UNC Draft Modification Report	At what stage is this document in the process?

UNC 0751:

Capping Price Increases for Quarterly System Entry Capacity

01 Modification
02 Workgroup Report
03 Draft Modification Report
04 Final Modification Report

Purpose of Modification:

To introduce a cap on the maximum price payable for Long-Term Entry Capacity to ensure equitability in the charging treatment of Long-Term Capacity products and facilitate investment in gas supply facilities.

This Draft Modification Report is issued for consultation responses at the request of the Panel. All parties are invited to consider whether they wish to submit views regarding this modification.

The close-out date for responses is 11 June 2021, which should be sent to enquiries@gasgovernance.co.uk. A response template, which you may wish to use, is at www.gasgovernance.co.uk/0751.

The Panel will consider the responses and agree whether or not this modification should be made.

High Impact:

N/A

Medium Impact:

Shippers entering gas into the National Transmission System (NTS), investors in gas supply facilities and National Grid NTS

Low Impact:

N/A

Contents

Timetable

Modification timetable:	
Initial consideration by Workgroup	02 February 2021
Workgroup Report presented to Panel	20 May 2021
Draft Modification Report issued for consultation	20 May 2021
Consultation Close-out for representations	11 June 2021
Final Modification Report available for Panel	15 June 2021
Modification Panel decision	17 June 2021 *(to be considered at short notice)*

Any questions?

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1 Summary

What

This Modification proposes to introduce a cap on the price paid by holders of Quarterly System Entry Capacity (QSEC) at domestic entry points.

Why

Following the implementation of Modification 0678A - Amendments to Gas Charging Regime (Postage Stamp), on 01 October 2020, the cost of holding QSEC or Annual Capacity is no longer fixed at the price at which the capacity was acquired in the relevant auction, or assignment of capacity via a Planning and Advanced Reservation of Capacity Agreement (PARCA) (hereafter collectively termed Long-Term Capacity). Instead, the payable price is determined by reference to the capacity prices published by National Grid for the Gas Year during which the capacity is held. This is commonly referred to as the application of a "prevailing price methodology".

This significant change in the charging arrangements means that Users are unable to lock-in a price for Long Term Capacity, resulting in Users being exposed to unpredictable and variable future costs. This undermines the attractiveness of booking Long-Term Capacity and imposes unmanageable risks on developers of infrastructure projects who are required to acquire long term NTS delivery rights in order to secure project financing.

The concept of price capping exists in the European Union (EU) with Germany permitting the hand-back of capacity where the price of the underlying capacity holding increases by more than the German Consumer Price Index (CPI). Although the process of handing back capacity is not proposed in this Modification it is notable that an EU gas market recognises the harm caused by unpredictable price inflation and has introduced measures to mitigate against it.

How

The payable price of Long-Term Capacity assigned capacity in the Gas Year in which it is held will be capped at the price at which the capacity was acquired, adjusted by CPI.

CPI Inflation = (Month cap prices published CPI/Month cap auction CPI)

Price cap = CPI Inflation * Cap price at allocation

For the avoidance of doubt, the solution will not apply at Interconnection Points ("IPs") due to restrictions which apply to non-price cap regulatory regimes contained in EU Tariff Code Article 25.

2 Governance

Justification for Authority Direction

This Modification Proposal is recommended to be sent to the Authority for direction as it is likely to have a material effect on commercial activities relating to the shipping, transportation and supply of gas because, if implemented, it is likely to have a material impact on the allocation of charges across NTS network Users.

Requested Next Steps

This Modification should:

- be considered a material change and not subject to self-governance
- be assessed by a Workgroup

3 Why Change?

Before the changes made to the NTS Charging Arrangements on 01 October 2020, following the implementation of Modification Proposal 0678A, a User was able to fix the price of Long-Term Capacity at the price at which it was assigned. Although, prices remain fixed for QSEC capacity qualifying for existing contract status (capacity acquired before 05 April 2017) all subsequent purchases are subject to floating prices. The price of this capacity is set in accordance with the capacity prices published by National Grid for the Gas Year during which the capacity is held by the User.

It is well understood that the combination of fixed and floating prices has resulted in a two-tier system with existing contracted capacity enjoying significant discounts to other capacity products. This has been exacerbated by the switch from a commodity-based revenue recovery charge, to one based on capacity holdings, as existing capacity is exempt from the application of this charge. More specifically, and in terms of QSEC capacity, there is a stark contrast in the treatment of capacity holdings of the same product depending on the timing of the acquisition.

