

Gas Transmission

UNC 0735 : UNC Changes as a consequence of the absence of trade agreement/s between the United Kingdom and the European Union ('no deal')

24th September 2020

Phil Lucas – Gas Market Change Delivery

nationalgrid



Introduction

- **23 Jun 2016** - EU referendum
- **08 Feb 2019** - Mod 0680 raised to address 'no deal' exit
 - **Feb/Mar 2019** - Workgroups
 - **Mar/Apr 2019** - Consultation
- **31 Jan 2020** - GB exit the European Union with a Withdrawal Agreement
- **18 Feb 2020** - Mod 0680 withdrawn
- **31 Dec 2020** - end of GB exit 'Implementation Period'

Why Change?

- Implementation Period ends on 'IP completion day' (currently expected to be 31st December 2020)
- The UNC contains a numbers of references to EU Regulations and EU institutions that require revision
- EU Regulations
 - European Union (Withdrawal Agreement) Act 2020 (assuming a no trade deal) incorporates EU Regulations (as at IP completion day) into UK law
 - Statutory Instruments expected to address any consequential in-operabilities in the Regulations that have been incorporated.
- EU institutions
 - Remove where relevant as they will no longer play a part in the operation or development of UNC terms

Proposed Solution

- Existing references to EU Regulations clarified:
 - as incorporated into UK law ('Retained EU law') i.e. as at IP completion day
 - as amended by the relevant Statutory Instruments
- Existing references to EU institutions removed where necessary
- Consequential changes to
 - party responsible for provision of capacity Auction Calendar
 - information taken into account in National Grid's demand assessment report
- Note: Dependencies
 - No trade agreement with EU following IP completion day
 - Consequently, implementation of the relevant Statutory Instruments

Development

- Workgroup Report due to UNC Mod Panel on 19th November 2020
 - 24th Sep 2020 - @ Distribution Workgroup
 - 1st Oct 2020 - @ Transmission Workgroup
 - 22nd Oct 2020 - @ Distribution Workgroup
 - 5th Nov 2020 - @ Transmission Workgroup
- To do
 - Recommend governance route (self-governance / Authority direction)
 - Verify impact and name of Statutory Instruments
 - Understand proposed changes to Transporter Licence (EU Retained Law etc)
 - Finalise legal text
 - Maintain awareness of political developments

Governance Route (1)

- Proposal advocates minor changes to the Modification Rules to:
 - refine definition of EU regulation 715/2009; and
 - add supporting definitions of ‘legally binding decisions’ and ‘EU retained law’
- Modification Panel were cautious and directed that it be subject to Authority Direction on the basis of an interpretation of the following Guidance in the ‘*Authority Direction/Self Governance Materiality Guidance*’ document but encouraged WG to consider carefully:

Effect on	Likely to require Authority decision if your proposal....
UNC governance or modification procedures	<ul style="list-style-type: none">• Affects the rights of the industry to be engaged in proposed changes to the UNC.• Changes the User or Transporter representation obligations.• Changes any Authority decision-making capacity.

Governance Route (2)

National Grid view:

- “Authority Direction/Self Governance Materiality Guidance” is not a mandatory requirement. As stated, in the document, it “...*provide(s) areas for Proposers to consider in considering what might constitute a ‘material effect’ as described in the Self-Governance criteria...*”
- In any case, the proposed changes to the Modification Rules do not:
 - affect the rights of the industry to be engaged;
 - change User of Transporter representation obligations; nor
 - change Ofgem’s decision making capacity

and on this basis application of self-governance is appropriate and should be the WG recommendation in the WG report.

Workgroup views invited