

National Gas (NG) NTS GCD 13 – Uniper Response

When considering the impacts of ECs:

1. Do you agree that Existing Contracts are having a significant impact to Transmission Services Entry Reserve Prices?

There is, undeniably, a price differential between the average Existing Contract (EC) capacity charge and the cost of new Entry capacity - but this was well known and explicitly accepted when Ofgem approved UNC Modification Proposal 0678A, which implemented the EU Tariffs Network Code (NC TAR) in the UK. In doing so, Ofgem accepted that there was due discrimination between EC capacity and new capacity, as permitted under Article 35 of NC TAR.

We observe that this issue is considered a Shipper-Shipper competition matter, but note that no Shipper has raised a UNC change proposal on the topic, since it was implemented. We believe the declining influence of ECs and high level of complexity are the main reasons for this. We believe it would be contrary to regulatory stability and market confidence to define and implement a capacity product and then subsequently change the rules underpinning it, once parties are already committed to it.

Acting rationally, market participants will always optimise around the lowest cost option to flow gas. Therefore, any attempt to 'close the gap' between EC and new capacity (such as Ofgem's idea of applying a commodity charge of similar level to the old TO Commodity charge) without fully equalising and levelling the cost of the two types of capacity, risks creating unintended consequences, as Shippers optimise to the lowest cost, within the prevailing rules.

Reflecting on the length of time Ofgem has taken to decide on similarly divisive charging topics, such as shorthaul - and the inevitable need here for a Regulatory Impact Assessment - we fail to see how a solution can be delivered quickly. We believe NG's view of potentially making changes in 2024 is wholly unrealistic, given the divisive nature of the issue, a lengthy assessment process and the likely need for complex IT changes (during the Gemini replacement programme). Furthermore, given the constantly declining volume of ECs over time, it is clear that they will influence the charging arrangements less and less each year. On this basis, we see no reason to initiate a lengthy and divisive proposal on this topic.

2. Do you believe there should be some remedy to limit/reduce/remove their influence?

No.

3. Should there be any treatment, different to the status quo, for ECs and how they are accommodated and charged in the Charging Methodology?

No.

On the options that focus on TS Entry alone:

4. Do you think any of these options provide a more suitable approach to Transmission Services Charging achieving an objective of more competitive TS Entry charges? If so, please include why this would be beneficial to competition.

No.

We note that “*achieving an objective of more competitive TS Entry charges*” is not a Relevant Objective under the UNC, but an objective created by NG for this topic. Whilst this may reflect NG’s desired outcome, it is not something that any future proposal would be assessed against under the current UNC governance arrangements. There is, therefore, no benefit in undertaking such an assessment. Competition issues are already captured by the Relevant Objectives.

In terms of the potential solutions put forward by NG, none are sufficiently developed to fully understand the impacts. As industry is well aware, this is an extremely important part of any charging proposal. As a result, we can only offer ‘issues to consider’, which are listed below.

A Commodity-based charge – issues to consider:

If NG does choose to progress any changes to EC charging, then the most equitable solution would be for it to be commodity charge-based, as it would not unfairly punish EC holders for holding capacity in excess of their actual flow requirements. This reflects the overall capacity and charging regime when ECs were struck. However, the main hurdle to this is twofold:

1. Firstly such a charge does not appear to be compliant with NC TAR and we are unclear how it could be made compliant. Therefore it seems extremely challenging to implement without breaching terms of NC TAR.
2. The rules for application of such a commodity charge are not described in detail, but are likely to be complex. For example, how would NG apply such a charge to a Shipper where they flow against a mixture of EC and new capacity on a Gas Day? It is also unclear if, and how, such a charge could be applied to traded or transferred EC capacity. If it is not applied to traded EC capacity, then it risks incentivising ECs to be traded to avoid a new charge.

