (iii) between DN operators (who have entered into transportation arrangements with other relevant gas transporters) and relevant shippers. | Positive |
| e) Provision of reasonable economic incentives for relevant suppliers to secure that the domestic customer supply security standards... are satisfied as respects the availability of gas to their domestic customers. | None |
| f) Promotion of efficiency in the implementation and administration of the Code. | None |
| 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. | None |

Relevant Objective

By correcting the under payment of relevant Capacity Charges by relevant Users then the cross subsidy arising to other Users would be removed, thereby furthering Relevant Objective d). The application of this modification would ensure that costs are targeted more accurately than is currently the case, and appropriate cost targeting is a positive in terms of promoting competition between suppliers.

| Impact of the modification on the Relevant Charging Methodology Objectives: | |
|---|-------------------|
| Relevant Objective | Identified impact |
| a) Save in so far as paragraphs (aa) or (d) apply, that compliance with the charging methodology results in charges which reflect the costs incurred by the licensee in its transportation business; | None |
| aa) That, in so far as prices in respect of transportation arrangements are established by auction, either: (i) no reserve price is applied, or (ii) that reserve price is set at a level - (l) best calculated to promote efficiency and avoid undue preference in the supply of transportation services; and | None |

| | |
|---|----------|
| (II) best calculated to promote competition between gas suppliers and between gas shippers; | |
| b) That, so far as is consistent with sub-paragraph (a), the charging methodology properly takes account of developments in the transportation business; | None |
| c) That, so far as is consistent with sub-paragraphs (a) and (b), compliance with the charging methodology facilitates effective competition between gas shippers and between gas suppliers; and | Positive |
| d) That the charging methodology reflects any alternative arrangements put in place in accordance with a determination made by the Secretary of State under paragraph 2A(a) of Standard Special Condition A27 (Disposal of Assets). | None |
| e) 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. | None |

Relevant Charging Methodology Objective

We believe the proposal is positive in respect of Relevant Charging Methodology Objective (c) as by applying these arrangements retrospectively from the 01 April 2020 and remedying the detrimental transfer of costs, (estimated for Cadent at £3.9m for revenues in 2020/21 but also financially impacting other Networks), to other Users arising from the use of these arrangements by a User which will ultimately be borne by consumers.

It further improves cost reflectivity of capacity charges by better aligning them with a customer's actual system usage, thereby furthering competition between Shipper and Suppliers.

8 Implementation

We are not proposing a specific implementation date, but it would be beneficial to implement the change as soon as authority direction has been received.

During Workgroup discussions it was noted that the effective application of this process would need to align with the deployment of the CDSP's system solution, (as referenced in Section 6.)

9 Legal Text

Legal Text Commentary

| Reference | Explanation |
|--------------------------------|---|
| Transition Document | - |
| Part II C – Transitional Rules | - |
| New paragraph 27 (Heading) | Capacity Charge Adjustment following application of TPD Section G2.3.20 between 1 April 2020 and 13 January 2021 |

