











UNC Final Modification Report		At what stage is this document in the process?
<h1>UNC 0735VS:</h1> <h2>UNC Changes as a consequence of the United Kingdom's exit from the European Union</h2>		<div>01 Modification</div> <div>02 Workgroup Report</div> <div>03 Draft Modification Report</div> <div>04 Final Modification Report</div>
<p><b>Purpose of Modification:</b></p> <p>A number of minor changes to the Uniform Network Code (UNC) are required as a consequence of the end of the implementation period following the United Kingdom (UK) withdrawal from the European Union (EU). In principle, these changes modify existing references to EU regulations with reference to UK amendment regulations and where appropriate remove references to EU entities.</p>		
	The Panel determined that this Self-Governance Modification be implemented.	
	High Impact: None	
	Medium Impact: None	
	Low Impact: All UNC signatories.	

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Timetable		 0121 288 2107
<b>Modification timetable:</b>		Proposer: <b>Phil Lucas</b> <b>National Grid NTS</b>
Initial consideration by Distribution Workgroup	24 September 2020	 <a href="mailto:enquiries@gasgovernance.co.uk">enquiries@gasgovernance.co.uk</a>
Initial consideration by Transmission Workgroup	01 October 2020	 <a href="mailto:phil.lucas@nationalgrid.com">phil.lucas@nationalgrid.com</a>
Workgroup Report presented to Panel	19 November 2020	 01926 653546
Consultation commences	20 November 2020	Transporter: <b>National Grid NTS</b>
Consultation Close-out for representations	10 December 2020	Systems Provider: <b>Xoserve</b>
Final Modification Report available for Panel	12 December 2020	 <a href="mailto:UKLink@xoserve.com">UKLink@xoserve.com</a>
Modification Panel decision*	17 December 2020	
Variation Request presented to Panel	21 January 2021	
Final Modification Report 0735VS available for Panel	15 February 2021	
Modification Panel decision	18 February 2021 (short notice)	
* consideration deferred until 21 January 2021 Panel meeting		

## 1 Summary

### What

The UNC contains a small number of references to EU Regulations and EU entities (noted as authorities for, or sources of information related to, certain UNC provisions). These would no longer be applicable in, nor have an impact upon, the UK after the end of the Implementation period (following the UK's exit from the EU).

### Why

Following a referendum in June 2016, the UK government notified its intention to leave the EU in March 2017. This departure became effective on 31 January 2020 whereupon the UK entered an Implementation period. Following the end of the Implementation period ('IP completion day'), EU Regulations are no longer directly applicable in the UK and EU entities will no longer have a part to play in the creation of UK policy and legislation. However, the principle approach specified in the European Union (Withdrawal Agreement) Act 2020 is to incorporate EU law (existing immediately prior to IP completion day) into UK law and the UK Government introduced statutory instruments to correct or remove any inoperable provisions of EU Regulations, relevant to the gas industry, such that they reflect the UK no longer being an EU member state.

Consequently, in the UNC existing references to EU Regulations require revision and it is no longer necessary (in specific contexts) to refer to EU entities.

A previous and equivalent Modification Proposal (0680S) was raised by National Grid NTS in February 2019 to address the consequences of a 'no deal' UK exit from the European Union in late 2019 / early 2020. In light of the agreement reached (as detailed in the Withdrawal Agreement) Modification 0680S was withdrawn in February 2020. The scope and function of this new Modification Proposal 0735 is principally the same as Modification 0680S and therefore stakeholders are likely to be aware of its aims and objectives.

### How

It is proposed to modify existing references to EU regulations with appropriate references to UK amendment regulations and, in some contexts, remove references to EU entities in the UNC.

## 2 Governance

### Justification for Self-Governance

Application of Self-Governance procedures is sought because the changes proposed are unlikely to have a material effect on competition in the shipping, transportation or supply of gas conveyed through pipes or any commercial activities connected with the shipping, transportation or supply of gas conveyed through pipes. This is because this change is limited to updating certain references in the UNC to legal rules and relevant authorities.

The change proposed is also unlikely to discriminate between different classes of parties to the Uniform Network Code/relevant gas transporters, gas shippers or DN operators. This is because the changes will have the same impact on all parties to the UNC.

The Proposal represents a minimum level of change required to maintain the operability of the prevailing UNC arrangements following IP completion day.

As set out above the changes proposed in this Modification are not considered material, therefore the proposed changes to the Modification Rules should be suitable for Self-Governance procedures and not require Authority Direction.

At the UNC Panel in September the UNC Panel voted unanimously that this Proposal should follow Authority Direction, however it requested that the Workgroup should discuss further and review this direction in light of the Self Governance Criteria at both Distribution and Transmission Workgroups.

