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Sent by email: Gas.TransmissionResponse@ofgem.gov.uk

19 February 2021

Dear David,

GM&T Response to Ofgem 'Minded to' decision on UNC Mod 728: Introduction of a Conditional Discount for Avoiding Inefficient Bypass of the NTS

Question 1: Do you agree with our assessment of the modification options against the applicable UNC objectives? If you disagree, please provide a fully reasoned explanation.

GM&T recognises that implementing UNC 728B better achieves the UNC objectives than the status quo, however we are concerned that 728B provides half a solution to avoiding inefficient bypass without a Non-Transmission Services Commodity Charge discount. The absence of this in Ofgem's commentary suggests that analysis overstates the relative costs of bypass as it is counterintuitive to imply that offtakers will not take into account the full costs of using the NTS when weighting up bypass options. On this basis, we believe the likelihood of bypass is materially greater than presented in this assessment. If the product design is suboptimal the risk of parties, either individually or in a consortium, building their own pipelines remains, with the consequence of increasing costs to remaining consumers. It is important to understand that once these customers leave the NTS, they will not return. Despite this, we believe it's encouraging that the requirement of a "short haul" product is recognised and support its reinstatement as soon as practicable.

Question 2: What are your views on our conclusion that the proposed modification proposals constitute a 'benchmarking' adjustment to the application of the reference price methodology (Article 6(4) TAR NC)? If you disagree, please provide a fully reasoned explanation.

No comments

Question 3: Do you agree with our assessment of the quantitative analysis? If you disagree, please provide a fully reasoned explanation.

Section 4.2 of CEPA's analysis highlights that UNC728D presents the greatest reduction in bypass risk, which is furthered by the inclusion of non-transmission services charge relief. Despite this, Ofgem states in its

decision that it doesn't believe the discounts proposed under UNC728D are necessary to dis-incentive inefficient bypass, and that the proposal is deemed to be "too generous" without any reference to where this is evidenced in their quantitative or qualitative analysis. Therefore we find reasons for dismissing UNC728D lack robust justification nor are they supported by the analysis. As per our consultation response we continue to believe that UNC728D provides the optimum solution minimising the risk that parties will bypass the Network and construct their own pipelines either individually or in consortium.

Question 4: Do you agree with our assessment that UNC728C is discriminatory because of the risk that the discount may be used for a route other than a qualifying nominated route? If you disagree, please provide a fully reasoned explanation.

No comments

Question 5: Do you agree with our assessment of the modification options against our statutory duties? If you disagree, please provide a fully reasoned explanation.

No comments

Question 6: Do you agree with our minded to decision to approve UNC728B?

We would expect any stakeholders alleging a risk of bypass to provide robust evidence demonstrating that risk, including any confidential commercial information (for instance, specific capital and operational costs required for the construction and operation of a bypass pipeline as well as - where possible – a structural representation of any bypass pipeline(s) they are considering).

In our view UNC 728D better reflects the cost of NTS bypass, as it considers the costs for non-transmission services that would be considered in the full cost-benefit analysis for constructing a bypass pipeline. Although the risk of bypass may be reduced by UNC 728B, thus providing a sub-optimal solution, we support its implementation as it's furthers the relevant UNC objectives in comparison to the status quo.

Question 7: What are your views on our minded-to decision that implementation of UNC728B should take place from 1 October 2021?

On the basis of having removed shorthaul arbitrarily, leading to shorthaul customers paying significantly higher charges for the same service, and then determining to reinstate it we believe the optional charging solution should be implemented as soon as possible to allow shippers to optimise the use of the NTS, bringing benefits to all consumers and the wider economy. Unnecessarily delaying its implementation for the remainder of the gas year is damaging to UK industry and inefficient for all GB customers.

Question 8: Are there any other matters, whether or not addressed in our analysis or minded-to findings, which you think we should take into account in reaching our final determination?

The decision by Ofgem not to replace the optional commodity charge as part of the new charging regime from 1st October 2020 was not supported by the UK gas industry in general. It is essential that Ofgem comes to a prompt decision to firstly allow implementation of any new alternative providing a conditional discount as soon as possible, and secondly to provide certainty for parties that are negotiating gas contracts or considering the business case for building pipelines, in what has been an extremely volatile charging regime

so far. We therefore propose that a final decision is published by 31st March to allow UNC 728B to take effect from June.

Yours sincerely,

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