

UNC Final Modification Report		At what stage is this document in the process?
<h1>UNC 0737:</h1> <h2>Transfer of NTS Entry Capacity from a Capacity Abandoned ASEP</h2>		<div style="display: flex; flex-direction: column; gap: 5px;"> <div style="border: 1px solid #008080; border-radius: 10px; padding: 5px; display: flex; align-items: center; gap: 5px;"> 01 Modification </div> <div style="border: 1px solid #008080; border-radius: 10px; padding: 5px; display: flex; align-items: center; gap: 5px;"> 02 Workgroup Report </div> <div style="border: 1px solid #008080; border-radius: 10px; padding: 5px; display: flex; align-items: center; gap: 5px;"> 03 Draft Modification Report </div> <div style="border: 1px solid #008080; border-radius: 10px; padding: 5px; display: flex; align-items: center; gap: 5px;"> 04 Final Modification Report </div> </div>
<p>Purpose of Modification:</p> <p>To enable the transfer of NTS Entry Capacity booked at “capacity abandoned” donor Aggregated System Entry Points (ASEPs) to alternative recipient ASEPs where there is unsold entry capacity at the recipient ASEPs.</p>		
	The Panel does not recommend implementation.	
	<p>High Impact:</p> <p>All parties that pay NTS Transportation Charges and/or have a connection to the NTS, and National Grid NTS.</p>	
	<p>Medium Impact:</p> <p>N/A</p>	
	<p>Low Impact:</p> <p>N/A</p>	

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Timetable	
The Proposer recommends the following timetable:	
Pre-Modification Discussion	06 August 2020 and 08 September 2020
Modification considered by Panel	17 September 2020
Initial consideration by Workgroup	06 October 2020
Workgroup Report presented to Panel	17 December 2020
Draft Modification Report issued for consultation	17 December 2020
Consultation Close-out for representations	12 January 2021
Final Modification Report available for Panel	14 January 2021
Modification Panel recommendation (<i>at short notice</i>)	21 January 2021
 Any questions? Contact: Joint Office of Gas Transporters  enquiries@gasgovernance.co.uk  0121 288 2107 Proposer: Ricky Hill, Centrica Energy Ltd  Ricky.Hill@centrica.com  07789 579169 Transporter: National Grid NTS  colin.williams@nationalgrid.com  01926 655916 or 07785 451776 Systems Provider: Xoserve  commercial.enquiries@xoserve.com Other Nick Wye  nick@waterswye.co.uk  07900 055144	

1 Summary

What

The Proposal seeks to allow the transfer of sold NTS Entry Capacity at an “capacity abandoned” entry point (the donor entry point) to a recipient entry point where there remains unsold entry capacity at the nominated recipient entry point. Where the entry capacity booked at the donor entry point is classified as Existing Capacity¹ the protections afforded to this entry capacity remain post-transfer i.e. the contracted auction price is honoured and Transmission Services Entry Revenue Recovery Charges (RRC) are not applied.

Why

Entry Points may be capacity abandoned as planned upstream projects do not come to fruition or gas supplies have been exhausted or are no longer economic. Where entry capacity is held by Users at capacity abandoned entry points, it results in inefficient outcomes, with Users paying National Grid for capacity which will not be utilised (and thus paying for a service which is not required), restricting the release of capacity by National Grid at other entry points as it is required to fulfil obligations to support existing bookings. Ultimately, were a User(s) to default against payments for entry capacity holdings, National Grid may serve Termination Notices which would result in the socialisation of unpaid costs across other Users.

How

An entry point will be regarded as capacity abandoned where all entry capacity holdings at the entry point is offered up for transfer to an alternative entry point. All entry capacity bookings at the donor entry point must be offered for transfer within a designated transfer window. Where there are multiple Users with capacity bookings at the capacity abandoned ASEP, each User may request a transfer to alternative entry points. The Bacton IP ASEP is excluded from qualifying as a nominated recipient ASEP. The requested transfers will be subject to an Exchange Rate, calculated by National Grid and a transfer will only be permitted where the Exchange Rate does not exceed 3:1, with a minimum Rate of 1:1. A transfer will only be completed where there is sufficient unsold capacity at the donor ASEP to accommodate the transfer volume.

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 transportation arrangements for shippers, upstream project investors and relevant consumers.

This Modification was presented as a pre-Modification at the Transmission Workstream held in August 2020 and at NTSCMF in September 2020.

Requested Next Steps

This Modification should be:

¹ As defined in the UNC 0678A legal drafting Section B 2.2.2 <https://www.nationalgrid.com/uk/gas-transmission/document/128021/download>

- Considered a material change and not subject to self-governance
- Assessed by a Workgroup.

3 Why Change?

Users acquire NTS Entry Capacity to ensure that gas can be supplied at the relevant ASEP up to the amount of the capacity holding. The booking of capacity ensures that the User will not incur System Entry Overrun Charges. Where there is insufficient unsold NTS Entry Capacity, a User will acquire forward capacity to secure additional, incremental capacity as part of the Planning and Advanced Reservation of Capacity Agreement (PARCA) process or via the release by National Grid of non-obligated capacity (or by entry capacity substitution). In this case, Users are required to book a defined volume of capacity for a minimum number of quarters as part of an Entry User Commitment.²

New ASEPs may be established to support gas supplies from new “upstream” projects³. In these circumstances, Users will forward book entry capacity to ensure access to the NTS is secured, to correspond with the commencement of gas supplies, as it would be highly unlikely that a project would be financeable without guarantee that gas can be delivered from, source to customer. The duration of the capacity bookings will depend upon the Entry User Commitment and/or the User’s risk assessments associated with “locking in” NTS access rights, alongside project plans and costs.

Entry capacity may be held by a User at an ASEP where a planned upstream project did not achieve completion, or an existing upstream project was discontinued. In both cases, entry capacity bookings are maintained and paid for without any prospect of gas being flowed. For the purposes of this Modification Proposal we have classified these ASEPs as “capacity abandoned ASEPs”. For the avoidance of doubt, a “capacity abandoned” ASEP for the purposes of this Modification refers to the transfer of NTS Entry Capacity away from the entry point and does not reflect the physical status of the entry point. The transfer of capacity does not require any further activities to be undertaken such as physical disconnection, or the removal of the ASEP from National Grid’s Transporter Licence (Special Condition 5F,27, Table 4B).

Although entry capacity is permitted to be transferred (traded) between ASEPs, in accordance with the Entry Capacity Trade & Transfer Methodology⁴, it is only permitted where all obligated entry capacity at the recipient ASEP has been sold. This restriction results in the following undesirable outcomes:

- a) Users who hold capacity at capacity abandoned ASEPs will continue to incur capacity costs with no prospect of flowing gas against their capacity bookings;
- b) National Grid will continue to receive revenue from Users for capacity bookings which cannot, or will not be used at capacity abandoned ASEPs;
- c) National Grid is required to make provisions to support supplies at the capacity abandoned ASEPs where entry capacity is booked. This is inefficient and leads to a sterilisation of NTS capacity, limiting the ability for National Grid to make additional capacity available elsewhere on the NTS;

² <https://www.nationalgrid.com/uk/gas-transmission/document/128001/download>

³ Upstream relates to any facility which delivers gas directly into the NTS

⁴ <https://www.nationalgrid.com/uk/gas-transmission/document/128021/download>

- d) The inability to freely transfer capacity between ASEPs may inhibit new projects from connecting to the NTS where entry capacity is required to be bought in advance for an extended period. This is even more pertinent following the implementation of UNC Modification 0678A Amendments to Gas Transmission Charging Regime (Postage Stamp) which will result in significant increases in entry capacity costs at the majority of ASEPs;
- e) A User who holds entry capacity at the capacity abandoned ASEP may default on capacity payments and ultimately cease to be a User where National Grid gives a User a Termination Notice, in accordance with UNC TPD Section V 4.3. In such cases, the outstanding debts are socialised across all Users. Termination as a User may be an attractive option to a User which has no other interests beyond the holding of entry capacity at the capacity abandoned ASEP.

For the reasons stated above, it is in the interests of the User and all other Users that entry capacity which is held at a capacity abandoned ASEP should be transferrable to another ASEP, where the recipient ASEP has unsold obligated entry capacity.

