

# 0560(Urgent):

## Addressing under-allocation of flows from BBL arising from misalignment of reference conditions

- 01 Modification
- 02 Workgroup Report
- 03 Draft Modification Report
- 04 Final Modification Report

This modification seeks to enable a manual correction of energy balancing invoices for Users who will be under-allocated as a result of misalignment of reference conditions between BBL and the NTS, until the Modification 0519 IT solution is in place.



The Workgroup agrees that this modification should now proceed to consultation.











High Impact:  
BBL Users



Medium Impact:  
National Grid NTS



Low Impact:  
None

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<b>7 Legal Text</b>	<b>12</b>	 <b>Sue Ellwood:</b> <b>01564 784725</b>
<b>8 Recommendation</b>	<b>12</b>	Transporter: <b>National Grid NTS</b>
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As Urgent procedures have been granted, this Workgroup Report is issued for consultation responses on 09 November 2015. All parties are invited to consider whether they wish to submit views regarding this modification.		 <b>01926 6513432</b>
The close-out date for responses is 17 November 2015, which should be sent to <a href="mailto:enquiries@gasgovernance.co.uk">enquiries@gasgovernance.co.uk</a> . A response template, which you may wish to use, is at: <a href="http://www.gasgovernance.co.uk/0560">http://www.gasgovernance.co.uk/0560</a> .		Systems Provider: <b>Xoserve</b>
The Panel will consider the responses and agree whether or not this modification should be made.		 <a href="mailto:commercial.enquiries@xoserve.com">commercial.enquiries@xoserve.com</a>
Ofgem approved the following urgency timetable:		
Ofgem granted Urgent status	21 October 2015	
Workgroup meeting	05 November 2015	
Modification issued for consultation by	10 November 2015	
Close-out for representations	17 November 2015	
Final Modification Report for the UNC Modification Panel	18 November 2015	
UNC Modification Panel Recommendation	19 November 2015	
Ofgem decision expected by	04 December 2015	

# 1 Summary

## Is this a Self-Governance Modification?

It is not proposed that this should be a self-governance modification, since it is likely to have a material effect on competition in the shipping, transportation or supply of gas conveyed through pipes or any commercial activities connected with the shipping, transportation or supply of gas conveyed through pipes.

## Is this a Fast Track Self-Governance Modification?

No, since it is not proposed as a self-governance modification, nor is it properly a housekeeping modification as result of some error or factual change.

## Why Change?

From 1<sup>st</sup> October 2015, there will be a misalignment of reference conditions between BBL and the NTS. BBL is implementing 0/25 reference conditions as part of its implementation of EU-required changes to the nominations process at the Interconnection Point (IP), whereas National Grid NTS is not implementing this requirement until 01 May 2016. As a result, NTS Users allocations at the BBL IP will be under-allocated. This will expose Users shipping gas through the BBL IP ('BBL Users') to an imbalance position, until such time as National Grid NTS implements the systems solution for Modification 0519 – Harmonisation of Reference Conditions at Interconnection Points.

## Solution

It is proposed that there should be a correction for BBL Users to reflect the value of the under-allocation. This would be accomplished by a (monthly) correction to the BBL Users' daily imbalance charges, carried out at the time of invoicing for energy balancing charges.

The modification would be an addition to the text of the transitional arrangements for the implementation of the European Interconnection Document (EID), which is appropriate for a one-off step associated with the transition.

## Urgent Status

This modification has been granted urgent status by the authority and will follow the timetable as detailed above. By addressing this on an 'urgent' basis, this will minimise the period for which the solution has retrospective effect. It would also allow the implementation of the solution to proceed as soon as possible following an Ofgem decision and on a monthly basis thereafter. (Please see further discussion below on the justification for this approach).

## Relevant Objectives

The modification would support relevant objective g) (compliance with the Regulation etc.), by enabling full compliance with the objective of the Balancing Network Code, to enable network users to have certainty that they can trade across balancing zones in an economically efficient and non-discriminatory manner.

The modification would support relevant objective d) (effective competition) because it would:

- address an issue that otherwise would put a certain group of Users at a competitive disadvantage; and
- provide comfort to small and new/prospective Users that unintended, unreasonable and unforeseen outcomes of the introduction of new arrangements may be corrected.

