



Manifest Error Draft Mod Principles

For Discussion and Development

Transmission Workstream
7th October 2010

Background

- GasTerra has had an issue with significant (>£m) overrun charges incurred during April, as a result of a 'manifest error'
 - Discussed at July, August and September Transmission Workstreams
- Mod is being developed to introduce Manifest Error Provisions into UNC
 - in relation to Entry Overrun Charges
 - Gemini Changes to be considered separately
- Manifest Errors Concept exists in Electricity – BSC section Q7
 - available on JO Website, under September Workstream
- Draft Guidance Document published on JO website

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1. Process Summary (a)

- Manifest Error may be claimed if a User incurs entry capacity overrun charges [of £50,000/day or more].
- £5000 fee for making each claim.
- The Claimant raises a claim to Transporter as soon as possible, at latest [1 month] after the invoice issue date.
 - For errors prior to implementation but since April 1st 2010, within 1 month of implementation date,
- Transporter acknowledges receipt of the claim
- Transporter notifies all Users as soon as possible (via the Joint Office).
- The Joint Office arranges for the matter to be considered at a meeting of the UNCC at the earliest opportunity.

1. Process Summary (b)

- The Claimant is required to present evidence to the UNCC meeting to support its claim, and Transporter provides information as required
- UNCC decides a) whether the claim is valid, and if so, b) what adjustments should be made to the overrun charges
- UNCC has [60] days from the date on which the claim was raised to reach its decisions
- Joint Office notifies all Users of the conclusion, and publishes a report on the decisions.
- [Claimant can appeal decision to Ofgem if it believes the decision has not been taken in accordance with the UNC/Guidelines, procedure has not been followed etc?] – *Separate Mod*

2. Criteria for Valid Manifest Error

Simple Criteria - was it a genuine mistake?

UNCC to take the following criteria into account:-

- That it was a genuine, unintended error (as opposed to a commercial mis-judgement)
- That the User was unaware at the time
- That the User was intending to operate 'prudently' (i.e. was not seeking unfair commercial advantage)

3. Principles for Adjustment Process

- Overrun charges are intended to provide an incentive to book adequate capacity in advance through the available processes.
- It should not be cheaper to pursue a Manifest Error Claim than to purchase the capacity correctly in advance.
- Multiple reference costs to be used to avoid the financial outcome of a valid manifest error claim being specifically predictable.
- The UNCC is required to consider:-
 - the specific operational circumstances of the claim on the day(s) in question.
 - any consequences resulting from the error.
 - the relevant factors.
- Where buybacks have occurred - unlikely that it would be appropriate to adjust the overrun charges, since it is likely that the overrun will have contributed to the requirement to buy back capacity

4. Determination of Adjustment – Reference Costs

UNCC to calculate a minimum of 2 Reference Costs

1. 'Alternative' Capacity Cost i.e.:- What the capacity should have cost if bought correctly (i.e. if there had been no error)
 - At most recent daily (or monthly) auction with non-zero price

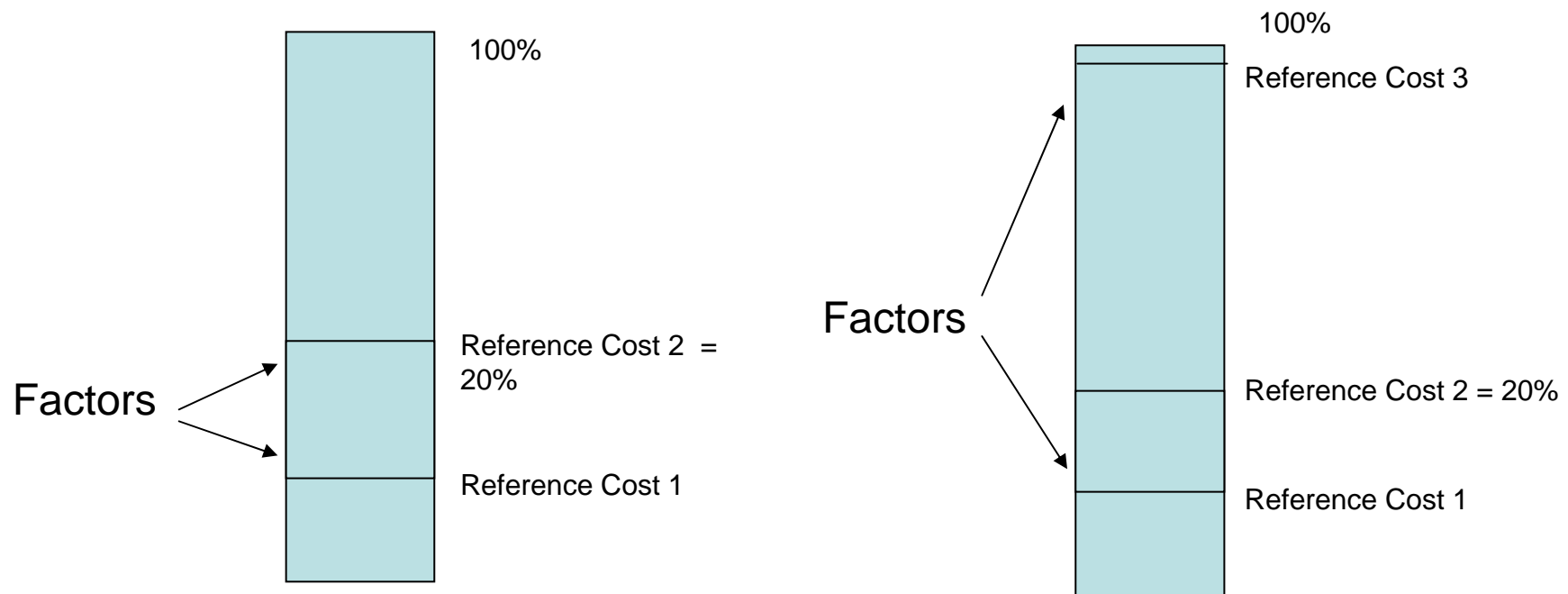
2. 80/20 approach ? (as in P37 Mod in electricity)
 - i.e. what would cost be if Claimant were required to pay 20% of amount due?

