

Representation - Modification UNC 0726 (Urgent)

COVID-19 Liquidity Relief Scheme for Shipper

Responses invited by: 5pm on 12 June 2020

To: enquiries@gasgovernance.co.uk

Please note submission of your representation confirms your consent for publication/circulation.

Representative:	Claire Roberts
Organisation:	ScottishPower
Date of Representation:	
Support or oppose implementation?	Oppose
Relevant Objective:	d) Negative

Reason for support/opposition: Please summarise (in one paragraph) the key reason(s)

ScottishPower opposes the modification to implement a COVID-19 Liquidity Relief Scheme for the following reasons:

- Lack of justification/transparency:** The Scheme which the modification will give effect to has been initiated by Ofgem with minimal consultation with energy shippers and suppliers. Ofgem has published no analysis or forecasting to support the necessity of introducing these new arrangements, nor any assessment of their impact on competition in the domestic and non-domestic retail markets. Indeed, the modification proposal acknowledges that 'no Shippers have, to date, approached GTs indicating a risk of defaulting payment for Transportation invoices.'
- Inadequate competitive safeguards:** If the intention of the Scheme is to address certain energy shipper/suppliers' short-term liquidity issues, it is essential that adequate controls and safeguards are put in place to ensure that the scheme is used only for that purpose, is used only as a genuine last resort and minimises any distortion of competition. We agree that suppliers should not pay dividends and should exercise pay restraint while in receipt of liquidity relief, but we believe they should also be prevented from using the resulting cashflow to gain competitive advantage by acquiring new customers. Accordingly, we strongly disagree with the proposal on page 15 that eligible suppliers shall not be subject to the threat of sanctions in UNC TPD Section S, paragraph 3.5.3). In addition, the modification proposal seeks only to provide relief to Shippers, any relief for Suppliers and consumers relies on the relief being passed on. At present there are

no proposals that would enforce shippers to do so. We do not believe this modification alone would deliver the intention set out by Ofgem to provide support to suppliers during this time.

- **Risk of supporting unviable businesses:** The proposed eligibility criterion for the COVID-19 Liquidity Relief Scheme is that neither the Shipper themselves, nor any member of their corporate group have an investment grade credit rating. We believe a second criterion should be added, that the Shipper be able to evidence that they were not in pre-existing financial difficulty (i.e. not an “undertaking in difficulty” as at 31 December 2019, within the meaning of the EU Temporary Framework on State Aid). This additional criterion is not uncommon or disproportionate and is in line with those which are often imposed under EU state aid rules in exchange for public support to businesses to avoid distortions of competition.
- **Negative impact on Relevant Objectives:** For the reasons set out above, we believe the Scheme risks having a significantly adverse effect on competition by supporting unviable business models and adding to the mutualisation costs faced by other suppliers. This is contrary to Objective (d).

Implementation: *What lead-time do you wish to see prior to implementation and why?*

As direct by the Authority

Impacts and Costs: *What analysis, development and ongoing costs would you face?*

None Identified

Legal Text: *Are you satisfied that the legal text will deliver the intent of the Solution?*

No comment

Are there any errors or omissions in this Modification that you think should be taken into account? *Include details of any impacts/costs to your organisation that are directly related to this.*

None identified

Please provide below any additional analysis or information to support your representation

No further comment