UNC Panel's direction that the Proposal should be subject to Authority Direction was on the basis of an interpretation of the "*Authority Direction/Self Governance Criteria*" document<sup>1</sup>. This states that where a Proposal impacts the UNC governance or modification procedures relating to the following aspects, it is likely to require Authority Direction:

- Where the Proposal affects the right of the industry to be engaged in proposed changes to the UNC;
- Where the Proposal changes the User or Transporter representation obligations; or
- Where the Proposal changes any Authority decision-making capacity

In the Workgroup National Grid expressed its view that the changes proposed to the Modification Rules (as detailed in this Proposal) do not affect the rights of the industry to be engaged, change User or Transporter representation obligations; nor Change Ofgem's decision-making capacity. National Grid also noted that the previous Brexit related Proposal (0680), which is principally the same as this Proposal, followed Self Governance Procedures.

Both Transmission and Distribution Workgroups have assessed the materiality of this Modification and agree with the Proposer's assessment that the Self-Governance criteria are met.

## Requested Next Steps

This Varied Modification should:

- be considered a non-material change; and
- be considered at the Modification Panel on 21 January 2021 with implementation at an appropriate time in due course.

Workgroup recommend that panel reconsider its original statement for Authority Direction on the rationale detailed above.

## 3 Why Change?

The UNC contains a small number of references to EU regulations and EU entities noted as authorities for, or sources of information related to, UNC provisions. These were introduced as a consequence of the integration of the UK into the EU Internal Energy Market (IEM) and more specifically in order to comply with a number of EU regulations which were directly applicable in UK Law including:

- Regulation 715/2009 on '*conditions for access to the natural gas transmission networks*'
- Regulation 2017/459 on '*establishing a Network Code on Capacity Allocation Mechanisms in Gas Transmission Systems*';
- Regulation 312/2014 on '*establishing a Network Code on Gas Balancing of Transmission Networks*';
- Regulation 2015/703 on '*establishing a network code on interoperability and data exchange rules*'; and

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<sup>1</sup> [Link to document](#)

- Regulation 2017/460 on ‘*establishing a network code on harmonised transmission tariff structures for gas*’

Following the outcome of a referendum on UK membership of the EU on 23 June 2016, the UK government notified its intention to leave the EU (as permitted by Article 50 of the Treaty on European Union). The UK’s departure from the EU became effective on 31 January 2020 whereupon the UK entered an implementation period which ended on IP completion day<sup>2</sup>. From IP completion day on 31 December 2020, EU regulations are no longer be directly applicable in the UK and EU entities no longer have a part to play in the creation of UK policy nor domestic legislation.

However, the principle approach specified in the European Union (Withdrawal Agreement) Act 2020 was to incorporate EU law (existing immediately prior to IP completion day) into UK law (effective from IP completion day)<sup>3</sup> and the UK Government introduced statutory instruments to correct or remove any inoperable provisions of EU Regulations. Accordingly, the rules for operation of the UK Gas Transmission Systems specified within the relevant EU regulations will be set out in UK legislation in the form of ‘retained EU law’ (i.e. including EU regulations having effect immediately before IP completion day) and the relevant statutory instruments.

On this basis, references to EU regulations in the UNC need to be modified and supplemented with references to the relevant UK statutory instruments. Further, it is not necessary nor appropriate for the UNC to refer to specific EU entities from IP completion day as they will no longer have a role to play in the operation of UK Gas Transmission Systems.

Consistent with the principles in the European Union (Withdrawal Agreement) Act 2020 and changes that will be proposed to the Transporter Licence<sup>4</sup>, legally binding decisions made up until IP completion day by the Agency for the Co-operation of Energy Regulators (ACER) and/or European Commission will continue to apply in the UK.

If these changes are not made, the UNC will contain inappropriate references to EU regulations (in isolation) rather than correct references to EU regulations (as modified by UK legislation) and refer to EU entities that have no direct role in the operation of the Total System in GB.

The Proposer suggests that this Modification should be discussed at both Distribution and Transmission Workgroups (in September and October respectively) in order to maximise the cross section of industry participants who can contribute to the assessment of the Modification.

