Stage 01: Proposal

04xx:

Customer Settlement Error Claims Process

This modification creates a claims process that will allow Shippers to correct settlement errors for the period after the close out of reconciliation up to the statute of limitations.

The Proposer recommends
The modification is referred to a Workgroup for Assessment

High Impact:
Shippers, Customers

Medium Impact:
None

Low Impact:
Transporters

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About this document:

This document is a proposal, which will be presented by the Proposer to the Panel on 17 November 2011. The Panel will consider the Proposer's recommendation, and agree whether this modification should be referred to a Workgroup for assessment.

Any questions?

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1 Summary

Is this a Self Governance Modification

This modification will have a material impact on Shippers when any dispute runs are submitted and approved, so is not suitable to be considered under the Self-Governance Process.

Why Change?

At present the UNC limits all retrospective invoices to a period between 4-5 years, depending on when the invoice is triggered. Statutes of Limitations that govern all contracts however allow invoices to be queried and adjusted if necessary for a period up to 6 years from the time of action. This means that any energy invoices between Shippers and Customers that are adjusted for the full period allowed under the statute of limitations cannot be fully reflected in energy allocation in settlement under the current UNC.

Solution

In order to allow full alignment between the current statutory requirements and the UNC, it is proposed to create a Customer Settlement Error Claims Process that will allow Shippers to reflect any invoice corrections between themselves and their customers beyond the current invoice limitations in the UNC. This would be an exceptional process that would be used relatively rarely and be subject to industry scrutiny. In summary this process would be the following:

- A customer and the relevant Shipper agree the duration and nature of a settlement error.
- If the duration of the error is longer than the current reconciliation period in the UNC then the Shipper would submit a Customer Settlement Error Claim for the period between the current invoice limitation date and the statute of limitation limit for the site(s) affected.
- The Transporter's Agent would then evaluate the claim. It is envisaged that the Shipper would submit an invoice query via the normal process for the period which is within the applicable reconciliation timescales. The Transporter's agent could use this evidence to help assess the validity of the claim.
- Where a claim is rejected by the Transporters agent the shipper will have recourse to appeal to the UNCC. Once notified of the rejection the affected Shipper will have 14 days to lodge an appeal to the chair of the UNCC. The UNCC will determine whether the appeal shall be upheld or rejected within 1 month.
- If the claim is upheld then the Shipper would be paid or pay (as appropriate) a financial amount equivalent to the value of the energy and the transportation costs claimed.
  - For energy, the financial adjustment would be incorporated into Balancing Neutrality as part of the Monthly Neutrality Adjustment Amount. Charges will normally be applied in the month following approval of the Customer Settlement Error Claim. Where any charges above [£1million] are to be applied, the Transporter's agent will issue a notification to Shippers. In such cases the charges will be applied two months after the Customer Settlement Error Claim is approved.

o For transportation, any financial adjustment would be incorporated into 'k' for the relevant Transporter.

Impacts & Costs

Aligning the timescales for the reconciliation process with the provision of 6 years contained in the Statute of Limitation will reduce the financial risk exposure currently facing Shippers and would give added protection to smaller shippers.

There may be an impact on Xoserve's operational costs which may be covered by an application fee [£1,000].

Implementation

This modification would be as soon as possible.

The Case for Change

Creating a Customer Settlement Error Claims process will allow Shippers to back off customer invoice corrections in settlement, reduces the financial risk that Shippers are exposed to and will be beneficial to competition amongst Shippers. Additionally this may help smaller shippers by protecting them from risk of failure.

Recommendations

We propose that this modification goes for assessment at a workgroup.

2 Why Change?

At present reconciliation processes limit any retrospective invoices to a period between 4 -5[1] years from the date the invoice is triggered.   By contrast, the Statute of Limitations 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. 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 can accommodate this correction.

In the event that an over-recording of customer consumption is recorded, this mismatch in time limits leaves Shippers exposed to recovery of costs from the customers that they are unable to back off in settlement. Conversely when a customer's energy consumption is found to have been under-recorded then the Shipper is unable to reflect this in settlement, so consequently the industry is not compensated for the gas that was originally smeared.

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[1] Strictly speaking, retrospective invoices are limited by the UNC to a period of 4 years to 4 years 365 days.