| | |
|--------------------|---|
| New paragraph 27.1 | <p>New definitions to call out the 'relevant adjustment period' (by reference to the 'adjustment start date' and 'adjustment end date') over which period any required adjustment to Capacity Charges will be payable to the Transporter, a 'relevant AQ amendment', i.e. one made following a request under TPD Section G2.3.20 for reason code '3' (i.e. under TPD Section G2.3.21(c)) and which was effective during the relevant period, i.e. between 1 April 2020 and 13 January 2021, and which may trigger an adjustment to the Capacity Charges payable.</p> <p>Note the end of the adjustment period, the 'adjustment end date', is triggered by the earlier to occur of the three different events; being either a change in shipper at the site, a change to the AQ or Formula Year AQ (depending on whether the site is Class 1 and 2 or Class 3 and 4) and the modification implementation date.</p> |
| New paragraph 27.2 | The requirement that in relation to a 'relevant AQ amendment' the CDSP will request the shipper submitting the AQ adjustment request (the 'relevant User') to confirm that it was not a 25% Affiliate of the outgoing shipper at the time the 'relevant' User took on the site. |
| New paragraph 27.3 | The relevant User must respond within 20 Supply Point Systems Business Days of the CDSP's request. |
| New paragraph 27.4 | Where the relevant User indicates it was an 25% Affiliate of the outgoing shipper or fails to respond within the required period then an adjustment to the Capacity Charges will be calculated, as being the difference between the Capacity Charges that would have been payable on the basis of the AQ (for Class 1 and 2 sites) or Formula Year AQ (for Class 3 and 4 sites) prevailing before the 'relevant AQ adjustment' and the Capacity Charges payable following the 'relevant AQ adjustment', over the 'adjustment period', and which amount will be payable by the 'relevant User' to the Transporter. |
| New paragraph 27.5 | Where the 'adjustment end date' is defined by the implementation date the CDSP may re-set the AQ to the AQ or the Formula Year AQ at that time to that applying prior to the 'relevant AQ amendment'. |
| New paragraph 27.6 | The additional Capacity Charges due to the Transporter will be invoiced and payable in the normal course in accordance with TPD Section S. |

Legal Text

TRANSITION DOCUMENT

PART II – TRANSITIONAL RULES

Add new paragraph 27 to read as follows:

27 CAPACITY CHARGE ADJUSTMENT FOLLOWING APPLICATION OF TPD SECTION G2.3.20 BETWEEN 1 APRIL 2020 AND 13 JANUARY 2021

27.1 For the purposes of this paragraph 27:

- (a) the "**adjustment start date**" means the date on which a relevant AQ amendment was effective;
- (b) the "**adjustment end date**" is the first of the following to occur following the adjustment start date:
 - (i) the date on which a change in the Registered User of the Supply Point in which the relevant SMP is comprised is effective;
 - (ii) where the relevant SMP is a:
 - (A) Class 1 or 2 Supply Meter Point, the date from which a change to the Annual Quantity of the relevant SMP is effective;
 - (B) Class 3 or 4 Supply Meter Point, the date from which a change to the Formula Year Annual Quantity is effective (other than where such change is a consequence of a revision to the seasonal normal demand of the Composite Weather Variable for the relevant LDZ in accordance with Section H1.5);
 - (iii) the implementation date;
- (c) the "**implementation date**" is the date on which the Code Modification giving effect to this paragraph 27 is implemented and effective from;
- (d) a "**relevant AQ amendment**" is a change to the Annual Quantity of a Supply Meter Point which:
 - (i) resulted from the relevant User submitting a request in accordance with TPD Section G2.3.20 which identified the eligible cause for the request as being that specified in TPD Section G2.3.21(c); and
 - (ii) was effective in accordance with TPD Section G2.3.27 on a day falling in the relevant period;
- (e) in respect of a relevant SMP the "**relevant adjustment period**" is the period from (and including) the adjustment start date to (and including) the adjustment end date ;
- (f) the "**relevant period**" is the period commencing on (and including) 1 April 2020 and ending on (and including) 13 January 2021;
- (g) the "**relevant SMP**" is the Supply Meter Point in respect of which a relevant AQ amendment is effective;
- (h) the "**relevant SPRD**" is the Supply Point Registration Date by reference to which the condition in TPD Section G2.3.24(a) is satisfied in relation to a relevant AQ amendment; and
- (i) the "**relevant User**" is the User submitting the request pursuant to TPD Section G2.3.20 which resulted in a relevant AQ amendment.

27.2 In respect of each relevant AQ amendment the CDSP shall request the relevant User to confirm to the CDSP that prior to the relevant SPRD it was not a 25% Affiliate of the Existing User of the Supply Point in which the relevant SMP is comprised.

27.3 Where the relevant User fails to provide the confirmation requested by the CDSP pursuant to paragraph 27.2 within twenty (20) Supply Point Systems Business Days of the CDSP's request paragraph 27.4 shall apply in respect of the relevant SMP.

