**Output 8: Priority Rights**

**Substantive issues**

Clause 3.23 has been inserted to address concerns raised about the potential risks:

* “sterilisation” of priority rights where an incumbent shipper retains PRs purchased for an end-user who switches suppliers. This is akin to contractual capacity sterilisation that has occurred in the past under the VTC;
* A flow-on of the above is that shippers may not be able to competitively offer to end-users who require PRs if all PRs have been sterilised for the time being.

It is not clear how clause 3.23 would be enforceable, and therefore how it mitigates these risks. The undefined terms “reasonable endeavours” and “legitimate interest” result in a vague and ultimately probably unenforceable obligation.

The point of the GTAC process is to produce more efficient access arrangements. If there is a part of the arrangements that is potentially less efficient – i.e. because of the risks above – then it must be either:

* Effectively managed or mitigated (and we do not consider clause 3.23 achieves that); or
* It should be redesigned to remove the inefficiency.

**Drafting issues**

* In the definition of “Existing Supplementary Agreement”, we suggest eventually replacing the use of “the date of this code” with the actual commencement date, once that is known – e.g. 1 October 2019 or 1 October 2020.
* The definition of “Supplementary Agreement” still uses the term “Commencement Date”, which is defined as the commencement date of a TSA. It should be consistent with the terminology used in the “Existing Supplementary Agreement” definition.
* In section 11.17 the use of “(if any)” after “Non-standard Transmission Charges” would also relevant to “Congestion Management Charges” and “Priority Rights Charges”. Consider redrafting.

**Output 9: Nominations**

**Substantive issues**

In principle, we support the introduction of automated nominations for group 4 and group 6 customers. However, there are some issues that need to be addressed:

* The ability of Shippers to contract out of automated nominations under section 4.23(e) has the potential to create inequality, particularly as between new entrants and incumbents. Modelling and testing should be carried out to determine the impact of a more accurate nomination from an opting-out shipper on the remaining auto-nominations, particularly as to the impact of that on auto-shipper liabilities for ERM and balancing gas charges. This modelling should also look at whether any impact increases according to the number of shippers opting out. Increased exposure to these charges could operate as a barrier to new entry. If this risk cannot be managed, there should be no option to opt-out. In this context, it is worth observing that from the TSO’s perspective, what is relevant is the total amount of gas expected to be consumed by those groups, not the allocation between shippers. It may be worth considering whether there is a way to remove group 4 and 6 nominations from the allocation, ERM and balancing gas regimes altogether.
* Section 4.24 should include a provision for specified shippers to update this information during the year to allow for significant profile changes. This is particularly important for new shippers who may have a growing customer base. If the ability to opt-out remains, incumbent shippers who lose customers to a new competitor would have the ability to change their nominations to reflect this. However, a new shipper is more likely to rely on auto-nominations and if they are unable to update the information on which these nominations are made, the impact of any increased exposure to ERM and balancing charges may be amplified.

**Drafting issues**

* Section 11.4 should be made subject to section 11.6
* The second to last paragraph of section 11.6 refers to sections 11.6(a) and 11.6(b), but there are no such provisions.
* Section 11.20 should include reference to auto-nomination charges.