

**Modification Report**  
**(Alternative to Mod 0339), Clarification of the AUG Year in respect of UNC Modification**  
**0229**

**Modification Reference Number 0339 / 0339A**

Version 4.0

This Modification Report is made pursuant to Rule 9.3.1 of the Modification Rules and follows the format required under Rule 9.4.

## **1 The Modification Proposal**

### **Nature and Purpose of this Proposal**

Uniform Network Code (UNC) Modification Proposal 0229 ‘Mechanism for correct apportionment of unidentified gas’ was implemented with effect from 10<sup>th</sup> June 2010.

Included within Proposal 0229 was the business rule: "Changes to the volumes in the Large Supply Point Unidentified Gas allocation table would be announced and could only be implemented for the following year.....". Although no specific date for the first AUG Year was contained within the Proposal, in order to create certainty in terms of the mechanics of the AUG process, the legal text contained a definition of an AUG year as “ .....the twelve month period commencing 1 April 2011.....”

As a consequence of industry development and review of the Allocation of Unidentified Gas Document (currently entitled 'Guidelines for the appointment of an Allocation of Unidentified Gas Expert'), it is clear that the AUG's determination in the form of an approved AUG Methodology (statement) will not be completed by 1<sup>st</sup> April 2011. This means that the legal text directed upon by Ofgem and implemented in respect of UNC Modification 0229 is not consistent with the intentions of the Proposal.

As a result, there is a mismatch between the intention of the Proposal and the legal text currently contained within the UNC and, as the parties responsible for the implementation of Proposal 0229, the Transporters would like to ensure absolute clarity exists in terms of the AUG Year to which the first energy reconciliation would apply.

This ambiguity has been noted by numerous UNC parties and prompted British Gas (BGT) to raise UNC Modification Proposal 0313 ‘Application Date for MOD0229’ This proposal reinforced the application of 1<sup>st</sup> April 2011 as being the first AUG Year. Under the circumstances stated above, NGD welcomed this proposal as a measure to create absolute clarity as to the date of the first AUG Year and in a note issued to the Uniform Network Code Committee (UNCC) dated 11<sup>th</sup> August 2011 provided suggested legal text with respect to the UNC Transition Document. This clearly set out the fact that irrespective of when the AUG Methodology became available, energy charge adjustments would be applied from 1<sup>st</sup> April 2011. BGT withdrew Proposal 0313 on 14<sup>th</sup> September and provided a note to the industry explaining its reasons for this action.

While we respect BGT’s right to withdraw the Proposal, we believe that the additional text which would have been included in the UNC by the implementation

of Proposal 0313 would have provided the additional clarity that we now believe to be imperative for implementation. Since this Proposal has been withdrawn it is now necessary for the Transporters to gain further regulatory and contractual assurance to provide all parties with certainty over the date of the first AUG Year.

As the timeline for the appointment of the AUGE has developed, it has become clear that there will be no AUG Methodology available on 1<sup>st</sup> April 2011. Therefore to have an AUG Year commencing on 1<sup>st</sup> April 2011 would be inconsistent with the intent of Modification 0229. The June 2010 meeting of the UNCC approved implementation of Version 2 of the Allocation of Unidentified Gas Document. This sets out a timetable of events leading to the appointment of an AUGE and the requirements and responsibilities of the various organisations involved in identifying and agreeing an AUG Methodology. Using a timetable consistent with delivering the relevant 'milestones' set out in the Allocation of Unidentified Gas Document, the Transporters believe that the first AUG Year consistent with the rules specified within Proposal 0229 would be 1<sup>st</sup> April 2012.

Consequently NGD proposes that the definition of the first AUG Year be defined as this date.

Note: Transporters are financially neutral to the allocation of costs associated with Unidentified Gas between Users operating in the two market sectors. Indeed, it is a condition of our licence that we treat all Users in a non-discriminatory way and this proposal is not intended to confer any advantage on any individual User through its effects on the timing of the reallocation of energy costs. The proposal has been raised to provide Transporters and all Shippers with absolute clarity as to what Transporters are expected to do and by when we are expected to do it.