27.4 Where this paragraph 27.4 applies in relation to a relevant SMP the relevant User shall pay to the Transporter an amount equal to:

$$A - B$$

where in relation to the relevant SMP and respect of the relevant adjustment period:

A is the amount of Capacity Charges that would have been payable by the relevant User by reference to the Annual Quantity (or where the relevant SMP is a Class 3 or 4 Supply Meter Point, the Formula Year Annual Quantity) applying on the date immediately prior to the date on which the relevant AQ amendment was effective;

B is the amount of Capacity Charges payable by the relevant User by reference to the Annual Quantity (or where the relevant SMP is a Class 3 or 4 Supply Meter Point, the Formula Year Annual Quantity) applying from the date the relevant AQ amendment was effective.

27.5 Where in relation to relevant SMP to which paragraph 27.4 applies the adjustment period ends on the implementation date the CSDP may revise the Annual Quantity (for a Class 1 or 2 Supply Meter Point) or Formula Year Annual Quantity (for a Class 3 or 4 Supply Meter Point) of the relevant SMP such that with effect from such date as the CDSP may determine the Annual Quantity or (as the case may be) Formula Year Annual Quantity shall be the same as that applying immediately prior to the relevant AQ amendment.

27.6 Capacity Charges payable by a relevant User in accordance with paragraph 27.4 shall be invoiced and payable in accordance with TPD Section S.

10 Consultation

Panel invited representations from interested parties on 17 June 2021. The summaries in the following table are provided for reference on a reasonable endeavours' basis only. It is recommended that all representations are read in full when considering this Report. Representations are published alongside this Final Modification Report.

Of the 5 representations received 2 supported implementation and 3 were not in support.

Representations were received from the following parties:

| Organisation | Response | Relevant Objectives | Key Points |
|----------------------|----------|---------------------|--|
| Contract Natural Gas | Oppose | None | <ul style="list-style-type: none"> Contract Natural Gas (CNG) objects to the implementation of this Modification and challenges the legitimacy of the retrospective request being raised through the UNC change management process. Feels that the fundamental issues outlined in the modification have been resolved by the implementation of UNC 0736S - <i>Clarificatory change to the AQ amendment process within TPD G2.3</i>. UNC TPD G2.3.24(b) has been amended to disallow Users from utilising the AQ amendment process as per 'reason code 3' where the relevant Supply Point has moved between Users within the same organisation group with an Affiliate level of 25% or above. |

