

Modification proposal:	Uniform Network Code (UNC) 823: Amendment to the Allocation of Entry Capacity and Flow Quantities to Qualifying CNCCD Routes (UNC823)		
Decision:	The Authority ¹ has decided to reject this modification ²		
Target audience:	UNC Panel, Parties to the UNC and other interested parties		
Date of publication:	26 January 2024	Implementation date:	n/a

Background

On 27 April 2021, we approved modification proposal UNC728B: ‘*Introduction of a Conditional Discount for Avoiding Inefficient Bypass of the NTS*’ (“UNC728B”) and decided that it should be implemented on 1 October 2021.³ UNC728B introduced a discount to discourage bypass of the National Transmission System (“NTS”) known as the Conditional NTS Capacity Charge Discount (“CNCCD” or “short-haul”). In this decision, we stated that the principle of the short-haul discount is to *“reduce the number of routes which continue to present a credible bypass risk, while minimising the amount of discount that is provided to achieve this.”*

The CNCCD applies when an NTS User purchases Entry Capacity and Exit Capacity and flows gas on their elected short-haul route. Where the User has two or more elected routes that share an Entry Point (‘a multi-route’) the Entry Flow and Entry Capacity are apportioned to each route. The apportionments are then used to calculate the quantities that are eligible for the discount on each route. The allocation of Entry Capacity is based on the proportions of Exit Capacity, and the allocation of Entry Flow is based on the flows at each Exit Point.

The modification proposal

¹ 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.

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

³ https://www.ofgem.gov.uk/sites/default/files/docs/2021/04/unc728_decision.pdf

On 5 September 2022, RWE Supply & Trading GmbH (“the Proposer”) raised UNC823: ‘Amendment to the Allocation of Entry Capacity and Flow Quantities to Qualifying CNCCD Routes’ (“UNC823”). The modification proposes to amend the apportionment calculation⁴ so that both Entry Capacity and Entry Flow are allocated based on the minimum of either the Exit Capacity holding or the Exit Flow, whichever is lower, for each of the Exit Points. This will mean that the quantity of gas securing the short-haul discount is not impacted by the existence of unused Exit Capacity at another nominated Exit Point associated with the multi-route.

UNC Panel⁵ recommendation

At the UNC Panel meeting on 16 February 2023, six (out of a possible 12) UNC Panel members considered that UNC823 would better facilitate the UNC Relevant Objectives. As there was no majority, the Panel did not recommend that UNC823 should be implemented. Of the members representing consumers, the Non-Domestic Consumer Voting Member voted to recommend implementation, whereas the Consumer Voting Member did not.⁶

Our decision

We have considered the issues raised by the modification proposal and the Final Modification Report (“FMR”) dated 16 February 2023. We have considered and taken into account the responses to the industry consultation(s) on the modification proposal which are attached to the FMR⁷ and additional information that has been submitted to us in confidence. We have concluded that:

⁴ The current apportionment calculation can be found in the UNC-Transportation Principal Document Section B 9.3.8, available at: https://www.gasgovernance.co.uk/sites/default/files/ggf/page/2023-12/4%20TPD%20Section%20B%20-%20System%20Use%20and%20Capacity_0.pdf

⁵ The UNC Panel is established and constituted from time to time pursuant to and in accordance with the UNC Modification Rules.

⁶ <https://www.gasgovernance.co.uk/sites/default/files/ggf/2023-02/Determinations%20Record%20Template%2016%20February%202023%20LIVE%20VERSION.pdf>

⁷ UNC modification proposals, modification reports and representations can be viewed on the Joint Office of Gas Transporters website at www.gasgovernance.co.uk

- implementation of the modification proposal will not better facilitate the achievement of the applicable UNC Relevant Objectives (“UNC ROs”).⁸
- directing that the modification be made would not be consistent with our principal objective and statutory duties.⁹

Reasons for our decision

We consider this modification proposal will not better facilitate UNC RO (d) and has no impact on UNC RO (a). We also consider that this modification proposal will have no impact on all other UNC ROs.

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

We consider that the proposal has no impact on UNC RO (a).

The Proposer assesses that their modification would have a positive impact under UNC RO (a), as they argue that the proposal improves eligibility for the CNCCD discount which will help to avoid inefficient bypass of the NTS. In their consideration of the Relevant Objectives, some Panel Members agreed with the Proposer, stating that *“implementation would have a positive impact as the modification would correct an oversight in the eligibility for the CNCCD discount and may thus help avoid inefficient bypass of the NTS and thereby act to maximise the potential use of the system.”* However, other Panel Members disagreed with this assessment because *“the proposal does not demonstrate that the risk of bypass is material and thus the claimed benefit may not be realised.”*

The efficient and economic operation of the system might be enhanced if the proposal enabled retention of routes that would otherwise bypass. In our decision for UNC678A we said that: *“to the extent that a [short-haul discount] is well targeted at network users who present a credible risk of bypass and provides a proportionate discount, we believe that the benefits for*

⁸ As set out in Standard Special Condition A11(1) of the Gas Transporters Licence, see:

<https://www.ofgem.gov.uk/energy-policy-and-regulation/industry-licensing/licences-and-licence-conditions>

⁹ The Authority’s statutory duties are wider than matters which the Panel must take into consideration and are detailed mainly in the Gas Act 1986.

network efficiency could outweigh the disbenefits".¹⁰ We reiterated this statement in our decision for UNC728B, further commenting that "[t]he actual likelihood of bypass is likely to be highly site-specific."¹¹ From our assessment of the information made available to us for UNC823, we consider that the routes identified as being at risk of bypass to be very few in number and that the risk of bypass itself is low. As such, we do not consider that approving the modification would realise the positive impact as stated by the Proposer and some Panel Members, which is that approving UNC823 would avoid inefficient bypass of the NTS, and thereby benefit network efficiency.

