

## 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**

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>	Adam Bates
<b>Organisation:</b>	South Hook Gas Company Ltd. (SHG)
<b>Date of Representation:</b>	20 September 2021
<b>Support or oppose implementation?</b>	Oppose
<b>Relevant Objective:</b>	<p>c) Negative</p> <p>d) Negative</p> <p>g) Negative</p>
<b>Relevant Charging Methodology Objective:</b>	<p>a) Negative</p> <p>b) Negative</p> <p>c) Negative</p>

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

SHG opposes the implementation of UNC Modification 0765 on the basis that the retrospective nature of the modification is unwarranted and could lead to a significant degree of uncertainty within the market.

Ofgem state in their Guidance on Code Modification Urgency Criteria<sup>1</sup> that “retrospective modifications should be avoided as they undermine market confidence” and then list examples of three circumstances in which exceptions could be made to allow for retrospective modification. Taking each specified circumstance in turn, the situation did not arise as a result of a fault or error directly attributable to central arrangements (circumstance 1) and this is not required as a result of a combination of circumstances that could not have been reasonably foreseen (circumstance 2) as the process was

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<https://www.gasgovernance.co.uk/sites/default/files/ggf/Ofgem%20Guidance%20on%20Code%20Modification%20Urgency%20Criteria%2017%20February%202016.pdf>

conducted as per the rules in the UNC at the time. The third particular circumstance listed in the guidance document states that retrospective modification may be appropriate where the possibility of retrospective action has been clearly flagged to market participants in advance. NGG claim industry was first made aware of retrospectivity mid-November, however, the earliest documented suggestion of retrospective SHG could find is from the minutes of NTSCMF on 1st December 2020 – 2 months after the suggested issue started. SHG does not consider the case for the retrospective modification as stated in the draft mod report (adverse effects on competition objectives set out in the Ofgem decision letter) to have been sufficiently made out or to be in the same order of materiality as the specific circumstances set out in the guidance document.

Therefore, SHG does not believe that this Modification fulfils Ofgem’s criteria for retrospective action and believes that implementation of the Modification would create uncertainty in and thereby be detrimental to the GB market. As such, the Modification should not be implemented.

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

This modification should not be implemented.

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

N/A

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

SHG doesn’t not have any comment on the legal text

**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.*

N/A

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

N/A