## 4 Code Specific Matters

### Reference Documents

[European Union \(Withdrawal\) Act 2018](#)

[European Union \(Withdrawal Agreement\) Act 2020](#)

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<sup>2</sup> European Union (Withdrawal Agreement) Act 2020 section 39(1)

<sup>3</sup> European Union (Withdrawal Agreement) Act 2020 section 25

<sup>4</sup> See [https://www.ofgem.gov.uk/publications-and-updates/statutory-consultation-licence-modifications-event-uk-leaves-eu-without-deal?utm\\_medium=email&utm\\_source=dotMailer&utm\\_campaign=Daily-Alert\\_14-01-](https://www.ofgem.gov.uk/publications-and-updates/statutory-consultation-licence-modifications-event-uk-leaves-eu-without-deal?utm_medium=email&utm_source=dotMailer&utm_campaign=Daily-Alert_14-01-2019&utm_content=Statutory+consultation+on+licence+modifications+in+the+event+the+UK+leaves+the+EU+without+a+deal&dm_i=1QC)

[2019&utm\\_content=Statutory+consultation+on+licence+modifications+in+the+event+the+UK+leaves+the+EU+without+a+deal&dm\\_i=1QC](#)  
[B.62KUP.NH6XDG.NTXAR.1](#)

[The Electricity and Gas etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019](#)

Statutory Instrument covering Regulation 715/2009 'Gas Regulation'

[The Gas \(Security of Supply and Network Codes\) \(Amendment\) \(EU Exit\) Regulations 2019](#)

Statutory Instrument covering Regulation 2017/459 'CAM', Regulation 312/2014 'BAL', Regulation 2015/703 'INT' Regulation 2017/460 'TAR' and Regulation 2017/1938 'SoS'

[The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020](#)

Statutory Instrument that amends:

- "The Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019" (see section 3); and
- "The Gas (Security of Supply and Network Codes) (Amendment) (EU Exit) Regulations 2019 (see section 4)

## Knowledge/Skills

Knowledge of Brexit principles

## 5 Solution

It is proposed that the following changes are made to the specified sections of the UNC:

### General Terms

Section	Current UNC Text	Summary / Purpose	Proposal
<b>MODIFICATION RULES</b>			
2	INTERPRETATION		
2.1	Defined terms		
	" <b>Regulation</b> " means Regulation 2009/715/EC of the European Parliament and of the Council of 13 July 2009 (as amended from time to time) concerning conditions for access to the national gas transmission networks;	Defines the principle Internal Energy Market Regulation.	Supplement 'retained EU law' EU Regulation with reference to The Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019 and The Electricity and Gas etc. (Amendment) (EU Exit) Regulations 2020.
	None	<i>Sets scope of decisions that are relevant i.e. limits definition to those decisions made up until IP completion day.</i>	Add new definition: " <b>legally binding decisions of the European Commission and/or the Agency for the Cooperation of Energy Regulators</b> "
	None	<i>Sets scope of EU rules that are binding i.e. as defined in the European Union (Withdrawal Agreement) Act 2020</i>	Add new definition " <b>retained EU law</b> "
<b>GTC – INTERPRETATION</b>			
1	DEFINED TERMS		
	In addition to terms defined elsewhere in the Code, the following terms and expressions are used with the following meanings in the Code:		

	<b>"Recognised Standard"</b> means any technical, engineering or other standard, issued or published by any governmental body or professional or other institution, and generally recognised as applying to the gas industry in the United Kingdom or the European Union, as from time to time applicable;	Who may set engineering policy/standards	Remove reference to EU as no longer source of Recognised Standards
<b>TRANSITION DOCUMENT [PART IIC – TRANSITIONAL RULES]</b>			
	None	<i>Clarifies that for Auction Year 2020/21 the relevant Auction Calendar will be published by ENTSG.</i>	Add terms to address publication of the <b>Auction Calendar</b> (EID Section B2.1.4(g)) for Auction Year 2020/21

### Transportation Principal Document (TPD)

Section	UNC Text	Summary / Purpose	Proposal
<b>SECTION Y – CHARGING METHODOLOGIES</b>			
<b>PART A – NTS CHARGING METHODOLOGIES</b>			
<b>PART A-I – NTS TRANSPORTATION CHARGING METHODOLOGY</b>			
1.3	Interpretation		
1.3.2	For the purposes of this Part A-I:		
(a)	<b>"Tariff Regulation"</b> means Commission Regulation (EU) 2017/460 establishing a network code on harmonised transmission tariff structures for gas	Defines the Tariff setting Regulation	Supplement "retained EU law" EU Regulation with reference to The Gas (Security of Supply and Network Codes) (Amendment) (EU Exit) Regulations 2019 and The Electricity and Gas etc. (Amendment) (EU Exit) Regulations 2020.