For the reasons stated above, we consider the proposal to have no impact on UNC RO (a).

(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 operators (who have entered into transportation arrangements with other relevant gas transporters) and relevant shippers

We consider that the proposal has a negative impact on UNC RO (d).

The Proposer states that "[t]his proposal improves eligibility for the CNCCD discount to help avoid inefficient bypass and improve effective competition." This is because "[i]nefficient bypass would reduce the capacity charges cost base and result in increased NTS Capacity reserve tariffs which would then be passed through to consumers." In Panel's consideration of the UNC ROs, some Panel Members agreed that implementation "could have a positive impact because offers to short-haul Consumers [...] would not need to reflect the potential disadvantage of multi-route short-haul to the shipper depending on their exit capacity bookings relative to flows". The Panel Members reasoned that this could enhance competition between Shippers that wish to offer services to eligible consumers, though acknowledged that there is currently only a small number of such consumers.

¹⁰ Amendments to Gas Transmission Charging Regime: Decision and Final Impact Assessment (UNC678/A/B/C/D/E/F/G/H/I/J) (28 May 2020) <https://www.ofgem.gov.uk/publications/amendments-gas-transmission-charging-regime-minded-decision-and-draft-impact-assessment> (p.24)

¹¹ UNC728B decision (27 April 2021) p.8

However, some Panel Members believed this proposal would have a negative impact on UNC RO (d). They agreed with the Workgroup’s assessment of this objective that *“unless there is a realistic risk of bypass then the effect of this Modification would be to enhance the benefit of the short-haul discount to a small number of Users and that would be to the detriment of the generality of Users thereby having a negative effect in respect of competition.”*

We note that in the FMR, National Gas Transmission plc (NGT) state that the impact of this modification would be an increase in access to the short-haul discount for applicable Users, and a corresponding impact to others, of around £1.62m.¹² In previous decisions, we have communicated the principle of the short-haul discount, which is to *“reduce the number of routes which continue to present a credible bypass risk, while minimising the amount of discount that is provided to achieve this.”*¹³

From our assessment of the information made available to us for the purpose of this UNC823 decision, which includes publicly available information in the FMR and Workgroup reports as well as confidential submissions, we consider the risk of bypass associated with multi-routes on the NTS to be low. Also, we consider those at-risk routes to be very few. In the UNC Workgroup on 1 November 2022, NGT indicated that there were two multi-routes¹⁴ post UNC785 implementation.¹⁵ Therefore, at present, we do not consider there to be a sufficiently high risk of bypass to justify increasing the discount given to Users who are eligible for the short-haul discount at the expense of other Users.

Our assessment is that furthering the discount will likely have a negative impact on competition when considered in the context of the current risk of bypass. This is because the modification would increase the amount of gas flow eligible for the short-haul discount, which would benefit a very small number of Users at the expense of the majority of Users. The more gas that is eligible for the short-haul discount the less revenue NGT recovers from CNCCD

¹² Final Modification Report (FMR) (p.11): <https://www.gasgovernance.co.uk/sites/default/files/ggf/book/2023-02/Final%20Modification%20Report%200823%20v2.0%20%28reps%20appended%29.pdf>

¹³ UNC728 (p.12): https://www.ofgem.gov.uk/sites/default/files/docs/2021/04/unc728_decision.pdf
UNC779/A (p.7): https://www.ofgem.gov.uk/sites/default/files/2022-11/20221111_UNC779-A%20Decision%20%28FINAL%29.pdf

¹⁴ UNC Workgroup 0823S Minutes (p.4): <https://www.gasgovernance.co.uk/sites/default/files/ggf/book/2022-11/Minutes%200823%2001Nov22%20v1.0.pdf>

¹⁵ UNC785: ‘Application of UNC processes to an aggregated Bacton (exit) Interconnection Point’ <https://www.gasgovernance.co.uk/0785>

flows, subsequently, the capacity price for other Users must be increased in order for the revenue shortfall to be recovered. However, if a situation were to arise in the charging arrangements where the number of multi-routes that presented a credible risk of bypass increased; then, we may see merit in a subsequent modification being raised to revisit this issue.

Overall, we conclude that the proposal would likely have a negative impact on competition and RO (d).

Our principal objective and statutory duties

The Authority's principal objective is to protect the interests of existing and future consumers in relation to gas conveyed through pipes and electricity conveyed by distribution or transmission systems.¹⁶

As UNC823 would lead to a revenue shortfall for NGT, it is our view that this would be to the detriment of the majority of Users, as any revenue shortfall would lead to an increase in the price of capacity.

The driver behind this shortfall is the modification's proposed amendment of the apportionment calculation which will expand the amount of gas eligible for the short-haul discount and subsequently result in a potential revenue loss for NGT of £1.62m pa. To recover this loss of revenue, NGT would have to increase the price of capacity.

This modification would therefore only benefit a very small number Users, at the expense of the majority of other Users and gas consumers across GB. For these reasons, we consider that directing UNC823 be made would not be consistent with our principal objective and statutory duties of protecting existing and future consumers.

¹⁶ As set out in Section 4AA (1) of the Gas Act 1986.

Decision notice

In accordance with Standard Special Condition A11 of the Gas Transporters Licence, the Authority has decided that modification proposal UNC823: *'Amendment to the Allocation of Entry Capacity and Flow Quantities to Qualifying CNCCD Routes'* should not be made.

William Duff

Head of Gas Systems and Operation

Signed on behalf of the Authority and authorised for that purpose