

Representation - Draft Modification Report 0580S

Implementation of Non Effective Days to enable Annual AQ Review (independent of Nexus transition)

Responses invited by: **5pm on 10 June 2016**

To: enquiries@gasgovernance.co.uk

Representative:	Richard Pomroy
Organisation:	Wales & West Utilities Ltd
Date of Representation:	6 th June 2016
Support or oppose implementation?	Support
Relevant Objective:	d) Securing of effective competition: (i) between relevant shippers Negative but positive effect under f) outweighs this. f) Promotion of efficiency in the implementation and administration of the Code. Positive

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

We support this proposal as it both provides the time required for the annual AQ process to take place and certainty that there will be the same number of Non Effective days whether or not Project Nexus Implementation Date is 1st October 2016. It achieves the latter by having the same number of Non Effective Days as modification 0532 (Implementation of Non Effective Days (Project Nexus transitional modification)) which is awaiting an Ofgem decision.

Self-Governance Statement: *Please provide your views on the self-governance statement.*

We believe that this modification proposal should no longer be subject to self-governance as the number of Non Effective Days has been increased to seven which means that this proposal no longer replicates modification proposal 0535 (Implementation of Non Effective Days to enable Annual AQ Review (independent of Nexus transition) raised for the 2015 AQ review and seven Non Effective Days is likely to have a material effect on competition.

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

Implementation should be as soon as possible after either an Ofgem decision or modification panel decision to implement

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

None

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

Insert Text Here

Modification Panel Members have requested that the following questions are addressed:

Q1: Please provide clear views and supporting evidence on the self-governance status of this modification focusing, in particular, on whether this proposal is likely to have a material impact upon competition in the shipping, transportation or supply of gas.

We believe that this modification proposal should no longer be subject to self-governance as the number the number of Non Effective Days has been increased to seven which means that this proposal no longer replicates modification proposal 0535 and seven Non Effective Days will have a material effect on competition.

Q2. Views are invited on the number of non-effective days you think are appropriate. Please include justification for your view.

From the minutes of the workgroup on 10th May we understand:

- that only four Non Effective Days are required to implement the results of the AQ review.
- Shipper representatives have asked that the number of Non Effective Days is aligned with modification 0532 so that they have certainty of the number of Non Effective Days regardless of the date of Project Nexus Implementation Date.
- That this alignment will enable them to better plan change of Shipper processes.

For this reason we support an increase in the number of Non Effective Days to seven for this proposal as this will, perhaps counter intuitively as first sight, support competition between gas shippers by ensuring consistency in the number of Non Effective Days. (See also comments in additional information below).

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.*

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

We note that for this modification proposal itself increasing the number of Non Effective Days beyond what is required for the stated purpose of the modification is likely to have will have an adverse effect on competition by unnecessarily reducing the ability of consumers to change Shipper. Further modification 0532 is still awaiting a decision by Ofgem and is therefore not part of Code (although we anticipate that it will be implemented). It is, therefore, strictly speaking, difficult to argue that implementation of more Non Effective Days than necessary for the stated purpose of this modification

proposal supports relevant objective f) as it cannot promote efficiency in the implementation of Code if the drafting with which it will promote efficiency is not yet part of the Code.

Our response above has taken a wider interpretation of objective f) than might strictly be allowed by considering objective f) assuming that modification 0532 is implemented. This allows us to support for this modification. The main point to take from this is that delays in implementation decisions for non-self-governance modifications for whatever reason can have undesirable and unintended consequences.