














UNC Modification		At what stage is this document in the process?
<h1>UNC 0696:</h1> <h2>Addressing inequities between Capacity booking under the UNC and arrangements set out in relevant NExAs</h2>		<div>01 Modification</div> <div>02 Workgroup Report</div> <div>03 Draft Modification Report</div> <div>04 Final Modification Report</div>
<p><b>Purpose of Modification:</b> To the extent to which a Consumer has entered into a bi-lateral Network Exit Agreement (NExA) with the relevant Transporter then any new or additional capacity charging should only apply from the relevant date set out in the NExA.</p>		
	<p>The Proposer recommends that this modification should be:</p> <ul style="list-style-type: none"><li>considered a material change and not subject to self-governance</li><li>assessed by a Workgroup</li></ul> <p>This modification will be presented by the Proposer to the Panel on <b>20 June 2019</b>. The Panel will consider the Proposer's recommendation and determine the appropriate route.</p>	
	<p>High Impact:</p> <p>Transporters, Shippers and Consumers</p>	
	<p>Medium Impact:</p>	
	<p>Low Impact:</p>	

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Timetable		 Contact: Joint Office of Gas Transporters
<b>The Proposer recommends the following timetable:</b>		 <a href="mailto:enquiries@gasgovernance.co.uk">enquiries@gasgovernance.co.uk</a>
Initial consideration by Workgroup	27 June 2019	 0121 288 2107
Workgroup Report presented to Panel	18 July 2019	Proposer: Gazprom Energy
Draft Modification Report issued for consultation	18 July 2019	 Steve Mulinganie <a href="mailto:Steve.Mulinganie@gazprom-energy.com">Steve.Mulinganie@gazprom-energy.com</a>
Consultation Close-out for representations	08 August 2019	 0799 0972568
Final Modification Report available for Panel	12 August 2019	Transporter: Wales and West Utilities
Modification Panel decision	15 August 2019 <i>(at Short Notice)</i>	 <a href="mailto:richard.pomroy@wvutilities.co.uk">richard.pomroy@wvutilities.co.uk</a>
		 0773 151572
		Systems Provider: Xoserve
		 <a href="mailto:UKLink@xoserve.com">UKLink@xoserve.com</a>

## 1 Summary

### What

An inequity has been identified between the arrangements for capacity as set out in the NExA which is a bilateral agreement between the Transporter and the Consumer and the UNC which is an agreement between the Shippers and Transporters.

### Context

An example of the issues identified in this Modification is set out in Section 3 and provides the context for the proposed changes to the UNC.

### Why

If the change is not made, then relevant Consumers will continue to be at risk of incurring charges under the UNC whilst being prohibited from benefiting from the new or additional capacity under the terms of the NExA

### How

It is proposed that any new or additional capacity requested [for DM Supply Points](#) under the UNC should only take effect from the date set out in the NExA. This process would not apply to NTS Supply Points.

## 2 Governance

### Justification for Authority Direction

As the proposal has a material impact on the Transportation arrangements for Shippers and relevant consumers and proposes a limited element of retrospection, it should, we believe, be subject to **Authority Direction**.

### Requested Next Steps

This modification should:

- be considered a material change and not subject to self-governance
- be assessed by a Workgroup

## 3 Why Change?

### Issue

An inequity has been identified between the arrangements for Capacity as set out in the Network Exit Agreement (NExA) which is a bilateral agreement between the relevant Transporter and the relevant Consumer and the Uniform Network Code (UNC) which is an agreement between Shippers and Transporters. Following discussions with the relevant Transporter who are the only party to both sets of arrangements we have identified an inequity in the current arrangements which needs to be addressed to enable an equitable outcome for the Consumer and to avoid similar occurrences of Consumer detriment in the future.

### Background

Customer A entered into arrangements to increase Capacity at one of their sites with Transporter B.

As the site is a major industrial site (Class 1) this involved considerable effort both in the form of resources, surveys, undertakings, and negotiation between Customer A and Transporter B. Due to this complexity the date that additional gas was required to be available was dynamic in nature.

Customer A was already subject to a NExA with Transporter B.

Transporter B and Customer A finally agreed bilaterally that the additional gas should be available for offtake from 1<sup>st</sup> December 2018 and a variation to the existing NExA was issued to the customer to this effect.