The purchase of Long-Term Capacity is a fundamental step in infrastructure project development. Both for new gas supply projects (such as Liquefied Natural Gas (LNG) re-gas plants, storage facilities, onshore/offshore production fields), or expansion of existing projects, longer-term capacity must be secured to mitigate against system and market access risks, or even to ensure capacity is made available in the NTS via capital investment by National Grid (in the case of incremental capacity above the baseline quantity). The purchase of Long-Term Capacity is a necessary step in securing project investment capital.

Prior to the implementation of Modification Proposal 0678A, Users (and their investors) were able to acquire Long-Term Capacity on a fixed price basis, with additional transportation costs, commodity-based charges, only applied once projects were operational and in receipt of positive revenue streams (through the onward sale of services, or gas sales). Post implementation of Modification Proposal 0678A, the costs of holding Long-Term Capacity cannot be fixed as a result of the application of prevailing prices and the potential for a further capacity-based Revenue Recovery Charge.

There are a number of consequences to this change in the treatment of Long-Term Capacity:

- Infrastructure projects cannot reasonably manage NTS access risk, as mitigation costs are unpredictable and “unbankable”. This will suppress the appetite of investors to back infrastructure projects (new or existing) with more marginal projects (such as gas storage facility investment) at greater risk of failing to progress.

- While the dual system of pricing remains between existing and other contracted capacity there is an unfair competitive advantage in favour of Users who possess existing contracted capacity. On the basis that the products which have been acquired are the same, beyond the date on which they happened to be acquired, this appears to be discriminatory. Without some level of price protection for non-existing capacity, the preferential treatment given the existing capacity is extreme resulting in market distortions based purely on the configuration of the NTS charging methodology.

- Due to the potential huge cost burdens associated with holding Long-Term Capacity, Users will be driven towards the shorter-term capacity market. This will have the combined effect of increasing the unit cost of capacity, as allowed revenue will be spread across a reduced volume and diminishing investment signals in the NTS more widely.

Current arrangements in German market

In other EU markets, such as the German Gas market, specific provisions have been introduced to protect capacity holders against excessive increases in the underlying price of the capacity product. In such cases where prices increase beyond a prescribed level, the capacity holder is permitted to hand-back all or some of its capacity.

The relevant process is defined in the so called "Kooperationsvereinbarung der Netzbetreiber" (cooperation agreement of grid operators) which German Transmission System Operators / Distribution System Operators (TSOs/DSOs) must develop in order to ensure an efficient access to the gas grid

The "Kooperationsvereinbarung" (KoV) is developed by the grid operators and discussed with grid users.

Included in the KoV it is required that network operators offer entry and exit capacities which allow network access without defining a transaction-dependent transport path and which can be used and traded independently of each other (note that this common carriage approach is the same as that operated in the UNC).

They must develop common contractual standards for network access and, taking account of technical restrictions and economic reasonableness, must exploit all possibilities for cooperation with other network operators with the aim of minimising the number of networks or sub-networks and balance areas.

"In case of increased charges, Shipper shall be entitled to terminate the contract in writing in full or in part, depending on the amount of the capacity booking, with a notice period of 10 working days from the effective date of the change. There is no right of termination if the increase in charges of the transmission system operator is less than or equal to the percentage increase of the consumer price index (overall index) for Germany (CPI) published by the Federal Statistical Office. The rate of change of the annual average CPI over the previous year published by the Federal Statistical Office at the time of the announcement of the increase in charges is decisive in this respect."

4 Code Specific Matters

Reference Documents

UNC TPD Sections B and Y

EU Tariff Code (Regulation 2017/460)

https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32017R0460

UNC Modification Proposal 0678A Ofgem Decision

https://www.ofgem.gov.uk/publications-and-updates/amendments-gas-transmission-charging-regime-decision-and-final-impact-assessment-unc678abcdefghij

Knowledge/Skills

An understanding of Modification 0678A, UNC TPD Sections B and Y and the EU Tariff Code, Gas would be beneficial.

5 Solution

It is proposed that for all Long-Term Entry Capacity, baseline and incremental, booked at domestic entry points (non-Interconnection Points) after the 05 April 2017, should be subject to a price cap. IPs are excluded from as price capping of charges would be in contravention of EU TAR Articles 24 and 25 which requires that the characteristics of the GB market, in particular that it operates a non-price cap regulatory regime, require it to operate a "floating payable price" method at IP points. The price cap will be established each Gas Year, during which the capacity is held, by reference to the Consumer Price Index (CPI). Were the CPI calculation to result in a price cap lower than the price of the capacity at the time of assignment, then the price will be set at the price at the time of the assignment.

