Representation - Draft Modification Report 0550

Project Nexus: Incentivising Central Project Delivery

To: enquiries@gasgovernance.co.uk	
Representative:	Robert Cameron-Higgs
Organisation:	Flow Energy
Date of Representation:	10th March 2016
Support or oppose implementation?	Oppose
Relevant Objective:	**A and F** Negative

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

Flow Energy's opposition to the specific nature and legal text of this proposal is based on the following;

Relevant objective (f) is *not* further satisfied by this Modification. For this incentive (if it is an incentive) to have the impact it proposes, it must fill or better replace an existing void. This is not the case. Transporters have an existing licence requirement regarding Nexus delivery that supersedes any UNC requirement in terms of the potential seriousness any such breach may bring.

The resulting payment that could be made to Shippers does not in our view satisfy relevant objective (a) given the very significant disparity in payments that would accrue to larger shippers compared to other shippers. Any shipper with a minimum of 10% market share would receive a minimum of £500,000 in compensation whereas any shipper with (say) 0.5% market share would receive a maximum of £ 25,000 for the same period.

Given that all shippers (irrespective of size) have to make system changes, undergo market trials and prepare training in their organisations, (the cost of which is not directly proportionate to customer numbers) such a marked difference in payment values is inappropriate and does not facilitate competition between shippers and suppliers.

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

N/A

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

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

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

Our opposition to the proposal should not be construed as a wish or complacency in seeing Nexus delayed beyond 1st October 2016. If for any reason it is, Flow Energy will in all likelihood face additional costs, but in the context of UNC contractual changes this does not lead us to support UNC Modification 0550.

On a broader point, given potential behavioural and precedents in this and other industry contracts and commercial arrangements that may arise, we believe there are issues (below) that make this proposal inappropriate.

1. Potential difficulties in identifying a failure 100% or predominately attributable to a GT
2. Difficulty at this stage in the Nexus programme (March 2016) of taking additional actions to mitigate risk of dates being amended.
3. This could be effectively viewed as a retrospective proposal, as the programme was contracted for and plans prepared on the commercial arrangements that prevailed at the time.
4. Potential precedent for future programmes – if parties enter into arrangements with uncertainty over the stability of the commercial arrangements, the plans and commercial arrangements may be more cautious from the outset and impose higher costs on the industry and consequently consumers, as they attempt to mitigate the risk of potential liabilities being introduced later in the programme.

   We are aware that our response may appear counter intuitive for a shipper to submit. Fundamental changes of this nature to the UNC and programmes of this scope require a secure commercial footing, which proposal 0550 does not provide at this stage in the programme.

   Should the Nexus date move beyond 1 October 2016 based on issues that could be directly attributed to GT decisions, Flow Energy would expect an Urgent review at that decision point to swiftly ensure any revised position was underpinned by appropriate commercial arrangements to ensure all affected parties were appropriately protected from burgeoning costs.