

OFGEM DECISION LETTER No. 0531
"Revision of Existing AQ Appeals Window"
Version 1.0

To : Transco, Shippers, & other interested parties

17 July 2002

Direct Dial : 020 7901 7346

Your Ref:

Our Ref: IO/RM/1707

Re: Modification Proposal 0531 'Revision of Existing AQ Appeals Window'

Ofgem has decided to direct Transco to implement the above network code modification. In this letter we set out the reasons for making this decision. In addition, annex A sets out Ofgem's expectations concerning shipper behaviour throughout this years AQ process.

Current situation

Currently shippers challenge domestic AQs by submitting amendments. I&C AQs are challenged via amendments and AQ appeals. Shippers appeal AQs for a number of reasons. For example, to mitigate against charges arising from an erroneously larger supply point AQ, to make changes to the sites gas consumption, to move a smaller supply point into the larger supply point market and vice-versa. Transco's network code currently allows shippers to appeal AQs in the following circumstances and timeframes.

New business appeals Jan 1–31 May

Allows shippers to appeal AQs following successful supply point transfer.

· **AQ change Oct 1–31 December**

Appeal window allowing shippers to appeal I&C AQs during the AQ process.

· **Change in use Oct 1 – 31 December**

Allows shipper to appeal an AQ if site gas usage changes, for example, installation or removal of a boiler.

· **Manifest error Jan 1–31 May**

A Shipper can appeal the AQ of a site if it believes that the AQ is manifestly incorrect. The network code sets out the following tolerances for defining manifest errors – equal to or less than 50% of the stated AQ or equal to or greater than 200% of the stated AQ.

· **Threshold crossers Jan 1–31 May**

Shippers are able to appeal AQs of sites that cross the 73,200 kWh threshold.

Modification proposal

The modification proposes to remove the above appeal restrictions and allow shippers to appeal larger supply point AQs at any time of the year. However, the appeals facility will be suspended between 1

August and 14th September to allow Transco to update its systems with revised AQs in readiness for new gas year i.e 1st October.

Views of respondents

Shippers who responded to Transco's consultation support implementation of the modification. A few specific points were raised and these are set out below with a discussion and conclusion.

monitoring of AQ appeals

One shipper suggests Transco monitor AQ appeal activity to ensure shippers do not gain a commercial advantage.

There has been much discussion in Transco's AQ workstream about smaller supply point AQs, in particular threshold crossers. These are sites that cross the 73,200 kWh threshold. Some shippers suggest that shippers who do not appeal smaller supply points that become larger supply points may be contributing to inappropriate RbD allocations. That is, such sites should be individually reconciled and the associated energy deemed in the I&C market.

AQ appeal activity has decreased during and outside of the AQ process. The majority of smaller supply point shippers are concerned about 'gaming' opportunities that may arise during the amendments phase of the AQ process. The attached guidelines set out Ofgem's expectations in this respect. Also, Transco is able to produce a number of AQ reports to Ofgem and in its final modification report Transco outlines its intentions to monitor AQ appeal activity. Transco will report on appeal activity to Ofgem and to the industry via its AQ sub-group meetings.

modification improves the AQ process

A number of respondents suggest that revisions to existing appeal windows will improve Transco's AQ process.

The AQ process commences in June and concludes in December. The introduction of all year round appeals should reduce shipper workloads and afford shippers more time to validate and assess AQ values, particularly threshold crossers. It is appropriate to give shippers greater flexibility to appeal AQs and not be constrained by appeal windows.

Ofgem's View

This modification proposal furthers Transco's relevant objective of operating an economic and efficient pipe-line system because:

- removing AQ appeal restrictions allows shippers more time to evaluate AQs and mitigate against erroneous values;
- the modification should improve the AQ process by introducing greater flexibility allowing shippers to appeal AQs where changes in gas usage occur;
- all year round appeals allows shippers to spread AQ activity throughout the year and avoids the need to concentrate AQ activity over a short period of time.

This modification improves Transco's AQ process and allows shippers to plan their resources for managing AQ appeals which may lead to AQ operational improvements. Transco has indicated that it will report on appeal activity i.e number of threshold crosser appeals and share such activity with shippers via its AQ sub-group meetings.