The price cap will be set as follows:

CPI Inflation = (Month cap prices published CPI/Month cap allocation CPI)

Price cap = CPI Inflation * Cap price allocation at allocation

Floor (minimum) price is the capacity price at the time of assignment.

Example:

QSEC allocated in March 2018 at 0.0532 p/kwh/d, with prices published in February 2018 for the period from 01 October 2019 to 30 September 2034. Prices for Gas Year 2020/21 published in June 2020

Since 01 October 2020, the price of capacity is 0.0717 p/kwh/d

Price cap for capacity relating to October 2020 would be calculated as follows:

Feb 2018 CPI = 104.9

October 2020 CPI = 109.1

109.1/104.9 = 1.040038 (to 6 dp)

Price Cap = 1.040038 * 0.0532 = 0.0553 p/kwh/d

In this example the floor price chargeable would have been 0.0532 p/kwh/d, but as the CPI calculation results in a higher, the actual price charged (price cap) would be 0.0553 p/kWh/d for October 2020 capacity.

6 Impacts & Other Considerations

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

The proposals in this Modification do not impact a Significant Code Review or major industry change project.

Consumer Impacts

Proposer's view: The total amount of revenue to be collected by National Grid is not changed, therefore the impacts on consumers will be negligible.

Consumer Impact Assessment (Workgroup view)		
Criteria	**Extent of Impact**	
Which Consumer groups are affected?	The indirect impacts will be felt by all consumers large and small.	
What costs or benefits will pass through to them?	This Modification directly benefits those shippers who hold quarterly capacity outside of Existing Contracts. The aim is to encourage longer term bookings which should encourage investment in infrastructure projects. This in turn should benefit consumers and Security of Supply overall by further supporting improved physical supplies into the GB market. Once any new infrastructure projects come onstream these too should encourage further bookings on the NTS. National Grid NTS noted that charges not paid by those benefiting from this Modification will need to be paid by other parties, as the overall amount of Allowed Revenue will not change as a result of this Modification. The Proposer noted that the Modification should encourage longer term bookings which otherwise would have been made on a very short term basis, which in turn will result in increased revenues to the benefit of all other Users.	
When will these costs/benefits impact upon consumers?	After implementation.	
Are there any other Consumer Impacts?	None identified.	
General Market Assumptions as at December 2016 *(to underpin the Costs analysis)*		
Number of Domestic consumers		*21 million*
Number of non-domestic consumers <73,200 kWh/annum		*500,000*
Number of consumers between 73,200 and 732,000 kWh/annum		*250,000*
Number of very large consumers >732,000 kWh/annum		*26,000*

Cross Code Impacts

None identified.

EU Code Impacts

EU Tariff Code compliance is considered as part of this Modification proposal and subsequently in the Legal Opinion prepared by WWA and submitted to the Workgroup. This legal opinion is published here: https://www.gasgovernance.co.uk/0751

Workgroup Impact Assessment

02 February 2021

At its January meeting, UNC Modification Panel asked Workgroup to look at **consequential impacts** of this Modification. Workgroup briefly explored how the impact of this Modification might be analysed.

Workgroup reviewed the Proposer's view of the impact of this Modification over the period 2021-2034, based purely on historical bookings. This analysis can be found here:
https://www.gasgovernance.co.uk/sites/default/files/ggf/book/2021-02/WWA-UNC0751analysisv0.2.pdf .

A key conclusion was:

- Price capping could result in revenue under-recoveries over the period of around £295m (ranging from £8m/year to £33m/year).

This means that the aforementioned under-recoveries will be addressed by increased capacity charges of equivalent sums to be paid by other Users.

National Grid were asked to verify these figures.

04 March 2021

National Grid presented its assumptions and the results of its analysis. The results broadly matched those presented by WWA at the 02 February Workgroup.

In terms of assessing any future impacts, National Grid summarised that as long as prices continue to fall as suggested by the indicative prices, there would be very little impact. The concern was that if prices did rise and people began to take advantage of this Modification, there could be a spiralling problem of a dwindling base over which to recover Allowed Revenue. However, it appears to be unlikely that this will happen at the moment.

As Existing Contracts drop off, prices would be likely to decrease.

The Proposer noted that this Modification includes a price floor.

A Workgroup Participant noted that the floor price is the price at which the capacity was originally procured. This was felt to be appropriate.

