

UNC Modification	At what stage is this document in the process?
<h1>UNC 0735:</h1> <h2>UNC Changes as a consequence of the absence of trade agreement/s between the United Kingdom and the European Union ('no deal')</h2>	
<p>Purpose of Modification:</p> <p>A number of minor changes to the Uniform Network Code (UNC) are required as a consequence of the end of the implementation period following the United Kingdom (UK) withdrawal from the European Union (EU). In principle, these changes modify existing references to EU regulations with reference to UK amendment regulations and where appropriate remove references to EU entities.</p>	
	<p>The Proposer recommends that this Modification should be:</p> <ul style="list-style-type: none"> • subject to Self-Governance; and • assessed by a Workgroup <p>This Modification will be presented by the Proposer to the Panel on 17 September 2020. The Panel will consider the Proposer's recommendation and determine the appropriate route.</p>
	<p>High Impact: None</p>
	<p>Medium Impact: None</p>
	<p>Low Impact: All UNC signatories.</p>

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Timetable		
The Proposer recommends the following timetable:		
Initial consideration by Distribution Workgroup	24 September 2020	
Initial consideration by Transmission Workgroup	01 October 2020	
Workgroup Report presented to Panel	19 November 2020	
Consultation commences	20 November 2020	
Consultation Close-out for representations	11 December 2020	
Final Modification Report available for Panel	12 December 2020	
Modification Panel decision (<i>the later of:</i>)	17 December 2020 and/or the Modification Panel meeting subsequent to the establishment of certainty that the relevant European Union (Withdrawal Agreement) Act 2020 Statutory Instruments will take effect.	

 Any questions?

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1 Summary

What

The UNC contains a small number of references to EU Regulations and EU entities (noted as authorities for, or sources of information related to, certain UNC provisions). These would no longer be applicable in, nor have an impact upon, the UK after the end of the Implementation period (following the UK's exit from the EU) as from that date there are no bespoke trade arrangements in place ('no deal'). In this case the UK's future trade with EU Member States will be conducted under World Trade Organisation terms.

Why

Following a referendum in June 2016, the UK government notified its intention to leave the EU in March 2017. This departure became effective on 31 January 2020 whereupon the UK entered an Implementation period. In absence of agreements concerning the UK's future trade and political relationship with the EU following the end of the Implementation period ('IP completion day'), EU Regulations will no longer be directly applicable in the UK and EU entities will no longer have a part to play in the creation of UK policy and legislation. However, the principle approach specified in the European Union (Withdrawal Agreement) Act 2020 is to incorporate EU law (existing immediately prior to IP completion day) into UK law and the UK Government has introduced statutory instruments with the aim of correcting or removing any inoperable provisions of EU Regulations, relevant to the gas industry, such that they reflect the UK no longer being an EU member state.

Consequently, in the UNC existing references to EU Regulations require revision and it is no longer necessary (in specific contexts) to refer to EU entities.

A previous and equivalent Modification Proposal (0680S) was raised by National Grid NTS in February 2019 to address the consequences of a 'no deal' UK exit from the European Union in late 2019 / early 2020. In light of the agreement reached (as detailed in the Withdrawal Agreement) Modification 0680S was withdrawn in February 2020. The scope and function of this new Modification Proposal 0735 is principally the same as Modification 0680S and therefore stakeholders are likely to be aware of its aims and objectives.

How

It is proposed to modify existing references to EU regulations with appropriate references to UK amendment regulations and, in some contexts, remove references to EU entities in the UNC.

2 Governance

Justification for Self-Governance

Application of Self-Governance procedures is sought because the changes proposed are unlikely to have a material effect on competition in the shipping, transportation or supply of gas conveyed through pipes or any commercial activities connected with the shipping, transportation or supply of gas conveyed through pipes. This is because this change is limited to updating certain references in the UNC to legal rules and relevant authorities.