### European Interconnection Document (EID)

Section	UNC Text	Summary / Purpose	Proposal
<b>SECTION A – GENERAL</b>			
2.5	Other interpretation		
2.5.1	In this Document:		
(a)	<b>"ENTSG"</b> means the European Network of Transmission System Operators for Gas, an 'Association Internationale Sans But Lucratif' established under Belgian law;	Definition of ENTSG	Delete definition.
<b>SECTION B – CAPACITY</b>			
2.1.4	For the purposes of this Document:		
(g)	the <b>"Auction Calendar"</b> in relation to an Auction Year is the auction calendar published by ENTSG for that Auction Year;	Reference for setting of Auction timings and frequency	Replace with "...published by National Grid..." as ENTSG will no longer publish Auction Calendar in respect of UK.
<b>SECTION E – RULES FOR THE RELEASE OF INCREMENTAL CAPACITY AT INTERCONNECTION POINTS</b>			
1.2	Interpretation		
1.2.1	For the purposes of this Document:		

	<p><b>“Amended CAM Code”</b> means Commission Regulation (EU) establishing a Network Code on Capacity Allocation Mechanisms in Gas Transmission Systems and repealing Commission Regulation EU No 984/2013, as amended from time to time;</p>	<p>Defines the Capacity Allocation Mechanism Regulation</p>	<p>Supplement “retained EU law” EU Regulation with reference to The Gas (Security of Supply and Network Codes) (Amendment) (EU Exit) Regulations 2019 and The Electricity and Gas etc. (Amendment) (EU Exit) Regulations 2020. Delete “Amended” as no longer necessary and reflect in occurrences of “Amended CAM Code.”</p>
	<p><b>“Tariff Code”</b> means Commission Regulation (EU) establishing a network code on harmonised transmission tariff structures for gas;</p>	<p>Defines the Tariff setting Regulation</p>	<p>Supplement “retained EU law” EU Regulation with reference to The Gas (Security of Supply and Network Codes) (Amendment) (EU Exit) Regulations 2019 and The Electricity and Gas etc. (Amendment) (EU Exit) Regulations 2020.</p>
2	DEMAND ASSESSMENT		
2.1	Biennial Process		
2.1.12	The demand assessment report contemplated in paragraph 2.1.11 shall take into account the following criteria:		
(a)	whether the Community-wide Ten Year Network Development Plan (as required by EU Gas Regulation (EC) 715/2009) identifies a physical capacity gap whereby a specific region is undersupplied in a reasonable peak scenario and where offering incremental capacity at the Interconnection Point in question could close such gap; or a national development plan identifies a concrete and sustained physical transport requirement;	<p>Mandates consideration of Community- wide Ten Year Network Development Plan when undertaking the demand assessment report</p>	<p>Re-word provision to match intent of Schedule 4 para 18(6) of the Security of Supply and Network Codes) (Amendment) (EU Exit) Regulations 2019 as amended by The Electricity and Gas etc. (Amendment) (EU Exit) Regulations 2020.</p>
2.1.14	National Grid NTS shall follow the standard templates for demand assessment reports as provided by ENTSOG or any other format that National Grid NTS may publish from time to time.	<p>Reference for demand assessment reports to be in format provided by ENTSOG</p>	<p>Remove reference to ENTSOG limiting format to that published by National Grid.</p>

## 6 Impacts & Other Considerations

### Does this modification impact a Significant Code Review (SCR) or other significant industry change projects, if so, how?

This Varied Modification Proposal should not impact any current Significant Code Reviews or significant change projects.



## Consumer Impacts

None – implementation is not expected to have any impacts on consumers as the changes proposed merely correct references to EU legislation, and remove references to EU institutions, in light of the end of the Implementation Period in respect of UK's exit from European Union" or similar.

### Consumer Impact Assessment

*(Workgroup assessment of proposer initial view or subsequent information)*

Criteria	Extent of Impact
Which Consumer groups are affected?	None
What costs or benefits will pass through to them?	None
When will these costs/benefits impact upon consumers?	N/A
Are there any other Consumer Impacts?	N/A

## Cross Code Impacts

It is understood that other energy Codes will require revision as a consequence of the UK's exit from the EU following IP completion day. However, this Varied Modification is not dependant on the other energy Codes therefore joint Workgroups are not requested at this time.

It is recommended that this is raised and discussed at the CACoP Forum.

## EU Code Impacts

The EU energy codes identified in Section 3 (above) will only be applicable in the UK to the extent that they form part of retained EU law hence the requirement to revise the references in UNC to EU Regulations.

## Central Systems Impacts

None. Implementation would not result in the need for any changes to the way in which the central systems operate and process the relevant information to facilitate the ongoing operation of the GB market.

## Workgroup Impact Assessment

### Background

The Proposer, National Grid, suggested that this Modification should be subject to two months development with an airing at both Distribution and Transmission Workgroups, noting that effectively the Modification had already been assessed by a Workgroup in the guise of its predecessor; Modification Proposal 0680VS.

The UNC Modification Panel agreed to the proposed schedule and recommended that the Modification should report back to November 2020 Panel meeting.

