



The Joint Office, relevant Gas Transporters, Shippers and other interested parties

Promoting choice and value for all gas and electricity customers

Our Ref: Net/Cod/Mod/UNC371
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Date: 10 March 2011

Dear Colleague

UNC371: 'Unsecured Credit Limit allocated through payment history - late payments'

Following a request that modification proposal UNC371¹ follow urgent modification procedures, we have today decided not to agree to that request.

We do not consider that urgent status should be granted lightly as this may inhibit the extent to which proposals can be properly developed and assessed. In particular it increases the risk of unintended consequences. In reaching our decision on granting urgent status we have considered the proposer's justification for urgency contained within the modification proposal, the criteria for granting urgent status to a modification proposal as set out in our published guidelines² and the comments made at the UNC panel meeting of 09 March 2011.

For the reasons set out below we do not consider that this proposal sufficiently satisfies those criteria and therefore does not warrant the dis-application of normal modification procedures.

The proposal is linked to an imminent date related event;

Urgency is ordinarily justified on the basis that it is required ahead of a future event, after which the decision will either be void or of reduced value. In this case, a modification has already been accepted which delivers the proposer's intent; the effect of UNC371 would therefore be to bring forward its implementation.

UNC305³ was accepted by the Authority on 5 November 2010. The effect of UNC305 is firstly to limit a shipper's ability to rely on payment history alone as a basis for their unsecured credit limit to two years from their accession to the UNC. After two years any unsecured credit must be based on the shipper's credit rating. Where they do not have an existing credit rating, a report from an independent credit assessment agency may be commissioned.

Secondly, in recognition that some late payments may be a result of administrative errors rather than the User being in financial difficulty, UNC305 will provide more flexibility during the period in which the facility can be used. Whereas the first instance of a late payment may currently result in the User's Unsecured Credit Limit being set to zero, UNC305 would defer such action to the second missed payment in a rolling 12 month period, as long as payment is received up to and including two days after the payment due date. However,

¹ For details see the Joint office website at: <http://gasgovernance.co.uk/>

² www.ofgem.gov.uk/Licensing/IndCodes/Governance/Documents1/2935-Urgency%20Criteria.pdf

³ UNC305: 'Unsecured Credit Limit allocated through payment history'

the User's Unsecured Credit Limit will not be increased the following month, as it would have been if the payment had been received on time. Interest may also be charged on the late payment.

The Gas Transporters initially issuing a notice that UNC305 be implemented with effect on 7 February 2011. On 1 February 2011 modification proposal UNC360⁴ was submitted to the Joint Office. The proposer of UNC360 sought urgent status on the basis that they considered the implementation of UNC305 would otherwise have an adverse impact upon a number of smaller shippers. Following an extraordinary meeting, UNC Modification Panel agreed by a majority that UNC360 should follow urgent procedures.

Subsequently, the Gas Transporters sought Ofgem's agreement⁵ to defer the implementation of UNC305 in order to afford shippers additional time to ensure appropriate credit arrangements are in place and to enable a more thorough consideration of any subsequent modification proposals. On 4 February 2011 we agreed to the implementation date for UNC305 being deferred to 1 July 2011⁶.

As drafted, UNC371 does not seek to provide a specific and imminent date related event, but to bring forward to 1 April 2011 the implementation of that part of UNC305 relating to late payment. At the UNC Panel meeting of 9 March 2011, the proposer confirmed that they would also like the proposal to have retrospective effect, though this is not reflected in the proposal.

There is a real likelihood of significant commercial impact upon GT's, Shippers or Customers if a proposed modification is not urgent;

We acknowledge that the rule which re-sets a User's unsecured credit to zero if they are late in making a single payment is a sanction which, in the instance of an administrative error, may be harsh. It was partly for this reason that the Authority directed that UNC305 be implemented. However, UNC305 still requires that the payment be made up to and including two business days from the payment due date. Given this, we do not consider that the implementation of UNC371 would have any impact upon the proposer's current situation, which we do not in any case consider to be strong argument for urgent status.

We note that the timely payment of future invoices will impact upon UNC Parties' Unsecured Credit Limit, though UNC305 will require them at some future point, to put in place an alternative form of credit security. We do not consider that it would be unreasonable or disproportionately expensive to make these arrangements ahead of the implementation of UNC305 if the proposers revised payment history alone does not afford them a sufficient Unsecured Credit Limit to meet their needs.

If you have any queries in relation to the issues raised in this letter, please feel free to email industrycodes@ofgem.gov.uk.

Yours faithfully,

Mark Cox
Associate Partner, Industry Codes and Licensing

⁴ UNC360: Removal of Credit Rating Restrictions from Definition of Parent Company

⁵ in accordance with UNC modification rule 9.7.3

⁶ www.ofgem.gov.uk/Pages/MoreInformation.aspx?file=305delay_360urgency_v2.pdf&refer=Licensing/GasCodes/UNC/Mods