The change proposed is also unlikely to discriminate between different classes of parties to the Uniform Network Code/relevant gas transporters, gas shippers or DN operators. This is because the changes will have the same impact on all parties to the UNC.

The Proposal represents a minimum level of change required to maintain the operability of the prevailing UNC arrangements following IP completion day.

As set out above the changes proposed in this Modification are not considered material, therefore the proposed changes to the Modification Rules should be suitable for Self-Governance procedures and not require Authority Direction.

Requested Next Steps

This modification should:

- be subject to Self-Governance; and
- be assessed by a Workgroup.

3 Why Change?

The UNC contains a small number of references to EU regulations and EU entities noted as authorities for, or sources of information related to, UNC provisions. These were introduced as a consequence of the integration of the UK into the EU Internal Energy Market (IEM) and more specifically in order to comply with a number of EU regulations which were directly applicable in UK Law including:

- Regulation 715/2009 on '*conditions for access to the natural gas transmission networks*'
- Regulation 2017/459 on '*establishing a Network Code on Capacity Allocation Mechanisms in Gas Transmission Systems*';
- Regulation 312/2014 on '*establishing a Network Code on Gas Balancing of Transmission Networks*';
- Regulation 2015/703 on '*establishing a network code on interoperability and data exchange rules*'; and
- Regulation 2017/460 on '*establishing a network code on harmonised transmission tariff structures for gas*'

Following the outcome of a referendum on UK membership of the EU on 23 June 2016, the UK government notified its intention to leave the EU (as permitted by Article 50 of the Treaty on European Union). The UK's departure from the EU became effective on 31 January 2020 whereupon the UK entered an implementation period which will end on IP completion day¹. In a 'no deal scenario', from IP completion day EU regulations will no longer be directly applicable in the UK and EU entities will no longer have a part to play in the creation of UK policy nor domestic legislation.

However, the principle approach specified in the European Union (Withdrawal Agreement) Act 2020 is to incorporate EU law (existing immediately prior to IP completion day) into UK law (effective from IP completion day)² and the UK Government has introduced statutory instruments with the aim correcting or removing any inoperable provisions of EU Regulations. Accordingly, the rules for operation of the UK Gas Transmission Systems specified within the relevant EU regulations will be set out in UK legislation in the form of 'retained EU law' (i.e. including EU regulations having effect immediately before IP completion day) and the relevant statutory instruments.

¹ European Union (Withdrawal Agreement) Act 2020 section 39(1)

² European Union (Withdrawal Agreement) Act 2020 section 25

On this basis, references to EU regulations in the UNC need to be modified and supplemented with references to the relevant UK statutory instruments. Further, it is not necessary nor appropriate for the UNC to refer to specific EU entities from IP completion day as they will no longer have a role to play in the operation of UK Gas Transmission Systems.

Consistent with the principles in the European Union (Withdrawal Agreement) Act 2020 and changes that will be proposed to the Transporter Licence³, legally binding decisions made up until IP completion day by the Agency for the Co-operation of Energy Regulators (ACER) and/or European Commission will continue to apply in the UK.

If these changes are not made, the UNC will contain inappropriate references to EU regulations (in isolation) rather than correct references to EU regulations (as modified by UK legislation) and refer to EU entities that have no direct role in the operation of the Total System in GB.

Should a trade agreement between the UK and the EU be concluded and take effect from IP completion day, this Modification will no longer be required.

The Proposer suggests that this Modification should be discussed at both Distribution and Transmission Workgroups (in September and October respectively) in order to maximise the cross section of industry participants who can contribute to the assessment of the Modification.