The UNC Modification Panel also requested that the Workgroup review the application of 'Authority Direction' procedures in light of the 'Authority Direction/Self Governance Materiality Guidance'. The summary of Workgroup discussions relating to this, and the Workgroup's conclusion and recommendation is detailed above in section 2.

On 29 September 2020 National Grid updated the Proposal, principally to include the full name of the relevant Statutory Instrument that needs to be reflected in the UNC text. As a consequence, the legal text for the modification was also included in the revised Proposal. At the second Workgroup meeting on 01 October 2020

National Grid highlighted the revisions to the Proposals and invited Workgroup participants to review the text and provide any questions and comments at the following Workgroup meeting on 22 October 2020.

On 20 October 2020 National Grid updated the Proposal to address an additional instance of reference to an EU regulation in the UNC. This instance was introduced on 01 October 2020 by the implementation of UNC Modification 0678A - Amendments to Gas Transmission Charging Regime (Postage Stamp).

During the 2020 October Distribution and November Transmission Workgroups, workgroup concluded:

- this Modification should be considered a non-material change and subject to Self-Governance;
- the legal text reflects the intent of the solution;
- the assessment of the Relevant Objectives and agreed that this Modification better facilitates Relevant Objective f); and
- this proposal is sufficiently developed to enable it to proceed to consultation.

### **Rough Order of Magnitude (ROM) Assessment**

Not applicable as there are no changes required to central systems.

## 7 Relevant Objectives

Impact of the modification on the Relevant Objectives:	
Relevant Objective	Identified impact
a) Efficient and economic operation of the pipe-line system.	None
b) Coordinated, efficient and economic operation of (i) the combined pipe-line system, and/ or (ii) the pipe-line system of one or more other relevant gas transporters.	None
c) Efficient discharge of the licensee's obligations.	None
d) 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.	None
e) Provision of reasonable economic incentives for relevant suppliers to secure that the domestic customer supply security standards... are satisfied as respects the availability of gas to their domestic customers.	None
f) Promotion of efficiency in the implementation and administration of the Code.	Positive
g) Compliance with the Regulation and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators.	None

### Relevant Objective f): *Promotion of efficiency in the implementation and administration of the Code*

This Varied Modification will facilitate promotion of efficiency by ensuring that references in the UNC to EU Regulations are appropriately described including reference to the applicable statutory instruments. Further, those EU institutions which will no longer influence UNC terms (applicable in GB) will be removed. These two changes will eliminate any ambiguity which would prevail if these changes were not made and thereby promote efficiency in the implementation of the Code.

## 8 Implementation

No implementation costs are associated with this Varied Modification.

No implementation timescales are proposed, although implementation of this Varied Modification would be sought as soon as practicable following IP completion day.

It should be noted that UNC Panel voted unanimously in September that this Modification should be Authority Direction requesting Distribution and Transmission Workgroup to review the Self-Governance criteria,

The recommendations for UNC panel in November is to reconsider this decision as per Section 2 of this report. noting the recommendation from Workgroup is to follow Self Governance. If Self Governance procedures are

proposed, implementation would be no sooner than sixteen business days after a Modification Panel decision to implement, subject to no Appeal being raised.

## 9 Legal Text

### Text Commentary

See section 5

### Text

#### General

#### Modification Rules

*Amend paragraph 2.1 as follows:*

“**Regulation**” means Regulation 2009/715/EC of the European Parliament and of the Council of 13 July 2009 ~~(as amended from time to time)~~ concerning conditions for access to the national gas transmission networks ~~(as a component of Retained EU Law)~~ as amended by Schedule 2 of The Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019 and section 3 of The Electricity and Gas etc. (Amendment) (EU Exit) Regulations 2020;

*Insert the following new definitions in paragraph 2.1:*

~~“**legally binding decisions of the European Commission and/or the Agency for the Cooperation of Energy Regulators**” means any relevant legally binding decisions of the European Commission and/or the Agency, but a binding decision does not include a decision that is not, or so much of a decision as is not, Retained EU Law;~~

~~“**Retained EU Law**” has the same meaning as that given by section 6(7) of the European Union (Withdrawal) Act 2018 as amended by the European Union (Withdrawal Agreement Act) 2020;~~

#### Transition Document: Part IIC – Transitional Rules

*Insert new paragraph 26 as follows:*

##### **26 AUCTION CALENDAR PUBLICATION**

~~26.1 The Auction Calendar for the Auction Year commencing 1 March 2020 shall be published by the European Network of Transmission System Operators for Gas (ENTSOG) and the Auction Calendar for every subsequent Auction Year shall be published by National Grid NTS.~~