4 Code Specific Matters

Reference Documents

EU Tariff Code (Regulation 2017/460)

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32017R0460>

UNC Modification Proposal 0678A Ofgem Decision

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

The Entry Capacity Transfer and Trade Methodology Statement

<https://www.nationalgrid.com/uk/gas-transmission/document/128021/download>

Knowledge/Skills

None

5 Solution

A. Classification of donor ASEP as abandoned – Initial qualification criterion

1. User(s) may request the transfer of all entry capacity bookings at a single “donor” ASEP to one or more “recipient” ASEPs during a “Capacity Abandonment ASEP Transfer Window”, with the exception of the Bacton IP ASEP as a recipient ASEP. The window will be open for a period of 5 Business Days at the end of February each Gas Year and will be preceded by a Pre-Transfer Window notification 10 Business Days prior to the commencement of the “Capacity Abandonment ASEP Transfer Window”.. Entry capacity will only be considered for transfer where all entry capacity bookings (User’s Fully Adjusted Available NTS Entry Capacity) by all Users held at the Donor Entry Point are subject to a transfer request. The earliest requested transfer date will be 01 April in the same Gas Year but can be made at any time thereafter where the transfer request stipulates an alternative date. Note that these dates maybe changed for Calendar Year 2021 if the date of Ofgem’s direction does not permit adherence to the dates specified in this Proposal.

2. The process will be run each Gas Year. Where an ASEP has been subject to previous qualifications of capacity abandonments this does not preclude Users from booking entry capacity at these ASEPs. Likewise, the application for transfer is an annual process, meaning that an ASEP which previously qualified as capacity abandoned can still be the subject of new transfer requests and subsequent classifications of capacity abandoned where capacity was booked at that ASEP at date after the transfer has been performed.⁵

3. Where all Users of all capacity bookings over all durations at the donor ASEP submit a transfer request, the donor ASEP will be classified as Capacity Abandoned, which in turn will permit the transfer to be ratified, subject to other conditions being met.

For the avoidance of doubt an individual User must nominate a single recipient ASEP for the purposes of a transfer in relation to all capacity held at the donor ASEP, however, individual Users may request alternative recipient ASEPs.

Example 1:

User A and User B quarterly entry capacity bookings at the same donor ASEP

	Oct 22	Jan 23	April 23	July 23	Oct 23	Jan 24	April 24	July 24	Oct 24
User A	100	100	0	0	100	100	0	0	100
User B	0	0	50	50	0	0	50	50	50

Scenario 1

User A requests a transfer of all capacity holdings at the donor ASEP from 01 October 2022 to 31 December 2024 to a single recipient ASEP.

User B requests a transfer of all capacity holdings at the donor ASEP from 01 April 2023 to 31 December 2024 to a single recipient ASEP.

In this scenario all capacity bookings by all Users at the donor ASEP are requested to be transferred. The initial qualification criteria are met and the donor ASEP is classified as Capacity Abandoned, enabling the collective transfer requests to move to the next stage

Scenario 2

User A requests a transfer of all capacity holdings at the donor ASEP from 01 Oct 2022 to 31 December 2024 to a single recipient ASEP.

User B requests a transfer of all capacity holdings at the donor ASEP from 01 April 2024 to 31 December 2024 to a single recipient ASEP.

In this scenario only User A has requested the transfer of all of its capacity holdings. User B will retain capacity holdings at the ASEP from 01 April 2023 to 30 September 2023. The initial qualification criteria

⁵ This ensures that where the entry point remains connected to the NTS it can still be accessed by Users in future. This results in the most efficient outcome where access to the NTS is not denied as a result of previous abandonment, thereby reducing costs of entry into the market, for example for new “upstream” facilities.

are not met and the ASEP is not classified as Capacity Abandoned and all transfer requests made by both Users will be rejected by National Grid.

B. Calculating the rate of exchange – secondary qualification criterion

4. Where the requested transfer(s) meet the initial qualification criteria, National Grid will calculate the capacity Exchange Rates relevant to the identified donor and recipient ASEPs. The methodology applied to calculate the exchange rates will be the same as that set out in the Entry Capacity Transfer and Trade Methodology Statement.⁶
5. Where the Exchange Rate for a donor ASEP: recipient ASEP exceeds 3:1 then the transfer request will be rejected. The Exchange Rate used to calculate the volume of transferred capacity will also be subject to a floor, where the Exchange Rate calculated by National Grid is less than 1:1, National Grid will adopt an Exchange Rate of 1:1. Where more than one donor ASEP: recipient ASEP transfer has been requested, the transfer will be rejected only for those where the Exchange Rate exceeds 3:1.

Example 2:

User A and User B quarterly entry capacity bookings at the donor ASEP (initial qualification criteria met)

	Oct 22	Jan 23	April 23	July 23	Oct 23	Jan 24	April 24	July 24	Oct 24
User A	100	100	0	0	100	100	0	0	100
User B	0	0	50	50	0	0	50	50	50

In the table above, User A requests a transfer from the donor ASEP to recipient ASEP X and User B requests a transfer from the donor ASEP to recipient ASEP Y.

Where National Grid calculates Exchange Rates to be equal to or less than 3:1 for both requested transfers then the requests will be considered for transfer.

Where National Grid calculates an Exchange Rate which is less than or equal to 3:1 in relation to User A's transfer request, but greater than 3:1 in relation to User B transfer request then User B's transfer request will be rejected. User A's transfer request will be able to progress to the next stage.

C. Completing the transfer – final qualification criterion

6. Where a requested transfer fulfils the initial and secondary qualification criteria, a final assessment will be carried out by National Grid. Applying the relevant Exchange Rate, where the total amount of capacity held in aggregate at the recipient ASEP does not exceed the obligated level of entry capacity at the donor ASEP, the transfer can be carried out. i.e. there is sufficient unsold capacity at the recipient ASEP to accommodate the transfer. The applicant User will be required to confirm if it would like the transfer to be executed, before the transfer is enacted. Such confirmation will be given with 5 Business Days of the transfer details being provided by National Grid to the User.

⁶ <https://www.nationalgrid.com/uk/gas-transmission/document/128021/download>

- Where this criterion is not met for one or more of the requested periods, then for those periods the transfer will not be permitted. For the avoidance of doubt, for all other qualifying periods the transfer(s) will be carried out.

Example 3:

Requested Transfer Volume with *sufficient* unsold capacity across all periods (assumes a 1:1 Exchange Rate)

	Oct 22	Jan 23	April 23	July 23	Oct 23	Jan 24	April 24	July 24	Oct 24
User A Donor ASEP holdings	100	100	0	0	100	100	0	0	100
Recipient ASEP X unsold obligated	200	150	300	300	200	100	300	300	100

In the example above, User A will be permitted to transfer all volumes of booked capacity at the donor ASEP to ASEP X

Example 4:

Requested Transfer Volume with *insufficient* unsold capacity across all periods (assumes a 1:1 Exchange Rate)

	Oct 22	Jan 23	April 23	July 23	Oct 23	Jan 24	April 24	July 24	Oct 24
User A Donor ASEP holdings	100	100	0	0	100	100	0	0	100
Recipient ASEP X unsold obligated	200	150	300	300	50	50	300	300	100

In this example, User A will be permitted to transfer all requested capacity for periods October 2022, January 2023 and October 2024. For periods October 2023 and January 2024 there is insufficient unsold capacity and as a result the full transfer for these periods will not be permitted. The amount to be transferred will be capped at the unsold amount of 50 units for these quarters.

D. Treatment of Existing Contracts

- Where the transferred capacity is classified as Existing Capacity, post transfer the capacity will continue to be classified as Existing Capacity and be subject to the same protections as allowed for, following implementation of UNC Modification 0678A - Amendments to Gas Transmission Charging Regime

(Postage Stamp) i.e. the cost of the capacity will be maintained and any Entry Transmission Services Revenue Charges (RRC) will not be applied for the duration of the capacity holding. Where the exchange rate is not 1:1, the User liable to National Grid in relation to acquisition of Existing Capacity will remain liable for the full amount of the costs associated with the Existing Capacity holdings at the donor ASEP,

For example, where the User holds 100 units of Existing Capacity at the donor ASEP at a cost of £100 and the exchange rate applied for the transfer of capacity to the recipient ASEP is 2:1, the User will be allocated 50 units at the recipient ASEP, but remains liable for the full £100 associated with the original purchase of 100 units of Existing Capacity.

This arrangement ensures that the value of Existing Contracts is maintained, while permitting utilisation of the capacity at an alternative ASEP.

