
















UNC Final Modification Report		At what stage is this document in the process?
<h1>UNC 0739:</h1> <h2>Aggregate overrun regime for Original Capacity held at the Bacton ASEPs</h2>		<div>01 Modification</div> <div>02 Workgroup Report</div> <div>03 Draft Modification Report</div> <div>04 Final Modification Report</div>
<p>Purpose of Modification:</p> <p>To ensure Entry Capacity acquired by Users at the Bacton ASEP, prior to Bacton splitting into two ASEPs, can be used flexibly via the introduction of an aggregate overrun regime following changes to the NTS Charging Regime</p>		
	The Panel recommends implementation	
	High Impact: Shippers and National Grid NTS	
	Medium Impact: None	
	Low Impact: None	

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Timetable		 Any questions?
Modification timetable:		Contact: Joint Office of Gas Transporters
Pre-Modification Discussion	01 October 2020	 enquiries@gasgovernance.co.uk
Modification considered by Panel	15 October 2020	 0121 288 2107
Initial consideration by Workgroup	05 November 2020	Proposer: Anna Shrigley ENI
Workgroup Report presented to Panel	21 January 2020	 anna.shrigley@eni.com
Draft Modification Report issued for consultation	21 January 2020	 0207 863 3651
Consultation Close-out for representations	11 February 2020	Transporter: National Grid NTS
Final Modification Report available for Panel	15 February 2020	 Colin.Williams@nationalgrid.com
Modification Panel decision	18 February 2020 (<i>at short notice</i>)	 01926 655916 or 07785 451776
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1 Summary

What

In order to implement the EU Network Code on Capacity Allocation Mechanisms in Gas Transmission Systems (CAM)¹, the Bacton ASEP was split into the Bacton IP and Bacton UKCS ASEPs on 1st November 2015. Entry Capacity acquired by Shippers prior to this date (Original Capacity) was forcefully allocated to each of the newly formed Bacton ASEPs. It is proposed that where a Shipper's entry flows do not exceed Original Capacity holdings an Entry Overrun Charge will not be applied.

Why

In order to implement the "Bacton split", Ofgem approved UNC Modification 0501V - Treatment of Existing Entry Capacity Rights at the Bacton ASEP to comply with EU Capacity Regs, which, in summary, allocated existing Entry Capacity bookings between the two newly formed ASEPs. As such, Shippers which had acquired capacity for the purposes of delivering gas into the NTS via interconnectors or non-interconnectors pipelines lost the flexibility associated with the more generic nature of the original Bacton ASEP Entry Capacity product.

While other Modifications were raised proposing alternative treatment of existing capacity bookings, Ofgem determined that Modification 0501V should be implemented, although it noted that the aggregate overrun component of Modification 0501CV would be advantageous were there to be a change to the UNC baseline against which it had made its original decision. With the implementation of UNC Modification 0678A - Amendments to Gas Transmission Charging Regime (Postage Stamp), effective from the 01 October 2020, the UNC baseline will change substantially, resulting in the degradation of the flexibility originally acquired by Shippers prior to the "Bacton split".

How

Entry Capacity acquired at the Bacton ASEP before 01 November 2015 will be defined as Original Bacton Capacity. Where the total amount of Shipper Original Bacton Capacity held at the Bacton UKCS and Bacton IP ASEPs is greater than its aggregate daily entry flows at the Bacton ASEPs, then an Entry Overrun Charge will not be applied. Original Capacity transferred after the 1 November 2015 will not benefit from the Aggregate Overrun regime, instead such capacity will be considered as standard capacity to underpin flows at the relevant Bacton ASEP.

2 Governance

Justification for Authority Direction

This Modification is recommended to be sent to the Authority for direction as it is likely to have a material effect on the commercial activities associated with gas transportation arrangements for Shippers as it will bestow unique rights on certain Entry Capacity held at the Bacton ASEPs.

¹ <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32013R0984>

Requested Next Steps

This Modification should:

- be considered a material change and not subject to self-governance
- proceed to consultation on the basis that Workgroup Participants have concluded their impact assessment.

3 Why Change?

Introduction

In order to implement the “Bacton split”, Ofgem approved Modification 0501V² in July 2015. The Modification permitted the re-allocation of Entry Capacity held at the Bacton ASEP to the newly formed Bacton IP and Bacton UKCS ASEPs. As a result of this re-allocation, Shippers lost the flexibility encompassed within what was a homogenous capacity product to deliver gas into the NTS via interconnectors or non-interconnector pipelines.

While other Modifications were raised proposing alternative treatment of existing capacity bookings, Ofgem determined that Modification 0501V should be implemented, however, it noted that:

“there may be some impact from the introduction of CAM by splitting Bacton and implementing UNC501V, and that this impact is likely to be concentrated on those holding existing capacity at Bacton”.