4 Code Specific Matters

Reference Documents

[European Union \(Withdrawal\) Act 2018](#)

[European Union \(Withdrawal Agreement\) Act 2020](#)

[The Electricity and Gas etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019](#)

Statutory Instrument covering Regulation 715/2009 'Gas Regulation'

[The Gas \(Security of Supply and Network Codes\) \(Amendment\) \(EU Exit\) Regulations 2019](#)

Statutory Instrument covering Regulation 2017/459 'CAM', Regulation 312/2014 'BAL', Regulation 2015/703 'INT' Regulation 2017/460 'TAR' and Regulation 2017/1938 'SoS'

[The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020](#)

Statutory Instrument that amends:

- "The Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019" (see section 3); and
- "The Gas (Security of Supply and Network Codes) (Amendment) (EU Exit) Regulations 2019 (see section 4)

³ See https://www.ofgem.gov.uk/publications-and-updates/statutory-consultation-licence-modifications-event-uk-leaves-eu-without-deal?utm_medium=email&utm_source=dotMailer&utm_campaign=Daily-Alert_14-01-2019&utm_content=Statutory+consultation+on+licence+modifications+in+the+event+the+UK+leaves+the+EU+without+a+deal&dm_i=1QC.B.62KUP.NH6XDG.NTXAR.1

Knowledge/Skills

Knowledge of Brexit principles

5 Solution

It is proposed that the following changes are made to the specified sections of the UNC:

General Terms

Section	Current UNC Text	Summary / Purpose	Proposal
MODIFICATION RULES			
2	INTERPRETATION		
2.1	Defined terms		
	“ Regulation ” means Regulation 2009/715/EC of the European Parliament and of the Council of 13 July 2009 (as amended from time to time) concerning conditions for access to the national gas transmission networks;	Defines the principle Internal Energy Market Regulation.	Supplement ‘retained EU law’ EU Regulation with reference to The Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019 and The Electricity and Gas etc. (Amendment) (EU Exit) Regulations 2020.
	None	<i>Sets scope of decisions that are relevant i.e. limits definition to those decisions made up until IP completion day.</i>	Add new definition: “ legally binding decisions of the European Commission and/or the Agency for the Cooperation of Energy Regulators ”
	None	<i>Sets scope of EU rules that are binding i.e. as defined in the European Union (Withdrawal Agreement) Act 2020</i>	Add new definition “ retained EU law ”
GTC – INTERPRETATION			
1	DEFINED TERMS		
	In addition to terms defined elsewhere in the Code, the following terms and expressions are used with the following meanings in the Code:		
	“ Recognised Standard ” means any technical, engineering or other standard, issued or published by any governmental body or professional or other institution, and generally recognised as applying to the gas industry in the United Kingdom or the European Union, as from time to time applicable;	Who may set engineering policy/standards	Remove reference to EU as no longer source of Recognised Standards
TRANSITION DOCUMENT [PART IIC – TRANSITIONAL RULES]			
	None	<i>Clarifies that for Auction Year 2020/21 the relevant Auction Calendar will be published by ENTSOG.</i>	Add terms to address publication of the Auction Calendar (EID Section B2.1.4(g)) for Auction Year 2020/21

Transportation Principal Document (TPD)

Section	UNC Text	Summary / Purpose	Proposal
SECTION Y – CHARGING METHODOLOGIES			
PART A – NTS CHARGING METHODOLOGIES			
PART A-I – NTS TRANSPORTATION CHARGING METHODOLOGY			
1.3	<u>Interpretation</u>		
1.3.2	<u>For the purposes of this Part A-I:</u>		
(a)	<u>“Tariff Regulation” means Commission Regulation (EU) 2017/460 establishing a network code on harmonised transmission tariff structures for gas</u>	<u>Defines the Tariff setting Regulation</u>	<u>Supplement “retained EU law” EU Regulation with reference to The Gas (Security of Supply and Network Codes) (Amendment) (EU Exit) Regulations 2019 and The Electricity and Gas etc. (Amendment) (EU Exit) Regulations 2020.</u>

European Interconnection Document (EID)

