

UNC Workgroup 0395 0398 Minutes
Limitation on Retrospective Invoicing and Invoice Correction
Thursday 24 May 2012
at ENA, 52 Horseferry Road, London SW1P 2AF

Attendees

Bob Fletcher (Chair)	(BF)	Joint Office
Alan Raper	(ARa)	National Grid Distribution
Alex Ross*	(ARo)	Northern Gas Networks
Alison Jennings	(AJ)	Xoserve
Andrew Green	(AG)	Total
Andrew Margan	(AMa)	British Gas
Brian Durber	(BD)	E.ON UK
Cesar Coelho	(CC)	Ofgem
Chris Warner	(CW)	National Grid Distribution
David Addison	(DA)	Xoserve
Edward Hunter	(EH)	RWE npower
Elaine Carr	(EC)	ScottishPower
Erika Melèn	(EM)	Scotia Gas Networks
Harpal Bansal	(HB)	Ofgem
Lisa Waters*	(LW)	WatersWye
Lorna Lewin	(LL)	DONG Energy
Marie Clarke	(MC)	Scottish Power
Mark Jones	(MJ)	SSE
Richard Street	(RS)	Corona Energy
Rob Cameron-Higgs*	(RCH)	Wales & West Utilities
Stefan Leedham	(SL)	EDF Energy
Steve Mulinganie	(SM)	Gazprom
Tim Davis	(TD)	Joint Office

* *by teleconference*

Copies of all papers are available at: <http://www.gasgovernance.co.uk/03950398>.

1. Introduction**1.1 Minutes**

The minutes of the previous meeting were accepted.

1.2 Actions

0002: Xoserve to provide a view on the size of reconciliation over the current period of time

Update: DA confirmed that further information had been published as requested, looking specifically at large reconciliations. DA presented a series of graphs showing various breakdowns over the periods concerned. AM asked if Xoserve had any conclusions to draw regarding the two modifications. DA indicated not – Xoserve are reporting the data they see but leave it to others to comment on the implications and explanations behind the data. **Complete**

0003: Xoserve to provide a view on whether there were specific large loads that would need to be reconciled within the existing timeframe.

Update: Covered under action 0002. **Complete**

0004: GE to provide an alternative legal view on the Limitation Act 1980.

Update: In advance of the meeting, GE provided the following:

The Limitation Act 1980 limits any pursuit of commercial debt to a period of six years. Furthermore, the Unfair Contract Terms Act 1977 prevents Shippers from aligning their and their customer's cost exposure to the timescales of the UNC process when a clear settlement error has occurred. This means that there is currently a gap between the period for which a Shipper or customer can claim back costs incurred under their commercial arrangements, and the period for which settlement accommodates this correction. This does not prevent Shippers from attempting to recover the costs they have unduly incurred through incorrect allocation. As acknowledged by Ofgem in their decision letter for UNC Modification 0152AV:

"The reconciliation process is not in itself a remedy for contractual breach but a discrete operational process provided for and operated in accordance with the UNC contract. Where contractual obligations are imposed on parties breaches of these obligations may give rise to contractual claims and the Limitation Act provides that such claims would, as a general rule, have to be brought within six years. This is not affected by the length of time within which reconciliation can occur".

WatersWye agree with Ofgem's assessment that Shippers still have the right under contractual law to correct the cost allocation in the event that there has been a clear error. In this case the billing error would sit with the organisation that has undertaken the energy allocation or transportation activity. At present however there is no clear mechanism for this to occur and a Shipper will have to rely on a legal process to correct any significant cost error, which is a significant cost in particular for smaller suppliers.

Complete.

0005: Shippers to provide Ofgem with a view on the potential impact on tariffs.

Update: It was confirmed that any information would be provided directly to Ofgem. RS asked if the question was solely about tariffs or also covered prices. It was agreed that information on prices would also be welcome. **Complete**

2. Analysis

The Workgroup considered the draft amended Final Modification Reports that are due to be presented to the June Modification Panel meeting. These were amended on-screen during the meeting and approved by the Workgroup.

SM asked whether any further consultation is anticipated following the presentation of the report to the Panel. TD indicated that there had been a presumption that consultation would be undertaken, but there is no formal process that requires this. To ensure all parties have an opportunity to express a view on the amended Report, the Workgroup recommended that a consultation be undertaken.

3. Any Other Business

None raised.

4. Diary Planning for Workgroup

No further meetings are planned.

Action Log – UNC Workgroup 0395 0398

Action Ref	Meeting Date	Minute Ref	Action	Owner	Status Update
0002	26/04/12	2.0	Xoserve to provide a view on the size of reconciliation	Xoserve (DA)	Complete
0003	26/04/12	2.0	Xoserve to provide a view on whether there were specific large loads that would need to be reconciled within the existing timeframe.	Xoserve (DA)	Complete
0004	26/04/12	3.0	GE to provide an alternative legal view on the Limitation Act 1980.	Waterswye (GE)	Complete
0005	26/04/12	3.0	Shippers to provide Ofgem with a view on the potential impact on tariffs.	All Shippers	Complete