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Your Reference 0152V/0152VAV & 0152VB

Re: Modification Proposal 0152V, 0152VAV, 0152VB ‘ Limitation on Retrospective Invoicing and Invoicing Correction’

Dear Julian,

Thank you for your invitation seeking representations with respect to the above Modification Proposals.

National Grid Gas (Distribution) (“NGD”) fully supports the principal objective of these three proposals which is to revise the existing time limit for retrospective invoicing and invoice adjustments and to do this on an enduring basis.

Review Group 0126

The three Modification Proposals have been raised in response to discussions at the 0126 Review Group. This group examined information on the practicalities and implications of revising the existing February 1998 “close out”. A degree of consensus was reached by the group, particularly with regard to the method of effecting such a revision and some business rules were developed in order to avoid unnecessary system complications and to match existing provisions where appropriate. Within the group, opinions varied in relation to the choice of a suitable close out period but initial discussions focused on a three to four year period and a four to five year period. At this point some preference was expressed and the four to five year period received most support on the basis that it was timely but presented less risk (i.e. less risk of cost being socialised) than the shorter period.

Before the group concluded, more information was provided by the National Grid Shrinkage Manager. It was suggested that in relation to shrinkage costs more of these could be properly targeted if a longer close out period were to be adopted. It is difficult to make an assessment of what adjustment would be made to each User’s invoices when a cost (in this case the shrinkage costs) moves from being a socialised cost to a targeted cost.

NGD is of the opinion that it remains for each party to take a view on the benefits to be gained from adopting a shorter close out period and thus obtaining efficiency savings versus an assessment on the implications of some cost socialisation going forward. NGD is reluctant to change from the position it put forward within the Review Group re a preference for a four to five year period, but is mindful of the arguments raised by NTS (shrinkage) and of the views expressed by the NDM portfolio holders identified in modification proposal 0152VAV which were not articulated within the Review Group. NGD notes that whilst the historical shrinkage figures provided appear to show the potential for high socialised costs depending upon the choice of close out period, they would not necessarily result in significant changes to individual users’ invoices if the costs were targeted as the figures, whilst significant equate to a very low percentage of total throughput.

NGD’s concerns in relation to a “close out” identified in its representations to Modification Proposals 0117 and 0122, were addressed by Review Group 0126. The User Suppressed Reconciliation Values regime is

being reviewed with the aim of targeting clearance and providing incentives for better management of these suppressed invoice items.

Useful discussion also took place within the Review Group surrounding the potential for Supply Meter Points to remain unreconciled due to the introduction of a revised close out. The numbers were shown to be low and xoserve explained that it is possible that if those supply meter points had been reconciled it is possible that the initial allocation would have been proved to be accurate.

NGD does not believe that Limitations Act 1980, which has been referenced in proposal 0152VAV, is applicable in this instance. NGD does believe however, that a close out period which falls within a six year limit could be argued to fall within the spirit of the Act which seeks to limit the timescales for bringing an action for breach of contract but does not limit normal invoicing or reconciliation.

Extent to which implementation of the proposed modification would better facilitate the relevant objectives

Any of these three proposals would allow for the better facilitation of the relevant objectives particularly A11.1(f), "the promotion of efficiency in the implementation and administration of the network code and/or uniform network code" and A11.1(d) "the securing of effective competition between ...relevant shippers". NGD has fully supported the approach undertaken to date i.e. the completion of a review group to investigate a "Close Out" which has included an assessment of any associated risks.

NGD also believes that implementation of any one of these three proposals would better facilitate the GT Licence SSCA11.1(d): so far as is consistent with sub-paragraphs (a) to (c) the securing of effective competition between relevant shippers; relevant suppliers and or between DN operators. It reduces the uncertainty relating to invoicing and thus the associated risk. A guarantee of timely invoicing also reduces the risks for new entrants to the market and the risks associated with mergers and acquisitions.

Of the three proposals NGD holds the view that modification proposal 0152V better facilitates the relevant objectives.

Implementation Issues

Based on the information provided by xoserve to the Review Group 0126, NGD would highlight that sufficient lead time (a minimum of six months has been identified by Users and by xoserve) should be allowed to make system changes. This would require an Ofgem decision on these proposals by October 2007 at the latest to allow implementation for financial year 08/09. Should Ofgem direct implementation of any one of these three proposals further consideration would need to be given to implementation issues at that time. NGD believes that a decision to implement may lead to a short term increase in the volume of queries submitted to xoserve and therefore six months detailed above should be allowed between decision and implementation to resolve these.

NGD would also note that the business rules developed by the Review Group must be reflected by the legal text for these proposals.

Conclusion

NGD supports the introduction of a revised, timely, "close out" to UNC invoicing and invoice adjustments. We believe each proposal facilitates the GT Licence relevant objectives as identified above. However we would like to note our preference for Modification Proposal 0152V as it most closely reflects discussions which took place within Review Group 0126.

Yours sincerely

Phil Lawton
Distribution Regulation Manager