9. In order to allow the transfer of Existing Capacity, a new definition of Existing Registered Holdings will need to be developed. Existing Registered Holdings will exist where such capacity has been subject to a transfer as set out in this Modification. As is the case under UNC Modification 0678A in relation to Existing Registered Holdings the Applicable Daily Rate for NTS Entry Capacity and the Entry Transmission Services Revenue Charges are not applied. The definition will reflect the User's Existing Available Holding at the donor ASEP and Entry Capacity charges will continue to apply to the User in accordance with the arrangements for Existing Capacity charges (including exemption from the Revenue Recovery Charge) following execution of the transfer.

Impacts and Considerations

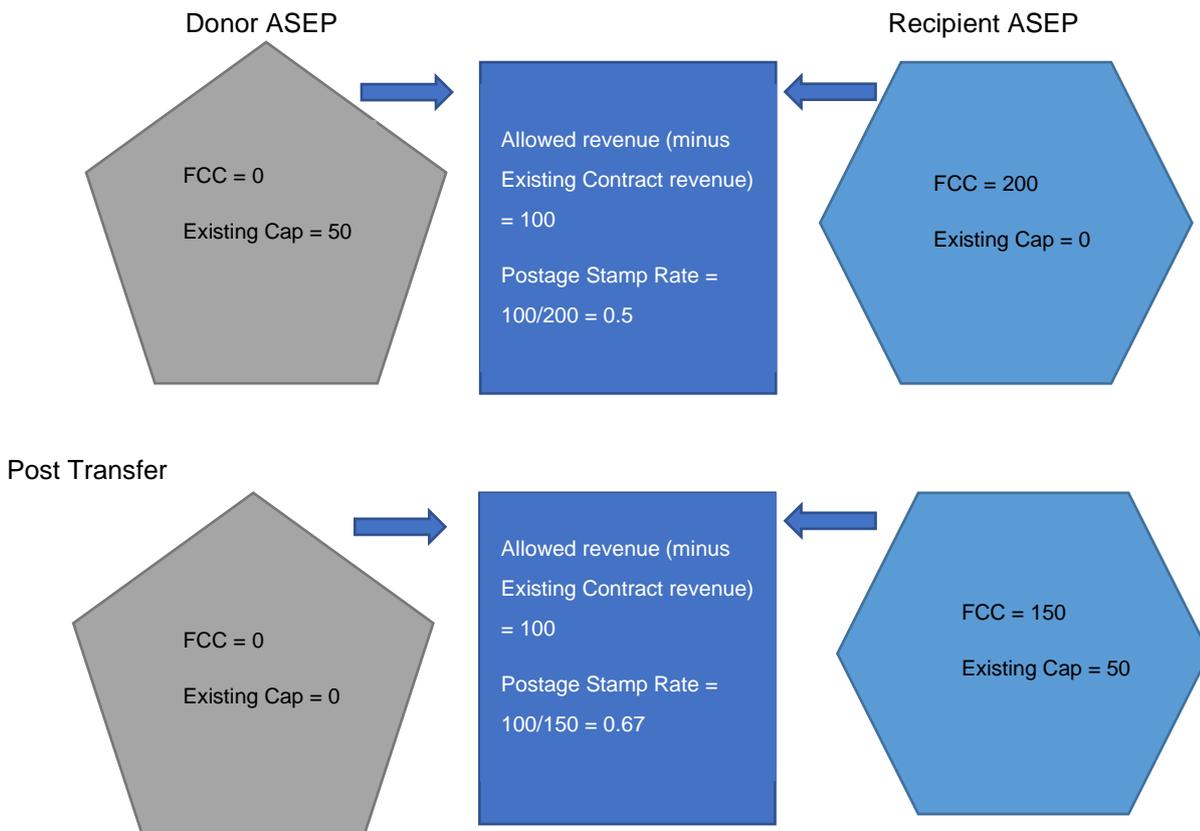
The transfer of capacity may have an impact on Entry Capacity Prices and/or the Revenue Recovery Charge (RRC) as per UNC Modification 0678A, in the event that the capacity subject to the transfer is classified as Existing Capacity. The impact, if any, is dependent upon whether the additional capacity transferred to the recipient ASEP displaces bookings which would otherwise have been made at that ASEP independent of the capacity transfer. If this was the case then the future bookings of capacity at the recipient ASEP would be replaced by capacity already acquired at the donor ASEP and subject to Existing Contract status resulting in a revenue under-recovery.

Where the first date of transfer will be enacted in a future Gas Year(s) beyond the Gas Year during which the application was submitted, and the transfer results in an outcome as detailed above, then future NTS Entry Capacity charges will reflect the impact on Forecasted Contracted Capacity (FCC). Where this is not the case and the first date of transfer will be in the same Gas Year as the application, then there could be impacts on the amount of revenue recovered during the Gas Year.

For example:

If 50 units of Existing Capacity are to be transferred from the donor ASEP to recipient, on a 1:1 basis, the total volume of Existing Contracts remains unchanged. Where the Forecasted Contracted Capacity (FCC) forecasts a future booking of 50 units at the recipient ASEP, this is displaced by the 50 units of transferred Existing Capacity. As a result, the FCC will be reduced by 50 units increasing the unit rate of entry capacity across the NTS. Diagram 1 shows the overall impacts on FCC and capacity unit rates.

Diagram 1: Potential Impact of transferring Existing Capacity between ASEPs



If the transfer occurs during the same Gas Year as the application, then the revenue recovered from the recipient ASEP may be reduced as the forecast sale of entry capacity at the prevailing entry capacity price is displaced by the transferred capacity.

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’s view:

The ability to transfer capacity from capacity abandoned entry points will enable investors in prospective upstream projects to acquire capacity in the NTS in the knowledge that it will have value in the event that the project fails to come to market. This will reduce the level of sunk costs, reducing project investment risk and should encourage investors to support more marginal projects. In turn, this will improve supply diversity and volumes, ultimately driving down the cost of gas to customers.

Where there is displacement of new capacity bookings due to the transfer of Existing Capacity from the donor point, the impact on customers will be immaterial. Typically, entry costs are not included in the calculation of a customer’s bill, only post-NBP transportation charges are passed through (in different

ways). Entry charges are subsumed into the NBP price and as such changes to entry charges will tend to be reflected in the NBP price. The impact of the NBP price as a result of this Modification will be immaterial as the redistributive effects of capacity transfer⁷, as shown in the analysis included in Section 5 (page 9) will be small. In particular, it is worth noting that were a capacity transfer to result in cheaper entry capacity being accessible at an entry point which provides the marginal supply of gas, theory would suggest that the NBP price would fall resulting in reduced bills to customers.

If a holder of entry capacity at an capacity abandoned entry point were to default on payment with regard to their capacity bookings and if this were to subsequently result in User termination from the UNC, the outstanding costs will be shared across all Users, leading to increased costs for customers. The ability to transfer capacity will greatly reduce the possibility of User default as the capacity will confer commercial value to the User.

Workgroup Participants noted on 03 November 2020 and again on 01 December 2020 that the possibility of User termination in this instance is only a possibility, and not a certainty.

A Workgroup Participant noted that if the data were available, it would be useful to assess the potential scale of likely instances where this Modification could be used, though the data required is not publicly available. For example data which would be useful would be: ASEPs where Capacity is held but no flows recorded recently and there are no known prospect of flows (Entry Points that have capacity bookings with no flows in past Gas Year). National Grid advised on 01 December 2020 that there are two sites which fall into the category of 'no recent flows but with future bookings'. Further information was not available as it would reveal sensitive information. Workgroup noted that there is a possibility that these two sites may or may not use the mechanism.

Workgroup Participants expected that further information would be available to Ofgem so that its assessment of materiality of this Modification would include this.

The Proposer noted that based on the analysis performed by the Proposer in relation to the one site and included in the Modification above (see p. 9) the Proposer estimated that in the worst case the under-recovery would be equivalent to the level of capacity displaced (capacity that would have otherwise been booked in the event the abandoned capacity had not been transferred).

Workgroup Participants noted that there was no data readily available in relation to the other site which may currently be in a position to take advantage of this Modification (noting that in future other sites may be able to take advantage of the Modification).

National Grid noted on 07 December 2020 that recovery of any bad debt remaining subsequent to User Termination would be subject to a request to Ofgem to allow National Grid to recover these monies via the Transportation Charge (essentially added to Allowed Revenue for a particular year). No context can be supplied around the source or otherwise of the bad debt.