Section	UNC Text	Summary / Purpose	Proposal
SECTION A – GENERAL			
2.5	Other interpretation		
2.5.1	In this Document:		
(a)	<u>“ENTSOG” means the European Network of Transmission System Operators for Gas, an ‘Association Internationale Sans But Lucratif’ established under Belgian law;</u>	Definition of ENTSOG	Delete definition.
SECTION B – CAPACITY			
2.1.4	For the purposes of this Document:		
(g)	the “Auction Calendar” in relation to an Auction Year is the auction calendar published by ENTSOG for that Auction Year;	Reference for setting of Auction timings and frequency	Replace with “...published by National Grid...” as ENTSOG will no longer publish Auction Calendar in respect of UK.
SECTION E – RULES FOR THE RELEASE OF INCREMENTAL CAPACITY AT INTERCONNECTION POINTS			
1.2	Interpretation		
1.2.1	For the purposes of this Document:		
	“Amended CAM Code” means Commission Regulation (EU) establishing a Network Code on Capacity Allocation Mechanisms in Gas Transmission Systems and repealing Commission Regulation EU No 984/2013, as amended from time to time;	Defines the Capacity Allocation Mechanism Regulation	Supplement “retained EU law” EU Regulation with reference to The Gas (Security of Supply and Network Codes) (Amendment) (EU Exit) Regulations 2019 and The Electricity and Gas etc. (Amendment) (EU Exit) Regulations 2020. Delete “Amended” as no longer necessary and reflect in occurrences of “Amended CAM Code.

	“ Tariff Code ” means Commission Regulation (EU) establishing a network code on harmonised transmission tariff structures for gas;	Defines the Tariff setting Regulation	Supplement “retained EU law” EU Regulation with reference to The Gas (Security of Supply and Network Codes) (Amendment) (EU Exit) Regulations 2019 and The Electricity and Gas etc. (Amendment) (EU Exit) Regulations 2020.
2	DEMAND ASSESSMENT		
2.1	Biennial Process		
2.1.12	The demand assessment report contemplated in paragraph 2.1.11 shall take into account the following criteria:		
(a)	whether the Community-wide Ten Year Network Development Plan (as required by EU Gas Regulation (EC) 715/2009) identifies a physical capacity gap whereby a specific region is undersupplied in a reasonable peak scenario and where offering incremental capacity at the Interconnection Point in question could close such gap; or a national development plan identifies a concrete and sustained physical transport requirement;	Mandates consideration of Community- wide Ten Year Network Development Plan when undertaking the demand assessment report	Re-word provision to match intent of Schedule 4 para 18(6) of the Security of Supply and Network Codes) (Amendment) (EU Exit) Regulations 2019 as amended by The Electricity and Gas etc. (Amendment) (EU Exit) Regulations 2020.
2.1.14	National Grid NTS shall follow the standard templates for demand assessment reports as provided by ENTSOG or any other format that National Grid NTS may publish from time to time.	Reference for demand assessment reports to be in format provided by ENTSOG	Remove reference to ENTSOG limiting format to that published by National Grid.

6 Impacts & Other Considerations

Does this modification impact a Significant Code Review (SCR) or other significant industry change projects, if so, how?

None

Consumer Impacts

None – implementation is not expected to have any impacts on consumers.

Cross Code Impacts

It is understood that other energy Codes will require revision as a consequence of the absence of trade arrangements between the UK and the EU following IP completion day. However, this Modification is not dependant on the other energy Codes therefore joint Workgroups are not requested at this time.

EU Code Impacts

The EU energy codes identified in Section 3 (above) will only be applicable in the UK to the extent that they form part of retained EU law hence the requirement to revise the references in UNC to EU Regulations.

Central Systems Impacts

None. Implementation would not result in the need for any changes to the way in which the central systems operate and process the relevant information to facilitate the ongoing operation of the GB market.