In respect of Ofgem’s previous suggestion of applying a charge equivalent to the former TO Entry Commodity charge, we consider that many EC holders will not have reasonably expected to have paid such a charge - as they were eligible for shorthaul, which was an

alternative transportation charge at a level far lower than the TO Commodity charge. It would, therefore, be a false assumption that all ECs would have faced a (high) TO Commodity charge and we believe this undermines the case for such a proposal.

In respect of gas storage, our expectation would be that no commodity charges of any kind would be levied on storage (including storage ECs), for well understood and accepted reasons.

A Capacity-based charge – Issues to consider:

If a supplementary charge were to be capacity-based, then a capacity hand-back must be initiated. This would allow EC holders to profile their capacity bookings in the same way that all other Shippers are incentivised to, under the current charging arrangements. Not permitting such profiling would result in EC holders being penalised unfairly, as they would be paying for capacity that they would not have booked, if they had known that a supplemental, capacity-based charge would be a possibility.

5. Are there any other options or refinements / amendments / specific treatment within these options that should be considered and why?

No.

6. Should there be any additional things to consider (e.g. capacity hand-backs) on the broader approach to managing TS Entry charging as part of a bigger objective (e.g. making the UK more attractive to land Gas)

We would be concerned if a UNC proposal attempts to use a so-called “bigger objective” as the grounds for change. The purpose of the Relevant Objectives in the UNC is to help avoid special pleading by proposers. Ofgem (and Government) have wider policy objectives than the UNC and it would be for Ofgem to assess any proposal within those.

As noted above, a capacity hand-back would certainly be expected (or proposed) if a capacity-based charge were to be levied on ECs. Charging ECs based on existing capacity bookings therefore would be unfair, unless these parties had the opportunity to re-profile or hand-back EC capacity.

7. Are there merits in reviewing Transmission Services Charging on a broader perspective, recognising that this would encompass Entry and Exit?

No - unless the retained UK Law that implemented NC TAR in the UK is amended or repealed. Furthermore, we believe that the current charging arrangements reflect an appropriate compromise landed on by all market participants, after what was widely acknowledged as a very difficult and extremely lengthy development process. It should be recognised that the process to implement NC TAR lasted many years and consumed huge amount of industry time, likely also slowing down or preventing other market changes, due to

resource constraints. For market confidence and regulatory certainty, any changes to the gas charging arrangements should be incremental rather than fundamental, in our view.

8. What, if any, objective could this aim to achieve?

We do not recognise the need for a fundamental review.

9. Should a discussion and review of, for example, a change to the 50/50 split be a deliverable for any such review?

The Entry/Exit split was not covered during the Mod development process for NC TAR in the UK, as Ofgem explicitly ruled it out of discussions. Therefore, the topic is relatively unexplored, at least in the UK market context.

However, it should be recognised that reviewing the Entry/Exit 50/50 split, which has been in place for at least the last 20 years, would be a significant undertaking with considerable implications for all industry parties, both Transmission and Distribution. Whilst we are not opposed to such a review in principle (to ensure the charging principles remains valid), a thorough review would be resource intensive and given the implications, likely of the scale of a past Significant Code Review.

10. Assuming an initial conclusion that something should be done (subject to views) do Stakeholders agree that we should explore:

c) TS Entry only?

No, we do not agree.

d) A wider scope i.e. Transmission Services as a whole?

No, we do not agree. We believe such a wide-ranging review would be a significant resource drain for the industry and an unhelpful distraction for Shippers, given the ongoing wholesale market uncertainty.

Furthermore, we would expect there to be evidence of a fundamental and significant defect in the current arrangements, to justify such a large, sweeping review. Otherwise, it risks being a largely academic exercise for all involved.

11. Is there anything not covered in this initial review that would be beneficial to take into consideration to facilitate advancing discussions on optioneering selection / direction / development for 2024 and beyond?

No. We believe charging changes should be incremental rather than fundamental given the relatively recent in-depth review of transmission charging arrangements.