



Bob Fletcher
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Dear Bob,

RE: UNC 0341 - Manifest Errors in Entry Capacity Overruns

E.ON does not support implementation of this proposal for the following reasons:

Reduced incentive to book capacity and undermines the overrun regime – the current overrun regime is deliberately penal in order to provide a strong incentive on Shippers to book the appropriate amount of capacity to cover their physical flows and thereby avoid incurring overrun charges. By potentially allowing overrun charges to be cancelled because insufficient capacity was booked, this proposal creates an increased likelihood of future overrun charges being incurred or inadequate capacity bookings being made - and the subsequent manifest error claims that may accompany this behaviour. This may encourage a less prudent, more relaxed and risky approach from Shippers in their approach to capacity booking and management which would be highly undesirable for all market participants.

Undermines existing incentives on Shippers to have appropriate risk management / IT control systems in place - Booking sufficient capacity to cover physical flows is a well-understood and fundamental obligation on physical Shippers and is firmly established in Code. This is not a new obligation. Putting in place appropriate risk management and IT control systems in order to manage this obligation should be a minimum standard for all Shippers. The result of failing to do this is the penal overrun charges. Implementation of this Modification Proposal would undermine the investment in systems and processes which prudent Shippers may have already made in order to manage the risks and reduces the incentive on all parties to make future investments in this area.

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“Floodgates” concerns - This Modification Proposal concentrates on a very specific part of Code. If this proposal is implemented, we have strong concerns that manifest error provisions could be extended further (through future Modification Proposals) to cover more aspects of Code. The effect of this could be to undermine and weaken the existing obligations, penalties and incentives currently faced by Code signatories. It is not inconceivable that further Modification Proposals would be brought forward on other areas of Code where parties would prefer to see a potential “get-out” clause introduced to relieve them of their obligations in certain circumstances. We do not believe this approach by market participants to their obligations under Code should be encouraged.

Retrospective – This proposal is seeking to adjust overrun charges incurred as a result of events which would have taken place before implementation of the proposal. As a principle, we are extremely uncomfortable with any UNC Modification Proposal which seeks to make such retrospective adjustments to the rules and note that Ofgem has also previously expressed concerns on this subject, or rejected Proposals for this very reason. Our “floodgates” concerns highlighted above also apply in respect of retrospective Mods and the future potential for a flood of similar Mods seeking to adjust the rules in relation to past events.

If you wish to discuss this response in any more detail, please do not hesitate to contact me on T: 02476 181 421.

Yours sincerely

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