| | | | |
|--|--|--|--|
| | | | <ul style="list-style-type: none"> • UNC 0736S has amended the previously agreed process that was developed through a major industry review. The existence of a number of organisation groups with multiple Users means that the transfer of MPRNs between Affiliates could have been reasonably foreseen within that review process. • The responsibility for the assessment, approval, or rejection of the AQ amendments sits within the remit of CDSP as per UNC sections G1.6.23 – G1.6.29 inclusive. CNG understands that any submitted AQ amendments were approved in line with the UNC and CDSP processes, therefore all accepted amendments complied fully with relevant provisions set out within the UNC at the time. • In general, the majority of changes raised within the UNC are to address gaps / issues within the Code and usually follow the cleaner ‘line in the sand’ solution rather than requiring retrospectivity. • Feels that UNC 0736S has addressed any ‘grey areas’ within the AQ amendment process in a much more appropriate, transparent and effective manner. • With regards to the request for retrospective application, CNG points to Ofgem’s statement which highlights several reasons against the approval of modifications which have retrospective elements. Please see the full representation published on our website for further details: www.gasgovernance.co.uk/0746 • Notes that few modifications with retrospective elements have recently been approved by Ofgem and they related to aligning the Code to EU Legislation or addressing the unforeseen circumstances brought about by the Covid-19 pandemic, rather than addressing a commercial issue raised by a Shipper. Ofgem have shown a consistency in their view of retrospective mods in the past. Please see the full representation published on our website for further details: www.gasgovernance.co.uk/0746 • Notes that the Workgroup Report states that participants advocating retrospectivity were doing so on the basis of the detrimental transfer of costs. However, we are aware that the proposer previously requested that AQ corrections highlighted in the modification were investigated by the Networks, challenging the legitimacy of the transactions. This led to an investigation into the transactions which ultimately resulted in these transactions being validated by the Network group. The outcome of that formal investigation was to validate that all transactions were completed in Good |
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| | | | |
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| | | | <p>Faith and in line with the UNC, so the costs referred to in the proposal were attributed correctly to Users.</p> <ul style="list-style-type: none"> • Objects to the implementation of this modification as CNG feel this is purely a commercial issue across Shippers that has been dealt with by the implementation of UNC 0736S, which draws a line in the sand and provides clarity for future instances. • No comments received on the impacts and costs, Legal Text or Questions from Panel. • CNG support the status of this Modification requiring Authority Direction as the uncertainty from allowing retrospective changes will have a material impact upon competition in the shipping and supply of gas. |
| Gazprom Energy | Support | <p>d) - positive</p> <p>Charging:</p> <p>c) - positive</p> | <ul style="list-style-type: none"> • Gazprom Energy supports the implementation of this Modification. • Notes that Gazprom Energy raised this Modification to address undue detriment to other Shippers, Suppliers and Customers as a result of a Shipper(s) utilising an existing Annual Quantity (AQ) amendment process, put in place to cover exceptional eligible circumstances, when a “new” Shipper takes over a Supply Point. • This process was utilised during the pandemic (COVID-19) at a time when the industry was seeking Ofgem’s support on specific relief from, amongst other issues, certain aspects of charging. As noted by Xoserve in its paper “Impacts of Lockdown” the UNC sets out the eligible reasons for AQ amendment and COVID-19 Lockdown does not meet any of these eligible causes”. Ultimately Ofgem did not approve any modifications as detailed below, that would allow either the AQ or Supply Offtake Quantity (SOQ) of any Supply Point to be reduced as a result of COVID-19. • Believes it is appropriate to apply this Modification retrospectively or else other Shippers, Suppliers and Customers will end up paying extra as the shortfall in Transporter revenue as a result of these AQ amendments, estimated at £10m, will be mutualised. • When considering Ofgem advice on retrospection, Gazprom Energy believes this Modification falls within scope of “a situation where the fault or error giving rise to additional costs or losses was directly attributable to central arrangements”. • As the Shipper(s) were able to make the AQ amendments during the pandemic despite the stated position that COVID-19 was not a relevant event. |