Modification 0501CV raised by Eni proposed a number of corrective measures to maintain flexibility and although a number of these measures were dismissed by Ofgem in its Decision Letter, it set out clear support for the Aggregate Overrun aspect of the Proposal in the event of future UNC changes. The Proposer believes that the implementation of Modification 0678A is a significant change to the UNC which will directly and deleteriously impact Shippers holding re-allocated Bacton Entry Capacity and as such, a UNC change is needed to: protect Shippers capacity flexibility; ensure the integrity of the UNC and the services provided therein; and action the recommended steps set out in Ofgem’s Modification 0501V Decision.

Key messages from the Ofgem Modification 0501V Decision

Modification 0501CV identified a number of undesirable outcomes associated with Modification 0501V. In particular, it noted:

- *existing capacity holders will be prevented from exercising their existing rights to flexibly support flows via any sub-terminal contained within the Bacton ASEP, the effect of which is that capacity bookings may need to be replicated in order to achieve the same gas flows, resulting in a disproportionately high allocation of capacity costs to such Users;*
- *existing capacity holders at Bacton are discriminated against vis-à-vis holders of capacity at other ASEPs:*

² <https://www.gasgovernance.co.uk/0501>

- (i) whose existing rights are not being retrospectively altered;*
- (ii) who may continue to use their capacity flexibly to support flows via any sub-terminal contained within a single ASEP; and*
- (iii) whose existing rights are not subjected to a diminution in value.*

As stated above, the solution proposed in Modification 0501CV was wide-ranging, however, in relation to the aggregate overrun proposition the Proposer is of the view that following the implementation of Modification 0678A these issues will come into sharper focus and in need of remedy.

Modification 0678A will remove the availability of zero-priced Entry Capacity at all terminals, replacing the current term discounts with a standard reserve price for all firm capacity products and a 10% discount applied to the D-1 interruptible product.

Ofgem noted in its Modification 0501V Decision, that

We acknowledge that further potential changes to the UNC are possible. However, such changes are a feature of the UNC and we cannot quantify the probability of future legislative / regulatory changes – including at European level – when making this decision, and any attempt to rely on uncertain future events is too speculative. If groups within industry are concerned that capacity will no longer be available at zero price in the short-term timeframe, and that this represents a risk of reduced flexibility for existing capacity holders, then we would encourage industry to develop a flexibility mechanism³ similar to the one that is proposed in UNC501CV.

This statement was based on the UNC baseline at the time Ofgem carried out its consideration of the various proposals. In particular, it stated that:

“...we consider that there are existing market mechanisms in the current UNC text which, when combined with the availability of substantial amounts of unused capacity at Bacton, minimise the downside of UNC501V not providing such a flexibility mechanism.”

The existing market mechanisms Ofgem refers to in this statement include the ability to buy capacity at zero reserve price auctions in the short-term timeframe, trade capacity on the secondary market or surrender capacity to NGG. As noted previously, the UNC is changing as a result of Modification 0678A removing the ability of Shippers to access zero-priced capacity and it is appropriate to revisit the introduction of an aggregate overrun regime.

This approach chimes with Ofgem’s closing remarks contained within the Next Steps section of its Decision Letter:

“However, we recognise the possibility that future UNC changes could remove these existing market mechanisms. If such changes to the UNC occurred, then there could be benefits for existing Bacton entry capacity holders and a furthering of effective competition between shippers from a flexibility mechanism similar to the one that is proposed under UNC501CV (whilst addressing our concerns with this proposal as set out previously). We therefore encourage industry to raise a further modification if they see a risk that future UNC changes would not allow for the existing market mechanisms to be used to flow flexibly at the current cost.”

Impacts of Modification 0501V and Modification 0678A

³ Ofgem’s reference to a flexibility mechanism relates to the aggregate overrun regime proposed as part of UNC 0501CV.

It remains the case that a number of Shippers who acquired Bacton ASEP Entry Capacity prior to 1 November 2015 hold capacity at one or both of the Bacton IP or Bacton UKCS ASEPs. It is also the case that some of this re-allocated capacity is of no direct value to the holder as it does not align with the intended point of supply.

As capacity was originally acquired for the purpose of flowing gas through the Bacton ASEP, there is no question that following the implementation of Modification 0501V, Shippers lost the flexibility originally contracted for and in some cases has no value to the holder, particularly as capacity maybe acquired at zero cost by “incoming” Shippers.

Ofgem stated that as a result of existing market mechanisms the downside associated with the implementation of Modification 0501V would be minimised. This statement needs to be examined further, with particular focus on the relevant changes particular to Modification 0678A.