7 Relevant Objectives

Impact of the modification on the Relevant Objectives:

Relevant Objective	Identified impact
a) Efficient and economic operation of the pipe-line system.	None
b) Coordinated, efficient and economic operation of (i) the combined pipe-line system, and/ or (ii) the pipe-line system of one or more other relevant gas transporters.	None
c) Efficient discharge of the licensee's obligations.	None
d) Securing of effective competition: (i) between relevant shippers; (ii) between relevant suppliers; and/or (iii) between DN operators (who have entered into transportation arrangements with other relevant gas transporters) and relevant shippers.	None
e) Provision of reasonable economic incentives for relevant suppliers to secure that the domestic customer supply security standards... are satisfied as respects the availability of gas to their domestic customers.	None
f) Promotion of efficiency in the implementation and administration of the Code.	Positive
g) Compliance with the Regulation and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators.	None

Relevant Objective f): Promotion of efficiency in the implementation and administration of the Code

This Modification will facilitate promotion of efficiency by ensuring that references in the UNC to EU Regulations are appropriately described including reference to the applicable statutory instruments. Further, those EU institutions which will no longer influence UNC terms (applicable in GB) will be removed. These two changes will eliminate any ambiguity which would prevail if these changes were not made and thereby promote efficiency in the implementation of the Code.

8 Implementation

No implementation costs are associated with this Modification.

No implementation timescales are proposed, although implementation of this Modification would be sought as soon as practicable following IP completion day. However, implementation is specifically dependent upon no trade agreement being concluded between the UK and the EU and the implementation of The Electricity and

Gas etc. (Amendment etc.) (EU Exit) Regulations 2019, The Gas (Security of Supply and Network Codes) (Amendment) (EU Exit) Regulations 2019 and The Electricity and Gas etc. (Amendment) (EU Exit) Regulations 2020.

It should be noted that as self-governance procedures are proposed, implementation would be no sooner than sixteen business days after a Modification Panel decision to implement, subject to no Appeal being raised.

9 Legal Text

Text Commentary

See section 5

Text

General

Modification Rules

Amend paragraph 2.1 as follows:

“**Regulation**” means Regulation 2009/715/EC of the European Parliament and of the Council of 13 July 2009 ~~(as amended from time to time)~~ concerning conditions for access to the national gas transmission networks ~~(as a component of Retained EU Law) as amended by Schedule 2 of The Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019 and section 3 of The Electricity and Gas etc. (Amendment) (EU Exit) Regulations 2020;~~

Insert the following new definitions in paragraph 2.1:

~~“**legally binding decisions of the European Commission and/or the Agency for the Cooperation of Energy Regulators**” means any relevant legally binding decisions of the European Commission and/or the Agency, but a binding decision does not include a decision that is not, or so much of a decision as is not, Retained EU Law;~~

~~“**Retained EU Law**” has the same meaning as that given by section 6(7) of the European Union (Withdrawal) Act 2018 as amended by the European Union (Withdrawal Agreement Act) 2020;~~

Transition Document: Part IIC – Transitional Rules

Insert new paragraph 26 as follows:

26 AUCTION CALENDAR PUBLICATION

~~26.1 The Auction Calendar for the Auction Year commencing 1 March 2020 shall be published by the European Network of Transmission System Operators for Gas (ENTSOG) and the Auction Calendar for every subsequent Auction Year shall be published by National Grid NTS.~~

GTC - Interpretation

Amend the Defined Terms as follows:

“**Recognised Standard**” means any technical, engineering or other standard, issued or published by any governmental body or professional or other institution, and generally recognised as applying to the gas industry in the United Kingdom ~~or the European Union~~, as from time to time applicable;

Transportation Principal Document

Section Y – Charging Methodologies

Part A – NTS Charging Methodologies

Part A-I – NTS Transportation Charging Methodology

Amend paragraph 1.3.2(a) as follows:

“**Tariff Regulation**” means ~~Commission Regulation (EU) No 2017/460~~ establishing a network code on harmonised transmission tariff structures for gas (as a component of Retained EU Law) as amended by Schedule 5 of The Gas (Security of Supply and Network Codes) (Amendment) (EU Exit) Regulations 2019 and section 4 of The Electricity and Gas etc. (Amendment) (EU Exit) Regulations 2020;