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| | | | <ul style="list-style-type: none"> • The AQ amendments were not exceptional and no “new” Shipper existed but instead a technical transfer of Supply Points had occurred between two Shipper ID’s under the “control” of the same organisation or an affiliate. <p>Gazprom Energy provided the following additional comments:</p> <ul style="list-style-type: none"> • As the significant short to medium term impact of the Pandemic became clear the industry met on 14th April 2020 to discuss potential changes to the Uniform Network Code (UNC) to provide specific COVID-19 relief to market participants. As part of these discussions the ability to reduce Supply Points Annual Quantities (AQ) and System Offtake Quantities (SOQ’s) were discussed and it was made clear that no existing route existed to reduce either the AQ or SOQ as a direct result of the consequences of COVID-19. • Based on this clarification the industry discussed a number of potential remedies that could be developed to provide various forms of relief. As a result of these discussions the industry then took forward these proposals that were developed into Modifications. Gazprom provided a table of proposals that were developed into modifications and the scope of those modifications and whether they were approved or rejected by Ofgem. Noting that as a result of some Modifications being rejected by Ofgem further Modifications were subsequently raised which sought to address the concerns raised by Ofgem which resulted in their rejection. Please see the full representation published on our website for further details: www.gasgovernance.co.uk/0746 • Notes that all of the modifications that sought to provide relief by allowing parties to amend either the AQ or SOQ were rejected by Ofgem. • States that as a result of concerns raised over the use of the AQ Amendment process, Gazprom Energy noted that Transporters acted to add additional clarity to the UNC, via Modification 736S in relation to the use of the AQ amendment process following a switching event. • Believes this Modification should seek Authority Direction. • Agrees that this Modification is positive in respect of Relevant Objective d) as correcting the under payment of relevant Capacity Charges by relevant User(s) then the cross subsidy arising to other Users would be removed, thereby furthering Relevant Objective d). The application of this Modification would ensure that costs are targeted more |
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| | | | <p>accurately than is currently the case, and appropriate cost targeting is a positive in terms of promoting competition between suppliers.</p> <ul style="list-style-type: none"> • Agrees that this Modification is positive in respect of Relevant Charging Objective c) as by applying these arrangements retrospectively from the 01 April 2020 and remedying the detrimental transfer of costs, (estimated for Cadent at £3.9m for revenues in 2020/21 but also financially impacting other Networks), to other Users arising from the use of these arrangements by a User which will ultimately be borne by consumers. It further improves cost reflectivity of capacity charges by better aligning them with a customer's actual system usage, thereby furthering competition between Shipper and Suppliers. • Have not identified any significant costs associated with the implementation of this Modification. • Gazprom Energy would like to see the Modification implemented ASAP but notes its dependency on the CDSP's solution being implemented. • Satisfied with the Legal Text provided and would note the Workgroup agreed the Legal Text delivers the intent of the Modification. <p>Panel Questions:</p> <ul style="list-style-type: none"> • Q1: N/A • Q2: The Workgroup discussed the optimum date for implementation recognising the aspiration to minimise the scope of any retrospection as much as reasonably practicable. Based on analysis provided (please see the full representation published on our website for further details: www.gasgovernance.co.uk/0746) there was no evidence of any historic equivalent activity associated with the AQ amendment process and thus the date was determined to target as closely as possible the period where issues addressed in this Modification had been identified. |
| Northern Gas Networks | Oppose | <p>d) - negative</p> <p>Charging:</p> <p>c) – negative</p> <p>a) – negative</p> | <ul style="list-style-type: none"> • Northern Gas Networks (NGN) opposes this Modification Proposal. • Notes there have been challenges raised in the past year as to use of the reason codes for AQ amendments, these have been investigated, and it has been concluded that there was no evidence that a Shipper had not acted in good faith throughout the process. Modification 0736 - <i>Clarificatory change to the AQ amendment process within TPD G2.3</i> has already been approved and implemented to close any perceived gap in code. Therefore, this Modification seems to |

