

Representation

Draft Modification Report

0343 - The ability and requirement for Users and Transporters to raise issues to be considered by the Allocation of Unidentified Gas Expert as "known" issues

Consultation close out date: 08 July 2011

Respond to: enquiries@gasgovernance.co.uk

Organisation: **Corona Energy**

Representative: Richard Street

Date of Representation: 08 July 2011

Do you support or oppose implementation?

Oppose

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

Corona Energy (CE) opposes the implementation of this modification as it believes that it could significantly undermine the AUGÉ process and significantly increase the risk of legal challenge on code users.

This Modification Proposal suggests that Users and Transporters should have the ability to raise issues directly with the AUGÉ for assessment and inclusion within the AUG Methodology and AUG Table; and Places a requirement on parties to bring forward issues that they believe are contributing to Unidentified Gas.

While developing the Modification 229 process the proposer deliberately made available opportunities for industry participants to raise issues with the AUGÉ. The AUGÉ was given the ability and opportunity to investigate the issues raised by participants and to compel UNC code parties to provide information on request. The first element to the Scottish Power proposal appears therefore superfluous.

The second, and most concerning element, of this Modification Proposal obliges parties to raise issues that 'they believe to be contributing to the unidentified gas problem and an assessment, if available, of the scale of the issue.'

While it is unclear to Corona Energy how this obligation could ever be enforced, this would create a situation where UNC Users could theoretically be found in breach of licence based on another party's view of their beliefs, thoughts or knowledge. Not only could this lead to a series of claims of breach (and counter claims) but is likely to distract the AUGÉ from its useful assessment and investigation work.

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

None Identified

Relevant Objectives:

How would implementation of this modification impact the relevant objectives?

Standard Special Condition A11.1 (d): so far as is consistent with sub-paragraphs (a) to (c) the securing of effective competition: (i) between relevant shippers; (ii) between relevant suppliers.

This modification does nothing to usefully increase the opportunity for shippers and suppliers to inform the AUGE of issues as the current process already allows this to happen. Rather it could lead to shippers and suppliers attempting to gain commercial advantage by making claims against each other that they are in breach of this area of code. Defending such claims is likely to require significant legal resource. As larger suppliers are likely to have access to greater internal legal resource, this behaviour would significantly disadvantage smaller suppliers.

Standard Special Condition A11.1 (f): So far as is consistent with subparagraphs (a) to (e) the promotion of efficiency in the implementation and administration of the network code and/or the uniform network code.

We understand this Proposal would oblige UNC signatories to bring forward 'issues' associated with Unidentified Gas. Corona Energy's view is that this objective is not facilitated based on the lack of a means by which the relevant obligation can be monitored, validated and enforced in a reasonable and proportionate fashion.

Impacts and Costs:

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

In order to comply with this modification Corona Energy would be required to introduce a process to check the beliefs, thoughts and knowledge of all staff on a regular basis. It would then have to identify those that could have an impact on unidentified energy and then report these to the AUGE (no matter how ill-conceived).

Corona Energy would also have to develop processes and resource plans for defending against accusations of breach of the UNC under these requirements.

Corona Energy has not performed the analysis to understand what the costs would be of the implementation of this proposal but it believes that they would be significant.

Implementation:

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

Corona Energy has not performed the analysis to understand how much time would be required to implement this proposal but it believes at least six months would be needed as it does not have the resource necessary to implement this proposal currently.