In addition to the views of the Proposer as set out above, the contents of this Modification Proposal are endorsed by:

Scottish and Southern Gas Networks, Wales & West Utilities and Northern Gas Networks.

### **Suggested Text**

TPD Section E10

10 Allocation of Unidentified Gas ("AUG")

10.1 Interpretation

10.1.1 For the purposes of the Code:

(a) ...

(i) "AUG Year" means the twelve month period commencing 1 April 2012 and the twelve month period commencing on each subsequent 1 April; and in relation to an AUG Year a reference to the preceding year is to the twelve month period ending 31 March before the start of the AUG Year.

## 0339A

### Background

On 26<sup>th</sup> May 2010 Ofgem directed the implementation of MOD0229, “*Mechanism for Correct Apportionment of Unidentified Gas*”. This modification proposal was raised by Shell Gas Direct in order to provide a mechanism through which unidentified gas could be more accurately allocated between the Small Supply Point (SSP) sector and Large Supply Point (LSP) sector. Currently all unidentified gas is allocated to the SSP sector.

The process through which the new split of allocation between the SSP and LSP sectors would be arrived at involved both a tendering process to procure an Allocation of Unidentified Gas Expert (AUGE) and subsequent work by that AUGE in order to create an Allocation of Unidentified Gas Statement (AUGS) - the determination on how unidentified gas should be allocated between the SSP and LSP sectors.

A number of recent Proposals have sought to establish the optimal Application Date for the AUGS (the date from which any reallocation of costs will take place from), so that it strikes the right balance between all Shippers’ need for cost certainty and SSP Shipper’s need for early relief from the inaccurate costs they currently face. In their decision letter on one such Proposal, MOD0317, Ofgem reaffirmed their view that “*the arrangements for the allocation of Unidentified Gas should be reformed such that each market segment makes an appropriate contribution to these costs*”<sup>1</sup>, but went on to say that Proposals which provided for the reallocation of costs to be backdated to a point before the scale of reallocation was known may create “*significant uncertainty for small shippers and LSP shippers may have a detrimental impact on competition, in particular in relation to shippers operating only or predominantly in the LSP sector*”<sup>2</sup>.

National Grid has also raised two Proposals which seek to address these points by amending the application date of the AUGS. MOD0339 seeks to set the application date to 1<sup>st</sup> April 2012 whereas MOD0340 seeks to set it to 1<sup>st</sup> April 2011. We consider that the former Proposal will leave SSP Shippers facing inaccurate charges for an unreasonable and unnecessary length of time, without regard for the fact that all Shippers will have had certainty about the scale of cost reallocation for some time by that point. Whilst we support the latter Proposal, we recognise the concerns Ofgem have over the level of uncertainty this may create for the LSP sector, and thus believe that an alternative proposal is required to strike the right balance between cost certainty for LSP Shippers and early relief from inaccurate costs for SSP Shippers.

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<sup>1</sup> Ofgem Decision Letter for MODs 0317, 0317A and 0327 (18<sup>th</sup> November 2010), page 5.

<sup>2</sup> Ofgem Decision Letter for MODs 0317, 0317A and 0327 (18<sup>th</sup> November 2010), page 6.

## **Proposal**

In determining the most appropriate solution, we have given consideration to both (a) other areas of regulation where Shippers are notified of new costs, such as Gas Network Pricing Changes, (b) Electricity Network Charges and (c) the process for approving the AUGS itself.

### **Gas Network Pricing Changes**

We consider that there is a need for consistency between the way in which volatility in Network charges are treated and the way in which the reallocation of unidentified gas costs is treated in terms of providing industry parties with certainty about the costs they will incur. When Network Owners announce changes to Distribution prices, an initial indication of proposed changes is made not less than five months prior to the implementation with a final notification of the changes not less than two months prior to implementation. The precedent created is that an acceptable level of cost certainty will be afforded to Shippers if they receive at least five months notice of indicative changes to their costs. As the initial draft of the AUGS will be presented on 1<sup>st</sup> May 2011, an Application Date of 1<sup>st</sup> October 2011 is reasonable.

