

Modification proposal:	<b>Uniform Network Code (UNC) 0818: Releasing of unused capacity under a specific set of circumstances (UNC 0818)</b>		
Decision:	The Authority <sup>1</sup> has decided to reject this modification <sup>2</sup>		
Target audience:	UNC Panel, Parties to the UNC and other interested parties		
Date of publication:	24 April 2023	Implementation date:	n/a

## Background

Currently when a large consumer<sup>3</sup> who is the Registered User<sup>4</sup> of a Class 1<sup>5</sup> site books capacity, there is no obligation within the Uniform Network Code (UNC) for this to be fully utilised. Capacity is booked in advance to ensure accurate network modelling and sufficient gas is available on the Gas Distribution Network (GDN) for Shippers.<sup>6</sup> This allows these consumers to plan for fluctuations in consumption and assists with planning future growth.

This enables Class 1 sites to plan their future usage to avoid using more than their booked capacity and incurring Ratchets.<sup>7</sup> There is no restriction on the amount of capacity a large consumer can book for a site over their peak capacity usage, this may result in large consumers booking capacity at a higher amount than they intend to use. This may lead to inefficient use of the network creating constraints in certain areas. Furthermore, if a large consumer is underutilising their booked capacity it may lead to additional capacity being unavailable for existing or new Registered Users who wish to connect in the same area of the network.

<sup>1</sup> References to the "Authority", "Ofgem", "we" and "our" are used interchangeably in this document. The Authority refers to GEMA, the Gas and Electricity Markets Authority. The Office of Gas and Electricity Markets (Ofgem) supports GEMA in its day to day work. This decision is made by or on behalf of GEMA.

<sup>2</sup> This document is notice of the reasons for this decision as required by section 38A of the Gas Act 1986

<sup>3</sup> References to "consumers", "users" and "sites" are used interchangeably in this document.

<sup>4</sup> Registered User is defined in UNC [TPD Section G - Supply Points Section 1.1.1](#)

<sup>5</sup> Class 1 sites is defined in UNC [TPD Section G - Supply Points Section 2.1.3](#)

<sup>6</sup> Shipper is defined in the UNC [GTB - General Section 2.2.1](#)

<sup>7</sup> Ratchets is defined in UNC [TPD Section B - System Use and Capacity section 4.7](#)

The Supply Point Offtake Rate (SPOR)<sup>8</sup> Review process is in place to identify sites who are overbooking or underutilising their capacity and allows Transporters<sup>9</sup> to engage with these large consumers to discuss a reduction in capacity booking via the consumer's Supplier.<sup>10</sup> However, this process does not always result in engagement or a reduction in the consumer's capacity bookings.

If the SPOR review process does not result in the release of unused capacity, then it may be necessary for new and existing consumers to pay for reinforcement works to support capacity in a capacity constrained area. This could result in these consumers deciding not to increase their usage or being forced to look at other areas of the network where capacity is not currently restricted to allow them to connect.

Furthermore, in order for Transporters to achieve their 1 in 20<sup>11</sup> licence obligation, which requires them to ensure they are able to meet demand in a peak 1 in 20-year winter, the Transporter may be required to carry out reinforcement works which are recovered through pricing methodology. However, this reinforcement work may not allow for any additional capacity in some areas and would only support the Transporter in reaching its 1 in 20 licence obligation.

## **The modification proposal**

On 16 August 2022, Northern Gas Networks (the 'Proposer') raised UNC modification, UNC818 'Releasing of unused capacity under a specific set of circumstances', which seeks to introduce a capacity reduction assessment process into the UNC. This would reduce a site's booked capacity where the consumer has overbooked but underutilised capacity, in an area of the network where capacity is restricted and release this capacity following a review period.

The following criteria for a site to be eligible for a capacity reduction has been developed as part of the modification:

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<sup>8</sup> SPOR is defined in UNC [TPD Section B - System Use and Capacity](#) Annex 3 4.1

<sup>9</sup> Transporter is defined in the UNC [14 November 2022 GTB - General](#) Section 2.1.1

<sup>10</sup> Supplier is defined in the UNC [GTC - Interpretation](#) Section 2.9.2

<sup>11</sup> 1 in 20 conditions is defined in the [Gas Transporters Licence Standard Special Condition](#) A9

- that the consumer's site is in Class 1 (and has been for at least three years). This also includes sites that have been Transporter designated under UNC TPD 4.7.16<sup>12</sup> for a minimum of three years.
- the site has not paid for reinforcement works in order to book the capacity they currently hold.
- the site is directly connected to the network.
- that the site must be on an area of the network where there is limited available capacity for other consumers.
- that the site must have been consistently underutilising its booked capacity for at least three years. This will be extended to take account of periods of exceptional circumstances (e.g. Covid).
- that the site must have been included in the SPOR process within the 15 months prior.
- that the site is not a category A Priority Supply Point<sup>13</sup> (as defined by Secretary of State).

