CODE MODIFICATION PROPOSAL No xxxx
The Treatment of Annual Quantities, System Offtake Quantities and Bottom Stop System Offtake Quantities for vacant or mothballed sites or sites that have decreased consumption by more than 20% or 146,400kWh
Version x.x

Date: 20/02/2009

Proposed Implementation Date:

Urgency: Non Urgent

1 The Modification Proposal

a) Nature and Purpose of this Proposal

Background

This issue has been raised by consumers at the Gas Customer Forum and the Demand Side Working Group. In response to these discussions and concerns expressed by consumers and consumer representatives this proposal has been developed in conjunction with other interested Shippers.

Under the current economic climate the number of vacant commercial and industrial property is increasing as a result of consumers reducing production and mothballing sites, or as a result of sites becoming vacant due to business going into administration. The most recent figures produced by the Department for Communities and Local Government (DCLG) show that in 2004/05 the average vacancy rate for non-domestic properties in England was 9% (available from: http://www.communities.gov.uk/publications/planningandbuilding/commercialpropertyestimated). It would appear reasonable to assume that this figure has increased in recent years.

Where a site has become vacant, or mothballed then Shippers will continue to be attributed energy and transportation costs based on the AQ, SOQ and Bottom Stop SOQ (BSSOQ) for the site, unless they withdraw from the site or isolate it. Whilst Network Code Modification Proposal 0675 introduced the responsibility for Shippers to disconnect a meter within 12 months of withdrawing from the site, there are instances when a Shipper may not want to withdraw, including:

- **Landlord supply contracts:** Provided to landlords to ensure any future tenants can take on the tenancy quickly – essentially making the property more marketable.

- **Mothballed sites:** Consumers may only wish to mothball a site for 12 months and continue with their current supply contract should they wish to re-open the site. They therefore do not wish to have to pay isolation and connection costs for this period. They may also have expensive, be-spoke metering arrangements which would be expensive to replace if removed.

In addition were Shippers to withdraw from a site there is an increased risk that tenants re-commence consuming gas without having a registered Shipper in place. This could therefore introduce the risk that the volume of unallocated energy is increased. There are therefore instances when a Shipper may want to remain registered to a vacant site in response to consumer requirements and for the benefit of the industry.

UNC TPD G1.6.6 requires that the AQ registered to a site should represent a *"reasonable assumption as to the quantity offtaken from the total system"*. For Shippers registered to Larger Supply Points (LSPs) UNC TPD G 1.6.13 provides arrangements to use the BTU Form so that the registered AQ meets the requirements of UNC TPD G 1.6.6. However UNC TPD G1.6.13 is open to interpretation as to whether a BTU Form can be used to re-set an AQ to 1 for vacant sites or reduce the AQ, SOQ or BSSOQ in response to a significant reduction in demand, with differing views between Shippers and Transporters.

One view that has been expressed is that the BTU form can not be used to re-set the AQ to 1 for vacant sites, and instead Shippers will be required to submit meter readings in order to register an accurate AQ. However the ability to gain meter reads from a vacant or mothballed site is notoriously difficult, expensive and lengthy process. Further gaining sufficient meter reads for a site where demand has reduced significantly can be a lengthy process, taking up to 18 months to feed into an updated AQ depending on when the demand reduction took place. It is therefore questionable whether this is appropriate. Under the BSC implemented Modification Proposal P196 introduced the ability for Suppliers to re-set an EAC (Estimate of Annual Consumption) to zero for vacant sites, provided that certain criteria were met. Ofgem implemented this proposal with effect from 22 February 2007 on the grounds that it promoted competition and improved the implementation and administration of the BSC.

The BTU form process currently doesn't allow Shippers to nominate changes to a DM site's SOQ or Bottom Stop SOQ (BSSOQ). Non Daily Metered sites have their SOQ derived from the AQ so changers to the SOQ are done automatically. Daily Metered (DM) sites have their SOQ nominated by the Shipper in a fixed window so outside of this window sites are unable to reduce their capacity charges.

In the context of the recent change to a 96.5% capacity pricing regime and the current economic circumstances this has led to consumers to consider isolating sites rather than mothballing as their only option to avoid transportation charges on sites where they know gas usage levels will be reduced. It should be noted that isolation is a significant barrier to the site returning to active use.

The Proposal

It is proposed that the UNC is modified so that:

1. Shippers can reset LSP AQs, SOQs and/or BSSOQs to 1 or any

multiple thereof for vacant or mothballed or sites where demand has reduced by more than 20% or 146,400kWh.