Another Workgroup Participant noted that the existence of the floor price might act as a deterrent.

The Proposer felt that the price certainty would outweigh any detriment associated with potentially higher prices paid at the time of availability.

Compliance

02 March 2021

Workgroup Participants discussed the legal compliance document written and presented to Workgroup on 02 March 2021 by P Brennan (WWA).

A Workgroup Participant expressed concern that the Proposal might be non-compliant with TAR NC. He suggested that the reference price definition in EU Tar sets the payable price for all annual Entry and Exit products other than those where specific and explicit adjustments are permitted. He also cited the framework guideline definition which he felt was clearer and indicates the policy decision included in TAR NC and which was unamended through the TAR NC development process.

The view expressed by the Workgroup Participant was that according to TAR NC, prices should be fully floating. His understanding was that the framework guideline should apply to the definition in TAR NC itself. This Workgroup Participant highlighted to Workgroup the two definitions:

Reference price definition (ACER Framework Guideline 29 November 2013, Para 1.31)

The value of the annual capacity product for each entry and exit point calculated after the application of the cost allocation methodology. Where auctions are used, the reference price is used as the reserve price for the annual capacity product and the basis for setting the reserve prices for capacity products of shorter duration and for interruptible capacity. Where auctions are not used to allocate capacity the reference price is used as the regulated price for the annual capacity product.

Reference price definition (Commission Regulation (EU) 2017/460, Article 32)

The price for a capacity product for firm capacity with a duration of one year, which is applicable at entry and exit points and which is used to set capacity-based transmission tariffs.

In relation to the conclusion in P Brennan's legal compliance document regarding the treatment of Interconnection Points in the proposal as it stood (v1.0 11 January 2021), the Proposer said that the Modification would be amended[3] so that it no longer applies to Interconnection Points to ensure compliance with TAR NC, as set out in P Brennan's legal compliance view.

A Workgroup Participant expressed concern that this would lead to discrimination between domestic and Interconnection Points.

P Brennan agreed that changing the Modification to exclude Interconnection Points does give different treatment for how long term capacity at IPs and domestic points within the system, the reason for this is national and regional differences which need to be taken into account and are allowed under TAR NC.

A Workgroup Participant asked for clarification that at Interconnectors, capacity is bought at fixed prices, permitted at the IPs under TAR NC, as long as there exists a 'risk premium', which for Interconnector UK is currently set at zero (as a Merchant Operator). She requested that the group consider this situation and suggested that Interconnection Points should be included in the Modification. P Brennan voiced his concern that inclusion of IPs would not be compliant with TAR NC.

12 April 2021

Workgroup Participants reviewed the changes made to the Modification in v2.0 dated 18 March 2021 and confirmed that the Modification does not now apply to Interconnection Points.

Workgroup Participants noted that the legal opinion given by WWA's P Brennan considered that the Modification as drafted in v2.0 is compliant with TAR NC and Regulation 715/2009 (as retained in GB law).

Workgroup Participants considered the compliance or otherwise of this Modification and were not able to give a view on compliance with TAR NC.

There is currently no separate treatment in the Charging Methodology for IPs in relation to domestic points.

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[1] https://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Framework_Guidelines/Framework%20Guidelines/Framework%20Guidelines%20on%20Harmonised%20Gas%20Transmission%20Tariff%20Structures.pdf

[2] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017R0460&from=EN

[3] The final version of the Modification (v2.0) includes this disapplication of Interconnection Points.

A Workgroup Participant noted that there may be a potential issue with discrimination in that charges will be set differently for IPs and Non-IPs (this relates to Regulation 715/2009).

National Grid NTS confirmed that there is a similarity between this concept and the concept of "Interim Contracts" as suggested in Modification 0621. This Modification 0621 and its alternative Modifications were rejected by Ofgem; one of the reasons given was due to this concept of "Interim Contracts". (the Ofgem decision letter for Modification 0621 and its alternatives can be found here: https://www.gasgovernance.co.uk/0621).

The Proposer considered that the concept of Interim Contracts in Modification 0621 involved extending the definition within Art. 35 to incorporate those contracts struck after 06 April 2017. This Modification 0751 is not doing the same thing. It is instead exposing quarterly contracts to a price inflation and therefore Article 35 is not relevant for this Modification.

Central Systems Impacts

Proposer's view: There will be impacts on Gemini and UK Link invoicing systems, however the Proposer anticipates these to be minimal as the calculations can be performed independently.