Firstly, in its commentary on the Modification 0501V Relevant Objectives Ofgem identified that Modification 0501CV better facilitated Relevant Objective (d):

“...whilst for UNC501CV there is a marginal benefit due to the re-creation of the current flexibility to flow at current cost”

Based on the Modification 0501V Impact Assessment⁴ published by Ofgem in May 2015 the assessment of the potential impacts on competition of reduced flexibility is based on a number of scenarios. The scenarios allow for the sale of capacity held at one Bacton ASEP and the purchase of capacity at another at zero price, or at a price lower than that received following the sale of capacity at the neighbouring Bacton ASEP. In summary the Impact Assessment is based on the Shipper receiving value for capacity held while acquiring capacity at the neighbouring ASEP at zero cost. We assume that this is why Ofgem concluded that the introduction of an aggregate overrun regime would provide only a marginal benefit compared to the implementation of Modification 0501V.

Bacton shippers will note that in hindsight the scenarios did not reflect reality as excess capacity at both ASEPs meant that secondary trades, with a positive value, did not occur as capacity could be acquired by an “incoming” shipper at zero cost directly through National Grid’s capacity release auctions. The Proposer believes, therefore, that the benefit ascribed to the aggregate overrun regime was undervalued.

Looking forward, with the removal of zero-priced capacity products, the market dynamics will change. It could be argued that re-allocated Bacton capacity will attract value, however, this is countered by the fact that a shipper will have to pay for capacity at the alternate ASEP. Certainly, there is no guarantee that the shipper will realise a higher or equivalent value for the sale of capacity at one ASEP as the costs it will incur in acquiring the same volume of capacity at the other. Further, the Proposer argues that irrespective of the comparative values of capacity at the two ASEPs, it is unreasonable to imply that a shipper is not unfairly impacted. Not only does it hold capacity at an ASEP where it had not proactively sought it, but in order to retain the flexibility it had consciously acquired, it is subject to the vagaries of the secondary market.

4 Code Specific Matters

Reference Documents

UNC Modification Proposal 0678A Ofgem Decision

⁴ https://www.ofgem.gov.uk/sites/default/files/docs/2015/05/unc0501_ia_letter_final.pdf

<https://www.ofgem.gov.uk/publications-and-updates/amendments-gas-transmission-charging-regime-decision-and-final-impact-assessment-unc678abcdefghij>

UNC Modification Proposal 0501V/AV/BV/CV Ofgem Decision

https://www.gasgovernance.co.uk/sites/default/files/ggf/UNC501V_UNC501AV_UNC501BV_UNC501CV_decision.pdf

Knowledge/Skills

None

5 Solution

Calculation of Aggregate Overrun Quantities

Where system capacity was acquired at the Bacton ASEP prior to the Bacton split on 1 November 2015, it will be classified as Original Bacton Capacity. For the avoidance of doubt Original Capacity will apply to a User's Fully Adjusted Available Entry Capacity registered on 31 October 2015. Where Original Capacity is transferred to another User post this date, the capacity will no longer be treated as Original Capacity and as such the transferee will be unable to benefit from the Aggregate Overrun Regime.⁵

Following the split, the Original Bacton Capacity will maintain this status when allocated to either Bacton ASEP.

An Entry Overrun Charge will only be applied at a Bacton ASEP where the gas flow at the relevant ASEP (UDQI) exceeds the Users Entry Capacity holdings at the same Bacton ASEP plus any unused Original Entry Capacity held at the alternative Bacton ASEP:

$UDQI_{IP \text{ or } UKCS} > \text{User's Fully Adjusted NTS Entry Capacity}_{IP \text{ or } UKCS} + \text{Original Available Bacton Capacity held at the alternative Bacton ASEP}$

Examples of determination of an overrun quantity

In the examples below, the Shipper holds 50 units of Original Bacton IP Capacity and 100 units of Original UKCS Capacity. The Shipper has also booked 50 units of "standard" capacity at Bacton UKCS

UDQI IP	UDQI UKCS	Cap Holding IP (Original Bacton)	Cap Holding UKCS (Original Bacton)	Original Available Capacity IP	Original Available Capacity UKCS	Overrun Quantity
0	200	50 (50)	150 (100)	50	0	0
50	200	50 (50)	150 (100)	0	0	50

⁵ This is consistent with the treatment of Existing Contracts, as detailed in UNC 0678A, which included this restriction in relation to exemption from prevailing prices and the RRC primarily due to limitations within the Gemini System.

100	100	50 (50)	150 (100)	0	50	0
75	75	50 (50)	150 (100)	0	75	0

6 Impacts & Other Considerations

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

No

Consumer Impacts

The Proposer believes that this Modification will have a marginal effect on consumers, but it is possible that it could result in marginal reductions in the NBP price.