Workgroup noted that there have been two known incidents of User Termination with non-payment of Transportation Charges in the past few years. National Grid noted that these two totalled just under £1million. A Workgroup Participant challenged that this figure was too low.

⁷ It should be noted that the overall level of revenue to be collected by National Grid via its TO charges (which includes Capacity and Revenue Recovery charges will remain unchanged, hence, the impacts of this Proposal will be limited to the distribution of TO costs across Users.

The Proposer noted that it is highly plausible that a User constructing an upstream project would acquire a licence solely for this purpose of purchasing Entry Capacity. This means that the probability of User Termination in this instance may be highly probable.

Workgroup had nothing further to add on this subject.

Consumer Impact Assessment	
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?	<p>The impact of this Modification is a distributional impact. The same amount of Allowed Revenue will be recovered by National Grid with or without the implementation of this Modification.</p> <p>The ability to transfer capacity from abandoned entry points will enable investors in prospective upstream projects to acquire capacity in the NTS in the knowledge that it will have value in the event that the project fails to come to market. This will reduce the level of sunk costs, reducing project investment risk and should encourage investors to support more marginal projects. In turn, this will improve supply diversity and volumes, ultimately driving down the cost of gas to customers.</p> <p>The current cost of Entry Capacity is now higher than it was previously. This is likely to lead to marginal cost projects being less likely to proceed, given that the capacity must be bought up front.</p> <p>If a holder of entry capacity at an abandoned entry point were to default on payment with regard to their capacity bookings and if this were to subsequently result in User termination from the UNC, the outstanding costs will be shared across all Users, leading to increased costs for customers. The ability to transfer capacity will greatly reduce the possibility of User default as the capacity will confer commercial value to the User.</p> <p>Where a capacity transfer involves Existing Capacity and it displaces entry capacity which would have been acquired at the prevailing price, there will be an impact of National Grid Transmission Charges in order to preserve Allowed Revenues. These increased charges may be passed onto Users.</p> <p>There could be a positive or negative impact on NBP price, depending on whether there is additional flow from cheaper sources (downward). The magnitude of change is likely to be related to the number of sites where this mechanism could be used, and the situation at these sites (Existing Contracts, volumes etc.).</p> <p>Workgroup Participants noted that the effect on the NBP, if any, is likely to be very small.</p>

When will these costs/benefits impact upon consumers?	Once a transfer has been enacted.
Are there any other Consumer Impacts?	No
General Market Assumptions as at December 2016 (to underpin the Costs analysis)	
<i>Number of Domestic consumers</i>	<i>21 million</i>
<i>Number of non-domestic consumers <73,200 kWh/annum</i>	<i>500,000</i>
<i>Number of consumers between 73,200 and 732,000 kWh/annum</i>	<i>250,000</i>
<i>Number of very large consumers >732,000 kWh/annum</i>	<i>26,000</i>

Cross Code Impacts

None

EU Code Impacts

Proposer’s view - Introduction

This Modification requires a change to the definitions of “Existing Registered Holding” and “Existing Available Holding” whereby where Existing Capacity is transferred from the donor ASEP to the recipient ASEP it maintains Existing Capacity status.

In terms of the application of an exchange rate, resulting in volumes of capacity being held at the recipient ASEP which are not equal to the volumes of Existing Capacity held at the donor ASEP, Article 35 does not stipulate a “fixing” of volumes, but only that the tariffs associated with the bookings are maintained. As this proposal extends the commitment by the transferee to continue to pay capacity costs equivalent to the costs (and therefore tariffs) of the Existing Contract, post-transfer, transfers of this nature are compliant. In general, the transfer of capacity is compliant with Art.35 of the EU Tariff Code in that it does not preclude the transfer of Existing Capacity rights from one entry point to another.

Proposer’s legal advice

Centrica sought a legal opinion to assess the compliance of UNC737 against the relevant European legislation. The specific questions related to whether ‘Existing Contracts’ are able to retain this status if they are transferred to another ASEP as envisaged under UNC737.

Centrica's legal counsel reviewed the relevant sections of the European network code on harmonised transmission tariff structures for gas (NC TAR)⁸, and the implementation document for the network code on harmonised transmission tariff structures for gas⁹. The advice received was that nothing in UNC737 runs counter to the main NC TAR provisions, and in particular Article 35, and therefore UNC737 should be considered compliant.

Below the Proposer discusses each element of Article 35 and explains why UNC737 is compliant:

Article 35 of NC TAR

"Existing contracts

1. *This Regulation shall not affect the levels of transmission tariffs resulting from contracts or capacity bookings concluded before 6 April 2017 where such contracts or capacity bookings foresee no change in the levels of the capacity- and/or commodity-based transmission tariffs except for indexation, if any."*

This makes clear that any fixed tariffs agreed in contracts concluded before 6 April 2017 will not be affected by NC TAR and does not run counter to anything that UNC737 is proposing.

2. *"The contract provisions related to transmission tariffs and capacity bookings referred to in paragraph 1 shall not be renewed, prolonged or rolled over after their expiration date."*

UNC737 does not propose to allow capacity holders to renew, prolong or roll over capacity after the expiration date. Therefore, it does not run counter to anything that UNC737 is proposing.

3. *"Before 6 May 2017, a transmission system operator shall send the contracts or the information on capacity bookings, if any, referred to in paragraph 1 to the national regulatory authority for information".*

This was an obligation on TSOs to provide details of contracts to the National Regulator and not relevant to UNC737

NC TAR implementation document

ENTSOG has also published an implementation document that sits alongside NC TAR. It is non-binding and prepared for information and illustrative purposes but does provide some useful contexts in terms of how NC TAR should be implemented. It states that Existing Contracts must satisfy three criteria to qualify for Article 35. The Proposer discusses each one in turn.

"Type: only fixed price contracts or capacity bookings under such contracts qualify, not floating price contracts since their signatories foresaw future price changes".

National Grid entry capacity contracts that were concluded before 6 April 2017 meet this definition and does not run counter to anything that UNC737 is proposing.

⁸ <https://www.entsog.eu/sites/default/files/entsog-migration/publications/CAM%20Network%20Code/2017/TAR%20NC.pdf>

⁹ https://www.entsog.eu/sites/default/files/2019-10/entsog_TAR_NC_2017_2nd_ed_update_1910_web.pdf

“Extent: only the transmission tariff level qualifies for exemption. In principle, the TAR NC will apply to fixed price contracts, but not to their transmission tariff level. Article 35 extends both to capacity- and to commodity-based transmission tariffs”.

This just makes clear that any fixed tariffs agreed in contracts concluded before 6 April 2017 will not be affected by NC TAR. It therefore does not run counter to anything that UNC737 is proposing.

“Time: the ‘existing’ fixed price contracts must have been concluded before the TAR NC entered into force. Qualifying contracts cannot be renewed or extended after their termination date”.

UNC737 does not propose to allow capacity holders to renew, prolong or roll over capacity after the expiration date. Therefore, this does not run counter to anything that UNC737 is proposing.

Please note significant further discussion of compliance is covered under Relevant Objective g) on page 18 below.

Central Systems Impacts

The Proposer anticipates that there will be impacts on Gemini and UK Link invoicing systems and these will be assessed as part of the overall development of this Modification.

At Workgroup on 01 December 2020 the ROM (XRN 5277) was discussed. Key findings from the ROM are given below:

ROM Costs and Timescales
Change Costs (implementation): An enduring solution will cost at least £720,000 , but probably not more than £910,000 to implement.
Change Costs (on-going): An increase to ongoing support costs will be at least £0 , but probably not more than £12,000 .
Timescales: The high-level estimate to develop and deliver this change is approximately 32 - 40 weeks. This change would need to be prioritised through the Change Management Committee alongside other changes within Xoserve’s planned Gemini programme.

Some Workgroup Participants (including the Proposer) noted that ROM indicates a very high cost for the likely very small number of industry participants which would benefit from this change.

The Proposer’s view is that the solution recommended in the ROM goes further than required by systemising all the changes. His view is that the solution is ‘over-engineered’ - all individual elements have been processed into Gemini, whereas his view is that the Modification warrants only an ad-hoc process to be used very occasionally and that a manual workaround would be more suitable for this process. His view was that a simple

solution which only reduces capacity holdings at the donor ASEP and increases them at the recipient ASEP is all that is required.

The Joint Office has requested a revised ROM on 02 December 2020, this would ideally be discussed at the next/last Workgroup meeting on 07 December, but this timescale is unlikely. The Workgroup will aim to finalise its report and submit it to the 17 December UNC Modification Panel.