On 12 April 2021 Workgroup reviewed the ROM XRN 5336 (which can be found here: https://www.gasgovernance.co.uk/0751/120421) and noted the following information:

Rough Order of Magnitude (ROM) Assessment *(XRN 5336)*	
Cost estimate from CDSP	£115-150,000
Insert Subheading here	12-14 weeks

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.	Positive
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.	Positive
e) Provision of reasonable economic incentives for relevant suppliers to secure	None

that the domestic customer supply security standards… are satisfied as respects the availability of gas to their domestic customers.	
f) Promotion of efficiency in the implementation and administration of the Code.	None
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.	Positive

Proposers' view of how the Relevant Objectives are furthered:

(c) Efficient discharge of the licensee's obligations

The dual system of existing contracts and "new" long-term bookings has been introduced in order to achieve compliance with Article 35 of the EU Tariff Code. As a result of the price protections afforded to existing contracts, these contracts are held at a significant discount to all subsequent long-term holdings.

This premium is exacerbated by the fact that holders of subsequent long-term bookings are subject to future price variability as the price of capacity is set in accordance with the price notified by National Grid for the Gas Year during which the capacity is held, noting that the products are the same beyond the date on which they were purchased.

By providing a degree of price predictability and certainty through the introduction of a price cap, this Modification proposal creates a more level playing field for holders of existing contracts and those holding or looking to buy new capacity. In doing so it better facilitates Standard Special Condition A6 of National Grid Gas' (NGG's) gas transporter's licence which requires it "to conduct its transportation business in the manner best calculated to secure that … no gas shipper or gas supplier … obtains any unfair commercial advantage including, in particular, any such advantage from a preferential or discriminatory arrangement"

(d) Securing of effective competition

Providing a degree of price protection for new long-term bookings which introduces a degree of equivalence between products which are the same with the exception of the date on which they were purchased. Unlike existing contracts, where prices are fixed, this modification proposal limits price increases to the rate of inflation (measured by CPI), recognising that Article 35 of the EU TAR makes special provisions for contracts entered into before 05 April 2017. Without change, the continuation of an unfettered dual system means that Users who book new Long-Term Capacity are at a competitive disadvantage to those holding existing contracts. This results in not only different NTS access costs for Users, but the added burden of future cost volatility. Both of these outcomes are detrimental to competition.

Finally, price stability and predictability will improve investment conditions. Investors in new or expansions to existing gas delivery facilities will be more inclined to invest capital where future costs are fixed and can be incorporated into risk models. Where new investment is forthcoming, this will result in expanding the sources of gas supplies to the UK market, thereby improving GB security of supply and enhancing competition.

(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.

Article 13 of the EU TAR requires with respect to Tariffs and the methodologies used to calculate them:

- they should be applied in a non-discriminatory manner;
- they should facilitate efficient gas trade and competition, while at the same time avoiding cross-subsidies between network users and providing incentives for investment; and

- they should neither restrict market liquidity nor distort trade across borders of different transmission systems.

In its review of the GB charging arrangements, in accordance with Article 27 of the EU TAR, The European Union Agency for the Cooperation of Energy Regulators (ACER) noted that “the dual regime that may arise out of the treatment of Existing Contracts could potentially be considered as discriminatory, since comparable capacities will face different tariff conditions.”

Although it is understood that as a result of Article 35 capacity acquired before 5 April 2017 should qualify for some price protection, the result is that Long-Term Capacity acquired after this date is exposed to higher and variable charges. The lack of any form of limitation on price inflation for such capacity results in discriminatory treatment across Users of the same product, with the exception of the date on which it is purchased. This is inconsistent with Article 13 of the EU TAR and aligns with the view expressed by ACER.

It should be noted that the treatment of other capacity products, such as monthly or daily, is not as straightforward as these are essentially different products to those protected by existing contract status.

In terms of the cap removing an exposure to prevailing prices, the application of prevailing prices is not a requirement of the EU TAR.

Workgroup Participants view of how the Relevant Objectives are furthered:

c) Efficient discharge of the licensee's obligations.

Workgroup Participants noted the Modification proposes different treatment for a particular tranche of capacity. Workgroup Participants were unsure whether this Modification positively impacts Relevant Objective c) in relation to SSC A6.

(d) Securing of effective competition

Some Workgroup Participants believed that the potential for this Modification to inflate prices for other Users may act to the detriment of the market.

(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.

Some Workgroup Participants believed there may be compliance issues with this Modification. These are further explored earlier in this report in section 6.