## Implementation

No specific date for implementation is proposed. However it would be beneficial if this modification could be implemented as soon as possible such that the solution can take effect as soon as possible following an Ofgem decision and on a monthly basis thereafter.

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

This modification will not have any impact on an SCR or any other industry change projects.

## 2 Why Change?

### Background

The EU Interoperability Code requires harmonisation of reference temperature conditions at 0/25 (0° for volume/25° for CV) at Interconnection Points, whereas the commercial operation of the NTS is carried out using 15/15 (15° for volume/15° for CV) reference conditions.

National Grid NTS raised Modification 0519 to address this requirement, and it has now been implemented. Modification 0519 ring fences the implementation of 0/25 conditions on the NTS to Bacton EU IP, and will only take effect with effect from 01 May 2016, when National Grid NTS is due to deliver a systems solution.

BBL is operating 0/25 conditions as part of its systems package for EU-compliant nominations processing and matching (to deal with both Julianadorp and Bacton) with effect from 01 October 2015.

As a result, there will be a misalignment of reference conditions for gas flows entering the NTS via BBL until the Modification 0519 solution is implemented.

### Impacts of the Misalignment

A quantity of energy expressed at 15/15 conditions is marginally greater than at 0/25 conditions (with a ratio of c. 1:0.9990).

As a result of the implementation of nominations matching at the BBL IP, nominations for a quantity of gas on the NTS side will be reduced to match the BBL nomination (the BBL-side nomination prevails in order for BBL to align nominations with those at Julianadorp).

Users will be allocated (at BBL NTS Entry and Exit) as per their prevailing confirmed quantity (their final confirmed nominations i.e. as matched by BBL at 0/25) because of the 'allocate as nominate' rules, which are to be applied.

The Modification 0519 solution will apply a 'balancing allocation' to correct BBL Users' allocations under the UNC, such that the full quantity (under 15/15 conditions) of the gas is reflected in their NTS allocations for the purposes of NTS imbalance charges.

In the absence of the Modification 0519 solution, the quantities in Users' BBL NTS allocations will be under-allocated (by 0.1%).

Some BBL Users have assessed the materiality of the under-allocation, using last year's BBL flows from October '14 to the end of April '15, (data from National Grid's website) and day-ahead prices from Heren, and it equates to c.£700,160 for deliveries into the NTS from BBL and c.£26,688 for virtual reverse flows<sup>1</sup>.

The under-allocation means that each User at the BBL IP will have an imbalance position arising as a result, as a direct consequence of the misalignment of reference conditions, and it is not appropriate that these additional costs/losses should be borne by those Users.

## Justification for Retrospectivity

This modification is seeking the application of a correction, which would be calculated for each gas day in the period starting from 01 October 2015 until the date of implementation of the Modification 0519 solution. In this way, the modification contains an element which would have retrospective effect, in the sense that the correction calculations would look back to dates falling before the approval/implementation of this modification (i.e. before the 'correction rules' are confirmed).

In the proposers view, the period of 'retrospectivity' of this modification proposal is thus from 01 October 2015 until the date of implementation (if approved) of this modification proposal.

With reference to the criteria for retrospectivity, contained in Ofgem's Guidance on Code Modification Urgency Criteria, the proposer believes retrospective application is justified in this case because:

1. This modification is essentially a temporary 'manual workaround' for the Modification 0519 solution and accordingly, follows the same principles: i.e. applying an adjustment to affected Users' allocations in order to correct their imbalance position, for the purposes of energy balancing invoices only. No further adjustments to any charges are proposed, such that the issue is 'ringfenced' to relevant IPs and no other charges are affected. These principles have already been agreed/implemented by Industry/Ofgem.
2. The modification is being made as a result of a situation where the fault/error giving rise to additional costs/losses is directly attributable to central arrangements. In this case the proposer's view is that the functionality of Gemini and, in the context of the BBL IP, the arrangements concerning reference conditions, nominations matching and allocations, constitute 'central arrangements'. It is the unfortunate lack of alignment between BBL and National Grid NTS's implementation timescales for solutions to the change in reference conditions, which has led to this situation. Ultimately, this is an unintended outcome of the misalignment in the implementation dates for the Balancing Code and the Interoperability Code, as mandated by the EU.
3. The lack of alignment between BBL and National Grid NTS's implementation timescales for solutions to the change in reference conditions was not foreseen, and was only brought to the attention of Industry and Ofgem late in the summer, after the approval of modification 0519, and in a period where the Industry was going through an extremely busy period of intensive preparation for the new Balancing and Interoperability arrangements commencing 01 October 2015 and the CAM arrangements commencing 01 November 2015.
4. The possibility of retrospective action was clearly flagged in advance:

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<sup>1</sup> The total quantity of virtual reverse flow was less than 3% of the forward flow quantity over the period 1<sup>st</sup> October 2014 to 30<sup>th</sup> April 2015. Please note that the £26k is slightly lower than the figure mentioned in workgroup (£30k), as it has been corrected to reflect the right period of time.

- a. National Grid identified the issue and stated that it would work with affected parties to develop a solution
- b. Users raised the issue as needing to be addressed in the subsequent workgroup meeting, and
- c. The proposer made it clear that retrospective action was intended by raising the modification in advance of 01 October 2015.

## Justification for Urgency/Contracted Timescales

With reference to the criteria for urgency, contained in Ofgem's Guidance on Code Modification Urgency Criteria, the proposer believes it is appropriate that this modification should be considered on a 'shorter-than-normal' timescale, because the issue is a current issue which, if not urgently addressed, will lead to a significant commercial impact for BBL Users.

The proposer believes that it is appropriate that this modification should be considered on an 'urgent'/contracted timescales basis, because it contains a retrospective element. By using a contracted timescale, the period for which this modification is retrospective (i.e. between the issue arising and the rules for a solution being confirmed) will be minimised.

In addition, the use of urgent procedures should enable the solution to be implemented at the first run of energy balancing invoices for October 2015 (in December 2015)<sup>2</sup> minimising any operational impact for National Grid, aligning the correction with normal invoicing, and thereby removing any month-to-month or year-end impact on Users' cashflow.

If the principle of a retrospective correction was otherwise agreed, but a longer timescale for consideration of the modification was taken, this would mean that the adjustments would need to be made later, relative to the gas day to which they relate, and potentially as a one-off adjustment instead of a monthly process. The proposer believes that it is preferable to facilitate correction as close as possible to the relevant gas day, and urgency would help achieve this.

It would also avoid the risk that an implementation of this modification under normal timescales (which would be no earlier than February 2016) could be considered to potentially change the character of past transactions (and hence be unacceptable against the general principle of retrospectivity).

## Balance between Urgency and Retrospectivity

Ofgem's guidance on urgency suggests that retrospective application may negate the need for urgent procedures in some circumstances, or vice versa.

With this modification, whilst it is the case that:

- the possibility of retrospective action has been flagged in advance;
- the solution proposed is in line with principles agreed with modification 0519;
- given this, perhaps the case for urgency could be considered to be reduced,

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<sup>2</sup> Following Ofgem's granting of urgent status and publication of the timescales for a decision, it is unlikely to be possible to make the first adjustments at the time of the first energy balancing invoice (which would, under normal timescales, be issued in early December, for the month of October i.e. M+2). National Grid and the proposer have therefore developed the solution and the legal text to enable the first Adjustment Invoice (after the decision date) to include adjustments for all Gas Days from 1<sup>st</sup> October 2015 to the end of the month for which the Adjustment Invoice is issued, and monthly thereafter.

it is also the case that:

- the raising of this modification in itself creates uncertainty for Users as to whether there will be any correction, and it is this uncertainty which the proposer assumes is particularly undesirable in relation to retrospective changes to rules, so it would be best to minimise this period; and
- the use of urgent procedures will facilitate the application of the solution from the first relevant energy balancing invoice, enabling the correction to be made on normal invoicing timescales, i.e. as soon as possible after the gas day to which it relates.

The proposer considers that the need to minimise periods of industry uncertainty is primarily why Ofgem's criteria on retrospectivity appear in the Guidance on urgent modifications, rather than as general guidance on raising modifications, and that it is likely to be the case that most modifications containing retrospective elements would also be urgent modifications, so as to minimise any period of uncertainty/retrospectivity.