It is anticipated that the revised ROM could be sent in time for consideration by Panel alongside the Workgroup Report.

CDSP confirmed that a revised ROM would be available by end w/c 07 December 2020.

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.	Positive
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

Proposer's view is shown below:

The NTS is unconstrained with surplus capacity at nearly all entry points. Where capacity is held at an entry point which is no longer or has never been operational, this means that capacity is unutilised, while incurring charges for the holding User. Permitting the transfer of capacity bookings from an abandoned entry point to an entry point where bookings are below obligated levels, means that capacity can be "moved" to locations where it is likely to be utilised, thereby optimising the use of the NTS. The effect of the transfer is akin to the process of substitution where unused, or in this case unwanted and unused capacity is reinstated and made accessible to the market at a location where it is required. The

optimisation of capacity bookings in response to market need will result in a positive impact on Relevant Objective (a); more efficient and economic operation of the pipe-line system.

Relevant Objective (d) is better facilitated as Users holding capacity at abandoned entry points are not encumbered with costs for a service they are unable to use. Through this Modification, a User is able to transfer capacity away from abandoned entry points to entry points where the capacity will maintain value and either use the capacity for its own supply purposes or obtain income from the sale of the capacity to a third party. This provides Users with more flexibility around the use and location of capacity, particularly in an unconstrained network. It reflects the generic nature of the capacity product and ensures the market is able to locate capacity where it is required.

Creating a value for capacity at abandoned entry points will also enhance security of supply, by reducing the downside risk associated with the booking of capacity to support potential upstream projects. Improved supply diversity and volumes will enhance competition in the downstream market.

Finally, the Modification will discourage User default and ultimately User termination from the UNC in the case that it is burdened with costs for holding unusable capacity. As the costs associated with capacity payment defaults are shared across all Users, this Modification improves shipper competition by reducing the likelihood of these costs being imposed more widely on the shipping community.

Workgroup Participants views 07 December 2020

A Workgroup Participant noted that there are doubts as to the clarity of this effect being supportive of efficient use of the system (Relevant Objective a).

A Workgroup Participant noted that this Modification concerns Existing Contracts and thus there are different views across the industry and this will be left to Ofgem's determination.

Other Workgroup Participants had nothing to add in relation to the points made above by the Proposer in relation to Relevant Objectives a) and d).

A Workgroup Participant noted that the Proposer has made some arguments in favour of the Modification in relation to these Relevant Objectives but that they did have a firm conclusion either agreeing or disagreeing with the Proposer.

The Workgroup Chair noted that Workgroup being unable or unwilling to comment either way will make consultation responses all the more important. She noted that this may delay the progression of the Modification. She further reminded Workgroup that Ofgem considers the Workgroup's response to the Relevant Objectives and places great emphasis on their consideration throughout the process.

The Workgroup Chair urged Panel to consider this point separately to the Modification.

On 03 November Workgroup briefly discussed potential impact on Relevant Objective g).

Some Workgroup Participants noted that Existing Contract terms may be considered specific to the contract. Changing the location and the levels of the capacity by moving it to the recipient ASEP may not be considered the same capacity. This may constitute a variation of the terms and conditions of the Existing Contract, which may not be permissible under Art. 35.

The Proposer asserted that the volume and price of the contract remains the same. The Modification requires a change to the definitions of "Existing Registered Holding" and "Existing Available Holding" which the Proposer believes is allowed under the EU Tariff Code for the purpose of supporting this process as defined in the Modification.

At Workgroup on 01 December, the additional information given in v3.0 of the Modification specifically concerning compliance with EU TAR was overviewed by the Proposer. A Workgroup Participant added that this matter is

subject to legal interpretation and Ofgem will have to make its own interpretation when it considers the Modification.

National Grid gave the following views regarding compliance with EU TAR on 01 December 2020:

The interpretation of the EU Tariff Code which informed National Grid’s Proposal for UNC0678, was approved and implemented by Ofgem under Alternative 0678A. This interpretation is compliant with the Tariff Code and is the current status quo.

The changes proposed by this Modification 0737 foresee deviation in the location at which a contract was agreed, variation in the contracted volume due to the exchange rate mechanism, and, to retain the overall liability, a fluctuation in the contracted rates. All of these could be considered as alterations to the contract, all of which would occur post 06 April 2017, the cut-off date prescribed by Article 35 and would no longer entitle the user to the price protection.

Furthermore, this Modification is seeking to facilitate a new process that wasn’t possible at the time the existing contract was struck. A shipper would not have purchased capacity at the time of the existing contract with the knowledge that in the future, if the ASEP became abandoned, the Capacity could be transferred to a new location. Therefore, this Modification would effectively be applying new rules retrospectively.

In response, the Proposer referred to the legal opinion shown earlier (page 14). The assertions in National Grid’s views above appear extraordinary in relation particularly to the last point. This infers that any change to the UNC cannot have any retrospective element, which is known to be incorrect. The Proposer drew attention to the requirement in this Modification to change the definition of Existing Contracts to accommodate this Modification (see p. 8). National Grid’s wording above does not seem to take into account the change in the definition of Existing Registered Holdings and Existing Available Holdings.

A Workgroup Participant suggested that the Existing Contract is set up through the UNC which is a modifiable contract. The Proposer continued to assert that the Modification is compliant with EU TAR Art. 35.

National Grid explained that its views above are based on the principle of contract law that if the quantity, volume or location are changed that would change the contract.

The Proposer noted that this was a National Grid view on contract law, whereas there is a requirement to consider whether the movement of capacity from one point to another is compliant in this case with Article 35 of EU TAR.

Workgroup could not reach a consensus on the compliance of otherwise of this Modification with EU TAR Art. 35 and thus on whether the Modification positively or negatively impacts Relevant Objective g).

Impact of the modification on the Relevant Charging Methodology Objectives:	
Relevant Objective	Identified impact
a) Save in so far as paragraphs (aa) or (d) apply, that compliance with the charging methodology results in charges which reflect the costs incurred by the licensee in its transportation business;	Positive
aa) That, in so far as prices in respect of transportation arrangements are established by auction, either: <ul style="list-style-type: none"> (i) no reserve price is applied, or (ii) that reserve price is set at a level - (l) best calculated to promote efficiency and avoid undue preference in the supply of transportation services; and 	None

(II) best calculated to promote competition between gas suppliers and between gas shippers;	
b) That, so far as is consistent with sub-paragraph (a), the charging methodology properly takes account of developments in the transportation business;	None
c) That, so far as is consistent with sub-paragraphs (a) and (b), compliance with the charging methodology facilitates effective competition between gas shippers and between gas suppliers; and	Positive
d) That the charging methodology reflects any alternative arrangements put in place in accordance with a determination made by the Secretary of State under paragraph 2A(a) of Standard Special Condition A27 (Disposal of Assets).	None
e) 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

Proposer’s view is shown below:

The Modification better facilitates Charging Relevant Objective (a) as where NTS Entry Capacity is held at an ASEP where it will not be used, for reasons set out in this Modification, a User will continue to make a contribution to National Grid’s revenue where no service is required to be provided and therefore, no costs or minimal costs will be incurred by National Grid. The transfer of capacity from one such ASEP to another, where the Entry Capacity can be used by the transferring User ensures that National Grid will provide capacity services and as such the costs of the service are compensated by the capacity charges levied on the transferring User for the capacity held at that ASEP.

It follows that Charging Relevant Objective (c) is better facilitated as charges incurred by the User are more cost reflective insomuch as they represent the standard charge for capacity services for entering gas into the NTS (as applied at all ASEPs) where capacity services are being provided by National Grid. The application of an exchange rate ensures that the integrity of the NTS is maintained, while crystallising the cost of Existing Capacity which is subject to a transfer ensures that the obligations entered into at the time of acquisition of Existing Capacity are maintained. In combination, cost reflectivity is enhanced and User obligations are preserved while permitting greater utilisation of the NTS and the wider benefits which this generates are consistent with promoting effective competition between gas shippers.

Workgroup did not have anything to add over and above the points made on page 17 in relation to the standard Relevant Objectives.

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.

The Workgroup considered the Legal Text at its meeting on 07 December 2020 and is satisfied that it meets the intent of the Solution.