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| | | | <p>be just introducing a retrospective element to enforce this clarity at an earlier point, causing some Shippers, who were technically compliant at the time of use, to now have these changes reversed.</p> <ul style="list-style-type: none"> • Noted that this Modification would look to reverse over a years' worth of AQ, without the Shipper having had opportunity in the interim period to carry out other changes or amendments. This would seem to unfairly impact these Shippers and therefore it is negative against Relevant Objective (d) <i>Securing of effective competition</i>. • Additionally, the undoing of over a years' worth of AQ adjustments would have an impact on Transporters' revenue which relates to a prior year. This is an unknown value and therefore has unquantified impacts to revenue and therefore pricing. As a result, NGN believes this Modification to be negative against not only Relevant Charging Objective (c) <i>That, so far as is consistent with sub-paragraphs (a) and (b), compliance with the charging methodology facilitates effective competition between gas shippers and between gas suppliers; but also (a) compliance with the charging methodology results in charges which reflect the costs incurred by the licensee in its transportation business.</i> • Agrees that this Modification should seek Authority Direction due to the fact that it contains a retrospective element. • Should Ofgem approve the Modification, it could be implemented once the CDSP have put in place the methods to be able to identify applicable sites, and to be able to process the change. • Impacts and costs it was noted that a reversal of AQ amendments for a period of over 12 months would have an unquantified impact on revenue. This revenue change would relate to a prior year, and therefore any impact to NGN would need to be managed in future years pricing. The value of this impact has not been assessed and therefore NGN are unable to assess the impact. Notes that it is not known whether the net value of these changes would be negative or positive as AQs were both reduced and increased as part of the submissions against the use case. • Believes the legal text provided would deliver the Solution set out in the Modification. <p>Panel Questions:</p> <ul style="list-style-type: none"> • Q1: Distribution Networks are only able to amend pricing once a year, this has already taken place for the current year, therefore any adjustment needed to be made to the |
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| | | | <p>pricing to take account of any impact resulting from this Modification proposal would be made in a future year.</p> <ul style="list-style-type: none"> • Q2: Whilst not stated in the Modification proposal, NGN are aware that the Proposer has advised at Workgroup that this date has been reached after the CDSP carried out some analysis of use of TPD G 2.3.21 (b), also known as reason code 2, relating to changes to plant. However, NGN does not believe that the change should be retrospective, especially where it impacts more than 1 financial or gas year. <p>Anything else:</p> <ul style="list-style-type: none"> • Should this Modification be introduced there is a risk that the changes, and impact of these could filter through to the end consumers. |
| SGN | Oppose | <p>d) - negative</p> <p>Charging: c) - negative</p> | <ul style="list-style-type: none"> • SGN noted that this Modification has been raised as a result of Modification 0736 which SGN supported. However, SGN do not support this Modification due to the retrospective element that it would introduce on AQ charges that would need to be revised. • Believes that revising over a years' worth of AQ charges could have a detrimental impact to the market. • This Modification will need a change to be made to central systems to identify AQ Corrections to facilitate this XRN 5286 has been raised. The implementation of this Modification should therefore follow the timetable for making the necessary system changes. • Whilst SGN does not expect to see any development costs from implementing this change, they would be impacted by the need to undertake an exercise to reverse and amend AQ charges for the period in question. They are currently not aware of the impact that such an exercise would have on our revenue. • Satisfied that the legal text reflects the intent of the Modification. <p>Panel Questions:</p> <ul style="list-style-type: none"> • Q1: From an SGN perspective the flow of revenue back to users is depended on when the Modification and the Solution are delivered. If there was an early implementation and delivery of the solution by October 2021 then SGN could forecast the revenue to be returned in April 2022 otherwise the revenue may not be returned until April 2023. |

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| | | | <ul style="list-style-type: none"> • Q2: SGN is unable to comment on the reasoning behind the 1st April 2020 retrospective date and believes that this is a matter for the proposer to articulate. • SGN has not identified any errors or omissions in this modification that need to be considered. |
| SSE | Support | d) - positive Charging: c) - positive | <ul style="list-style-type: none"> • SSE agrees with the Proposer that the changes arising from the implementation of UNC 0736S should be applied retrospectively from 01 April 2020 in order to remedy the detrimental transfer of costs to other Users arising from the use of these arrangements by a User. • Would like to see the Modification implemented as soon as possible. <p>Panel Questions:</p> <ul style="list-style-type: none"> • Q1: N/A • Q2: Based on information provided by the Workgroup, this retrospective date would capture a significant majority of the AQ amendments made under reason code 3, as there was a spike in this activity during May 2020. |

Please note that late submitted representations will not be included or referred to in this Final Modification Report. However, all representations received in response to this consultation (including late submissions) are published in full alongside this Report and will be taken into account when the UNC Modification Panel makes its assessment and recommendation.

11 Panel Discussions

Discussion

The Panel Chair summarised that Modification 0746 would apply the changes set out in Modification 0736S (Clarificatory change to the AQ amendment process within TPD G2.3, implemented on 14 January 2021) from 01 April 2020.

Panel Members considered the representations made noting that, of the 5 representations received, 2 supported implementation and 3 were not in support.

Some Panel Members agreed with some respondents and the Proposer that this modification would allow the changes arising from the implementation of UNC 0736S to be applied retrospectively from 01 April 2020 in order to remedy the detrimental transfer of costs to other Users arising from the use of these arrangements by a User.

Some Panel Members believed the Modification should not be implemented because of the issue of retrospection.

A Panel Member drew Panel's attention to Ofgem's previous statements on retrospectivity (this has been a feature of recently discussed Charging Modifications).

A Panel Member believed there was no adequate justification for the rationale for backdating to April 2020.