Enabling Shippers to use capacity across both Bacton ASEPs at no additional cost will reduce the cost of delivering gas into the NTS via connected UKCS sources and interconnectors. Where either of these sources is the marginal source of gas, then the daily gas prices at the NBP should reduce accordingly.

Consumer Impact Assessment <i>(Workgroup assessment of proposer initial view or subsequent information)</i>	
Criteria	Extent of Impact
Which Consumer groups are affected?	<ul style="list-style-type: none"> Domestic Consumers Small non-domestic Consumers Large non-domestic Consumers Very Large Consumers
What costs or benefits will pass through to them?	Where the Modification results in lower costs for marginal supplies of gas, the benefit will be realised at the NBP and the overall cost of gas for consumers.
When will these costs/benefits impact upon consumers?	Immediately on implementation
Are there any other Consumer Impacts?	None

Cross Code Impacts

None identified.

EU Code Impacts

None identified

Central Systems Impacts

The Proposer anticipated there to be Systems Impacts in the identification and reporting of Original Entry Capacity Holdings and the calculation of Aggregate Overrun Quantities details of these are contained in the ROM Request XRN 5275 which can be found here: <https://www.gasgovernance.co.uk/0739>

Rough Order of Magnitude (ROM) Assessment

ROM Request **XRN5275** has been provided by CDSP to summarise the following:

Change Costs (Implementation)

Solution will cost at least £91,000, but probably not more than £134,000 to implement.

Change Costs (on-going)

This change is not expected to increase ongoing running costs.

Timescales:

The high-level estimate to develop and deliver this change is approximately 12 – 15 weeks. This change would need to be prioritised through the DSC Change Management Committee alongside other changes within Xoserve's planned Gemini programme.

Workgroup Impact Assessment

Workgroup commenced discussions on this Modification in October 2020.

During initial discussions, National Grid requested an update on consumer impacts following questions raised at the Modification Panel to consider the benefits to Consumers and quantify the potential Consumer cost impacts. The Proposer noted that the ambition is to limit any unnecessary overruns and the issue in relation to capacity displacement has been discussed at great length under Modification 0737 - *Transfer of NTS Entry Capacity from a Capacity Abandoned ASEP*⁶. It is unclear as to whether this Modification would result in capacity displacement (less "new" capacity acquired than would be the case if this Modification was not implemented) or whether greater efficiency in capacity utilisation (in particular Existing Contracted Capacity) would result in lower costs for marginal supplies and lower NBP prices. Either way, it was generally understood that the impacts would be negligible.

Workgroup Participants had nothing further to add.

Discussion led to questions from National Grid if capacity is traded with another Shipper would they benefit from fungibility (ability to transfer to more than one place) in terms of costs. The Proposer agreed to update the Modification to reflect this and provided an updated Modification on 13th November 2020 (v2.0).

Workgroup Participants reviewed the costs and timescales in the ROM XRN5275, details of costs and timescales have been incorporated in the above section of this report. One Workgroup Participant asked if this Modification would result in increased incidence of constraints at Bacton. National Grid believed that it is not able to assume what increased volumes of flows would occur to carry out this analysis. Some Workgroup Participants felt that this would allow capacity to be utilised more frequently.

National Grid advised that the concern on Entry impacts would not impact offtakes.

⁶ <https://www.gasgovernance.co.uk/0737>

The Proposer offered the view that this scenario is difficult to comprehend, as the Modification will not “create” capacity, but alter the way in which it is distributed.

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.	Positive
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.	None
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

The Proposer's view on Relevant Objectives is as follows:

Relevant Objective d)(i)

The effect of the Bacton split following the implementation of Modification 0501V resulted in a loss of flexibility for those Shippers which had acquired Entry Capacity at the previously single Bacton ASEP. This reduction in flexibility was recognised by Ofgem in its Modification 0501V Decision Letter:

“Before the Bacton split, existing Bacton capacity holders could flow gas onto the NTS from three main sources (from UKCS, BBL and IUK). Following the implementation of CAM via the splitting of Bacton into two new entry points, the implementation of any of UNC501V, UNC501AV or UNC501BV would result in a reduction in flexibility at Bacton for those shippers that continue to hold capacity at Bacton after 1 November 2015. Shippers holding Bacton IP capacity would only be able to use it to flow onto the NTS from IUK or BBL (and not from UKCS). If those shippers wanted to flow onto the NTS from UKCS, they would need to buy Bacton UKCS capacity. Similarly, shippers holding Bacton UKCS capacity would only be able to flow from UKCS (and not from BBL or IUK). If they wanted to flow onto the NTS from either of the two interconnectors they would need to buy Bacton IP capacity.”