Text Commentary

Set out below is the suggested legal text intended to be reflected in a new paragraph 2.18 to be added to Section B of the Transportation Principal Document. Under these provisions, National Grid NTS will notify all Users in early February each year of the opening and closing dates of a 5 business day window during the last week of that month during which Users can make a request to transfer all (not just part) of their system entry capacity from a capacity abandoned ASEP to a recipient ASEP. There are three conditions as to whether or not National Grid NTS will accept a User's application.

First, all Users who hold entry capacity at the capacity abandoned ASEP must apply to transfer away from the capacity abandoned ASEP. If there is more than one User at the capacity abandoned ASEP and only one User applies to transfer, that transfer will fail. This is because the basic test of abandonment of that ASEP is not met. It is still in demand by a User.

Second, National Grid NTS will need to calculate the "exchange rate" for the entry capacity that would be allocated to each applicant User at their requested recipient ASEP using the exchange rate methodology in the Entry Capacity Transfer and Trade Methodology Statement and then offer that to the applicant User so that the applicant User has the opportunity to accept that exchange rate or not. The exchange rate has an upper bound of not more than 3:1 and a floor of 1:1. In other words, if a User has 100 at the donor ASEP, the exchange rate calculation for entry capacity at their requested recipient ASEP would not be more than 100 or less than 33.

Third, when National Grid NTS applies the exchange rate for the transfer to the recipient ASEP, the total amount of capacity held by all Users at the recipient ASEP for a particular month requested does not exceed the level of obligated entry capacity at the capacity abandoned ASEP in that month.

To the extent that the capacity being transferred away from the capacity abandoned ASEP was allocated to that User before 6 April 2017 (i.e. when the European Tariff Code (TAR) pursuant to Commission Regulation (EU) 2017/460 of 16 March 2017 came into effect), the status of this existing capacity is preserved as it is transferred to the recipient ASEP in that the Applicable Daily Rate for NTS Entry Capacity and Entry Transmission Service Revenue Charges shall not be applied to that capacity. Instead, the User will remain liable to National Grid NTS on that basis of that User's Existing Available Holding at the capacity abandoned ASEP and Entry Capacity Charges will continue to apply after the transfer for the remainder of the term of that capacity.

Finally, consequential amendments to the definitions of "Existing Registered Holding" set out in the Transportation Principal Document, Section Y, Part A-I condition 2.2.2(e) and of "Existing Available Holding" set out in the Transportation Principal Document, Section Y, Part A-1 condition 2.2.2(f) are made so as to allow the inclusion capacity transferred to a donor ASEP from a capacity abandoned ASEP within these definitions. This is because the current legal text refers specifically to the ASEP at the Tariff Regulation Effective Date (i.e. 6 April 2017) and does not cater for transfers after that date of existing capacity.

Text

TPD Section B

Insert new paragraph 2.18 as follows:

2.18 Transfers of NTS Entry Capacity from a "Capacity Abandoned ASEP"

2.18.1 A User may, at any time during the last five (5) Business Days of February in each Gas Year ("Capacity Abandoned ASEP Transfer Window"), request a transfer of all its NTS Entry Capacity in respect of a Capacity Abandoned ASEP to an alternative Aggregate System Entry Point, provided that:

- (a) the User must serve National Grid NTS with a written notice (a “**Capacity Abandoned ASEP Transfer Request**”) requesting such a transfer no later than fifteen (15) Business Days' prior to the Capacity Abandoned ASEP Transfer Window; and
- (b) each of the conditions stated in paragraphs 2.18.3, 2.18.4 and 2.18.5 must be met in respect of the Capacity Abandoned ASEP Transfer Request.

2.18.2 National Grid NTS shall issue a notification to all Users not later than ten (10) Business Days before the commencement of each Capacity Abandoned ASEP Transfer Window advising all Users of the opening and closing dates of the next Capacity Abandoned ASEP Transfer Window.

2.18.3 The first condition is that:

- (a) every User which holds NTS Entry Capacity at the Capacity Abandoned ASEP submits a Capacity Abandoned ASEP Transfer Request during the same Capacity Abandoned ASEP Transfer Window, in each case in respect of all of its NTS Entry Capacity;
- (b) each User which makes a Capacity Abandoned ASEP Transfer Request nominates a single recipient Aggregate System Entry Point to which it wishes to transfer any and all NTS Entry Capacity held by it at the Capacity Abandoned ASEP. For the avoidance of doubt, each User does not need to nominate the same recipient Aggregate System Entry Point as any other User making a Capacity Abandoned ASEP Transfer Request within the same Capacity Abandoned ASEP Transfer Window;
- (c) the Capacity Abandoned ASEP Transfer Request must state a date for implementation of the transfer which shall be no earlier than 1 April in the same Gas Year;

2.18.4 The second condition is that the rate at which NTS Entry Capacity at a recipient Aggregated System Entry Point will be allocated to a User in exchange for that User's NTS Entry Capacity at the Capacity Abandoned ASEP (the “**Capacity Abandoned Exchange Rate**”) must be equal or less than 3:1, but no less than 1:1, provided that:

- (a) where more than one User makes a Capacity Abandoned ASEP Transfer Request, and the Capacity Abandoned Exchange Rate in respect of some but not all transfers exceeds 3:1, National Grid NTS shall only reject those Capacity Abandoned ASEP Transfer Requests in respect of which the Capacity Abandoned Exchange Rate exceeds 3:1; and
- (b) where the Capacity Abandoned Exchange Rate is less than 1:1, the transfer will be accepted by National Grid NTS on an assumed basis of 1:1

2.18.5 The third condition is that, applying the Capacity Abandoned Exchange Rate applicable for each recipient Aggregate System Entry Point, the total amount of NTS Entry Capacity held by all Users at the recipient Aggregate System Entry Point in respect of a particular month requested in the Capacity Abandoned ASEP Transfer Request does not exceed the level of Obligated Entry Capacity at the Capacity Abandoned ASEP in relation to that month.

2.18.6 Following receipt of a Capacity Abandoned ASEP Transfer Request, National Grid NTS shall, within fifteen (15) Business Days, verify whether the application meets all of the conditions in paragraphs 2.18.3, 2.18.4 and 2.18.5 (including by calculating the Capacity Abandoned Exchange Rate applicable to the proposed transfer as set forth in the Capacity Abandoned ASEP Transfer Request in

accordance with the methodology for the calculation of Exchange Rates for the transfer of NTS Entry Capacity between Aggregate System Entry Points set out in the Entry Capacity Transfer and Trade Methodology Statement).

- 2.18.7 If National Grid NTS accepts the Capacity Abandoned ASEP Transfer Request, then within five (5) Business Days of National Grid NTS providing the transfer details to the applicant User, the applicant User must confirm whether or not it wishes the transfer to be executed. Following implementation of the transfer:
- (a) where the Capacity Abandoned Exchange Rate is not 1:1, the User liable to National Grid in relation to acquisition of the transferred NTS Entry Capacity shall remain liable for the full amount of the costs associated with the Existing Capacity Holdings at the Capacity Abandoned ASEP; and
 - (b) if the third condition is not met in respect of any month which is the subject of a Capacity Abandoned ASEP Transfer Request, the transfer shall only be implemented in respect of that month to the extent of the available Obligated Entry Capacity at the recipient Aggregate System Entry Point.
- 2.18.8 If National Grid NTS does not accept the Capacity Abandoned ASEP Transfer Request it shall notify the applicant User accordingly.
- 2.18.9 To the extent that the NTS Entry Capacity being transferred pursuant to a Capacity Abandoned ASEP Transfer Request comprises Existing Contracted Capacity as at the Tariff Regulation Effective Date, with effect from the date of the transfer:
- (a) that NTS Entry Capacity shall continue to be classified as Existing Contracted Capacity save that in relation to their Existing Registered Holdings in respect of that NTS Entry Capacity, the Applicable Daily Rate for NTS Entry Capacity and Entry Transmission Service Revenue Recovery Charges shall not be applied; and
 - (b) the User's Existing Available Holding at the Capacity Abandoned ASEP and Entry Capacity Charges will continue to apply to such User following completion of the transfer from the Capacity Abandoned ASEP to the recipient Aggregate System Entry Point for the remainder of the term of such capacity.
- 2.18.10 For the purposes of this paragraph 2.18:
- (a) **"Capacity Abandoned ASEP"** means an Aggregate System Entry Point in respect of which all Users make an application to National Grid NTS within the same Transfer Window to transfer their respect NTS Entry Capacity to one or more alternative Aggregate System Entry Points pursuant to this paragraph 2.18 such that, if given immediate effect, would result in no Users holding NTS Entry Capacity at such Aggregate System Entry Point.

