

**Representation – Modification UNC 0748 (Urgent)**  
**Prospective Removal of Entry Capacity Revenue from Capacity Neutrality Arrangements**

**Responses invited by: 5pm on 11 December 2020**

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

*Please note submission of your representation confirms your consent for publication/circulation.*

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|---|-------------------------------|
| <b>Representative:</b>                          | Carlos Aguirre Calzada        |
| <b>Organisation:</b>                            | Pavilion Energy Spain, S.A.U. |
| <b>Date of Representation:</b>                  | 10 - Dec - 2020               |
| <b>Support or oppose implementation?</b>        | Comments                      |
| <b>Relevant Objective:</b>                      |                               |
| <b>Relevant Charging Methodology Objective:</b> |                               |

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

From PAVILION ENERGY we agree on the substance of the proposal, but we do not agree on how it is intended to be implemented, via an “ad hoc” exception to the established procedure (in this case, referring to the minimum notice to carry out a regulatory change affecting the price of the tolls).

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

In order to provide greater predictability in the regulatory and legal system, we believe that the regulation has to assure that the established procedures and deadlines are met (in this case provide two months’ notice of pricing changes) without making “ad hoc” exceptions, which could also set a precedent for the future. This could also harm legitimate expectations in the regulatory system of operators.

**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?*

**Ofgem have requested that parties give due consideration to the following questions:**

**Q1: Do you agree that the treatment of interruptible and within day firm entry capacities feeding into capacity neutrality is inappropriate?**

**(Yes / No)**

**Q2: Do you agree that these revenues should be removed from capacity neutrality?**

**(Yes / No)**

**Q3: Do you support that National Grid should be granted a one-off relaxation of its obligation to provide two months' notice of pricing changes?**

**(Yes / No) (See the 'Solution' section of the modification)**

From PAVILION ENERGY we agree on the substance of the proposal, but not on how it is intended to be implemented.

With regard to the substance of the proposal, we consider that the revenues obtained by both the "daily entry capacity" and the "interruptible capacity" should not be included in the "capacity neutrality" mechanism and they should be applied to the Allowed Revenues of the Transmission Operator (TO). We also understand that this regulatory adjustment is consistent with the new regulation that has been implemented since last October 2020.

However, with regard to the way that the proposal is intended to be applied, we do not agree to make an "ad hoc" exception to the established procedure (in this case, referring to the minimum notice to carry out a regulatory change affecting the price of the tolls). This is so for the following reasons:

- We consider that the proposal that is currently under consultation, raises two distinct situations, which must be managed separately from a regulatory point of view:
  - (1) On the one hand, the under-recovery situation must be handled with the mechanisms that the regulation offers to do so. In this case, the activation of the "Revenue Recovery Charge" (RRC) in the short term (as will occur from February 2021) and, if applicable, the recalculation of the reserve price from October 2021, with new estimates more adjusted to reality.
  - (2) On the other hand, the modification of the terms considered in the "capacity neutrality" mechanism. This regulatory adjustment must be carried out regardless there is and over or under-retribution or whether the under-retribution (as is the case) is relevant or not. We also understand that the

procedures established in the regulation to carry out regulatory adjustments, must be followed (in this case a minimum notice that allows all agents a proper price forecast, establish their business strategies or communications to customers, adapt their processes, etc.).

- We understand that, from a regulatory point of view, both situations must be managed independently and through the specific mechanisms established for each of them: (1) In the case of the under-recovery, it will be solved since February 2021 through the application of the RRC and, (2) in the case of the regulatory change in the "capacity neutrality" mechanism, by means of the corresponding regulatory proposal to be processed and implemented in accordance with the established procedures.
- However, the current proposal now under consultation, intermingles the two situations with the aim of justifying the exception to the procedure (in this case, having to comply with a minimum notice in the case of a change affecting tolls). It is more, the need for derogation from the established procedure is justified by the fact that the under-recovery affecting National Grid's Allowed Revenues is much higher than anticipated.
- We understand that the issue affecting the under-recovery of National Grid's Allowed Revenues will be solved in February 2021 with the activation of the RRC. Therefore, the justification for requesting the exception to the general procedure would no longer apply.
- Finally, in order to provide greater predictability in the regulatory and legal system, we believe that the regulation has to assure that the established procedures and deadlines are met without making "ad hoc" exceptions, which could also set a precedent for the future. This could also harm legitimate expectations in the regulatory system of operators.

It is more, given the successive regulatory changes that have occurred recently, in addition to the obligation to comply with the established procedures, we consider it is necessary to carry out an in-depth analysis of the parameters that determine the basis of the new regulatory scheme, in order to be able to properly adjust them to the existing reality and therefore offer all agents the best possible estimation of the values of the tolls for the whole year 2020/2021.

**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**