#### GTC - Interpretation

*Amend the Defined Terms as follows:*

“**Recognised Standard**” means any technical, engineering or other standard, issued or published by any governmental body or professional or other institution, and generally recognised as applying to the gas industry in the United Kingdom ~~or the European Union~~, as from time to time applicable;

#### Transportation Principal Document

#### Section Y – Charging Methodologies

#### Part A – NTS Charging Methodologies

#### Part A-I – NTS Transportation Charging Methodology

*Amend paragraph 1.3.2(a) as follows:*

“**Tariff Regulation**” means Commission Regulation ~~{EU} No 2017/460~~ establishing a network code on harmonised transmission tariff structures for gas (as a component of Retained EU Law) as amended by Schedule 5 of The Gas (Security of Supply and Network Codes) (Amendment) (EU Exit) Regulations 2019 and section 4 of The Electricity and Gas etc. (Amendment) (EU Exit) Regulations 2020;

## **European Interconnection Document**

### **Section A – General**

*Delete paragraph 2.5.1(a)*

### **Section B – Capacity**

*Amend paragraph 2.1.4(g) as follows:*

the “**Auction Calendar**” in relation to an Auction Year is the auction calendar published by ENTSOG National Grid NTS for that Auction Year;

### **Section E – Rules for the Release of Incremental Capacity at Interconnection Points**

*Amend paragraph 1.1.1 as follows:*

This Section E provides a framework and rules to enable the release of incremental capacity (as defined in the Amended CAM Code) at Interconnection Points.

*Amend definitions in paragraph 1.2.1 as follows:*

“**Amended CAM Code**” means Commission Regulation ~~{EU} No 2017/459~~ establishing a Network Code on Capacity Allocation Mechanisms in Gas Transmission Systems and repealing Commission Regulation EU No 984/2013 ~~as amended from time to time (as a component of Retained EU Law) as amended by Schedule 4 of The Gas (Security of Supply and Network Codes) (Amendment) (EU Exit) Regulations 2019 and section 4 of The Electricity and Gas etc. (Amendment) (EU Exit) Regulations 2020;~~

“**Tariff Code**” means Commission Regulation ~~{EU} No 2017/460~~ establishing a network code on harmonised transmission tariff structures for gas (as a component of Retained EU Law) as amended by Schedule 5 of The Gas (Security of Supply and Network Codes) (Amendment) (EU Exit) Regulations 2019 and section 4 of The Electricity and Gas etc. (Amendment) (EU Exit) Regulations 2020;

*Amend paragraph 2.1.1 as follows:*

Interested parties may submit demand indications to National Grid NTS for a window period of 8 weeks, starting from the date that the Annual Yearly Auction opens, except in respect of the demand assessment window in 2017 which will commence from the date of entry into force of the Amended CAM Code.

*Amend paragraph 2.1.12(a) as follows:*

~~whether the Community-wide Ten Year Network Development Plan (as required by EU Gas Regulation (EC) 715/2009) the obligation on any concerned non-UK TSOs to take into account whether the Union-wide 10-year network development plan~~ identifies a physical capacity gap whereby a specific region is undersupplied in a reasonable peak scenario and where offering incremental capacity at the Interconnection Point in question could close ~~such the~~ gap; or ~~any UK network development plan or~~ national network development plan relevant to a concerned non-UK TSO identifies a concrete and sustained physical transport requirement;

*Amend paragraph 2.1.14:*

~~National Grid NTS shall follow the standard templates for The~~ demand assessment reports ~~as provided by ENTSOG or shall be in~~ any ~~other~~ format that National Grid NTS may publish from time to time.

*Amend paragraph 2.2.4 as follows:*

National Grid NTS may open an ad-hoc demand indication window provided that it is of the opinion that the economic test (as defined in the Amended CAM Code) in respect of such ad-hoc demand indication can be completed prior to the start of the next biennial demand assessment.

*Amend paragraph 3.1.4(b) as follows:*

the offer levels of capacity (as defined in the Amended CAM Code) at the Interconnection Point;

*Amend paragraph 3.1.4(c) as follows:*

the proposed alternative allocation mechanism (as defined in the Amended CAM Code), including justification for such proposed mechanism;

*Amend paragraph 3.1.4(e) as follows:*

general rules and conditions that a party must accept in order to participate and access capacity in the binding capacity allocation phase of the incremental capacity process (as defined in the Amended CAM Code), including any security/collateral to be provided and how possible delays in the provision of capacity or in the event of a disruption to the project are dealt with contractually;

## 10 Consultation

### Consultation for Modification 0735S

Panel invited representations from interested parties on 19 November 2020. The summaries in the following table are provided for reference on a reasonable endeavours' basis only. It is recommended that all representations are read in full when considering this Report. Representations are published alongside this Final Modification Report.