If you wish to discuss any aspect of this decision, please contact Roger Morgan on 020 7901 7346 alternatively via email roger.morgan@ofgem.gov.uk.

Yours sincerely

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Director, Supply

Annex A

Guidelines on submitting Domestic AQ Amendments

Introduction

Ofgem has been closely involved in discussions concerning AQ 2002. We have been assured by Transco, that it has constructed robust systems to calculate, analyse and disseminate AQ values throughout the industry. Equally, we have confidence that Transco has developed sufficient systems to facilitate amendments and appeal volumes, provided reasonable behaviour is exercised. This note is designed to provide some guidance on what constitutes reasonable behaviour.

Guidance

The amendments phase of the AQ review commences, for smaller supply points, on 1 June 2002 and concludes on 13 August 2002. Prudent and sensible use of systems during this window will ensure that all amendments are processed and responded to in a timely manner by Transco. Therefore, Ofgem **strongly** urges shippers not to submit large volumes of amendments towards the final stages of this phase. That is, we expect shippers to distribute amendments reasonably and evenly throughout the time period.

Furthermore, Ofgem suggests that shippers/suppliers consider carefully the reasons for submitting amendments, which must be consistent with the rules of Transco's network code. Provided that Transco can demonstrate its adherence to code (i.e that it has utilised the latest valid reading and an additional reading greater than 6 months earlier), Ofgem expects there to be limited reasons as to why a shipper/supplier would have grounds to challenge this value. Ofgem suggests that a shipper/supplier deciding to challenge an AQ value, should be able to demonstrate at least one of the following circumstances :-

- the Transco proposed AQ was calculated utilising inaccurate meter asset data;
- the Transco proposed AQ was calculated utilising inaccurate meter reading data; and
- Transco did not propose a revised AQ for 2002.

In all cases any amendment should satisfy AQ tolerance requirements.

Possible consequences of failures to comply with licence conditions

The relevant shipper licence conditions which apply to the AQ process are standard condition 3 (2) and (3). Set out below is a brief summary of these licence conditions.

Condition 3 (2) obliges the licensee not to pursue any course of conduct which is likely to prejudice :-

- (a) the safe and efficient operation, from day to day, by a relevant transporter of its pipe-line system;
- (b) the efficient balancing by that transporter of its system or;
- (c) the due functioning of the arrangements provided for in its network code.

Condition 3 (3) outlines the licensee's obligations to provide transporters with information about the amounts of gas to be delivered to a transporters pipe-line system. The licence condition states that shippers should not "knowingly or recklessly act in a manner likely to give a false impression to a relevant transporter as to the amount of gas to be delivered by the licensee on a particular day to that transporters pipe-line system or as to the amount of gas to be comprised in its offtakes there from on that day-"

The Gas Act 1986 provides Ofgem with powers to enforce licence conditions. In the event of a licence breach occurring, there a number of options open to Ofgem. For example, formal action may be taken against the licence holder in accordance with the Gas Act 1986.

Under the Utilities Act Ofgem also has powers to impose financial penalties on a licence holder where it is satisfied that the licensee has contravened or is contravening any relevant condition of its licence or relevant requirement of the Gas Act 1986. The Act 1986 (as amended) suggests that a penalty must not exceed 10% of the turnover of the licensee.

Monitoring

Transco is able to produce reports that will indicate, amongst other things, shippers compliance to Transco's network code. Ofgem will have regular meetings with Transco throughout the AQ process to review these reports closely, to monitor compliance to the above guidelines and to evaluate the effects of shipper activities throughout the AQ process.

Conclusion

In general terms, Ofgem is disappointed that it is necessary to provide guidance on what constitutes reasonable behaviour during the 2002 Domestic AQ. However, Ofgem advises shippers and Transco to carry out their obligations during the 2002 AQ process in such a way as to preserve RbD as a simple and effective basis on which to determine quantities used for the purposes of calculating transportation charges. If monitoring reports suggest that a shipper via the AQ process fails to comply with the terms of Transco's network code and pursues a course of action that places it in breach of its licence obligations as set out above then further action may be taken against the licence holder.