Furthermore, the proposer does not believe that it would be appropriate in this case to raise a modification on an urgent basis, but without a retrospective element, since the financial harm for affected Users is material, is triggered by a transitional misalignment at the start of new arrangements, and is not being caused by any fault of the Users. The proposer believes the criteria for retrospective action are met in this case. It is therefore appropriate, as a point of principle, that the correction should be calculated for each gas day from the start of the new arrangements to provide complete compensation for affected Users.

In addition, it should be noted that the main reason for retrospectivity is that there was not sufficient time prior to the start of the new arrangements (during an exceptionally busy period for the Industry) from the point at which the issue was identified and quantified, for Industry to assess the impacts, discuss and agree amongst the affected parties how to approach it, raise a modification and for it to be implemented.

The main purpose of urgency is to minimise the period of uncertainty/retrospectivity, and to enable a solution to be effective from the time of the first relevant energy balancing invoice but in the proposer's view, urgency does not replace the need for/appropriateness of retrospectivity, when assessed against Ofgem's criteria.

### 3 Solution

It is proposed that this solution should apply for the period from 1<sup>st</sup> October 2015 until the date of implementation of the systems solution for Modification 0519 ('the Correction Period').

It is proposed that National Grid NTS should, when producing energy balancing invoices each month, calculate what the allocations for all NTS Users that have an allocation of gas in respect of BBL IP would have been at 15/15 (using the same conversion factor as specified in Modification 0519) and make adjustments/corrections to BBL Users' imbalance charges and to energy balancing neutrality as further set out below.

National Grid NTS should:

- following the end of each month, calculate what the BBL allocations for each BBL User would have been, had they been made at 15/15, for each day in the month ('Adjusted UDQIs and UDQOs')
  - i.e. the Nominated Quantity in their final prevailing Confirmed Nominations at the end of the gas day, multiplied by the conversion factor used in modification 519,  $F = (1 / 0.9990)$ ;

- calculate the corrected value of such Users' imbalance charges across the whole of the NTS (their 'Adjusted Daily Imbalance Charge'; and
- for each such User, determine the difference ('the Imbalance Adjustment Charge') between their Daily Imbalance Charge before the adjustments above, and their Adjusted Daily Imbalance Charge; and
- perform energy balancing invoice adjustments in accordance with section S i.e.:
  - applying the Imbalance Adjustment Charge for each BBL User;

making corresponding adjustments to energy balancing neutrality charges for all Users, such that the sum of the Imbalance Adjustment Charges are treated as 'additional Monthly Adjustment Neutrality Costs/Revenues' as applicable)

In case the implementation date of this modification is such that it is not possible for National Grid NTS to make the adjustments to invoices for October charges at the first opportunity (i.e. in December), the legal text provides for the first adjustments to be made to cover all the gas flow days from 1<sup>st</sup> October, and for adjustments to be made on a monthly basis thereafter until the end of the Correction Period.

The legal text further provides for additional Monthly Adjustment Neutrality Costs/Revenues to be treated correctly in terms of the UNC provisions for bad debt, as set out in the legal text commentary.

To further clarify, modification 0519 provides a systems solution which will automatically apply a 'balancing allocation' to each relevant Users' imbalance account after each day, and this balancing allocation will then automatically feed in to the calculation of imbalance charges and neutrality.

This modification is identical in terms of financial effect to modification 0519 for all parties, but instead of the balancing allocation being visible to BBL Users in Gemini after each day, the adjustment to imbalance charges and neutrality will be made at the invoicing stage (at M+2).

In line with the principles of modification 0519, no changes to any of a Users' other charges will be made as a result of this modification, as the effect of the Europe Reference Conditions is to be 'ringfenced' to the IPs.

## Modification to the Transition Document

It is proposed that this solution should be contained in the Transition Document Part VA, as an addition to paragraph 2, which relates to the implementation date of the Modification 0519 solution for reference conditions. This would enable this manual correction to be performed over a specific period only, which is appropriate in this period of transition to the new reference conditions regime.