3   Solution

To remove the financial exposure that Suppliers' face as a result of this misalignment, it is proposed that a Customer Settlement Error Claims Process is developed. This process will allow Shippers to correct Settlement Errors for periods between the closeout of the current settlement window and the Statute of Limitations, as illustrated below.

Illustration of Process (current reconciliation backstop date)
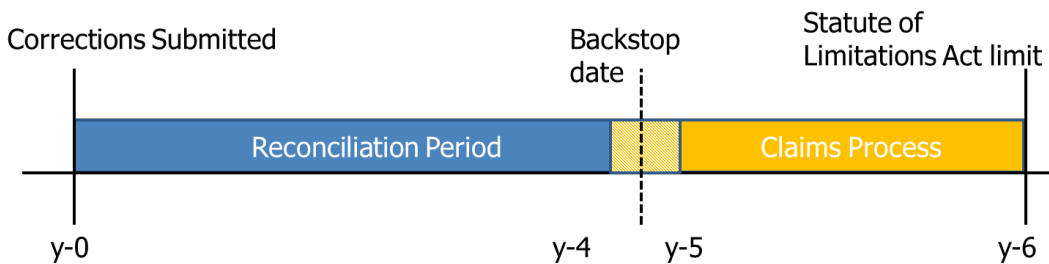
It is intended that this process will be used relatively rarely to correct material errors and will only be used where the nature and materiality of the error can be clearly demonstrated. It therefore will be a relatively manual process with the Shipper expected to submit information to the Transporter's Agent for validation. For the avoidance of doubt the Customer Settlement Error Claims Process will not impact the current reconciliation process, concerning itself with the period after reconciliation has closed out.

Initiation of Customer Settlement Error Claims Process

It is intended that this process will be triggered by the Shipper submitting a Customer Settlement Error Claim to the Transporter's Agent. It is proposed that there is a limit of total materiality of the error that cannot be corrected by the normal reconciliation processes to [£50,000] as determined below. For the avoidance of doubt the materiality criteria would be applied to each Supply Point affected individually. In addition customer agreement would need to be obtained for any correction.   If the error meets the eligibility criteria, the Shipper would be expected to provide to the Transporter's Agent the following:

- Detail on the nature and duration of the error, detailing its materiality in terms of volume of gas as well as an estimate of its financial impact in terms of energy and transportation. When determining the cost of the error with regard to energy, it is expected that the Shipper would reference System Average Prices for the last thirty days prior to submission.   When determining the transportation cost, the Shipper would reference the relevant Transportation prices currently in effect.
- The dates for which the Customer Settlement Error Claim will apply to. This will only cover the period after which normal settlement reconciliation closes out, up the limit on statute of limitations.
- Confirmation that the customer agrees with the Shipper that an error has taken place and the overall materiality of the error, as well as the timescales that the error covers.

The relevant Transporters would then have 28 days to evaluate the claim and to either approve or reject it. During that time the Transporter's Agent have the ability to ask

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for additional information to clarify the Customer Settlement Error Claim. If the Transporter's Agent rejects the claim then the Shipper has 14 days to appeal to the UNCC, who will rule on the claim within [1 month].

Settlement of Customer Settlement Error Claim

Energy Correction.

In order to preserve the integrity of the settlement process, it is proposed that any energy financial adjustment shall be included in Balancing Neutrality as part of the Monthly Adjustment Neutrality Amount. For the purposes of this process, the value of the Customer Settlement Error Claim will be determined by multiplying the average SAP for the period that the Monthly Adjustment Neutrality Amount will apply by the volume of the Customer Settlement Error Claim. The Shipper will either then pay or be paid this amount as appropriate. Where any charges above [£1million] are to be applied, the Transporter's agent will issue a notification to Shippers. In such cases the charges will be applied two months after the Customer Settlement Error Claim is approved.

Transportation Correction.

The relevant Transporter will determine the value of the Customer Settlement Error Claim by multiplying the volume of the Customer Settlement Error Claim by the relevant transportation charges, with the Shipper being paid or paying that amount as appropriate. Any financial adjustment would be incorporated into 'k' by the Transporter.

