

Representation - Draft Modification Report UNC 0753

Removal of Pricing Disincentives for Secondary Trading of Fixed Price NTS System Entry Capacity

Responses invited by: 5pm on 11 June 2021

To: enquiries@gasgovernance.co.uk

Please note submission of your representation confirms your consent for publication/circulation.

Representative:	Adam Bates
Organisation:	South Hook Gas Company Ltd.
Date of Representation:	4 June 2021
Support or oppose implementation?	Support
Relevant Objective:	<p>c) Positive</p> <p>d) Positive</p> <p>g) Positive</p>
Relevant Charging Methodology Objective:	<p>c) Positive</p> <p>e) Positive</p>

Reason for support/opposition: Please summarise (in one paragraph) the key reason(s)

South Hook Gas supports implementation of this Modification which furthers the relevant objectives and improves the status quo. Notwithstanding this, further Modifications could be raised in the future to enhance the solution. For example, NTS Entry Capacity under such Existing Contract should be tradable in more flexible periods (e.g. monthly, weekly, daily, etc) than solely on a whole quarter basis. Existing Contracts were purchased on the understanding that they could be traded as flexibly as the primary and secondary acquirer agreed between themselves. In addition, the RRC exemption should apply to secondary capacity which is traded more than once (i.e. not just the first secondary trade).

Existing Contracts, as with any other NTS Entry Capacity, were purchased on the understanding that they could be traded on the secondary capacity market. As set out in the Ofgem UNC Modification 0678A Final Decision¹, the exemption from RRC pursuant

¹ https://www.ofgem.gov.uk/system/files/docs/2020/05/unc678_-_decision_0.pdf (at p.8): “Once a contract is within the scope of Article 35, all of the transmission tariffs resulting from that contract are “grandfathered”, which is to say protected from the operation of TAR NC.”

to Article 35(1) EU TAR NC applies to the contract itself (i.e. the Existing Contract). Article 35(1) does not qualify this grandfathering protection by reference to the holder of the Existing Contract (i.e. whether or not the holder is the original purchaser of the Existing Contract). As such, Article 35(1) provides that the grandfathering protection is to be granted *in rem* (i.e., attaching to the contract) not *in personam* (i.e. attaching to the holder). Therefore, it seems contrary to Article 35(1) to provide that Existing Contracts lose their RRC exemption when traded on the secondary market. Indeed, as the protection is granted *in rem* to the Existing Contract, the exempted status in respect of the Existing Contract should apply irrespective of the number of trades in respect of the whole or part of the NTS Entry Capacity under that Existing Contract.

Implementation: *What lead-time do you wish to see prior to implementation and why?*

This modification should be implemented as soon as possible.

Impacts and Costs: *What analysis, development and ongoing costs would you face?*

South Hook Gas does not foresee incurring any additional costs resulting from implementation of this Modification.

Legal Text: *Are you satisfied that the legal text will deliver the intent of the Solution?*

Yes, however a full legal review has not been conducted.

Are there any errors or omissions in this Modification Report that you think should be taken into account? *Include details of any impacts/costs to your organisation that are directly related to this.*

No

Please provide below any additional analysis or information to support your representation

None