The Proposer clarified that this issue was discussed at Workgroup and is in GazProm's consultation response (Sept and Dec 2020 - on p.5 – under response to Q2.

<https://www.gasgovernance.co.uk/sites/default/files/ggf/book/2021-07/Representation%20-%20Gazprom%200746.pdf>)

Some Panel Members highlighted that a high bar should be set to warrant retrospection and this Modification does not meet that standard.

A Panel Member did not agree and noted the Modification was brought forward due to what was deemed unfair treatment; the modification meets the standard required. The consumer impact of this situation which the modification is trying to rectify needs to be addressed.

Two additional Consultation questions had been included as part of the Consultation:

Q1: Do Transporters have a view as to when the additional revenue would flow back to users; would this be within the Formula Year, (FY), it is collected or during the FY following collection?

Q2: Reasoning behind 01 April 2020 retrospective date?

For Question 1, two Transporters (NGN and SGN) shared their views which are captured in their representations.

For Question 2, two respondents provided a possible reason relating to reason code 3 activity (SSE and NGN⁴), one was unable to comment (SGN), one had no comment to make (CNG Ltd) and the last was the Proposer, who gave the view that the date was chosen to minimise any retrospection.

Consideration of the Relevant Objectives

Panel Members considered Relevant Objective d) *Securing of effective competition between Shippers and/or Suppliers*,

Some Panel Members agreed that implementation would have a positive impact because implementation would remedy the detrimental transfer of costs to other Users arising from the use of these arrangements by User(s).

Some Panel Members agreed with two consultation representations and considered there to be a negative impact on Relevant Objective d) because:

- Implementation would revise over a years' worth of AQ charges which could have a detrimental impact on the market due to the impact of retrospection.
- This could lead to unfair advantage for some Parties, depending on whether they acted in line with the rules at the time/ in good faith (from CDSP and Transporter investigations see extract below).

Extract from Distribution Workgroup Minutes from Meeting 27 August 2020 p.3

1.5. Pre-Modification discussions

In relation to Action 0606, GD stated that the Transporter investigations had provided no evidence that a Shipper user did not act in good faith.

Guv Dosanjh (GD) advised that Cadent are intending to propose a Modification to clarify that a User within the same organisation or an affiliate of the previously Registered User cannot utilise 'Eligible Reason Code 3' (UNC TPD G2.3.21) to justify an AQ amendment.

SM asked to see the legal statement arising from the investigation and the rationale for Cadent coming to the conclusion that the Shipper user had acted in good faith.

⁴ TS the NGN Panel representative confirmed that this was a typo in the NGN consultation representation and that it is reason code 3 which is of interest.

GD stated that the Legal Advice provided to Transporters is confidential and privileged and cannot be shared.

Regarding action 0606, SM asked for confirmation for the avoidance of doubt that if the relevant party acted in good faith then any equivalent action, undertaken in accordance with the same relevant text of the UNC, would also be considered to have been undertaken in good faith.

JD recognised that there was a material impact of approximately £10m and agreed to consider if there are any further actions that need to be taken by Ofgem. He accepted that Gas Transporters were not in a position to take any further action and also agreed that it would be helpful to address any loopholes in the UNC.

Consideration of the Relevant Charging Methodology Objectives

Panel Members noted that, according to the Proposer, one charging Relevant Objective was indicated to be positively impacted by this Modification, namely charging Relevant Objective c).

c) That, so far as is consistent with sub-paragraphs (a) and (b), compliance with the charging methodology facilitates effective competition between gas shippers and between gas suppliers

Panel Members agreed that the discussions captured above under standard Relevant Objective d) would apply for charging Relevant Objective c).

Determinations

Panel Members voted unanimously that Modification 0746 does not have an SCR impact.

Panel Members voted unanimously that no new issues were identified as part of consultation.

Panel Members voted with 5 votes in favour (out of a possible 13), did not agree to recommend implementation of Modification 0746.

12 Recommendations

Panel Recommendation

Panel Members recommended that Modification 0746 should not be implemented.