

MOD0379 – Appendix One

Business Rules

1 INTRODUCTION

- 1.1 This document has been drafted to support Modification Proposal 0379. It explains in more detail the business rules which will be followed before, during and after the audit considered in that Modification Proposal.

2 BUSINESS RULES

- 2.1 Following publication of the MOD81 reports in [date] the Network Owners will identify any Shipper Short Code (“the affected Shipper”) who has been shown to have achieved an aggregate kWh reduction in AQ values of more than 1% over the median in any one AQ Review year, and / or the difference between the total number of AQ reductions compared to AQ increases is more than 7.5% over the median.
- 2.2 [materiality part of the process]^[1]
- 2.3 Should any affected Shipper have their Licence revoked at any stage of this process for any reason, the process will end and no further audit action will be taken.
- 2.4 The Network Owners will then contact the affected Shipper(s) and notify them that this process has been triggered. Notification that the process has been triggered will also be made to the UNC Panel.
- 2.5 Subject to the process being triggered, the Network Owners will, as soon as reasonably practicable, appoint a person eligible for appointment as a company auditor (within the meaning of Part II of the Companies Act 1989) to conduct a review of whether, in the opinion of such person, the affected Shipper(s) have, beyond reasonable doubt, complied in all material respects with their obligations under UNC TPD G1.6.4.
- 2.6 Following their appointment, the Auditor shall provide monthly updates to the Panel on their progress towards making a conclusion. These updates will continue until the process has concluded for the affected Shipper(s). Any updates made shall be done in such a way so as not to conflict with any requirement of this process.
- 2.7 Within [days] of being appointed, the Auditor will write to the affected Shipper(s) and advise them of the fact that they have been appointed, the reason an audit has been triggered and ask the affected Shipper(s) to provide any relevant information which may demonstrate that such performance was achieved in a manner which complied with their obligations under UNC TPD G1.6.4.
- 2.8 The affected Shipper(s) will be given [twenty-eight] calendar days from the date of the Auditors letter described in paragraph [2.7] to respond.
- 2.9 Any information the affected Shipper(s) provides to the Auditor, at any stage of this process, is to be treated as commercially confidential by the Auditor and will not be

shown to any other party without the express permission of the Shipper(s) who provided that information.

- 2.10 If, at any stage of this process, the Auditor becomes satisfied that the affected Shipper(s) have, beyond reasonable doubt, complied in all material respects with their obligations under UNC TPD G1.6.4, then they will notify both the affected Shipper(s) concerned and Panel of that fact and close the process. No further action will be taken by any party.
- 2.11 If, following their letter to the affected Shipper(s) the Auditor receives either no information, or insufficient information to demonstrate the affected Shipper(s) have, beyond reasonable doubt, complied in all material respects with their obligations under UNC TPD G1.6.4, the Auditor will notify both the affected Shipper and the Panel that further information is needed before this process may be concluded, what that information is and how the Auditor proposes to collect that information. For the avoidance of doubt, the Auditor will be the sole decision maker over what information they require and how that information will be collected. In reaching their decision on this matter, the Auditor may consider the views and suggestions of the affected Shipper(s), notwithstanding that the final decision is theirs.
- 2.12 The affected Shipper(s) shall at all times make reasonable efforts to facilitate the audit and provide the Auditor with the information they require. If, at any stage, the Auditor has any concerns that this is not the case, they may report the matter to the Panel.
- 2.13 Once the Auditor has either collected sufficient information to establish whether or not the affected Shipper(s) have, beyond reasonable doubt, complied in all material respects with their obligations under UNC TPD G1.6.4, or has concluded that no more relevant information can or will be provided, they notify both the Panel and the affected Shipper(s) of their conclusions and their reasoning.
- 2.14 The Auditor's conclusions shall be final. There will be no ability to appeal them.
- 2.15 If the Auditor concludes that the affected Shipper(s) have not, beyond reasonable doubt, complied in all material respects with their obligations under UNC TPD G1.6.4, they shall include in their conclusions an estimate of the financial benefit the affected Shipper(s) have accrued through their non-compliant actions.
- 2.16 [Liabilities regime].^[2]
- 2.17 In the event that the Auditor concludes that a Shipper has, beyond reasonable doubt, complied in all material respects with their obligations under UNC TPD G1.6.4, or that the process has ended following the affected Shipper having their Licence revoked as per paragraph [2.3], the Auditor's costs will be met entirely by the wider Shipper community, with the costs divided between them on a market share of supply point basis.

- 2.18 In the event that the Auditor concludes a Shipper has not, beyond reasonable doubt, complied in all material respects with their obligations under UNC TPD G1.6.4, the costs associated with that specific audit will be recovered from the Shipper who has been found to have not complied.