2. Shippers can submit a declaration that they have confirmed using reasonable actions that the plant has either been mothballed or is vacant or has significantly reduced demand and the updated AQ represents a reasonable assumption of gas demand for the next 12 months.

3. In instances when the AQ, SOQ and/or the BSSOQ has been reset to 1 and within 12 months the registered Shipper proposes to increase the AQ and/or BSSOQ then they would be liable to pay the capacity charges from the time when the AQ, SOQ and/or BSSOQ was set to 1 and the effect of the new AQ (based on the original AQ, SOQ and/or BSSOQ levels).

4. In instances when the AQ, SOQ and/or BSSOQ had been reset to 1 and this had remained unchanged for 12 months then no liability to pay historic capacity charges would be incurred in addition to the mod 640 rules.

This will ensure that Shippers can continue to comply with UNC requirements that the AQ should represent a reasonable assumption as to the quantity of gas offtaken, whilst providing sufficient incentives on Shippers and Consumers to not use this process to regularly change their registered capacity to reflect their process loads. This proposal will also benefit consumers by ensuring that they are not exposed to significant capacity charges for capacity that they will not access. This change will therefore provide GB business with the flexibility they need to ensure their survival in the current economic climate.

b) Justification for Urgency and recommendation on the procedure and timetable to be followed (if applicable)

Not urgent

c) Recommendation on whether this Proposal should proceed to the review procedures, the Development Phase, the Consultation Phase or be referred to a Workstream for discussion.

Whilst it is not proposed that this proposal should follow an urgent route, given the implications of this proposal we would request that it be issued immediately for consultation and follow as short a timetable as possible. In addition we would note that this proposal has been developed and discussed by industry at the Distribution Workstream.

2 Extent to which implementation of this Modification Proposal would better facilitate the achievement (for the purposes of each Transporter's Licence) of the Relevant Objectives

Standard Special Condition A11.1 (a): the efficient and economic operation of the pipe-line system to which this licence relates;

It would appear likely that AQs, SOQs and BSSOQs play an important role in planning the short term operation of the pipeline system. Having accurate AQs, SOQs and BSSOQs will therefore enable the Gas Transporters to operate their pipeline systems in an efficient and economic manner. Further in the long run the BTU form could be used by the Transporters to identify any underlying trends in the number of vacant or mothballed sites. This could also help in the long term planning and development of the system.

Standard Special Condition A11.1 (b): so far as is consistent with subparagraph (a), the 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;

It would appear likely that accurate AQs, SOQs and BSSOQs would help to ensure that the Gas Distribution Networks (GDNs) book an appropriate level of NTS Exit Capacity required to support the consumers connected to their system, thereby facilitating this objective.

Standard Special Condition A11.1 (c): so far as is consistent with subparagraphs (a) and (b), the efficient discharge of the licensee's obligations under this licence;

Standard Special Condition A5.5 requires the Gas Transporters to develop a charging methodology so that charges reflect the costs incurred. The current methodology relies on AQs, SOQs and BSSOQs for developing charges. If any of these are not accurate then arguably the charges developed will not be accurate. Allowing Shippers to register an accurate AQ, SOQ and/or BSSOQ will therefore facilitate SSCA5.5 and so in turn facilitate A11.1 (c).

Standard Special Condition A11.1 (d): so far as is consistent with subparagraphs (a) to (c) the 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;

By ensuring capacity costs are targeted at the correct Shippers will reduce any cross subsidisation that will occur and so be beneficial to competition.

Standard Special Condition A11.1 (e): so far as is consistent with subparagraphs (a) to (d), the 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;

Implementation would not be expected to facilitate this relevant objective.

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;

Implementation of this proposal would avoid the requirement for Shippers to gain warrants for powers of entry to vacant or mothballed sites. As recognised by Ofgem in implementation of P196 avoiding these costs would represent a pragmatic and effective solution.

Further this proposal provides clarity to the code as to circumstances when a BTU form can be utilised under UNC TPD G 1.6.13, driven by different interpretations

within the industry. This clarification can be achieved either through legal action or implementation of this proposal. It would appear reasonable to assume that legal action would be more costly than implementation of this proposal, and so would facilitate SSC A11.1 (f).

