

UNC 0753:

Removal of Pricing Disincentives for Secondary Trading of Fixed Price NTS System Entry Capacity



Proposer: Mark Simons (Total) represented by Nick Wye (WWA)

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Why change?

What is the problem?



- The application of RRC's to transferred Existing Entry Capacity has resulted in:
 - Users “sleeving” gas through Existing Capacity held by Users holding such capacity, where possible. This undermines the trading of capacity
 - In some cases, this is not possible where Users have no option but to purchase secondary capacity and incur RRCs, for example:
 - Where the original holder of Existing Capacity has withdrawn from the UNC;
 - Where an infrastructure owner (e.g. storage or LNG regas) has contracted with a third party User to acquire Existing Capacity, but the same User cannot sleeve gas on behalf of infrastructure customers due to confidentiality etc...
 - Where a wider transaction (e.g. acquisition of upstream assets) has resulted in Existing Capacity being transferred to the purchaser and the seller is unable/unwilling to provide sleeving services
 - The above not only undermines the secondary trading market but is discriminatory in terms of which Users hold Existing Capacity and which Users are exposed to the RRC as a result of the relationship between the transferor and the transferee

Why change?

The legal case



- Following implementation of UNC678A, the application of RRCs to transferred Existing Capacity is in breach of:
 - Art. 22 of Regulation (EC) 715/2009 – Trading of capacity rights
 - Art. 1 of same – setting non-discriminatory rules for access to the NTS
 - Art. 13 of same – Tariffs for access to networks
 - NGG Licence SSC A6 – shippers gaining commercial advantages from preferential of discriminatory arrangements
- In short, the dual regime for RRC on Existing Contracts, as applied by the UNC following the implementation of UNC678A:
 - is not applied in a non-discriminatory manner;
 - does not facilitate efficient gas trade and competition;
 - restricts market liquidity in capacity rights.

Why change?

The commercial case



- The impacts on the market have been set out in slide 2
- Quantifying the impact is only possible if the circumstances surrounding each transfer are known.....not publicly available
- At a high level, revenue recovery from sales of entry capacity during Oct & Nov were 45% below forecast due predominately to optimisation of Existing Contracts
- The number of Users and the volumes of capacity which are unable to utilise “sleeving” services are unknown albeit anecdotally there are numerous cases
- The charging regime has resulted in discriminatory arrangements where the same product (Existing Capacity) held by Users is subject to different charges (RRC).....this undermines competition

Options



- Change to the UNC treatment of transferred Existing Capacity in relation to the application of RRCs

Solution



- Following the first transfer of Existing Capacity between Users and after notification of the transfer by the same Users the capacity is added to the User's Fully Adjusted Available NTS Entry Capacity. This results in the RRC not being applied to the transferred quantity, where the transferred quantity relates to a quarter (i.e. transfers cannot disaggregate quarterly Existing Capacity holdings into shorter duration products)
- Where the transferee is no longer a User, dual notification is not required, but verified by NGG
- Transfers must have taken place after 5 April 2017 (EU TAR in force) and any adjustments to Fully Adjusted Available NTS Entry Capacity will occur following implementation of the mod (i.e. it is not retrospective)
- The proposal allows for a one-off only adjustment as this will rectify the problems identified on slide 2 and will permit quick implementation as it will be less impacting on central systems

Recommended Steps



- The Proposer recommends that this modification should be: Not subject to self-governance because following rejection of Urgent status the proposal will impact the commercial activities related to the shipping, transportation and supply of gas
- Workgroup assessment to develop the modification for 2 months
 - *The Proposal has been well-developed, as it sought urgent status, and legal drafting has already been prepared*
 - *Excessive delay will lead to continued non-compliance and be at the detriment to a number of parties and competition more widely*