In its assessment of the Modification 0501 proposals against this relevant objective, Ofgem stated:

“Overall, the impacts on relevant objective (d) are marginal for each of the four modification proposals. They are negative for UNC501V, UNC501AV and UNC501BV as a result of reduced flexibility (for those shippers that continue to hold capacity at Bacton after 1 November 2015) but the size of this effect is minimal due to the other market mechanisms currently available. The impact of the hand-back on relevant objective (d) are marginally negative for UNC501AV, UNC501BV and UNC501CV (ie, in terms of impact on competition). Whilst for UNC501CV there is a marginal benefit due to the re-creation of the current flexibility to flow at current cost....”

Based on the above and the pending⁷ changes to the NTS charging regime as a result of the implementation of Modification 0678A, the introduction of an Aggregate Overrun Regime, similar to that set out in Modification 0501CV will result in more significant benefits than those identified by Ofgem in its assessment of Modification 0501CV. It will, therefore, better facilitate the achievement of this relevant objective.

A Workgroup Participant (National Grid) agreed with the statements above by the Proposer in relation to the Relevant Objectives.

Another Workgroup Participant noted that there was little information available in order to assist with other Workgroup Participants forming a view, noting that it appears to be a sensible idea. (The behaviour in future can't easily be predicted especially where there is commercial information involved).

A further Workgroup Participant noted that this Modification will only allow those holding Bacton capacity to have flexibility as originally expected. The situation has now changed with the introduction of Modification 0678A (zero priced interruptible capacity is no longer effectively free); this Modification returns fungibility to those existing capacity holders.

The Proposer clarified that there are unlikely to be any physical consequences of this Modification. The other issue is the issue of displacement; this is expected to have a negligible impact. Further, this Modification gives flexibility to holders of Capacity at Bacton as originally envisaged.

8 Implementation

It is proposed that this Modification is implemented at the earliest opportunity upon the direction of the Authority.

9 Legal Text

Legal Text has been provided by National Grid and the Workgroup and Proposer considered the Legal Text at its meeting on 07 January 2021 and were satisfied that it meets the intent of the Solution.

Text Commentary

Set out below is the suggested legal text to give effect to the proposed modification UNC0739 (Aggregate overrun regime for Original Capacity held at the Bacton ASEPs).

⁷ Modification 0678A has now been implemented.

Paragraph 6.1 provides that the rules in this new paragraph 6 will only apply for so long as a Bacton User is holding two things: registered IP capacity at the Bacton IP ASEP and registered entry capacity at the Bacton UKCS ASEP and that these capacities include capacity which was re-allocated due to the split of the original Bacton ASEP into two ASEPs. In other words, a Bacton User has to have original Bacton capacity at both of the new ASEPs.

The term "Bacton User" is already defined in TD Part IIE 1.2(d). It refers to a User who holds Relevant Registered NTS Entry Capacity at the pre-split Bacton ASEP on the day immediately before commencement of the reallocation period (being 31 October 2015) when that single ASEP was split into two ASEPs (i.e. the Bacton IP ASEP and the Bacton UKCS ASEP) for any period after 31 October 2015. This entry capacity now covers any capacity in any calendar quarter in the period from October 2016 through to, and including, September 2031. This is because the last relevant month of this capacity was September 2016.⁸

The concept of "Original Bacton Capacity" in the proposed solution in UNC0739 is that it is the Fully Adjusted Available Entry Capacity registered on 31 October 2015 at the old single Bacton ASEP. This concept is already referred to in paragraph 1.1 of Part IIE of the Transition Document as a Bacton User's "Relevant Registered NTS Entry Capacity at the Bacton ASEP". i.e. "Original Bacton Capacity" is the same as "Relevant Registered NTS Entry Capacity" as defined in TD Part IIE 1.2 (m), but is adjusted to take account of any Relevant Transfers under TD Part IIE 1.2(n). These Relevant Transfers adjust for any System Capacity Transfers where the Bacton User is the transferor at the Bacton ASEP for a relevant period. Consequently, where "Original Bacton Capacity" is transferred by a Bacton User to another User on or after 1 November 2015, the capacity will no longer be that Bacton User's "Relevant Registered NTS Entry Capacity at the Bacton ASEP" and so the transferee will be unable to benefit from the Aggregate Overrun Regime in respect of that capacity transferred to it.

Paragraph 6.3 refers TPD Section B2.12. This is the main charging provision for Overrun Charges on gas flows into the system in excess of entry capacity held. The proposed legal text provides that when calculating the System Entry Overrun Charges applicable to a Bacton User at either the Bacton UKCS ASEP or the Bacton IP ASEP, any unutilised Unused Capacity available at the other new Bacton ASEP will be added. This "Unused Capacity" for each of the two new ASEPs (i.e. the Bacton IP ASEP and the Bacton UKCS ASEP) is the amount of Original Bacton Capacity held less the User Daily Quantity Inputs (UDQIs) at that ASEP for that Day.