Impact of the modification on the Relevant Charging Methodology Objectives:	
Relevant Objective	Identified impact
a) Save in so far as paragraphs (aa) or (d) apply, that compliance with the charging methodology results in charges which reflect the costs incurred by the licensee in its transportation business;	None
aa) That, in so far as prices in respect of transportation arrangements are established by auction, either: (i) no reserve price is applied, or (ii) that reserve price is set at a level - (I) best calculated to promote efficiency and avoid undue preference in the supply of transportation services; and (II) best calculated to promote competition between gas suppliers and between gas shippers;	None
b) That, so far as is consistent with sub-paragraph (a), the charging methodology properly takes account of developments in the transportation business;	None

c) That, so far as is consistent with sub-paragraphs (a) and (b), compliance with the charging methodology facilitates effective competition between gas shippers and between gas suppliers; and	Positive
d) That the charging methodology reflects any alternative arrangements put in place in accordance with a determination made by the Secretary of State under paragraph 2A(a) of Standard Special Condition A27 (Disposal of Assets).	None
e) 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.	Positive

Proposer's view of how the Relevant Charging Objectives are furthered:

(c) That, so far as is consistent with sub-paragraphs (a) and (b), compliance with the charging methodology facilitates effective competition between gas shippers and between gas suppliers

The proposal limits the increase in costs related to the purchase of Long-Term Capacity to the level of inflation as measured by the CPI. This will ensure that holders of this capacity will make a contribution to National Grid's allowed revenue while not exposing them to unpredictable and unmanageable risks. The risks are exacerbated by the fact that capacity is purchased far in advance of use and given the nature of the product is booked on a flat basis for the duration of product e.g. quarterly capacity is acquired via QSEC auctions held in advance of the holding and must be booked at the same level for each day of the quarter period.

This differentiates long term products from those spanning shorter term timescales. In the latter case the price of capacity is known and can be bought to meet shorter term needs, therefore allowing Users to manage costs.

Competition between shippers is harnessed by ensuring they are able to gain access to the NTS on a more equitable basis and in particular not to disadvantage or discriminate against those Users which are compelled to acquire a particular product to, for example, obtain access to investment capital to underpin project development. Price capping will address the risk imbalance which exists between short and longer term capacity booking. In addition, it will address the market distortion between existing contracts and those holding or intending to buy "new capacity". There is no economic justification for differential pricing between these products where the rights are the same, but the cost of access (price of the products) is significantly different. The two-tier system results in market distortions which unreasonably direct costs onto holders of longer-term capacity. The level of cross-subsidy is most significantly experienced by Long-Term Capacity holders on the basis that they are unable to match bookings with flows.

(e) 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.

See comments raised under Relevant Objectives (g). In terms of price capping, the EU TAR permits charges to be levied at different rates for different products. The calculation of reference prices as set out in Article 6 of the EU TAR requires that the same reference price methodology is applied to all entry and exit points. Nothing in this modification detracts from this requirement, instead it proposes that the charge payable for longer term products can be different to that applied for other products. Further the application of alternative multipliers and seasonal factors explicitly allows for different reference prices and reserve prices to be applied across different products.

Workgroup Participants view of how the Relevant Charging Objectives are furthered:

(c) That, so far as is consistent with sub-paragraphs (a) and (b), compliance with the charging methodology facilitates effective competition between gas shippers and between gas suppliers

Some Workgroup Participants believed that the potential for this Modification to inflate prices for other Users may act to the detriment of the market.

(e) 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.

Some Workgroup Participants believed there may be compliance issues with this Modification. These are further explored earlier in this report in section 6.

8 Implementation

No implementation timescales are proposed. However, implementation should be as soon as possible after an Authority direction to do so.

9 Legal Text

Legal Text and Legal Text Commentary has been provided by National Grid and is published alongside this report here: https://www.gasgovernance.co.uk/0751 . The Workgroup has considered the Legal Text and had no questions or comments to offer on the Legal Text drafting as at 12 April 2021. Workgroup noted a small typo which will be corrected by National Grid before the Panel meeting on 15 April 2021.

The Proposer and National Grid confirmed that the Legal Text meets the intent of the solution.

10 Recommendations

Panel's Recommendation to Interested Parties

The Panel have recommended that this report is issued to consultation and all parties should consider whether they wish to submit views regarding this modification.

Panel have also asked respondents to:

1. Provide views on whether this Modification is suitable for Self-Governance procedures.
2. Provide views on whether there are any compliance issues associated with this Modification.