TPD Section Y

Amendments to Existing Definitions in the Transportation Principal Document

The definition of "Existing Registered Holding" set out in the Transportation Principal Document, Section Y, Part A-I condition 2.2.2(e) shall be deleted in its entirety and replaced with the following:

2.2.2

- (e) **“Existing Registered Holding”** means, in relation to an Entry Point, a User and a Day or other period, the amount, as at the Tariff Regulation Effective Date, of the User’s Registered NTS Entry Capacity for such Entry Point and Day or other period or, where such User’s Registered NTS Entry Capacity has been transferred from such Entry Point to another Entry Point after the Tariff Regulation Effective Date pursuant to paragraph 2.18, such User’s Registered NTS Entry Capacity at the recipient Entry Point immediately after such transfer;”

The definition of "Existing Available Holding" set out in the Transportation Principal Document, Section Y, Part A-1 condition 2.2.2(f) shall be deleted in its entirety and replaced with the following:

2.2.2

- (f) **“Existing Available Holding”** means, in relation to an Entry Point, a User and a Day, the amount, as at the Tariff Regulation Effective Date, of the User’s Available NTS Entry Capacity for such Entry Point and Day or, where such User’s Available NTS Entry Capacity has been transferred from such Entry Point to another Entry Point after the Tariff Regulation Effective Date pursuant to paragraph 2.18, such User’s Available NTS Entry Capacity at the recipient Entry Point immediately after such transfer;

10 Consultation

Panel invited representations from interested parties on 17 December 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.

Of the 3 representations received 2 supported implementation and 1 was not in support.

Representations were received from the following parties:

Organisation	Response	Relevant Objectives	Key Points
Centrica Energy Ltd	Support	a) - positive d) – positive	<ul style="list-style-type: none"> Has raised this Modification to prevent capacity being stranded at an abandoned entry point and overcome an inherent weakness in the current Transfer and Trade rules introduced via Modification 0169. The weakness is that capacity can only be transferred when all obligated capacity has been sold out at the recipient ASEP. This limitation means that, despite Modification 0169, capacity is still being left stranded when it could be used elsewhere on the network. Believes Modification 0737 builds on the points that Ofgem raised in its decision letter on Modification 0169, that the industry should “guard against the risk of capacity being ‘sterilised’ at an entry point where it is not needed and to facilitate access to available network capacity” and “that the implementation of capacity transfer and trade should indeed reduce the risk of sterilised capacity in the network, which

			<p>would be directly in consumers' interests." Where entry capacity is held by Users at capacity abandoned entry points, it results in inefficient outcomes, with Users paying National Grid for capacity which will not be utilised (and thus paying for a service which is not required), cross subsidising other Users and therefore impacting on competition between those Users.</p> <ul style="list-style-type: none"> • Proposes the Modification would also prevent a situation whereby, if a User were to default against payments for entry capacity holdings, the unpaid costs would be socialised across all other Users. It should also be noted that the gas transmission network is characterised by having a significant amount of spare capacity, so it makes sense, both in terms of the market, and the efficient use of the network, to permit Users to be able to move capacity around the network, including from abandoned entry points. More efficient use of the network in this way will provide benefits to Users and customers alike. • Believes this Modification should be considered a material change and not subject to Self-Governance. • Believes that this Modification should be implemented at the earliest opportunity upon the direction of the Authority. Any delay in implementation would mean the benefits of the Modification not being achieved as quickly as they could be. • Notes that the Rough Order of Magnitude (ROM) from Xoserve stated that a solution would take upwards of 30 weeks to implement from an operational perspective. Believes that this lead time is excessive and implies an overly elaborate solution to implement a relatively simple change. Shippers requesting the changes outlined in this Modification are likely to be an extremely rare event, and as such, a simple offline calculation with an overwrite of the capacity holdings in the system should be straightforward and efficient way of implementing this Modification. • Believes the impact on the entire market, from this Modification will be entirely positive. Any potential investor in upstream projects will benefit from this proposal. The ability to transfer capacity from capacity abandoned entry points would enable Users to acquire capacity in the NTS in the knowledge that it will have value should the project fail to come to market. This may be of relevance as Users enable the growth of low carbon hydrogen highlighted within the 10 Point Plan for a Green Industrial Revolution. Given that entry capacity would no longer be stranded, it would also clearly
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			<p>lead to more efficient use of the transmission network, in line with Relevant Objective a).</p> <ul style="list-style-type: none"> • The impact on customers would also be immaterial where there is displacement of new capacity bookings due to the transfer of Existing Capacity from the donor point. It is also feasible that the wider market could benefit from a more efficient discovery of the NBP price as a result of this Modification. Entry charges are subsumed into the NBP price and as such changes to entry charges will tend be reflected in the NBP price. As such, were a capacity transfer to result in cheaper entry capacity being accessible at an entry point which provides the marginal supply of gas, the NBP price should be lower which will feedthrough to customer bills. • Notes that the ROM stated that the ongoing support costs would be very low – between £0 and £12,000. • Is satisfied the Legal Text meets the intent of the Solution. • Notes there was a lot of discussion within the Workgroup with regards to compliance of this Modification with regards to Article 35 of NC TAR, however, they believe they have categorically demonstrated that the Modification is compliant with Article 35 and therefore compliance is not an obstacle for approval. • A legal opinion provided by the proposer to assess each element of Article 35 is covered in pages 11 and 12 of the Modification.
Equinor UK Ltd	Support	a) - positive d) – positive	<ul style="list-style-type: none"> • Supports the concept of being able to transfer capacity away from an abandoned ASEP as this leads to a freeze on the holder’s ability to utilise their booked NTS capacity. In an unconstrained network it would seem prudent to enable shippers to transfer capacity away from a point that has never been used. This enables more capacity to come to UK market will help to optimise the NTS and provide shippers with a wider range of options to bring gas to market. • Agrees with the Proposer’s analysis of compliance against the NC TAR in relation to Article 35 and believes any transfer of capacity away from an abandoned ASEP should be carried out free of any restrictions. • Supports implementation to be in line with Authority direction. • Is satisfied the legal text delivers the intent of the solution.
National Grid NTS	Oppose	a) - none d) - negative	<ul style="list-style-type: none"> • While noting the idea of enabling movement of Capacity away from a donor “Capacity Abandoned ASEP”, that would

