

Energy UK response to Ofgem Consultation on proposals to implement aspects of Regulation (EU) 2017/460, the European Network Code on harmonisation of tariff structures for gas (TAR NC)

01 November 2017

About Energy UK

Energy UK is the trade association for the GB energy industry with a membership of over 90 suppliers, generators, and stakeholders with a business interest in the production and supply of electricity and gas for domestic and business consumers. Our membership encompasses the truly diverse nature of the UK's energy industry – from established FTSE 100 companies right through to new, growing suppliers and generators, which now make up over half of our membership.

Our members turn renewable energy sources as well as nuclear, gas and coal into electricity for over 26 million homes and every business in Britain. Over 619,000 people in every corner of the country rely on the sector for their jobs with many of our members providing lifelong employment as well as quality apprenticeships and training for those starting their careers. The energy industry adds £83bn to the British economy, equivalent to 5% of GDP, and pays over £6bn in tax annually to HMT.

Energy UK welcomes the opportunity to provide comments on this consultation. We are supportive of the approach proposed by Ofgem apart from item 5 in Annex 1 table 1 and the items in Annex 1 table 2. These relate to placing obligations on National Grid with respect to consultations regarding UNC Modification 621 (Mod 621) and with ACER in relation to Article 26 of TAR NC.

We do not have concerns with NG being required to undertake the Article 26 consultation, nor using the template provided, rather the timing of this. In particular aligning the Article 26 consultation with the Mod 621 consultation and how this interacts with Ofgem's decision. It is also the case that placing a licence obligation on National Grid even with reasonable endeavours seems inappropriate since it is the Joint Office that issues UNC modification consultations not National Grid. It is also not within the gift of National Grid to control when alternative proposals may be raised which may impact the timeline of Mod 621 development. We consider these issues may well render the timing aspects of the licence condition meaningless.

Energy UK has concerns over the workload created by aligning the Mod 621 consultation with the consultations required by Article 26 and 28 of TAR NC. There are a multitude of criteria that the various consultations need to be considered against and we consider forcing these into one document and process could well delay the consultation on Mod 621.

The draft modification report for Mod 621 needs to consider the proposal (and alternates) against the Relevant Objectives¹ whilst Ofgem must also take into consideration its statutory duties. Meanwhile the Article 26/28 consultation must consider the requirements of Article 7, Art 28 (3) of TAR NC and Article 13 of Regulation 715/2009. Whilst these are clearly related and there is a degree of overlap it is unlikely that copy and paste from the draft modification report into the template for ACER will be appropriate or sufficient.

Energy UK also thinks it is vital that ACER and neighbouring NRAs have additional information available beyond the draft modification report, including the final modification report, responses to the Mod 621 consultation and Ofgem's initial impact assessment. Providing less than this will mean that

¹ One of these relates to compliance with EU Regulations

ACER and adjacent NRAs may not have a full understanding of industry views and wider impacts and consequences for GB customers which could lead to poorly informed conclusions from ACER and responses from adjacent NRAs.

Energy UK understands that Ofgem's impact assessment guidance² only anticipates that one impact assessment³ will be issued for consultation in relation to a modification proposal. However we would suggest that Ofgem's document published on 30 January 2015 does not fulfill that requirement, as since then exit arrangements have been included in the GTCR, the TAR NC has been finalised and extensive industry discussions have taken place. It is also the case that a number of fundamental issues raised during consultation are yet to be addressed by Ofgem. Rather we would anticipate Ofgem issuing an impact assessment for consultation once the UNC consultation on mod 621 (and alternates) has closed, this seems to have been the process for the recent CUSC modifications CMP 264 & 265, where the draft impact assessment included an Ofgem 'minded to' decision. Clearly where modification proposals relate to charging, where there are likely to be commercial consequences of structural changes to charges and revenue re-distribution, it is particularly important that Ofgem follows robust governance processes and does not undermine the UNC modification process.

Energy UK considers the following timetable to be workable:

March 2018	Mod 621 issued for consultation
May 2018	Final Mod report and Mod Panel recommendation
June 2018	Ofgem issue draft impact assessment for consultation with 'minded to' decision
June 2018	National Grid prepare final consultation template on 'minded to' decision (review at CMF)
August 2018	Consultation on Ofgem impact assessment closes
August 2018	Final Consultation issued to industry, ACER, Adjacent NRAs with draft impact assessment and responses
October 2018	Final Consultation closes
November 2018	National Grid publish response to final consultation
December 2018	Receive ACER conclusions
Jan – Mar 2019	Ofgem publish motivated decision and final impact assessment

It may be possible to reduce some of these timescales with adequate planning and preparation as a final decision being issued so late is not entirely desirable, however we would anticipate that an early 'minded to' decision would be helpful for industry and for system development. Any late amendments to this could progress via Ofgem's powers to direct changes where this is necessary for compliance with EU Regulations.

If Ofgem maintains its proposal outlined in this consultation that the UNC modification 621 (and alternates) and the extended final consultation should be aligned, then we consider that the March 2018 timescale is too ambitious given the current level of development of Mod 621, the anticipation of alternatives and the work required to prepare all the information required for the final consultation. We consider this deadline could move by up to six months. Also we would wish Ofgem to confirm that industry will have sight of and opportunity to comment on the information provided to ACER and adjacent NRAs as part of the extended final consultation.

Energy UK would be happy to discuss these points further, in the first instance please contact Julie Cox, details below.

Contact:

² https://www.ofgem.gov.uk/system/files/docs/2016/10/impact_assessment_guidance_0.pdf

³ Table on page 27 of guidance document

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