User Pays	
Classification of the modification as User Pays, or not, and the justification for such classification.	No User Pays service would be created or amended by implementation of this modification and it is not, therefore, classified as a User Pays Modification.
Identification of Users of the service, the proposed split of the recovery between Gas Transporters and Users for User Pays costs and the justification for such view.	<i>Not applicable</i>
Proposed charge(s) for application of User Pays charges to Users.	<i>Not applicable</i>



Proposed charge for inclusion in the Agency Charging Statement (ACS) – to be completed upon receipt of a cost estimate from Xoserve.	<i>Not applicable</i>
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## 4 Relevant Objectives

Impact of the modification on the Relevant Objectives:	
Relevant Objective	Identified impact
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.	None
d) Securing of effective competition: (i) between relevant Users; (ii) between relevant suppliers; and/or (iii) between DN operators (who have entered into transportation arrangements with other relevant gas transporters) and relevant Users.	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.	Positive

### Relevant Objective g) (compliance with the Regulation etc):

This modification will support relevant objective g) because it supports compliance with a key objective of the Balancing Network Code (EU312/2014), Recital 2 which states that:

*“In order to move towards greater market integration, it is important that rules on gas balancing of transmission networks facilitate gas trading across balancing zones thus contributing towards the development of market liquidity. This Regulation therefore sets out harmonised Union-wide rules on balancing that have the objective to give network users the certainty that they can manage their balance positions in different balancing zones throughout the Union in an economically efficient and non-discriminatory manner.”*

If Users at one Interconnection Point face a loss of value of their gas through a simple administrative misalignment of reference conditions, this would not constitute having ‘the certainty that they can manage their balance positions...in an economically efficient and non-discriminatory manner’. Affected Users would be both losing money and being discriminated against, and so this objective of the Balancing Code would not be being complied with.

**Relevant Objective d) (effective competition):**

The modification would support relevant objective d) because it would address an issue that otherwise would put a certain group of Users at a competitive disadvantage. Without this modification, Users flowing gas through the BBL IP will have imbalance charges arising as a result of an administrative misalignment between National Grid NTS and BBL. With this modification, the issue will be fully corrected, with no further impacts. Furthermore, the solution proposed is essentially a manual ‘workaround’ for a solution, the principles of which have already been agreed and implemented by Ofgem in Modification 0519.

Some participants, in recognition of the requirement within the Gas Regulation 715/2009 Article 14(1) that requires Transmission System Operators to provide access to their networks on a non-discriminatory basis, believed that without this modification there was a potential to disadvantage affected Users at BBL, which would adversely affect competition.

***Retrospectivity***

In its decision on Modification to the BSC P37, in the electricity industry, which sought retrospective correction of energy notification errors following the introduction of significant industry process changes in the form of NETA in 2002, Ofgem concluded (paragraph 45) that the use of retrospective correction should be allowed in certain limited circumstances, and where this is appropriate, it provides comfort to existing and prospective market participants (that unintended, unreasonable and unforeseen outcomes of the introduction of new arrangements may be corrected), and this thereby promotes effective competition. In the proposer’s view, implementation of this modification 0560 would provide such comfort to existing and prospective Users in this case, which is similarly driven by the introduction of new industry arrangements, and hence would support relevant objective d) by promoting effective competition.

## 5 Implementation

The proposer believes that the implementation costs should be minimal, as it would require manual re-calculation of a relatively small number of Users’ imbalance charges and uses existing energy balancing invoice adjustment/correction processes to complete the production of invoices, for a transitional period only.

Therefore there will be no requirement for new/permanent systems, and as such, the proposer believes that there should be no formal implementation costs associated with this modification.

No specific date for implementation is proposed. However it would be beneficial if this modification could be implemented as soon as possible such that the solution can take effect as close to normal invoicing timescales as possible.

## 6 Impacts

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

This modification will not impact any SCR or any other significant industry change projects.

## Impact on Neutrality and Energy Balancing Credit

The solution involves a correction of daily imbalance charges for BBL Users, and correspondingly an adjustment of energy balancing neutrality charges to ensure that the correct amount goes into the 'smear'.

The correction in this modification proposal produces the same financial effect that will be performed by the IT solution for Modification 0519, except that in the case of the Modification 0519, BBL Users will be shown the additional quantity of gas as a separate line item in their imbalance positions after the day in Gemini, and this will automatically feed into imbalance charges and neutrality.

In the absence of the automated solution, under this modification proposal, BBL Users will not see the additional allocation in Gemini, but the financial discrepancy arising will be corrected in their energy balancing invoices.

There is a potential for BBL Users to incur an imbalance position, which could increase Energy Balancing exposure, potentially leading to credit sanctions. The Workgroup felt this was a small additional risk and was best managed by the monthly solution being proposed rather than a one-off adjustment at the end of the period.

