

Representation - Draft Modification Report UNC 0765

New retrospective debit and credit charges to reflect changes to the treatment of Entry Capacity Revenue between October and December 2020

Responses invited by: **5pm on 20 September 2021***
extended to 5pm on 24 September 2021

To: enquiries@gasgovernance.co.uk

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

| | |
|-------------------------------------------------|-------------------------------------------|
| Representative: | Jack Presley Abbott |
| Organisation: | Centrica Energy Limited |
| Date of Representation: | 23/09/2021 |
| Support or oppose implementation? | Oppose |
| Relevant Objective: | c) Negative d) Negative g) Negative |
| Relevant Charging Methodology Objective: | a) Negative b) Negative c) Negative |

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

We strongly oppose the retrospective charges proposed in UNC 765. As a matter of principle, retrospective regulatory changes should be avoided, except in exceptional circumstances. In this case, exceptional circumstances have not arisen. Ofgem's own guidance¹ states that retrospective modifications should be avoided as they undermine market confidence and lays out the conditions that Ofgem believes could possibly justify retrospectivity. These include:

- a situation where the fault or error giving rise to additional costs or losses was directly attributable to central arrangements;
- combinations of circumstances that could not have been reasonably foreseen; or

¹ Can be found [here](#).

- where the possibility of a retrospective action had been clearly flagged to the participants in advance, allowing the detail and process of the change to be finalised with retrospective effect.

None of these conditions have been met and therefore retrospectivity is not justified

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

Regarding the first condition: No fault or errors were made. The neutrality payments were administered exactly as required according to the Uniform Network Code (UNC), albeit that the sums of money involved were larger than had been experienced previously due to higher tariffs in UNC678A. Furthermore, UNC 748, which we supported, was urgently developed, and implemented to accommodate the new circumstances on a prospective basis.

Regarding the second condition: The circumstances that led to higher neutrality payments could clearly have been foreseen, as the rules that led to them were well known and part of the UNC. The issue was also raised in industry discussions prior to implementing UNC678A.

Regarding the third condition: The possibility of a retrospective action was not flagged to the participants in advance of UNC678A implementation. National Grid states that the issue, and option for retrospective action, was raised more generally at an industry meeting in mid-November 2020. However, this was still several months after the possible impacts of higher neutrality payments were deliberated in the industry discussions for Modification UNC678A. We therefore do not agree that this criterion can be relied upon for retrospection.

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

We do not believe this modification should be implemented.

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

We believe the legal text delivers the intent of the solution.

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 further comments.

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

No further comments.