		<p>g) - negative</p>	<p>otherwise be unusable, is positive, believes there are issues inherent in the proposal which, on balance, do not benefit Network Users overall. The primary reason being the retention of Existing Contract benefits in this scenario, believing that price protection should be forfeit due to the change in ASEP when compared with the information held at the time of the booking agreement.</p> <ul style="list-style-type: none"> • Notes the interpretation of the EU Tariff Code which informed the Proposals for Modification 0678, which was approved and implemented by Ofgem under Alternative Modification 0678A. This interpretation is compliant with the Tariff Code and is the current status quo. • Believes the changes proposed by this Modification 0737 foresee deviation in the location at which a contract was agreed, variation in the contracted volume due to the exchange rate mechanism, and, to retain the overall liability, a fluctuation in the contracted rates. All of these could be considered as alterations to the contract, all of which would occur post 06 April 2017, the cut-off date prescribed by Article 35, and would no longer entitle the user to the price protection. • Accepts that the proposer and other workgroup participants may have a different interpretation. • Proposes furthermore, this Modification is seeking to facilitate a new process that was not possible at the time the Existing Contract was struck. A shipper would not have purchased capacity at the time of the Existing Contract with the knowledge that in the future, if the ASEP became abandoned, the Capacity could be transferred to a new location. Therefore, this Modification would effectively be applying new rules retrospectively by creating a defined set of circumstances where the location of a contract is not fixed at the time of commitment. • Suggests the solution advocated by this Modification provides a benefit to a narrow set of Users, so its application is restricted. • Believes that the Proposer and one other user currently in a similar position could enact changes under this proposal. However, the Modification opens an avenue to any other User(s) who may find themselves in a similar position in the future, whether through circumstance or design. • Believes there is also potential for Users at a recipient ASEP to access Capacity, via trade from the applicant User, potentially at a reduced rate once it becomes available. However, any financial benefit to those Users must be
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		<p>recouped in the form of an increase in the Transmission Services Reserve price or introduction of/increase to a Transmission Services Revenue Recovery Charge (TSRRC) dependant on the period in which the capacity is being moved to ensure the same Allowed Revenue is recovered. This uplift is borne by users of Capacity purchased at the floating price, while the User benefiting from the Existing Contract rates is unaffected, increasing the variance in cost and highlighting the “dual regime” ACER expressed concern over in their report on implementation of UNC Modification 0678A.</p> <ul style="list-style-type: none"> • Believes the aim of moving Capacity from an Abandoned ASEP could have a positive effect, but the aim of the Modification is to donate the Capacity to a point where Capacity has not yet sold out. This suggests that there may not be an urgent need for additional capacity at that ASEP. • Has an additional concern is related to, but not specifically, the Exchange Rate used to move the Capacity. The 3:1 ratio potentially results in a level of Capacity destruction deemed appropriate by the current Entry Capacity Substitution Methodology Statement. However, the added loss of any unsold Capacity previously available at the recipient ASEP, which is to be displaced by the Abandoned Capacity taken from the donor site, in effect leads to an additional loss of available Network Capacity, creating a potentially inappropriate level of Capacity destruction in the process. • Agrees that this Modification should not be subject to Self-Governance and should be subject to Authority Direction. • Believes the timescales laid out in the solution require initial notice of Capacity Abandonment in each January to enable confirmation of the future capacity movement prior to commencement of price setting for the following October. Would expect the system solution to be in place for that January notice date. • Suggests with the ROM provided by Xoserve stating of 32-40 weeks for implementation of Option 1, should this be the preferred system solution National Grid would need a decision late April-2021, to enable implementation the following January, of 2022. Otherwise the first usage of this solution would not be until January of the following or another future year. • Believes Option 2 has a slightly reduced implementation timeline of 30-34 weeks, and so if this is the preferred solution a decision by 01 June should give time to enable implementation and first use in the following January.
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			<ul style="list-style-type: none"> Proposes should a decision be received from Ofgem by 01 June 2021, system implementation of Option 2 could potentially be concluded by January 2022 in time for a first Capacity Movement in April 2022. Notes will incur the costs of making the required changes to central systems and processes. Is satisfied that the legal text it has provided will deliver the intent of the solution.
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Representations were received from the following parties:

Organisation	Response	Relevant Charging Methodology Objectives	Key Points
Centrica Energy Ltd	Support	a) – positive c) – positive	<ul style="list-style-type: none"> Please refer to the statement provided above.
Equinor UK Ltd	Support	a) – positive c) – positive	<ul style="list-style-type: none"> Please refer to the statement provided above.
National Grid NTS	Oppose	a) – negative c) – negative	<ul style="list-style-type: none"> Please refer to the statement provided above.

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 0737 would enable the transfer of NTS Entry Capacity booked at “capacity abandoned” donor Aggregated System Entry Points (ASEPs) to alternative recipient ASEPs where there is unsold entry capacity at the recipient ASEPs.

Panel Members considered the representations made noting that, of the 3 representations received, 2 supported implementation and 1 was not in support.

A Panel Member noted that there have been some confidential representations sent directly to the Authority.

Panel Members noted there were several points to discuss as raised by various Parties:

- Retention of Existing Contract benefits (price protection) under this Proposal appear to be contrary to EU TAR Art 35. Because the terms of the contract are being varied (location and volume).
- Dual regime for prices has previously been the subject of concern expressed by ACER.

A Panel Member noted that the EU TAR rules have been incorporated into UK law therefore ACER's comments on the dual price regime are still relevant.

- The gas transmission network is characterised by having a significant amount of spare capacity, so it makes sense, both in terms of the market, and the efficient use of the network, to permit Users to be able to move capacity around the network, including from abandoned entry points. More efficient use of the network in this way will provide benefits to Users and customers alike.

A Panel Member responded to the above by noting that they would encourage the same consideration given to the Exit regime as well as that of Entry.

A Panel Member who was unable to attend, sent his views via his alternate:

- Given the existence of the Entry Capacity Trade & Transfer Methodology the issue should be dealt with by a modification of that methodology not a UNC change. We understand the difficulties of achieving this though and hence understand why a UNC modification has to be raised. One option is to move the entirety of the methodologies for both Entry and Exit into the UNC from the NTS licence but accept that this is not likely to happen.
- Would it not be more sensible to identify these capacity abandoned sites in the methodology and to prioritise capacity substitutions from them rather than from non-Capacity Abandoned ASEPs?
- This issue seems appropriate for a review group.

Panel Members discussed the views of the absent Panel Member. It was noted that in this situation a Shipper wants to retain capacity but move it to be used elsewhere, therefore changing the Entry Capacity Trade & Transfer Methodology may not be the right answer. Panel Members observed that the Entry Capacity Trade & Transfer Methodology is a mechanism to transfer capacity from one shipper to another and to release additional incremental capacity at the recipient point.

The Panel Chair asked for input from the Proposer's representative who confirmed that the Entry Capacity Trade & Transfer Methodology is related to release of capacity and National Grid having the ability to use capacity which needs to be used elsewhere for incremental build. Further this Modification is for a shipper to move capacity from one point to another within its own portfolio.

Panel Members did not have access to legal advice in order to be able to make a comment on the compliance or otherwise of this Modification with EU TAR.

A Panel Member wished to state that the document does not give any clear information as the consumer benefit or otherwise of this Modification.

Consideration of the Relevant Objectives

Panel Members noted that according to the Proposer, two standard Relevant Objectives were indicated to be positively impacted by this Modification, namely standard Relevant Objectives a) and d). These are considered first. Relevant Objective g) will also be considered as it was brought up at Workgroup. Panel Members noted that Workgroup could not reach a consensus on the compliance or otherwise of this Modification with EU TAR Art. 35 and thus on whether the Modification positively or negatively impacts Relevant Objective g).

Consideration of Charging Relevant Objectives will follow later in this section.

a) Efficient and economic operation of the pipe-line system

Some Panel Members agreed with the Proposer and some consultation respondents that implementation would have a positive impact because...

- This Modification looks to optimise capacity bookings in response to market need.

- In principle this Modification is facilitating the movement of capacity from a point where gas can't be flowed to one where it can.

Some Panel Members disagreed and believed there would be a negative impact on Relevant Objective a) because...

- The aim of the Modification is to donate the Capacity to a point where Capacity has not yet sold out. This suggests that there may not be an urgent need for additional capacity at that ASEP.

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

Panel Members considered relevant objective d) agreeing that implementation would have a positive impact because...

- Users holding capacity at abandoned entry points are not encumbered with costs for a service they are unable to use.
- Enabling more capacity to come to the UK market will help to optimise the NTS and provide shippers with a wider range of options to bring gas to market.

Some Panel Members disagreed because...

- The Exchange Rate used to move the Capacity in effect leads to an additional loss of available Network Capacity, creating a potentially inappropriate level of Capacity destruction in the process.
- The Modification perpetuates a two-tier charging regime because of the proposal to retain the Existing Contract price (noting that the capacity can then be traded on).

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.

Some Panel Members were unable to offer comments on this legally challenging area.

A Panel Member believed that implementation would have a negative impact on Relevant Objective g) because...

- Treatment of Existing Contracts in the Modification appears to be non-compliant with Article 35 of EU TAR .

Consideration of the Relevant Charging Methodology Objectives

Panel Members noted that according to the Proposer, two of the charging Relevant Objectives were indicated to be positively impacted by this Modification, namely Relevant Objective a) and c).

- a) Save in so far as paragraphs (aa) or (d) apply, that compliance with the charging methodology results in charges which reflect the costs incurred by the licensee in its transportation business;**

Panel Members considered charging relevant objective a) agreeing that implementation would have a positive impact because...

- The User that has acquired capacity at the capacity abandoned ASEP has entered into a capacity arrangement at a price – the price should reflect the cost of National Grid providing that service. This Modification moves the capacity to another point, the same product is being utilised at the other point and therefore this is cost reflective.

- c) That, so far as is consistent with sub-paragraphs (a) and (b), compliance with the charging methodology facilitates effective competition between gas shippers and between gas suppliers**

Panel Members agreed that the discussions captured above under standard Relevant Objective d) would apply for charging Relevant Objective c).

Determinations

Panel Members voted unanimously that Modification 0737 does not have an SCR impact.

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

Panel Members voted with 3 votes in favour (out of a possible 14), and therefore did not agree to recommend implementation of Modification 0737.

12 Recommendations

Panel Recommendation

Panel Members recommended:

- that Modification 0737 should not be implemented.