

## 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](mailto:enquiries@gasgovernance.co.uk)

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

<b>Representative:</b>	Gerry Hoggan
<b>Organisation:</b>	Scottish Power
<b>Date of Representation:</b>	24 September 2021
<b>Support or oppose implementation?</b>	Oppose
<b>Relevant Objective:</b>	c) Negative d) Negative g) Negative
<b>Relevant Charging Methodology Objective:</b>	a) Negative b) Negative c) Negative

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

We believe that it should be a fundamental principle that, other than in the most exceptional of circumstances, regulatory changes should not be applied retrospectively as to do so has the unwelcome effect of undermining market confidence and causing regulatory uncertainty.

As regards when any such exceptional circumstances may arise such as to merit consideration of retrospectivity, we agree with the conditions set out by Ofgem in their guidance on “Urgency Criteria”<sup>1</sup> and in previous decision letters, namely

- a situation where the fault or error giving rise to additional costs or losses was directly attributable to central arrangements – no such faults or errors arose in this

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<sup>1</sup> [Ofgem Guidance on Code Modification Urgency Criteria](#)

case where the payments concerned were otherwise processed and attributed in accordance with the UNC rules as they then applied;

- combinations of circumstances that could not have been reasonably foreseen – the circumstances were clearly foreseeable and indeed were highlighted during discussions as the Modification was developed and indeed is highlighted in the Final Modification Report for MOD0678A; or
- 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 – National Grid refer to the matter being flagged in general at an industry meeting in mid-November 2020, although it should be noted that the participants at that meeting were not representative of the industry as a whole and this in itself was some time after MOD0678A had been determined and implemented.

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

We do not consider that this Modification should be implemented

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

We would not anticipate being materially impacted although there would be some administrative costs in processing the resultant adjusting invoices

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

No assessment of the legal text has been undertaken

**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**

None