European Interconnection Document

Section A – General

Delete paragraph 2.5.1(a)

Section B – Capacity

Amend paragraph 2.1.4(g) as follows:

the “**Auction Calendar**” in relation to an Auction Year is the auction calendar published by ~~ENTSO~~ **ENTSO** National Grid NTS for that Auction Year;

Section E – Rules for the Release of Incremental Capacity at Interconnection Points

Amend paragraph 1.1.1 as follows:

This Section E provides a framework and rules to enable the release of incremental capacity (as defined in the ~~Amended~~ CAM Code) at Interconnection Points.

Amend definitions in paragraph 1.2.1 as follows:

“**Amended CAM Code**” means ~~Commission Regulation (EU) No 2017/459~~ establishing a Network Code on Capacity Allocation Mechanisms in Gas Transmission Systems and repealing Commission Regulation EU No 984/2013, ~~as amended from time to time~~ (as a component of Retained EU Law) as amended by Schedule 4 of The Gas (Security of Supply and Network Codes) (Amendment) (EU Exit) Regulations 2019 and section 4 of The Electricity and Gas etc. (Amendment) (EU Exit) Regulations 2020;

“Tariff Code” means Commission Regulation ~~{EU} No 2017/460~~ establishing a network code on harmonised transmission tariff structures for gas (as a component of Retained EU Law) as amended by Schedule 5 of The Gas (Security of Supply and Network Codes) (Amendment) (EU Exit) Regulations 2019 and section 4 of The Electricity and Gas etc. (Amendment) (EU Exit) Regulations 2020;

Amend paragraph 2.1.1 as follows:

Interested parties may submit demand indications to National Grid NTS for a window period of 8 weeks, starting from the date that the Annual Yearly Auction opens, except in respect of the demand assessment window in 2017 which will commence from the date of entry into force of the Amended CAM Code.

Amend paragraph 2.1.12(a) as follows:

~~whether the Community-wide Ten Year Network Development Plan (as required by EU Gas Regulation (EC) 715/2009) the obligation on any concerned non-UK TSOs to take into account whether the Union-wide 10-year network development plan~~ identifies a physical capacity gap whereby a specific region is undersupplied in a reasonable peak scenario and where offering incremental capacity at the Interconnection Point in question could close ~~such the~~ gap; or ~~any UK network development plan or~~ national network development plan relevant to a concerned non-UK TSO identifies a concrete and sustained physical transport requirement;

Amend paragraph 2.1.14:

~~National Grid NTS shall follow the standard templates for The~~ demand assessment reports ~~as provided by ENTSOG or shall be in~~ any ~~other~~ format that National Grid NTS may publish from time to time.

Amend paragraph 2.2.4 as follows:

National Grid NTS may open an ad-hoc demand indication window provided that it is of the opinion that the economic test (as defined in the Amended CAM Code) in respect of such ad-hoc demand indication can be completed prior to the start of the next biennial demand assessment.

Amend paragraph 3.1.4(b) as follows:

the offer levels of capacity (as defined in the Amended CAM Code) at the Interconnection Point;

Amend paragraph 3.1.4(c) as follows:

the proposed alternative allocation mechanism (as defined in the Amended CAM Code), including justification for such proposed mechanism;

Amend paragraph 3.1.4(e) as follows:

general rules and conditions that a party must accept in order to participate and access capacity in the binding capacity allocation phase of the incremental capacity process (as defined in the [Amended CAM Code](#)), including any security/collateral to be provided and how possible delays in the provision of capacity or in the event of a disruption to the project are dealt with contractually;

10 Recommendations

Proposer's Recommendation to Panel

Panel is asked to:

- Agree that Self-Governance procedures should apply; and
- Refer this proposal to a Workgroup for assessment