

Representation - Draft Modification Report 0534S

Maintaining the efficacy of the NTS Optional Commodity ('shorthaul') tariff at Bacton entry points

Responses invited by: **10 September 2015**

To: enquiries@gasgovernance.co.uk

Representative:	Francisco Gonçalves
Organisation:	Gazprom Marketing & Trading Limited
Date of Representation:	10 September 2015
Support or oppose implementation?	Support
Relevant Objective:	a) Positive d) Positive

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

Until now, the Optional Commodity Charge (OCC/shorthaul) has been successfully applied at the Bacton ASEP: promoting the efficient use of the network and avoiding the construction of unnecessary, costly infrastructure. This will no longer be the case from November due to an unforeseen consequence of implementing Modification 0501V. Unfortunately, due to the nature of the Bacton ASEP, the split will also unintentionally discriminate between sources of gas, as shippers are forced to choose between gas from UKCS or cross-border markets (EU), thus providing an advantage to one source over the other. We believe Modification 0534S is necessary since the UNC would fail to meet its Objectives without it and the UK would be in breach of Article 32(1) of Directive 2009/73/EC, as well as the Gas Regulation.

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

As mentioned above, the inability to use the OCC at any Bacton entry point, which despite the legal split shall continue to remain one physical point, is an unintended consequence of the implementation of Mod 0501V, the scope of which was not supposed to include shorthaul. The objective of Modification 0534S is therefore not to add anything new to the UNC, but to ensure that the current use of the system and of the UNC remains unchanged from November onwards. By analogy, if Modification 0501V were a software update to the UNC that included a bug, Modification 0534S would be a patch that would fix that bug.

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

The transitional arrangements should be applied as soon as possible.

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

Implementation should not result in any significant costs (unless User Pays is applied). However, the non-implementation of this mod will significantly impact shippers and suppliers, as well as competition in the UK and EU gas markets.

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

Yes

Modification Panel Members have requested that the following questions are addressed

Q1: Views are sought on the allocation of User Pays costs and whether Transporters or Shipper Users should fund these?

GM&T categorically rejects the application of User Pays on shippers for the purpose of implementing this Modification. Modification 0534S corrects an unintended consequence of Modification 0501V by protecting the current, (efficient and non-discriminatory) use of the system and interpretation of the UNC. Despite the legal split, Bacton shall continue to remain one physical point.

It is also our understanding that transporters have funds set aside for the implementation of EU Network Codes and other legislation. In this sense, it is our view that it is the transporters' responsibility to ensure implementation of EU law is done correctly and does not result in any unintended consequences, as this cannot qualify as a "job completed". More, because the new settings discriminate between domestic and cross-border flows, contrary to the EU Gas Directive and Regulation, there is further reason to use these funds to comply with EU rules.

For this purpose, it is useful to remind ourselves that the mandate bestowed by Ofgem's Licence change (which led to Modification 0501V) was to implement CAM by creating two new ASEPs; *not* to inhibit the effectiveness of the OCC. In fact, the 0501 discussions barely covered this topic, as disagreements lingered over the allocation of existing bookings. We therefore do not believe this can be considered a legitimate change, as it overstepped the mandate and purpose of the Modification/Licence change and was approved without sufficient stakeholder discussion over how it would affect shorthaul at Bacton.

GM&T also believes that to apply User Pays on shippers creates another unintended consequence in the form of a perverse incentive. If User Pays were applied every time a shipper proposes a modification that aims to minimise unintended consequences of another modification, transporters would not be incentivised to ensure proper due-diligence of their modifications, since they could expect shippers to propose an amendment themselves, as well as to foot the bill once the modification is implemented. In this sense, the limited use of shorthaul at Bacton is not the only unintended consequence arising from the implementation of EU rules into the UNC, and we question what fairness there is if shippers are charged for fixing something that they did not break.

Finally, if User Pays must be applied on shippers/users, GM&T would like to point out that despite the proposed User Pays period aiming to recover all costs over two years, this Modification benefits future users the most. This is important because, with many long-term capacity contracts at both IUK and BBL expiring within the next three years, the variety of shippers using OCC at both Bacton ASEPs in the future will greatly increase. It would therefore not make sense for only present users to bear all the costs.

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