Implementation was unanimously supported in the 3 representations received.

Representations were received from the following parties:

Organisation	Response	Relevant Objectives	Key Points
National Grid NTS	Support	f) - positive	<ul style="list-style-type: none"> <li>Supports the implementation of this Modification Proposal as soon as practicable following the decision to implement the Proposal.</li> <li>Notes that the conclusion of the Implementation Period (IP) for the United Kingdom's exit from the European Union (EU) in absence of agreements concerning the UK's future trade and political relationship with the EU necessitates a quantity of minor amendments to the Uniform Network Code (UNC) as described in the Proposal.</li> <li>Believes that the changes would ensure the UNC remains consistent with the revised legislative and operational</li> </ul>

			<p>regime that will exist following the end of the IP. This will eliminate any ambiguity which would prevail if these changes were not made and thereby promote efficiency in the implementation of the Code consistent with relevant objective (f).</p> <ul style="list-style-type: none"> <li>• Remains of the opinion that given the scale and materiality of the changes proposed to the UNC that application of self-governance procedures to this Proposal is entirely appropriate.</li> <li>• Notes, as recorded in the Workgroup Report and Draft Modification Report, the Workgroup concurred with National Grid NTS views on the appropriateness of Self-Governance procedures being applied in respect of this Proposal. This was endorsed by the UNC Modification Panel in November 2020.</li> <li>• Comments that should the UNC Modification Panel not to make a decision until there is certainty on the terms of United Kingdom's exit from the European Union (EU) arrangements at the end of the Implementation Period (IP), there would be no agreement/s concerning the UK's future trade and political relationship</li> <li>• National Grid would not incur any specific additional costs as a consequence of the implementation of this Proposal</li> <li>• Notes this Proposal sets out changes to the UNC that are required in the event that no agreement/s concerning the UK's future trade and political relationship are in place at the end of the IP.</li> <li>• Believes that if such agreements are put in place following the end of the IP, (and therefore this Proposal effectively lapses), changes may still be required to the UNC as a consequence. However, the exact nature and scope of such changes are not apparent as yet and are unlikely to be so until the terms of any such arrangements are known.</li> <li>• Notes that this Proposal addresses what is known at this point, i.e. that if there are no agreement/s in place at the end of the IP then the UNC provisions addressed by this Proposal would need to be amended.</li> <li>• Believes that the Legal Text satisfies the intent of the solution identified in this Proposal.</li> </ul>
Northern Gas Networks	Support	f) - positive	<ul style="list-style-type: none"> <li>• Supports this Modification as the changes proposed should ensure that the UNC remains accurate and relevant following the United Kingdom's exit from the European Union in absence of trade agreements.</li> </ul>

			<ul style="list-style-type: none"> <li>• Believes that the modification proposal furthers Relevant Objective f) promotion of efficiency in the implementation and administration of the Code.</li> <li>• Supports the implementation of this Modification Proposal as soon as practicable following the decision to implement the Proposal.</li> <li>• Northern Gas Networks would not incur any specific additional costs as a consequence of the implementation of this Proposal</li> <li>• Believes that the Legal Text satisfies the intent of the solution identified in this Proposal.</li> <li>• Agrees that this Modification should be subject to self-governance procedures as it is primarily seeking to update references</li> </ul>
Scottish Power	Support	f) - positive	<ul style="list-style-type: none"> <li>• Supports the implementation of this Modification as the change seeks to make minor document changes to the Uniform Network Code (UNC) where there is reference to EU regulations and EU entities.</li> <li>• Notes that the amendments to the UNC documents would ensure they are consistent with the UK amendments and regulations, in the absence of no trade agreement, post the implementation period.</li> <li>• Agrees that this Modification should be subject to Self-governance because the change is primarily an update to references of EU regulations and EU entities within UNC.</li> <li>• Verifies that ScottishPower would not face any developmental or ongoing costs as a result of this change.</li> </ul>

### Consultation for Modification 0735VS

Following consideration of the Variation Request submitted for Modification 0735S, Panel invited representations on Modification 0735VS from interested parties on 22 January 2021. The summaries in the following table are provided for reference on a reasonable endeavours' basis only. It is recommended that all representations are read in full when considering this Report. Representations are published alongside this Final Modification Report. Implementation was unanimously supported in the 2 representations received.