Text

TRANSITION DOCUMENT, Part IIE

Add a new paragraph 6 as follows:

6 Regime for aggregation of ASEPS for Overrun Charges for Original Bacton Capacity

- 6.1 This paragraph 6 shall apply for as long as a Bacton User is holding Registered IP Capacity at the Bacton IP ASEP and Registered NTS Entry Capacity at the Bacton UKCS ASEP in each case which includes Original Bacton Capacity.
- 6.2 For the purposes of this paragraph 6 a Bacton User's:

⁸ See definition of "Relevant Registered NTS Entry Capacity" at Part IIE paragraph 1.2(m) where limb (i) provides that the last relevant month was September 2016

- (a) **“Original Bacton Capacity”** means, in relation to either the Bacton IP ASEP or the Bacton UKCS ASEP, the Fully Adjusted⁹ Available NTS Entry Capacity which the Bacton User is registered as holding on 31 October 2015;
- (b) **“New Capacity”** means, in relation to either the Bacton IP ASEP or the Bacton UKCS ASEP, the User’s Available NTS Entry Capacity which the Bacton User is registered as holding on a Day at that ASEP on 1 November 2015 or thereafter; and
- (c) **“Unused Capacity”** means:
 - (i) in relation to the Bacton IP ASEP, the amount, for a Day, by which the Bacton User's Available registered IP Capacity, which comprises Original Bacton Capacity at that ASEP on the Day, exceeds the sum of the Bacton User's UDQI's on that Day in respect of the Bacton IP ASEP; and
 - (ii) in relation to the Bacton UKCS ASEP, the amount for a Day by which the Bacton User's Available registered NTS Entry Capacity at that ASEP which comprises Original Bacton Capacity on the Day, exceeds the sum of the Bacton User's UDQI's on that Day in respect of the Bacton UKCS ASEP.

6.3 For the purposes of TPD Section B2.12.1, a Bacton User's Available NTS Entry Capacity (determined as Fully Adjusted) on a Day at:

- (a) the Bacton IP ASEP shall be increased by an amount equal to the Bacton User's Unused Capacity for that Day (if any) at the Bacton UKCS ASEP; and
- (b) the Bacton UKCS ASEP shall be increased by an amount equal to the Bacton User's Unused Capacity for that Day (if any) at the Bacton IP ASEP.

6.4 For the avoidance of doubt, if a Bacton User surrenders all or part of any Original Bacton Capacity to National Grid NTS or transfers all or part of any Original Bacton Capacity to any other User, such capacity so surrendered or transferred shall no longer be taken into account as part of the Original Bacton Capacity.

** Please note: the guidance footnote in new paragraph 6.2(a) will be removed when, and if, the legal text is inserted into Code.*

⁹ TPD B2.1.7(d) – Fully Adjusted refers to a User's Available or Registered NTS Entry Capacity of any class at an ASEP being adjusted for any surrender by a User under a Capacity Management Agreement (2.8.4), reductions of interruptible entry capacity due to a curtailment notice (2.9.4), daily capacity offers accepted by National Grid NTS in accordance with the System Management Principles (2.10.8) and a deemed surrender of Force Majeure Option Quantities (2.17.9)

10 Consultation

Panel invited representations 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.

Of the 3 representations received 2 supported implementation and 1 offered qualified support.

Representations were received from the following parties:

Organisation	Response	Relevant Objectives	Key Points
Centrica Energy	Support	d) – positive	<ul style="list-style-type: none"> • When the Bacton ASEP was split into the Bacton IP and Bacton UKCS ASEPs on 1st November 2015, Entry Capacity acquired by Shippers prior to this date was forcefully allocated to each of the newly formed Bacton ASEPs. Therefore, Shippers which had acquired capacity for the purposes of delivering gas into the NTS via interconnectors or non-interconnectors pipelines lost the flexibility associated with the more generic nature of the original Bacton ASEP Entry Capacity product. • Believes this loss of flexibility has had a negative impact on the efficient functioning of the gas transportation network and reduced competition between shippers. As such, believes Modification 0739 represents a significant improvement on the status quo and should be implemented. • Believes it is possible that Modification 0739 could result in marginal reductions in the NBP price. Enabling Shippers to use capacity across both Bacton ASEPs at no additional cost will reduce the cost of delivering gas into the NTS via connected UKCS sources and interconnectors. Where either of these sources is the marginal source of gas, then the daily gas prices at the NBP should reduce accordingly. • Agrees that the Modification should be implemented at the earliest opportunity upon the direction of the Authority. • Believes the broad impact from this Modification, and that of the market, would be positive for the reasons outlined in the first paragraph. It is a relatively simple Modification and as such does not envisage any analytical, development or ongoing costs from a systems perspective. • Notes the legal text meets the intent of the Solution.