The impact on other Users is the same as for Modification 0519 – whereby the energy balancing neutrality charge will reflect the value of the 'balancing allocation' adjustments for BBL Users.

### Does the solution impact any other charges?

In the same way as Modification 0519, the modification does not involve recalculation of any other charges other than imbalance charges and energy balancing neutrality.

### Does the solution impact Shrinkage?

National Grid NTS has previously identified that if a User were to seek to mitigate its imbalance risk arising from the misalignment of reference conditions, for example by procuring an additional quantity of gas on the day equal to its expected under-allocation on its deliveries to the NTS, then this would be expected to have the effect of tending to reduce the quantity of shrinkage purchased. This is because physically correcting for the commercial under-allocation would lead to a corresponding physical over-delivery which would feed into linepack, hence reducing the quantity of shrinkage needed<sup>3</sup>. This effect would be in the direction of reducing SO commodity charges.

However the quantities of under-allocation (0.1% of BBL flows) are marginal when considered against the much larger routine influences on the shrinkage account. National Grid NTS has undertaken further analysis in light of this modification proposal, and confirmed that any such physical over-delivery would not be expected to be sufficiently material to cause a change in SO Commodity charges. Furthermore, any correction via the shrinkage account would need to take into account the costs of shrinkage procurement which vary over time (using a mix of prompt and forward purchasing) and are therefore not likely to correspond directly to the value of the costs/losses to Shippers on the day.

It is also not practical or realistic to expect BBL Users to address the imbalance themselves, given the small daily quantities concerned. The material financial impact for BBL Users is cumulative.

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<sup>3</sup> This example is for the forward flow direction into the NTS. The opposite is true for reverse flows, but reverse flows are generally much smaller than forward flows, so this discussion focuses on the aggregate effect.

The solution proposed in this modification instead seeks (in line with the principles of Modification 0519) to correct for the value loss to Shippers as it is directly experienced, through imbalance charges. As a consequence, the anticipated (minimal) impact on Shrinkage of the misalignment is not expected to materialise.

## 7 Legal Text

### Text Commentary

National Grid NTS has provided a commentary to support the Legal Text. An explanatory table is published alongside this document.

### Legal Text

National Grid NTS has provided Legal Text – Transition Document Part VA – that is published alongside this document. The Workgroup has considered the Text and raised no issues.

## 8 Recommendation

The Workgroup agrees that this modification should be submitted for consultation.

The Workgroup considers that Consultation views should be sought on the following:

- Are any of the Ofgem conditions for retrospectivity satisfied (see Appendix below)?

## Appendix – Ofgem Criteria for Urgency and Retrospectivity

### What criteria would the Authority use to determine urgency?

The Guidance sets out the factors the Authority will consider in reaching a decision on urgency in the context of industry code modification proposals – it is intended to be illustrative and not exhaustive. Each request for urgency will be considered on its merits on a case by case basis by reference to the Guidance, and in circumstances where we depart from it, we will explain the reasons why. Our current view is that an urgent modification should:

- Be linked to an imminent issue or a current issue that if not urgently addressed may cause:
  - a. A significant commercial impact on parties, consumers or other stakeholder(s); or
  - b. A significant impact on the safety and security of the electricity and/or gas systems; or
  - c. A party to be in breach of any relevant legal requirements.

### Can an urgent modification proposal contain retrospective elements?

As indicated in past decision letters, it is our view that retrospective modifications should be avoided as they undermine market confidence. It is a general principle that rules ought not to change the character of past transactions, completed on the basis of the then existing rules. However, despite the general principle against retrospective rule changes, we believe that there may occasionally be exceptions that could give rise to the need for a modification which would have retrospective effect.

We consider that it is appropriate to consider any retrospective modifications on a case by case basis, though the particular circumstances that could give rise to the need for a retrospective change could, for instance, include:

- a situation where the fault or error giving rise to additional 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.

We also consider that in any event, any cost/loss incurred due to the prevailing rules would need to be material in order to warrant a retrospective modification.

Notwithstanding the points raised above, we recognise that a retrospective application of a modification may negate the need for its development to follow an urgent or otherwise contracted timetable, and vice versa. A proposer may therefore wish to consider where the balance between these considerations might appropriately lie, ahead of submitting their proposal.