The process would require the Transporter to notify the Shipper of the proposed capacity reduction and the new maximum capacity. Eligible sites would have their maximum capacity reduced to no less than 150% of the single highest hourly offtake rate over the three-year assessment period. Following this notification, the consumer will have a 60-day window to dispute this reduction with the Shipper representing the consumer to the Transporter.

The Proposer explains that this will give the consumer the opportunity to present evidence that the booked capacity is needed and is likely to be utilised or for the consumer to provide a counter figure for their capacity to be reduced to. Where the appeal is successful, the site will exit the capacity reduction assessment process at that stage. If there is no appeal or this is unsuccessful following the 60-day window, the Transporter will notify the Shipper of the revised maximum capacity which will take affect from the following month.

Once a site has completed a capacity reduction under this process, standard UNC rules will apply, and the site will be free to increase or decrease their booked capacity accordingly.

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<sup>12</sup> [TPD Section B - System Use and Capacity](#)

<sup>13</sup> Priority Supply Point is define in the UNC [TPD Section Q - Emergencies](#) section 1.7.1

The full legal text can be found in the supporting papers of the FMR.<sup>14</sup>

### **UNC Panel<sup>15</sup> recommendation**

At the UNC Panel meeting on 16 March 2023, a majority of the UNC Panel considered that UNC818 would not better facilitate the UNC objectives and the Panel therefore did not recommend its approval.

Among the Panel members representing consumers, both the domestic consumer and the non-domestic consumer voting members did not vote in favour of the implementation of the modification.<sup>16</sup>

### **Our decision**

We have considered the issues raised by the modification proposal and the Final Modification Report (FMR) dated 17 March 2023. We have also considered and reviewed the responses to the industry consultation(s) on the modification proposal which are attached to the FMR.<sup>17</sup> We have concluded that:

- implementation of the modification proposal will not better facilitate the achievement of the relevant objectives of the UNC.<sup>18</sup>

### **Reasons for our decision**

We consider this modification proposal will not better facilitate UNC Relevant Objectives (a), (c) and (d) and has a neutral impact on the other UNC Relevant Objectives.

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<sup>14</sup> UNC818 Releasing of unused capacity under a specific set of circumstances Full Legal Text. Available: <https://www.gasgovernance.co.uk/sites/default/files/ggf/book/2022-12/Mod%200818%20legal%20text%20V1.1.pdf>

<sup>15</sup> The UNC Panel is established and constituted from time to time pursuant to and in accordance with the UNC Modification Rules.

<sup>16</sup> [Determinations Record 305 16 March 2023 0.pdf \(gasgovernance.co.uk\)](https://www.gasgovernance.co.uk/sites/default/files/ggf/book/2023-03/Determinations%20Record%20305%2016%20March%202023%200.pdf)

<sup>17</sup> UNC modification proposals, modification reports and representations can be viewed on the Joint Office of Gas Transporters website at [www.gasgovernance.co.uk](https://www.gasgovernance.co.uk)

<sup>18</sup> As set out in Standard Special Condition A11(1) of the Gas Transporters Licence, see: <https://epr.ofgem.gov.uk/Content/Documents/Standard%20Special%20Condition%20-%20PART%20A%20Consolidated%20-%20Current%20Version.pdf>

***(a) the efficient and economic operation of the pipe-line system to which this licence relates***

The Proposer believes that the modification will better facilitate Relevant Objective (a) by bringing booked capacity in line with actual usage. The Proposer asserts that this will ensure more efficient and accurate modelling of capacity demand. It is further explained that it will have the benefit of reducing the need to complete reinforcement works in order to ensure the Transporter can maintain its 1 in 20 licence obligation. We note that some Panel members agreed with this view.

However, other Panel members took a contrary opinion, noting that reducing a site's booked capacity through this modification may result in a reduction of allowed revenue for the Transporter should other users do not step in immediately to take up this released capacity. As a result, it is likely that this lost revenue would then be socialised amongst other consumers on the network to ensure the Transporter retains its allowed revenue. A respondent to the consultation stated their opinion that this issue is likely to be further compounded by the possible loss of revenue from the domestic market through non-gas heating solutions such as heat pumps.

A consultation respondent noted that Shippers may not have access to information relating to which areas of the network are constrained which could lead to uncertainty for many daily metered sites. A Panel member highlighted that this uncertainty could lead to large consumers changing their behaviour, reducing bookings, and paying for excess capacity across the whole network which may lead to a reduction in revenue for Transporters.