			<p>UNC Panel Questions:</p> <p>Q1: Consider the risk of displacement of shorter-term capacity sales, extent and likely impacts on the consumer.</p> <p>It is unclear as to whether this Modification would result in capacity replacement, but in the event that it does, the impact is likely to be negligible. In any case, to the extent that any displacement is viewed as being negative, this should be weighed against the positives from greater efficiency in capacity utilisation (in particular from Existing Contracted Capacity) and the potential for lower costs for marginal supplies and lower NBP prices that could result from this Modification.</p>
Interconnector UK Ltd	Support	d) – positive	<ul style="list-style-type: none"> • Notes Shippers who booked NGG capacity products at the Bacton ASEP before 1 November 2015 had flexibility and fungibility to use such capacity rights for any one of 5 Bacton entry points. These features were likely to have been an important consideration in the decision to acquire such capacity products. When Bacton was split into two ASEPs to implement the European CAM code, each of these Shippers was faced with reduced fungibility, and some of these Shippers did not get all of their capacity reallocated to their preferred Bacton ASEP. It was however noted in the UNC0501V Bacton splitting decision that a significant amount of zero reserve price capacity was available for these Shippers if they now needed to acquire capacity at the other Bacton ASEP. The same economic and practical outcome could therefore be obtained in alternative ways – meaning there were no material consequences for these Shippers. • Since October 2020 the implementation of UNC0678A has changed the pricing structure of these products disadvantaging these original capacity holders, and effectively taking out the opportunity to obtain the same economic effects as the original capacity products. In its decision on UNC0501V, Ofgem recommended that in case the NTS charging regime were to change, market participants should consider raising a specific Modification proposal. • Believes the current proposal restores the key features of such original capacity products and also has a positive market impact by prompting greater utilisation of this “original” capacity. <p>UNC Panel Questions:</p> <p>Q1: Consider the risk of displacement of shorter-term</p>

			<p>capacity sales, extent and likely impacts on the consumer.</p> <p>The overrun flexibility might indeed carry a risk of reduced short term sales of NGG capacity products.</p> <p>However, is of the view that this risk does not outweigh the considerations about maintaining the key flexibility and fungibility features of the original capacity products – i.e. is it fair for original capacity users to effectively pay twice for capacity? (once for the unutilised Bacton ASEP, as well as for the capacity at the alternate Bacton ASEP).</p> <p>The proposed aggregate overrun regime will lead to more efficient use of the original capacity, which should benefit the market therefore consumers.</p>
National Grid	Qualified Support	d) – positive	<ul style="list-style-type: none"> • Modification proposal UNC0501V approved by Ofgem for implementation gave Users a one-off opportunity to request their existing capacity allocation at either Bacton ASEP. In the decision letter, Ofgem acknowledged that there might be market changes in the future which will negatively impact flexibility for Bacton Users, specifically highlighting that 'the impact of reduced flexibility is minimal as the other market mechanisms in conjunction with the availability of substantial amounts of unused capacity at Bacton - mean that shippers can flow flexibly between the two new entry points at low cost in the current regulatory framework'. • National Grid recognises that at the time of the Bacton split Users lost some of the flexibility in capacity usage. Post the split of the Bacton entry point into two ASEPs, Users were able to purchase capacity at the other ASEP to mitigate the loss of flexibility at limited to no additional cost. National Grid acknowledges that under the new charging regime, this is now not possible and there is now a different financial impact as prior to October 2020. • National Grid believes that the implementation of an aggregate overrun regime at Bacton ASEP will provide a degree of flexibility which existed at the time of contractual commitment. It will enable more access to capacity purchased prior to 1st November 2015 at the Bacton ASEPs, and potentially contribute towards better utilisation of that capacity in line with User expectation at the time it was purchased without incurring additional costs. If implemented, this proposal will therefore have a positive impact on Relevant Objective (d) as it promotes effective competition between those Users with "Original Bacton Capacity". • While National Grid recognises the positive impact outlined above, it is appropriate to consider the potential