3 The implications of implementing this Modification Proposal on security of supply, operation of the Total System and industry fragmentation

No implications identified

4 The implications for Transporters and each Transporter of implementing this Modification Proposal, including:

a) The implications for operation of the System:

It would appear logical that more accurate AQs, SOQs and/or BSSOQs should benefit Transporters through the short term operation of the System. In the long term the ability to identify trends from the BTU form may benefit the long term planning and development of the system.

b) The development and capital cost and operating cost implications:

It is expected that this process would utilise existing arrangements for LSP AQ appeals, therefore we do not believe that there are any incremental costs associated with the implementation of this proposal.

c) Whether it is appropriate to recover all or any of the costs and, if so, a proposal for the most appropriate way for these costs to be recovered:

No additional costs identified.

d) The consequence (if any) on the level of contractual risk of each Transporter under the Uniform Network Code of the Individual Network Codes proposed to be modified by this Modification Proposal

There is a risk that without clarification on the intent of UNC TPD G 1.6.13, then the only solution would be through legal action. Implementation of this proposal therefore reduces the risk that the GDNs will be taken to court.

5 The extent to which the implementation is required to enable each Transporter to facilitate compliance with a safety notice from the Health and Safety Executive pursuant to Standard Condition A11 (14) (Transporters Only)

Not applicable.

6 The development implications and other implications for the UK Link System of the Transporter, related computer systems of each Transporter and related computer systems of Users

None identified – this proposal utilises existing arrangements.

7 The implications for Users of implementing the Modification Proposal, including:

a) The administrative and operational implications (including impact upon manual processes and procedures)

If Shippers wish to utilise this process then they will need to have appropriate procedures and policies in place to ensure that the proposed AQ is accurate. However as this is a voluntary procedure, then it is expected that Shippers will only utilise this procedure if the benefit of it outweighs the costs.

b) The development and capital cost and operating cost implications

None identified.

c) The consequence (if any) on the level of contractual risk of Users under the Uniform Network Code of the Individual Network Codes proposed to be modified by this Modification Proposal

Standard Licence Condition B3 of the Shipper Licence requires the Shipper to not knowingly mislead the Transporter. Potentially having an inaccurate AQ as a result of a site becoming mothballed or vacant could be viewed as misleading the Transporter, provided that this was sufficiently material. By ensuring that Shippers can lodge an accurate AQ under the UNC this reduces the contractual risk that they could be held in breach of their Shipper Licence.

8 The implications of the implementation for other relevant persons (including, but without limitation, Users, Connected System Operators, Consumers, Terminal Operators, Storage Operators, Suppliers and producers and, to the extent not so otherwise addressed, any Non-Code Party)

This issue was first raised by Consumers at the Gas Customer Forum and this modification proposal has been developed in response to this. This proposal will provide a direct benefit to consumers by ensuring that they capacity costs that they are exposed to are directly related to the capacity that they require and access. In addition by providing an alternative to isolation this proposal will help to ensure that manufacturing returns to the UK when the economic climate improves. This will provide a benefit to consumers and UK GDP in general.

9 Consequences on the legislative and regulatory obligations and contractual relationships of the Transporters

None identified

10 Analysis of any advantages or disadvantages of implementation of the Modification Proposal not otherwise identified in paragraphs 2 to 9 above

Advantages

- Ensures costs are appropriately targeted.
- Helps support British industry and UK GDP
- Provides clarity to the UNC
- Incorporates principles of P196 into UNC
- Provides a pragmatic and cost effective solution

Disadvantages

- Not implemented earlier

11 Summary of representations received as a result of consultation by the Proposer (to the extent that the import of those representations are not reflected elsewhere in this Proposal)

12 Detail of all other representations received and considered by the Proposer

13 Any other matter the Proposer considers needs to be addressed

Going forward it would be beneficial were the principles included in this proposal also extended to the SSP market as part of Project Nexus and the potential implementation of a rolling AQ regime.

There may also be a benefit in reviewing the Governance of the BTU Form.

14 Recommendations on the time scale for the implementation of the whole or any part of this Modification Proposal

Distribution Workstream – 26 February 2009

Mod Panel and issued to consultation – 19 March 2009

Consultation end – 9 April 2009

FMR Produced – 10-14 April 2009

Mod Panel recommendation – 16 April 2009 or 21 April 2009

Ofgem decision – May 2009

15 Comments on Suggested Text

16 Suggested Text

Code Concerned, sections and paragraphs

Uniform Network Code

Transportation Principal Document G 1.6

Section(s)

Proposer's Representative

Stefan Leedham

Proposer

EDF Energy