We acknowledge the argument that large consumers holding excess capacity, who may have no intention to utilise it fully, could potentially have an impact on other consumers being able to enter or expand at a constrained area of the network. However, we do not believe this modification will resolve capacity restrictions in the long term for these scenarios. UNC818 does not address the possible risk that if a site's booked capacity is reduced through the proposed process removing the specified network constraint, other consumers can then choose to utilise this capacity which may result in the network becoming constrained again. If this situation were to reoccur, consumers wishing to connect may be required to fund

reinforcement work or this may need to be undertaken by the Transporter to meet their 1 in 20 licence obligation creating the same situation which this modification is aiming to avoid.

We feel that the modification does not provide incentive or deterrence in relation to the consumers who have been subject to the capacity reduction assessment process. These consumers are not prohibited from re-engaging in this behaviour at the earliest opportunity if capacity is still available to be booked. In this scenario, there is a potential risk that the network will return to the position it was in prior to the capacity reduction assessment process taking place.

Some Panel members and consultation respondents highlighted that this modification is disproportionate due to the small number of sites that will meet the criteria of the capacity reduction assessment process. It was also argued by some Panel members that the modification will give the Transporter unilateral control over a site's booked capacity as currently there is no option for the site to request to reduce their booked capacity without being engaged in a SPOR review.

We agree that this modification would likely affect only a limited number of sites. We have not been provided any evidence that the existing processes are inadequate, or that appropriate safeguards would be put in place by this proposal. This may discourage more consumers from spending on excess capacity to provide a significant buffer to incurring Ratchets than the intended outcomes for this modification. To avoid this a new code modification may be necessary to address this potential issue. For these reasons we do not consider this modification will further Relevant Objective (a).

***(c) so far as is consistent with sub-paragraphs (a) and (b), the efficient discharge of the licensee's obligations under this licence***

The Proposer believes the modification will better facilitate Relevant Objective (c) bringing booked capacity in line with actual usage. The Proposer asserts that this will ensure more efficient and accurate modelling of capacity demand. Additionally, they state that this will have the benefit of reducing the need to complete reinforcement works to ensure the Transporter can maintain its 1 in 20 licence obligation, and some Panel members agreed with this view.

A Panel member however considered that the modification is negative for this objective because there is a risk of consumer charging behaviour causing lower revenue. This does not appear to be efficient, although they noted that the level of risk is difficult to assess.

Although this modification may help the Transporter in being compliant with their 1 in 20 licence obligation, we are concerned that this may only provide temporary relief from the capacity restrictions and is not a permanent solution which is adequate for all affected parties. We have set out in our assessment of Relevant Objective (a) what issues we consider may not be resolved following the implementation of this modification. As more consumers connect to the network or the capacity is rebooked, the Transporter may find itself in the situation where reinforcement works are needed. For these reasons we do not consider this modification will better facilitate Relevant Objective (c).

***(d) so far as is consistent with sub-paragraphs (a) to (c) the securing of effective competition:***

***(i) between relevant shippers;***

***(ii) between relevant suppliers; and/or***

***(iii) between DN (Distribution Network) operators (who have entered into transportation arrangements with other relevant gas transporters) and relevant shippers***

The Proposer believes that this modification will better facilitate Relevant Objective (d) by freeing up capacity in restricted areas of the network. This free capacity will become available for existing and new Shippers who wish to connect, leading to more competition between Suppliers for these Shippers, and some Panel members agreed with this view.

However, a number of Panel members considered that the modification will have a negative impact on Relevant Objective (d), noting that removing capacity from one consumer to give it to another is not as efficient as allowing a consumer to connect in a place where there is no capacity constraint. They also argued that the appeal process offered in the modification proposal appears to be one-sided. A Panel member stated that the same parties would be involved in the appeal who have been involved in the process since the beginning and a more independent view would be appropriate. The Proposer countered that the proposed process of

appeal outlined in the modification is similar to the appeals processes which are utilised in other circumstances within the UNC.

A consultation respondent also felt that the Relevant Objective (d) would be negatively impacted. The respondent noted that by allowing a new consumer to utilise the unused capacity taken from a consumer in a restricted area, it would result in the same level of capacity charges being collected. The respondent stated that if new consumers connect in a non-restricted part of the network this may result in increased capacity charges being collected, lowering charges across the network for all consumers, and Suppliers will still benefit from the increased business.

We agree that Relevant Objective (d) may be negatively impacted as it does not encourage full and efficient use of the network. By encouraging consumers to connect in other areas of the network, which is not capacity constrained, these increased connection charges will likely benefit all consumers on the network and allow other Suppliers the possibility to benefit by taking on these consumers in other areas. However, we have not been provided with evidence to substantiate these claims and for these reasons we do not consider this modification will better facilitate Relevant Objective (d).

### **Decision notice**

In accordance with Standard Special Condition A11 of the Gas Transporters Licence, the Authority has decided that modification proposal UNC 818: Releasing of unused capacity under a specific set of circumstances should not be made.

**Michael Walls**

**Head of Retail Market Operations**

Signed on behalf of the Authority and authorised for that purpose