4 Relevant Objectives

Implementation is expected to better facilitate the achievement of **Relevant Objective a and d.**

Proposer's view of the benefits against the Code Relevant Objectives	
Description of Relevant Objective	Identified impact
a) Efficient and economic operation of the pipe-line system.	None

b) Coordinated, efficient and economic operation of
  (i) the combined pipe-line system, and/ or
  (ii) the pipe-line system of one or more other relevant gas transporters.
	None

c) Efficient discharge of the licensee's obligations.	None

d) Securing of effective competition:
  (i) between relevant shippers;
  (ii) between relevant suppliers; and/or
  (iii) between DN operators (who have entered into transportation arrangements with other relevant gas transporters) and relevant shippers.
	Yes, see below.

e) Provision of reasonable economic incentives for relevant suppliers to secure that the domestic customer supply security standards… are satisfied as respects the availability of gas to their domestic customers.	None
f) Promotion of efficiency in the implementation and administration of the Code	None

Relevant Objective (d) Securing of effective competition: (i) between relevant shippers; (ii) between relevant suppliers; and/or (iii) between DN operators (who have entered into transportation arrangements with other relevant gas transporters) and relevant shippers.

Giving Shippers the ability to reflect in settlement any invoice correction between themselves and the customers will ensure that appropriate costs are targeted to Shippers for the gas they provided, as well as removing the risk that Shippers will be exposed to costs they cannot back off into settlement. This improvement in cost targeting and reduction in risk will improve competition.

5 Impacts and Costs

Costs

Indicative industry costs – User Pays
Classification of the proposal as User Pays or not and justification for classification
This process in the main uses current system and industry processes and so should not incur any system costs. We would also expect the costs incurred by the Transporter's Agent to be minimal, so do not believe that this is a User Pays modification. However there will be an application fee of [£1,000] to discourage spurious applications.
Identification of Users, proposed split of the recovery between Gas Transporters and Users for User Pays costs and justification
Not applicable
Proposed charge(s) for application of Users Pays charges to Shippers
Not applicable
Proposed charge for inclusion in ACS – to be completed upon receipt of cost estimate from xoserve
Not applicable.

Impacts

Impact on Transporters' Systems and Process	
Transporters' System/Process	Potential impact
UK Link	None
Operational Processes	None
User Pays implications	None

Impact on Users	
Area of Users' business	Potential impact
Administrative and operational	None
Development, capital and operating costs	None
Contractual risks	This process will remove the potential for Shippers to be exposed to costs from customer invoice corrections that could not be backed off into settlement.

Impact on Users	
Legislative, regulatory and contractual obligations and relationships	None

Impact on Transporters	
Area of Transporters' business	Potential impact
System operation	None
Development, capital and operating costs	None
Recovery of costs	None
Price regulation	None
Contractual risks	None
Legislative, regulatory and contractual obligations and relationships	None
Standards of service	None

Impact on Code Administration	
Area of Code Administration	Potential impact
Modification Rules	None
UNC Committees	Determine case appeals
General administration	None

Impact on Code	
Code section	Potential impact

Impact on UNC Related Documents and Other Referenced Documents	
Related Document	Potential impact
Network Entry Agreement (TPD I1.3)	None
Network Exit Agreement (Including Connected System Exit Points) (TPD J1.5.4)	None

Impact on UNC Related Documents and Other Referenced Documents	
Storage Connection Agreement (TPD R1.3.1)	None
UK Link Manual (TPD U1.4)	None
Network Code Operations Reporting Manual (TPD V12)	None
Network Code Validation Rules (TPD V12)	None
ECQ Methodology (TPD V12)	None
Measurement Error Notification Guidelines (TPD V12)	None
Energy Balancing Credit Rules (TPD X2.1)	None
Uniform Network Code Standards of Service (Various)	None

Impact on Core Industry Documents and other documents	
Document	Potential impact
Safety Case or other document under Gas Safety (Management) Regulations	None
Gas Transporter Licence	None

Other Impacts	
Item impacted	Potential impact
Security of Supply	None
Operation of the Total System	None
Industry fragmentation	None
Terminal operators, consumers, connected system operators, suppliers, producers and other non code parties	None

6 Implementation

As soon as possible

7 The Case for Change

Advantages

- Eliminates the financial risk that Suppliers' currently face due to customers being permitted to raise errors that go beyond the reconciliation time period in the UNC.

Disadvantages

- None identified.

8 Legal Text

The Transporters are requested to provide legal text in support of this modification.

9 Recommendation

The Proposer invites the Panel to:

- DETERMINE that Modification 04xx progress to a Workgroup