

Representation - Draft Modification Report

UNC 0636 0636A 0636B 0636C 0636D

Updating the parameters for the NTS Optional Commodity Charge

Responses invited by: **5pm on 14 June 2018**

To: enquiries@gasgovernance.co.uk

Representative:	Julie Cox
Organisation:	Energy UK
Date of Representation:	11 June 2018
Support or oppose implementation?	0636 - Oppose 0636A - Oppose 0636B - Oppose 0636C - Oppose 0636D – Oppose
Expression of preference:	<i>If either 0636, 0636A, 0636B, 0636C or 0636D were to be implemented, which would be your preference?</i> None
Relevant Objectives:	0636: g) Negative 0636A: g) Negative 0636B: g) Negative 0636C: g) Negative 0636D: g) Negative

Relevant Charging Methodology Objectives:	<p>0636: a) Negative b) Negative c) Negative e) Negative</p> <p>0636A: a) Negative b) Negative c) Negative e) Negative</p> <p>0636B: a) Positive until 30 Sept 2019 / then negative b) Negative c) Positive until 30 Sept 2019 / then negative e) Negative</p> <p>0636C: a) Negative b) Negative c) Negative e) Negative</p> <p>0636D: a) Positive until 30 Sept 2019 / then negative b) Negative c) Positive until 30 sept 2019 / then negative e) Negative</p>
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Reason for support/opposition/preference: Please summarise (in one paragraph) the key reason(s)

Energy UK considers that none of the proposals further compliance with EU Regulations RO g and Charging RO e for a number of reasons:

- 1) 0636, 0636A and 0636B do not take account of EU Regulation 2017/460 (TAR code) which entered into force in April 2017 and requires different arrangements at interconnection points (IPs) from 1 October 2019. These proposals seek to perpetuate a framework that will discriminate against these points from that date.
- 2) 0636C and 636D whilst trying to seek to comply with the TAR code by avoiding change at IPs from the modification implementation date, actually lead to undue discrimination between IPs and non-IPs in the application of the optional charge. The Regulation 715/2009 requires non-discriminatory access to networks and tariffs.
- 3) Regulation 715/2009 has the overarching objective of achieving proper functioning of an internal market for natural gas across the EU, but the proposals have not been assessed against this criterion. Rather it seems likely that the proposals 0636, 0636A and 0636B may reduce the optional commodity charge benefits on routes to Moffatt and then to customers in Ireland and the Isle of Man, but this has not be assessed.

All proposals could be considered positive for charging RO b – since a review is appropriate however the timing and interaction with 0621 mods has made full assessment of the options difficult and raises questions about the value of implementing any of the proposals for a short period. However none of the proposals are time limited and must therefore be considered enduring solutions in their own right. This leads to a negative assessment overall since no account is taken of commodity charges not being allowed at IPs from October 2019.

0636:

The formula for determining the optional commodity charge uses an M value derived from the previous year's gas flows whilst suggesting that the formula itself would be more cost reflective. It is illogical to suggest that the costs of building a pipeline fluctuate year-on-year subject to the previous year flow. Therefore the resulting optional charge cannot be cost reflective - hence is negative against charging RO a.

There are also issues about how the level of the optional charge would fluctuate year on year and therefore be reflected in contracts, and how sites would manage this variation in their cost base. There is also a positive feedback that could impact the merit order in the electricity market. High flows in one year leading to a lower optional charge the following year that enables more in merit dispatch and additional flows which further reduce the optional charge the following year. The opposite also applies.

In addition there are issues as to how a site that has previously benefitted from the optional charge but has been mothballed might return from being mothballed. The proposal does not seem to make a provision for an M value for such a site so that the optional charge may not apply until a year after recommissioning. Similarly there is no provision for adjusting the M value when there have only been flows for part of a gas year.

As the charge is not considered cost reflective it cannot be positive for competition and charging RO c, the impact will therefore be negative.

0636A

There may be merits in applying a distance limit, as a practical approach to limiting the applicability of the optional charge, but it is arbitrary and cannot be considered cost reflective and is therefore negative for charging RO a.

As the charge is not considered cost reflective it cannot be positive for competition and charging RO c, the impact will therefore be negative

0636B

The use of RPI for indexation would seem to be positive for charging RO a, and as cost reflective charges are consistent with furthering competition this is also positive for charging RO c. However this only applies until the TAR NC is implemented from 1 October 2019 as commodity charges are not allowed at IPs.

0636C

See comments under 0636 in relation to M value

As the charge is not considered cost reflective it cannot be positive for competition and charging RO c, the impact will therefore be negative.

0636D

The use of RPI for indexation would seem to be positive for charging RO a, and as cost reflective charges are consistent with furthering competition this is also positive for charging RO c. However this only applies until the TAR NC is implemented from 1 October 2019 as commodity charges are not allowed at IPs.

Implementation: *What lead-time do you wish to see prior to implementation and why? Please specify which Modification any issues relate to.*

Sufficient lead time needs to be provided to enable parties to reflect revised charges in contracts from October 2018, which is when most contracts start or are renewed. That process is underway at the time of writing this response in May/June 2018.

See letter from Petronas

https://www.gasgovernance.co.uk/sites/default/files/ggf/book/2018-03/Petronas%20Energy%20Trading_Letter%20on%20Modification%20Proposal%200636.pdf

And ESB

<https://www.gasgovernance.co.uk/sites/default/files/ggf/book/2018-04/180329%200636%20ESB%20text%20to%20JO.pdf>

However it may be that it is already too late to ensure revised prices are included in such contracts from October this year.

It is not clear whether an implementation date other than October is feasible, without unintended commercial consequences for certain parties, it is our understanding that these contracts have very limited contract re-opening provisions.

Impacts and Costs: *What analysis, development and ongoing costs would you face? Please specify which Modification any issues relate to.*

As a trade association - none

Legal Text: *Are you satisfied that the legal text will deliver the intent of the Solution? Please specify which Modification any issues relate to.*

Energy UK has not fully reviewed the legal text

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

Energy UK considers that Ofgem should undertake a regulatory impact assessment to more fully consider the wide ranging impacts of implementing any of these proposals, including customer contracts from October 2018, the impact on domestic customers, cross border trade, wholesale gas prices and electricity prices.

Ofgem should also consider the merits of implementing any of these proposals if it plans to approve any of the 621 proposals, as this would mean that any benefits would only be valid for a maximum of a year. Ofgem will also need to consider the interactions with mod 0621 and all its variants from a governance perspective. The Joint Office outlined in its request for a 'View' that there is a governance vacuum in some scenarios as the 621 proposals would need to be amended, analysis rerun and justification re-written, and there is no provision for this once an FMR is submitted to Ofgem.

On balance Energy UK acknowledges that a review of the optional charge is appropriate but the timing of these proposals is unfortunate given the 621 proposals, which are seen as necessary to achieve compliance with TAR NC, have absorbed a lot of industry time. There are merits in some aspects of the proposals, but we consider it would be more useful to consider these as part of a more general review of 'shorthaul' arrangements once a 621 option has been implemented. This should include mod 0653 too as there has been insufficient time to fully consider this and it may provide a suitable enduring solution, but more work is needed to examine this. Energy UK would therefore recommend rejecting or suspending consideration of 636 and its variants.