However, during the project, prior to the variation to the NExA being finalised, a Capacity increase was proceeded by Shipper C (in this case the current Shipper) for a date prior to the 1<sup>st</sup> December 2018. This was due to both the dynamic nature of the project and pressure to ensure Capacity was available in a timely manner and to avoid the risk of ratchet charges being applied by Transporter B under the UNC i.e. if the site was to use the increased capacity prior to a capacity increase being approved the site would have been subject to penal Ratchet charges.

This capacity increase request was referred to Transporter B.

Despite Transporter B being party to the terms of the revised NExA negotiations and thus aware that this only allowed for offtake from 1<sup>st</sup> December the referral was accepted for a date prior to the 1<sup>st</sup> December and the increase registered prior to the 1<sup>st</sup> December 2018.

This has led to the Customer being charged hundreds of thousands of pounds for additional Capacity that they were prohibited, under the terms of the NExA, from taking prior to the 1<sup>st</sup> December.

For the avoidance of doubt detailed discussions have taken place to seek to address this matter. However, it has been noted that the current drafting in the UNC needs to be amended to enable an equitable resolution.

This proposal would ensure that Shippers and Customers are not subject to this unfair charging risk in future and would also seek to recover the costs unfairly levied against Shipper C and Customer A i.e. the proposal has a limited degree of retrospection. For the avoidance of doubt this solution will be enduring so preventing this issue from occurring in the future.

**Retrospective Arrangements**

Ofgem currently applies a number of tests regarding retrospection:

- a situation where the fault or error giving rise to additional [material] costs or losses was directly attributable to central arrangements;
- combinations of circumstances that could not have been reasonably foreseen; or
- where the possibility of a retrospective action had been clearly flagged to the participants in advance, allowing the detail and process of the change to be finalised with retrospective effect.

This issue meets all of these tests, in that restriction in LDZ Capacity becoming available has resulted owing to mismatches in central system processes and processes operated by the Gas Transporters (NExAs). It could not be reasonable foreseen at the time when these discussions were being undertaken to increase capacity that such a mismatch would be allowed to occur by the Gas Transporters.

The impact of retrospection will simply to refund the capacity payments made by the Gas Shipper for the affected meter points. These additional costs come out of allowed revenue, so there will be a minimal impact to the rest of the market as the refund will be spread across the whole DN.

## 4 Code Specific Matters

### Reference Documents

Network Exit Agreement (NExA) – to be provided

### Knowledge/Skills

## 5 Solution

### Solution

It is proposed that any new or additional capacity for [DM Supply Points](#) (excluding NTS Supply Points), [that is Class 1 or Class 2 Supply Meter Points](#), requested under the UNC should only take effect from the date set out in the NExA.

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### Business Rule 1

Any requests for new or additional capacity [for DM Supply Points \(excluding NTS Supply Points\)](#) shall, where a relevant NExA exists, only take effect from the relevant date set out in the NExA.

### Business Rule 2

This change would be effective from 1<sup>st</sup> September 2018, with the CDSP correcting any capacity charges for sites identified by a Shipper as having been affected by the mismatch in NExA and UNC capacity booking processes.

## 6 Impacts & Other Considerations

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

None

### Consumer Impacts

Impacts consumers who are party to NExA arrangements and wish to amend their capacity requirements.

### Cross Code Impacts

There should be no known impacts on other Codes

### EU Code Impacts

None

### Central Systems Impacts

There should be no Central System impacts as this proposal can be addressed as part of the existing Transporter referral process.

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7 Relevant Objectives

Impact of the modification on the Relevant Objectives:	
Relevant Objective	
a) Efficient and economic operation of the pipe-line system.	None
b) Coordinated, efficient and economic operation of (i) the combined pipe-line system, and/ or (ii) the pipe-line system of one or more other relevant gas transporters.	None
c) Efficient discharge of the licensee's obligations.	Positive
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.	None
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.	Positive
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

8 Implementation

No implementation timescales are proposed and as there are no known Central System Impacts, implementation could be immediately following Authority Direction to implement the Modification.

9 Legal Text

To be provided by Transporters.

10 Recommendations

Proposer's Recommendation to Panel

Panel is asked to:

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- Agree that Authority Direction should apply
- Refer this proposal to a Workgroup for assessment.

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