

Mod 452 – Consideration of Issues Raised during Consultation and legal text changes



2nd December 2013

UNC Modification 0452 - Purpose

- The UNC modification:
 - Enables the UNC to recognise that capacity can be reserved through a bi lateral contract
 - It also details how the associated security and liabilities are calculated through the charging methodology but not the conditions where liabilities will or will not be applicable in the event of a PARCA termination (PARCA contract)
- The PARCA contract applies to code and non code parties
 - details termination conditions and termination amounts
- The licence details our allowed cost recovery

Our thoughts

- The customer can terminate the PARCA at any point during the PARCA lifecycle.
 - e.g. One reason may be the refusal of planning permission for either the customer or NG NTS
 - We are bound by our licence conditions to operate efficiently and appropriately. We recognise, however, that there could be scenarios where it may not be appropriate for the PARCA applicant to pay a termination fee or for us to fully recover our costs through the licence
- However, defining such scenarios is challenging
 - Very difficult to draft a specific and comprehensive contract clause that works across a spectrum of scenarios
 - We could consider including a broad clause into the draft PARCA contract for both NG and the PARCA Applicant to help ensure any planning application (if required) is competent
 - We welcome any suggested drafting from industry
- In any case, any party has the right to approach Ofgem

Summary of our initial thoughts

- It is possible that there are scenarios where it is inappropriate for the PARCA applicant to pay a termination fee and for NG NTS to fully recover its costs
- We do not believe the best solution is to change the UNC modification
- The draft PARCA is still in its development phase
 - Potentially introduce a “reasonable endeavours” clause into the PARCA contract

Legal text changes

- Seeking workgroup approval of the legal text changes detailed in our mod response
- Refer to NG mod response