

**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](mailto:enquiries@gasgovernance.co.uk)

<b>Representative:</b>	Alastair Tolley
<b>Organisation:</b>	EP UK Investments Ltd (EPUKI)
<b>Date of Representation:</b>	14 June 2018
<b>Support or oppose implementation?</b>	0636 - Oppose 0636A - Oppose 0636B - Oppose 0636C – Oppose 0636D – Oppose
<b>Expression of preference:</b>	<i>If either 0636, 0636A, 0636B, 0636C or 0636D were to be implemented, which would be your preference?</i>  EPUKI opposes all of these proposals, but considers that 0636A would be the least worst solution.
<b>Relevant Objectives:</b>	0636: <b>g)</b> Negative  0636A: <b>g)</b> Negative  0636B: <b>g)</b> Negative  0636C: <b>g)</b> Negative  0636D: <b>g)</b> Negative

<b>Relevant Charging Methodology Objectives:</b>	0636: <b>a)</b> Negative <b>b)</b> Negative <b>c)</b> Negative <b>e)</b> Negative
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0636A:  
a) Negative  
b) Negative  
c) Negative  
e) Negative

0636B:  
a) Negative  
b) Negative  
c) Negative  
e) Negative

0636C:  
a) Negative  
b) Negative  
c) Negative  
e) Negative

0636D:  
a) Negative  
b) Negative  
c) Negative  
e) Negative

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

We have the following concerns about these modifications:

### **The rationale for change has not been sufficiently justified**

EPUKI does not consider that the rationale for change has been sufficiently justified for any of these modification proposals. We consider that there should be a suitable ongoing incentive to avoid inefficient bypass of the NTS and the current Optional Commodity Charge (OCC) is effective in achieving this. Although the OCC results in some “redistribution” of cost from OCC users to non-OCC users, this may be an efficient outcome, provided the redistribution is at an appropriate level.

The proposals suggest that ‘the OCC has become a very attractive option even for exit points that are increasingly distant from an associated entry point’. The OCC formula is already linked to distance and this means that in general there is little benefit to utilising the OCC for long distance routes. However, as commodity charges have grown, there may be an increased incentive to utilise the OCC as an alternative on some routes. In these circumstances, it is likely to be other factors leading to under-recovery which are driving the increase in standard commodity charges and therefore increased utilisation of the OCC. Any change to the OCC would not address these underlying drivers of high commodity charges.

The current OCC formula uses pipeline cost data from 1998 and the proposals suggest that this should be updated to reflect the current cost of investment in a bypass pipeline. As the alternative to utilising the OCC may be to invest in a bypass, it is important that the calculation of the OCC is predictable and transparent so that users can reach a robust decision on whether to invest in a private pipeline at that point in time. We are

concerned that a one-off update to the OCC formula after 20 years without any transitional provisions may undermine decisions which users took when they originally began to utilise the OCC. The case for investment in a bypass may be different today for these users given, for example, the remaining lifetime of an offtake.

Any changes to the OCC therefore need to be carefully considered in the context of the charging arrangements as a whole and a proper analysis of the potential impacts on different parties should be undertaken, taking account of potential unintended consequences. We do not consider that this has been sufficiently undertaken in the draft Modification Report and we would therefore expect Ofgem to undertake a full Impact Assessment before reaching a decision on this modification.

### **The proposed OCC formulae may not be cost reflective**

We are not convinced that the proposed OCC formulae are necessarily reflective of the costs users would incur in developing a bypass pipeline. 0636 and 0636C would utilise an expanded portfolio of pipeline diameters when setting the OCC. These pipeline sizes are larger than would realistically be required by most offtakes. Furthermore, some cost data for the portfolio is claimed to be confidential and it is therefore not transparent how the OCC formula has been derived.

These proposals also base the M value in the formula on the previous year's average flows adjusted for load factor. This approach cannot be considered to be cost reflective as pipelines would be built to accommodate peak flows over the lifetime of the asset. The proposed formula suggests that the costs of building the pipeline would vary year on year, which is clearly not the case.

### **The proposals discriminate between different users**

We understand that there are concerns that proposals 0636, 0636A and 0636B would not comply with the TAR code from 2019 in their treatment of IPs. However, 0636C and 0636D propose updating the OCC for non-IPs but retaining the current formula for routes including an IP. We consider that such an approach would unduly discriminate between IPs and non-IPs in contravention of the non-discrimination requirements of Regulation 715/2009.

### **Inclusion of a distance cap**

0636A proposes including a distance cap in the shorthaul formula. We consider that the introduction of a distance cap may help address concerns that the OCC is increasingly being used by routes where there is no realistic possibility of economic bypass of the NTS. We note that a distance cap is a feature of some of the UNC0621 proposals and the 115 km cap proposed in 0636A may therefore be a sensible transitional step. However, the choice of distance cap must be properly justified.

### **Interaction with NTS charging reform**

It is clear that the OCC must be considered holistically in the context of the charging landscape. However, proposals for reform of NTS charges from 2019 are currently out for consultation (UNC0621). The 0636 proposals are not consistent with those under 0621 and it is therefore possible that they could be implemented for only a very short period

before being superseded. In fact, the justification for the 0636 proposals assumes that it is a short-term fix until 0621 is implemented, but it is possible that 0621 may not be implemented at all and it is therefore crucial that 0636 is a robust enduring solution that ensures compliance with the relevant requirements (eg. the TAR code). We do not consider that the proposals meet this test and we therefore oppose their implementation.

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

To date, users have had certainty about the level of the OCC as the formula for calculating this has been fixed. A defined shorthaul tariff may therefore be reflected in business plans and commercial agreements with third parties. The UNC 0636 modifications could lead to shorthaul tariffs increasing substantially or, for some routes, being removed as an option altogether. Given the potential magnitude of this impact, it is imperative that Ofgem undertakes an Impact Assessment of the changes. We do not consider that there will be sufficient notice of implementation after this process ahead of 1 October 2018 to allow parties to factor in the impact to their business activities and a mid-year change to the shorthaul arrangements could be very disruptive.

Although EPUKI opposes the implementation of this modification, we consider that if any change to the shorthaul arrangements is made, the earliest that it should be implemented is 1 October 2019. However, it would then be appropriate for the new arrangements to reflect UNC 0621. The proposals under 0636 are not consistent with those put forward under 0621 and it would be perverse to implement a change of this magnitude for one year only.

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

No comment.

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

No comment.

**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 comment.

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

No comment.