3. Context Specific Alternative Costs
 - e.g. cost of buybacks on the day (which may actually equal the overrun charge for the day))
 - e.g. other costs incurred as a direct consequence of the error

5. Reference Costs and Factors - Operation

For a Valid Error

- Reference Costs will give max and min possible figures for adjusted charges (and possibly intermediate figures)
- Factors guide UNCC as to where to settle

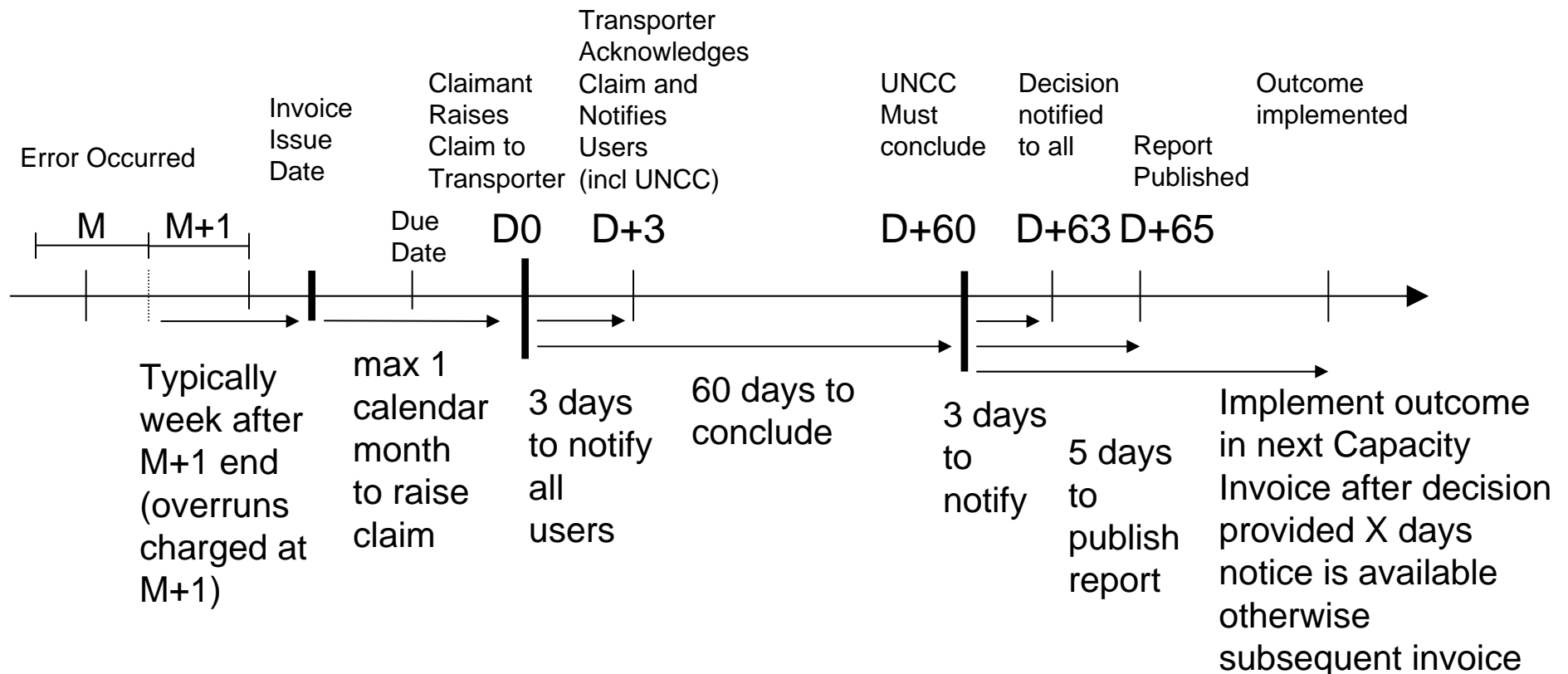


6. Determination of Adjustment – Factors

- To guide UNCC where to settle between the Reference Costs, UNCC to have regard to the following factors:-
 1. How promptly the Claimant acted and took all reasonable steps to avoid repetition of the error
 2. Proportionality of the charges
 3. Had the Claimant taken reasonable steps to ensure that it had prudent systems and processes in place?
 4. Extent to which the error was attributable to a failure of Gemini
 5. Extent to which the error was attributable to an inaccuracy in published information, e.g. levels of capacity available
- Any deviation outside the Reference Costs to be explained in detail in Report

7. Timescale Limits

1. All process steps should be undertaken by all parties 'as soon as reasonably practicable'
2. If it is possible, all reasonable efforts should be made to consider the claim before the invoice due date, including calling special meetings of UNCC if feasible.
3. Where due date passed, following timescales are proposed as outside limits



7. Next Steps

- Develop Guidance/Business Rules Doc as necessary
- Draft Mod - Possibly for October Panel?
- Also develop suggested legal text
- Aiming for November Panel to submit Mod for Consultation
- December Panel Decision
- Ofgem - January
- Appeals Mod (in parallel)
- and Gemini Changes Mod (to follow, if necessary)

Any comments/views –

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