

Representation - Draft Modification Report UNC 0765

New retrospective debit and credit charges to reflect changes to the treatment of Entry Capacity Revenue between October and December 2020

Responses invited by: **5pm on 20 September 2021**

To: enquiries@gasgovernance.co.uk

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

Representative:	Christiane sykes
Organisation:	Shell Energy Europe Limited (SEEL)
Date of Representation:	20 September 2021
Support or oppose implementation?	Oppose
Relevant Objective:	<p>c) Negative</p> <p>d) Negative</p> <p>g) Negative</p>

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

SEEL does not support this proposal as it undermines stability and regulatory certainty in the UK market, further exacerbating the regulatory and charging uncertainty, which has prevailed since Oct 2020. Moreover, this retrospective proposal is detrimental to overall confidence in the integrity of the arrangements of the UK gas market.

We do not agree that this proposal has a positive effect on competition as redistribution of previous revenues, which were correctly allocated in compliance with the regulatory rules at the time, will not impact the current competitive landscape, nor will it have any effect on NBP prices already experienced, following the volatility faced by the market at the time of implementation of Modification Proposal 0678 – Amendments to Gas Transmission Charging Regime.

We agree with the point made by a Workgroup Participant, ‘that the cornerstone of competition is the sanctity of contract and thus this Modification is effectively re-opening the contract and because of this undermining competition.’

SEEL supported UNC Modification 0748, which served to prevent any undue cross-subsidisation by removing the relevant charges from Capacity Neutrality, mitigating the risk of future unfair distribution, which could have an adverse impact on shipper competition on a prospective basis. Prospective changes to the UK gas regulation support an evolving and liquid market but retrospective changes have the opposite effect

and create market risk and uncertainty and undermine existing contracts made in good faith.

Any benefits that shippers may have accrued through capacity neutrality in the period Oct-Dec 2020 as the result of unintended consequences of the existing arrangements may have been passed on to counterparties, depending on the terms in their contract and there is unlikely to be any legal recourse to pass on a retrospective charge so this proposal risks creating further cross-subsidies and legal challenges.

The issue of capacity neutrality was raised as part of the proposed changes to the UK charging regime, which were discussed over several years and yet National Grid failed to carry out any analysis to understand the extent of the issue and the potential impact on the market. This contributed to the significant uncertainty and market volatility following implementation of 0678. Market participants should not be exposed to further uncertainty and risk, which this retrospective proposal would create.

Furthermore, we concur with the point made in the Draft Modification report that the market will have settled out positions that occurred during the period in question and that there is no mechanism for the market to reopen and pass money on to consumers, further arguing that consumers will have been affected as a result of impact on the NBP and that the implementation of the proposal will do nothing to address that occurrence.

Implementation of a retrospective proposal would set a bad precedence for the UK energy market as it creates an unquantifiable risk for market participants, which could be built into a premium passed on to end users and negatively impacts the attractiveness of the UK gas market, compared to neighbouring markets.

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

Insert Text Here

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

Insert Text Here

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

Insert Text Here

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

Insert Text Here

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