

SEFE Energy Representation Draft Modification Report

Modification 0818 - Releasing of unused capacity under a specific set of circumstances

- 1. Consultation close out date:** 24th February 2023
- 2. Respond to:** enquiries@gasgovernance.co.uk
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- 5. Date of Representation:** 16th February 2023
- 6. Do you support or oppose Implementation:**
We **Do Not Support** implementation of the Modification

7. Please summarise (in 1 paragraph) the key reason(s) for your position:

We welcome the proposer taking on board a number of our comments including limiting its scope e.g. excluding customers who have previously paid for re-enforcement. However **we do not support** the principle of allowing a Distribution Network to unilaterally remove a customer's right to "contingent" capacity particularly where they have previously sought to approach the customer to reduce the level of contingent capacity but have not been successful in persuading the customer to do so.

In the circumstances set out in the modification the customer had been paying for the contingent capacity to be overall benefit of all existing customers. They have then been approached by the Distribution Network via the existing SPOR review process to see if the customer is willing to voluntarily reduce the sites capacity. In such circumstances the customer is made aware of the potential for such a reduction and the financial savings that would arise from doing so.

This enables the customer to determine whether in their opinion the requirement for contingent capacity remains and if not for them to reduce their costs by amending accordingly.

Were the customer has, having been made aware of the voluntary option, and decided that they wish to retain the contingent capacity and continue to pay for its availability. The Distribution Network can, should this modification be approved, then unilaterally remove the contingent capacity that the customer considers is still required and has been and is willing to pay for.

8. Are there any new or additional Issues for the Modification Report:

Yes

The highly targeted nature of this modification suggests that the Proposer is seeking to address a particular set of circumstances and we would question if the use of a code modification is the best way of addressing this particular issue.

The modification includes an appeal process and appeal window however the Business Rules do not set out the basis under which an appeal is valid. In the FMR the following reference is made

Do note also that the Modification includes an appeal process that is intended to enable discussion amongst all parties involved. Hopefully the answers to the other questions posed will give some additional clarity and reassurance around the reason for this Modification and its limited scope

However the legal text refers to specific criteria (see below) however, for traceability, it is not reflected in the Business Rules: -

14.4 Where the Registered User is of the opinion:

- (a) the Supply Point is not an Eligible Supply Point;
- (b) the prevailing Supply Point Offtake Rate and Supply Point Capacity are consistent with the requirement for the future offtake of gas from the System at the Supply Point;
or
- (c) an alternative rate and capacity to that proposed by the Transporter in the T1 Reduction Notice is more consistent with the requirement for the future offtake of gas from the System at the Supply Point,

the Registered User may submit a notice of **appeal** to the Transporter by no later than 31 July in the same year.

As noted above in these cases the Distribution Network will have attempted to reduce the contingent capacity via the SPOR process, and the customer has rejected this route. Therefore we would question if the Distribution Network in an impartial position to consider the appeal particularly in relation to 14.4(b).

9. Self-Governance Statement Do you agree with the status?

Not Applicable

10. Relevant Objectives:

How would implementation of this modification impact the relevant objectives?

We **disagree** with the proposer that this modification is positive in respect of Relevant Objective(s) **a, Efficient and economic operation of the pipe-line system and c, Efficient discharge of the licensee's obligations** are furthered due to the actual bookings closer reflecting the usage of the Distribution Network. Thereby allowing for more efficient and accurate modelling and reducing potential risk in maintaining 1 in 20 peak demands. This should thereby decrease the need for unnecessary reinforcement of the network in order to maintain the 1 in 20 positions as required by Gas Transporters Licence Standard Special Condition A9.

We believe if it's true that removing contingent capacity is generally efficient then we would question, why all customers are unable to unilaterally reduce their capacity at any time to enable a more efficient operation of the Network(s).

We do not believe that ability to unilaterally remove a customer right to contingent capacity is fair, efficient or in the spirit of the Licensees obligations.

We believe it cannot be considered efficient if the introduction of unilateral rights to remove contingent capacity discourages customers more broadly from continuing to pay for contingent capacity, to the benefit of all, if it can be subject to removal without their consent.

We believe it could be argued that the new customer who wants to connect should access capacity at a location where capacity is available (not constrained) and this would be better for efficiency, removing any risk of further re-enforcement being needed and maximising the amount of revenue paid for capacity as a whole.

If this modification is implemented and existing customers rights to contingent capacity are unilaterally removed then if that customer wished to use more capacity in line with that which was removed then they would be exposed to re-enforcement costs as a direct result of a new customer being given their capacity.

Because it cannot be efficient to create a regime that incentivises new customers to connect to constrained parts of the Network as opposed to unconstrained areas.

We **disagree** with the proposer that this modification is positive in respect of Relevant Objective(s) **d, Securing of effective competition (i) between relevant shippers** is furthered due to the release of unused capacity in 'restricted' areas, thereby facilitating increased competition by releasing this capacity to be available for other shippers to also request to utilise.

We believe that removing capacity unilaterally from one party to give it to another is not as efficient as allowing a customer to connect in a place where there is no constraint, all other things being equal.

We believe that a new customer who wants to connect should access capacity at a location where capacity is available, and this would be better for competition (driving prices down) since the new customer would pay additional capacity costs, in addition to the contingent capacity payments from the existing customer, thereby increasing overall revenue to the Distribution Network.

11. Impacts & Costs:

What analysis, development and on-going costs would you face if this modification was implemented?

We **have not** identified any significant costs associated with the implementation of this modification

12. Implementation:

What lead times would you wish to see prior to this modification being implemented, and why?

Due to the potential detrimental impacts on some customers we would argue for **implementation to be no earlier than October 2024**

13. Legal Text:

Are you satisfied that the legal text will deliver the intent of the modification?

We **have not** reviewed the Legal Text provided.

14. Is there anything further you wish to be taken into account?

Please provide any additional comments, supporting analysis, or other information that you believe should be taken into account or you wish to emphasise.

Yes

In relation to the Impact of the change on Consumer Benefit Areas:

Lower bills than would otherwise be the case

We believe the value of this to be deminimis. However If customers can no longer assure themselves of continued access to contingent capacity i.e. that it can be unilaterally removed from them. They may not be incentivised to continue to pay for this “contingent” capacity thus reducing the overall contribution towards capacity charges. This under recovery would have to then be recovered from the rest of the market.

Reduced environmental damage

We believe the assertion that reinforcement works are required is based on the assumption that the party requesting additional capacity is locationally constrained and if not, then no reinforcement may be required, and as a result the use of underutilised capacity elsewhere may be better from an efficiency and environmental standpoint.

Improved Quality of Service

We believe that unilaterally removing a Customers capacity without their consent would not improve the quality of service to those Customers

We believe the assertion that reinforcement works are required is based on the assumption that the party requesting additional capacity is locationally constrained and if not, then no reinforcement may be required, and as a result the use of underutilised capacity elsewhere may be better from an efficiency and environmental standpoint.

Benefits for society as a whole

We believe the assertion that reinforcement works are required is based on the assumption that the party requesting additional capacity is locationally constrained and if not, then no reinforcement may be required, and as a result the use of underutilised capacity elsewhere may be better from an efficiency and environmental standpoint.