#### Representations were received from the following parties:

Organisation	Response	Relevant Objectives	Key Points
National Grid NTS	Support	f) - positive	<ul style="list-style-type: none"> <li>• Continues to support the implementation of this Modification Proposal. As set out in the UNC Variation Request dated 12 January 2021, the approach of the incorporation into UK law of EU regulations in place as at the end of the Implementation Period remains the same as set out under a</li> </ul>



			<p>'no deal' scenario. Hence the solution as set out in the original Proposal remains appropriate in the context of the trade agreements reached on 24th December 2020.</p> <ul style="list-style-type: none"> <li>• Implementation is sought as soon as practicable following the decision to implement the Modification given that the Brexit Implementation Period ended on 31st December 2020.</li> <li>• Notes that as a self-governance Proposal, the earliest implementation date is the sixteenth (16th) business day following the Panel decision to implement.</li> <li>• Is satisfied that the legal text continues to deliver the intent of the solution identified in the varied Modification.</li> </ul>
Wales & West Utilities (WWU)	Support	f) - positive	<ul style="list-style-type: none"> <li>• Supports this Modification as it makes necessary changes to the UNC to reflect the UK's status as a non-member of the European Union.</li> <li>• Support self-governance as although changes to the Modification rules would normally require an Authority Decision, this is not appropriate for this Modification.</li> <li>• As self-governance procedures are proposed, implementation would be no sooner than sixteen business days after a Modification Panel decision to implement, subject to no Appeal being raised.</li> <li>• Does not believe that this varied Modification should have been re-issued for consultation as the solution and legal text are unchanged.</li> <li>• Accepts that the variation changed the title and some of the text in the Summary section; however, notes there have been several Modifications over the years where the title was not a good reflection of the content.</li> <li>• Agrees that titles should reflect the contents but Panel has no powers to require this and the proposer could have decided not to vary the Modification and the only recourse Panel would have had would be to vote that new issues had been raised.</li> </ul>

Please note that late submitted representations will not be included or referred to in this Final Modification Report. However, all representations received in response to this consultation (including late submissions) are published in full alongside this Report and will be taken into account when the UNC Modification Panel makes its assessment and recommendation.

## 11 Panel Discussions

### Discussion

The Panel Chair summarised that Modification 0735VS would implement the required UNC Changes required as a result of the United Kingdom's exit from the European Union. These consist of several minor changes to the Uniform Network Code (UNC) required as a consequence of the end of the implementation period following the United Kingdom (UK) withdrawal from the European Union (EU). In principle, these changes modify existing references to EU regulations with reference to UK amendment regulations and where appropriate remove references to EU entities.

Panel Members considered the representations made noting that, of the 2 representations received, both supported implementation. Panel Members noted this is in line with the first consultation for Modification 0735S held in late November 2020, where implementation was unanimously supported in the 3 representations received.

Panel Members noted the previous and related Modification 0680VS - UNC Changes as a Consequence of 'no deal' United Kingdom Exit from the European Union<sup>5</sup>. Modification 0680VS went through a number of iterations with consultation in March 2019. 6 representations were received, of which 5 were in support and 1 offered qualified support (because the Modification only addressed a potential 'no deal' situation). The Modification was withdrawn on 18 February 2020 as it was found that it required fairly significant redrafting (and potentially further consultation) as it was based on the premise of no withdrawal agreement being agreed.

Panel Members agreed with respondents and the Proposer that this Modification 0735VS will make necessary changes to the UNC to reflect the UK's status as a non-member of the European Union.

Panel Members noted that one consultation response specifically called out the respondent's belief that this varied Modification should not have been re-issued for consultation as the solution and legal text are unchanged. Panel Members noted that the title and some of the text in the Summary section of the Modification was changed only.

Panel Members continued to agree that this Modification should follow self-governance procedures as although changes to the Modification rules would normally require an Authority Decision, this is not appropriate for this Modification.

### Consideration of the Relevant Objectives

Panel Members noted that according to the Proposer, one standard Relevant Objective was indicated to be positively impacted by this Modification, namely standard Relevant Objective f).

#### **f) Promotion of efficiency in the implementation and administration of the Code.**

Panel Members agreed with the Proposer and all consultation respondents that implementation would have a positive impact because the changes ensure the UNC remains consistent with the revised legislative and operational regime that exists following full exit from the EU. This eliminates any ambiguity which would prevail if these changes were not made and thereby promoting efficiency in the implementation of the Code, consistent with Relevant Objective (f).

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<sup>5</sup> <https://www.gasgovernance.co.uk/0680>

## Determinations

Panel Members voted unanimously that Modification 0735VS does not have an SCR impact.

Panel Members voted unanimously that no new issues were identified as part of consultation.

Panel Members voted with 11 votes in favour (out of a possible 13), and agreed to implement Modification 0735VS.

## 12 Recommendations

### Panel Determination

Panel Members agreed:

- that Modification 0735VS should be implemented.