

Representation

Draft Modification Report

Modification 0442 & 0442A: Amendment to the implantation date of the Allocation of Unidentified Gas Statement (AUGS) for 2013/2014 AUG Year

Consultation close out date: 22nd February 2013

Respond to: enquiries@gasgovernance.co.uk

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Date of Representation: 22nd February 2013

Do you support or oppose implementation?

0442 – Oppose implementation
0442A – Oppose implementation

Please summarise (in one paragraph) the key reason (s) for your support / opposition

Non Domestic suppliers & our customers are exposed to a re-allocation of energy following the completion of the AUGS process each year. The impact of the reallocation needs to be identified in sufficient time to allow non domestic suppliers to factor in such costs in their contracts with our customers. The AUGS process, as set out and agreed by the industry, provides for appropriate notice to be provided to ensure these costs are passed through in a fair and equitable way. Changing this process through modification of the code is inappropriate. The independence of the process is key to parties having confidence in the output and this is explicitly recognised in the UNC, which provides that **“the AUG Methodology and AUG Table established for an AUG Year for the purposes of paragraph 10.4.1 shall be those adopted by the UNCC under paragraph 10.4.3, and shall not be subject to modification in relation to such AUG Year”**.

Are there any new or additional issues that you believe should be recorded in the Modification Report?

We believe it's important to recognise that the consultation on the new methodology and data which would be applied is still ongoing and that initial analysis raises a number of issues relating both the methodology itself and the quality of data underpinning the methodology.

Relevant Objectives:

How would implementation of this modification impact the relevant objectives?

We believe overwriting the process and timetable that has been established for the unidentified gas process creates uncertainty in the market and hence would be detrimental to securing effective competition since reducing risk and uncertainty supports the securing of effective competition.

We also believe that overwriting the established processes and requiring the AUGE to work to an amended timetable at short notice would be counter to the promotion of efficiency in the implementation and administration of the Code.

Impacts and Costs:

What analysis, development and ongoing costs would you face if this modification were implemented?

We would have to take into account the potential transfer of cost to our customers at short notice and outside the window our customers expect in accordance with the agreed process.

Implementation:

What lead-time would you wish to see prior to this modification being implemented, and why?

It is important to note that the AUGE currently in the process of consulting on the methodology and data and that initial independent analysis has already raised concerns over the robustness of the proposed approach. This may impact on the ability of the AUGE to provide an alternative AUGS.

Legal Text:

Are you satisfied that the legal text will deliver the intent of the modification?

Due to the short lead-time for development and consultation period we are unable to comment.

Is there anything further you wish to be taken into account?

Please provide any additional comments, supporting analysis, or other information that you believe should be taken into account or you wish to emphasise.

Some parties contend that the timelines for achieving the revised AUGS have only just been missed however this assertion is pushing at the bounds of credulity as the AUGE was required to publish its AUGS by 1st August 2012 and once approved provide indicative unidentified gas volumes by 1st October 2012. As discussed later the AUGE is currently, only just, in February 2013 in process of consulting on the proposed methodology and we have only recently had sight of the data sets used.

When the industry implemented the AUGE and AUGS production it agreed to the independence of the AUGE and set out detailed rules and timelines by which the AUGE would carry out its task and report. This year the AUGE process experienced some significant problems relating to its attempts relating to its decision to examine updating its methodology used for allocating Unidentified Gas between the SSP and LSP sectors. Throughout the process the AUGE encountered a number of obstacles that have contributed to it failing to create a robust methodology within the established timescales of the AUGE process. The agreed process specifically caters for contingency arrangements in the event that the AUGE is unable to meet the agreed timetable. Because of this, **the AUGE decided** that instead of using an untested and unproven methodology to allocate material and irreversible Unallocated Gas costs, it would revert to the previously used and proven methodology.

The proposed modifications seek to directly influence the agreed process and arrangements under which the AUGE currently operates. The AUGE process was created as a solution to the problem of allocating Unidentified Gas between the SSP and the LSP sectors in an equitable and proportionate way, free from interference from commercial entities with vested interests. Its founding principles that all parties agreed with and signed up to are certainty, predictability, impartiality and, most importantly, independence of process. The AUGE's independence is critical to achieving its goals of allocating Unidentified Gas, free from industry pressures. The AUGE process makes provision for consultation with industry at appropriate stages during which industry parties may provide feedback. These formal arrangements create a legitimate expectation of the defined processes being followed and relied upon. The AUGE processes do not and should not involve the UNC modification process. The AUGE process as designed is robust, and has not failed, undertaking a difficult job in determining the most accurate Unidentified Gas value possible

If either modification is implemented, the AUGE process will be at risk of being compromised. Parties will no longer feel the need to be bound by the outcome if they can challenge any decisions via the modification process. All parties have agreed that the AUGE represents the best compromise for reaching the most robust Unidentified Gas value possible and by compromising the finality of the AUGE decision the entire legitimacy of the AUGE process is brought into question.

The modification runs the risk of destroying the confidence that industry must have in the AUGE process by this attempt to modify its short-term goals and outputs. The consequences would be irreparable for the AUGE, which will very likely become completely redundant. Introducing the changes proposed by the modification will cause short notice changes in costs, which are very difficult for industry parties to manage and subsequently factored into their businesses models. These short notice changes prevent costs and benefits from being accurately passed through to customers in a timely manner. This said, the nature of the I&C market means that changes in Unidentified Gas costs will likely be passed on much sooner than corresponding reductions in domestic prices. This difference in timescales may put I&C suppliers at a commercial disadvantage to their competitors who have domestic portfolios.

The values referenced in one of the proposals are based on a spurious allocation, given verbally by the AUGE, based on an unproven methodology, which has not been verified or accepted by the industry. Imposing unverified and irreversible costs onto such customers will only serve to worsen their outlook by transferring unwarranted and unjustified costs onto them, for which they bear no responsibility for. Additionally, I&C suppliers must continue to negotiate new supply contracts with customers with the unwarranted additional risk and uncertainty brought about by these modifications hanging over them. The side-effect of approving this modification is that the allocation of Unidentified Gas will be continually subject to challenge by industry parties until Project Nexus is implemented. The final stretch of time leading up to the implementation of Project Nexus will be characterised by deadlock and impasse. To avoid this was, of course, the entire reason that the AUGE process was designed and brought in, in the first place.

It is also worth noting that the AUGE is still consulting on the new methodology and the underlying data being used to establish the level of unallocated energy. Initial independent analysis has already raised a number of concerns over the robustness of the proposed approach and this will be provided to the AUGE as part of the ongoing separate consultation. In terms of process we are concerned that the proposals, for which urgent status was rejected by Ofgem, have been subject to a truncated development phase with two short notice meetings on a Friday followed by exceptional modification panel meetings convened the following working day. The truncated process for this modification is particularly unfair on smaller industry parties, who do not have the level of resource to adequately deal with it at such short notice.



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Finally our customers will be exposed to additional cost arising outside the arrangements agreed by the industry for the independent calculation of such cost transfer. They will also see that the proposers of the modifications are financial beneficiaries of such transfer to LSP and away from SSP sector and this could lead them to question the impartiality and independence of the process for which they are the primary funder.