

Joint Office of Gas Transporters

By Email

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Date

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27 September 2021

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Our reference

Your reference

BBL VOF 21.066

Subject

Response to UNC Modification Proposal 0765 "New retrospective debit and credit charges to reflect changes to the treatment of Entry Capacity Revenue between October and December 2020"

Dear Joint Office,

BBL Company (BBLC) does not support implementation of this Proposal.

BBLC opposes the Proposal because of its adverse impact on regulatory transparency and market participants' trust that concluded commercial contractual activities will not be retrospectively altered.

BBLC recognises that the commercial arrangements that prevailed between October and December 2021 were less than ideal. However, BBLC would like to point out that previous changes to the UNC contract have been premised on identifying an issue with the prevailing arrangements and correcting it going forwards. These changes have not sought to apply the change retrospectively in an attempt to correct any historic competition impacts of the previously prevailing contract. BBLC considers that allowing such retrospective changes to the UNC commercial arrangements would undermine market confidence and introduce risks to market participants due to the uncertainty that such retrospectivity would introduce. BBLC considers that introducing the possibility that the UNC commercial contract can be unwound 'after the event' will negatively impact market trading through the introduction of a risk premium into the market. The Proposer recognises these detrimental impacts in the Proposal itself by stating "*that retrospective changes in principle are not desirable and that they **are** [emphasis added] detrimental to overall confidence in the integrity of the market arrangements*". Ofgem is also quoted in the Proposal as recognising the adverse impact of retrospective changes "*it is our view that retrospective modifications should be avoided as **they undermine market confidence***" [emphasis added].

**BBL Company V.O.F.**

Date: 27 September 2021

Our reference: BBL VOF 21.066

Subject: **Fout! Verwijzingsbron niet gevonden.**

The Proposer (NGG) seeks to balance the recognised adverse market and competition impacts of the Proposal by stating that "*such concerns are outweighed by the adverse impacts on competition of the revenue redistribution actioned in this period*". BBLC does not agree that such an assessment can be substantiated and does not believe NGG have demonstrated that this is the case. BBLC believes the future financial impacts resulting from undermining market confidence, due to the perception of an on-going future risk that more retrospective changes will be made, are impossible to quantify.

### **Relevant Objectives:**

BBLC does not agree that a case has been made that the Proposal furthers relevant objective 'd'. Indeed, BBLC considers that the on-going market impacts of allowing such a retrospective change would continue to undermine confidence in the GB regulatory arrangements into the future and as such would likely have greater adverse financial impact on market participants and GB end consumers than that which NGG is seeking to address with this Proposal. BBLC considers the same argument applies to the Charging relevant objective 'c'.

NGG's argument in support of relevant objective 'g' is also retrospective in nature by seeking to apply EU regulatory compliance to past events. BBLC does not consider this to be justified. The arrangements that were in place between October and December 2021 were deemed to be compliant with EU regulation through the approval of Modification 0678A. BBLC does not consider it appropriate to retrospectively reassess such compliance and use this to impose retrospective financial adjustments (either positive or negative) on market participants. BBLC therefore does not consider that the Proposal furthers relevant objective 'g'.

BBLC also does not consider that the Proposal furthers relevant objective 'c'. As stated in relation to relevant objective 'd', BBLC considers that the future negative impacts of the Proposal on market confidence and competition would outweigh the historic impact of the commercial arrangements that prevailed during October to December 2021.

In relation to the Charging relevant objectives, in addition to the comment above regarding relevant objective 'c', BBLC considers that the wording of Charging relevant objective 'b' demonstrates that it is future focussed, i.e., it states that proposed changes to the charging methodologies should take "*account of developments in the transportation business*". BBLC does not consider that this relevant objective anticipates retrospective application of changes to Charging Methodologies and therefore the Proposal does not further this objective.

Yours sincerely



Rudi Streuper  
Commercial Manager