			<p>implications this proposal will have on other Users. Whilst implementation of this Modification would provide those holders of Original Bacton Capacity with the increased flexibility and likely utilisation of pre-November 2015 capacity, it will also likely result in a lower sales of new capacity at the Bacton ASEPs. This may lead to impacts on Capacity Reserve prices for other Users (as explained later in this document under additional Panel questions).</p> <ul style="list-style-type: none"> • Agrees that the Modification should be subject to Authority Direction. Information from Xoserve indicates that the system solution will take approximately 12-15 weeks to deliver should the Modification proposal be implemented. • Will incur the costs of making the required changes to central systems and processes. The ROM indicates a cost of at least £91,000 but probably not more than £134,000 to implement. • Is satisfied that the legal text it has provided will deliver the intent of the solution. <p>UNC Panel Questions</p> <p>Q1: Consider the risk of displacement of shorter-term capacity sales, extent and likely impacts on the consumer.</p> <p>This Modification, if implemented, could have an impact on short term capacity sales for some Shippers able to make use of the changes this modification brings. Bacton Users eligible to participate in the aggregate overrun regime will be able to utilise the capacity purchased prior to 1st November 2015 and therefore are less likely to purchase new capacity to meet their flows. The amount being charged via Transportation Charges (i.e. via the Allowed Revenues) will not change; However, implementation of this Modification could impact which parties pick up any consequence of reduced revenue from those availing of the aggregate overruns and not purchasing additional 'new' capacity to cover flow.</p> <p>Less new capacity being sold means that other Users will have to cover any consequential under recovery of Allowed Revenue i.e. it may contribute to the increase in capacity cost for other market participants (and, by extension, increase in costs to end consumers); however, some will be subject to lower charges by not needing to procure additional capacity providing an offsetting mechanism assuming the savings find their way to consumers. The impacts to the consumer would depend on the nature of how Transportation charges are ultimately passed on, which will vary across Users.</p>
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			<p>The extent of the impact would be difficult to measure due to unforeseeable behaviour of Bacton Users in the future. The impacts and interactions with capacity reserve prices and potentially Transmission Services Revenue Recovery Charges as a result of any behavioural changes should be monitored closely to ensure the integrity of the charging regime.</p>
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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 0739 would ensure Entry Capacity acquired by Users at the Bacton ASEP, prior to Bacton splitting into two ASEPs, can be used flexibly via the introduction of an aggregate overrun regime following changes to the NTS Charging Regime.

Panel Members considered the representations made noting that, of the 3 representations received, 2 supported implementation and 1 offered qualified support. Panel Members noted that the Proposer had not submitted a consultation response. The Proposer's representative was invited to speak briefly and reiterated that the Modification document provides clear justification for the changes proposed.

Panel Members agreed with the premise of the Modification that it will enable more access to capacity purchased prior to 01 November 2015 at the Bacton ASEPs, and potentially contribute towards better utilisation of that capacity in line with User expectation at the time it was purchased, without incurring additional costs.

Panel Members however also noted that the provision of this may have a knock-on effect of potentially lower sales of new capacity at the Bacton ASEPs. This may lead to impacts on Capacity Reserve prices for other Users. Panel Members discussed the potential for this to be viewed as discriminatory towards those other Users. Bacton Shippers in the past had no choice when the Bacton Split occurred (as a result of the introduction of CAM code), this may have been viewed as discriminatory at the time. Ofgem's decision letter on Modification 0501V¹⁰ noted this issue but did not appear to view it as discriminatory, noting that zero priced capacity was available at the time. Whether or not there was an expectation of capacity utilisation, there may be a case of discrimination.

Some Panel Members agreed with the implicit assumption that the arrangements at that entry point are unique and that the proposal is reasonable and the rationale for the change is sound.

Other Panel Members noted that engagement with industry appears in general to be a little lower than expected.

Panel Members considered the additional question put to consultation respondents:

¹⁰ <https://www.gasgovernance.co.uk/0501>

Q1: Consider the risk of displacement of shorter-term capacity sales, extent and likely impacts on the consumer.

Panel Members summarised that the risk of displacement is likely to be real however that it is difficult to predict the extent to which this may occur due to unforeseeable behaviour of Bacton Users in the future.

A Panel Member representing domestic consumers believed there would be capacity displacement therefore there is the risk of adverse effects on consumers.

Another Panel Member noted that Allowed Revenue does not change and thus the impact on consumers will depend on the contractual relationships in place; possible results could be positive or negative.

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 d).

d) Securing of effective competition between Shippers and/or Suppliers

Some Panel Members agreed that implementation would have a positive impact on Relevant Objective d) because the Modification promotes effective competition between those Users with “Original Bacton Capacity”.

Some Panel Members disagreed because whilst implementation of this Modification would provide those holders of Original Bacton Capacity with the increased flexibility and likely utilisation of pre-November 2015 capacity, it will also likely result in lower sales of new capacity at the Bacton ASEPs. This may lead to impacts on Capacity Reserve prices for other Users.

Determinations

Panel Members voted unanimously that Modification 0739 does not have an SCR impact.

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

Panel Members voted with 10 votes in favour (out of a possible 13), and agreed to recommend implementation of Modification 0739.

12 Recommendations

Panel Recommendation

Panel Members recommended:

- that Modification 0739 should be implemented