### **Electricity Network Charges**

As above, we consider that there is a need for consistency between the way in which volatility in Network charges are treated and the way in which the reallocation of unidentified gas costs is treated in terms of providing industry parties with certainty about the costs they will incur. Following an Ofgem review of the impact of settlement data adjustments on the Network Owners losses incentive schemes, Suppliers in the electricity market have been given four months notice of significant changes to their Electricity Network Charges. We are therefore comfortable that the five months notice that this Proposal affords Shippers of charges they will incur following the publication of the AUGS is more than sufficient, and provides all parties with sufficient certainty of their costs.

### **The AUGS Creation Process**

As above, the process introduced by MOD0229 includes a requirement for the AUGS to publish their draft methodology by 1<sup>st</sup> May each year<sup>3</sup>. A “Query Process” will then commence allowing industry Party’s to challenge or clarify the methodology before a final version is published no later than 1<sup>st</sup> August each year<sup>4</sup>. This methodology will then be approved or rejected by the UNC Committee (UNCC) “on or around the 1<sup>st</sup> September”<sup>5</sup>. Immediately following this decision of the UNCC, we believe that Shippers will have a reasonable level of certainty of the costs

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<sup>3</sup> [AUGE Guidelines Document](#), paragraph 6.1.1.

<sup>4</sup> [AUGE Guidelines Document](#), paragraph 6.1.6.

<sup>5</sup> [AUGE Guidelines Document](#), paragraph 6.1.8.

which they will incur when the reallocation is completed in the following May. Our view is that again therefore, by 1<sup>st</sup> October 2011 all Shippers will have sufficient certainty over their costs, and therefore this date is an appropriate Application Date.

### **Proposed Application Date**

As above, both the illustrations above demonstrate that were the Application Date for the AUGS to be 1<sup>st</sup> October in each year, Shippers would have sufficient certainty about the costs they would incur. This Proposal will therefore amend the UNC so that the AUGE Year is defined as the period starting 1<sup>st</sup> October in each year, commencing on 1<sup>st</sup> October 2011.

For clarity, it is the intent of the Proposal that this impacts *all* AUGE years and not just the initial year.

### **Other Considerations**

We also consider that by aligning the Application Date with the start of the Gas Year, this Proposal will complement other processes well; reconciling costs between the SSP and LSP sectors at the same date as the new Annual Quantity (AQ) values take effect.

Finally, we also consider that 1<sup>st</sup> October each year is a common start date for new LSP contracts, thus mitigating some of the need to either exercise contractual rights to pass on new regulatory charges or to socialise costs received against new customers only.

### **Treatment of Interim Payment Introduced by MOD0317**

We recognise that if implemented this Proposal may leave the LSP NDM sector facing two reallocations; the initial one of £2.75m per annum payable under the process introduced by Modification Proposal 0317 and then a further one payable once the AUGE's methodology is finalised and then applied from 1<sup>st</sup> October 2011. This may expose the LSP NDM sector to unnecessary charges for the period from 1<sup>st</sup> October 2011 until the date the AUGE's methodology is published.

This Proposal will therefore ensure that the interim annual payment of £2.75m per annum introduced by Modification Proposal 0317 will only apply from 1<sup>st</sup> April 2011 until the new start of the AUGE year, i.e. 1<sup>st</sup> October 2011. For example, if the AUGE delivers a methodology in April 2012, the LSP NDM sector will be liable for a payment of £1.375m for the period 1<sup>st</sup> April 2011 to 30<sup>th</sup> September 2011 and an amount to be specified by the AUGE from 1<sup>st</sup> October 2011 onwards.

## **2 User Pays**

### **a) Classification of the Proposal as User Pays or not and justification for classification**

No changes to User Pays Services are proposed. Consequently this Modification Proposal is not classified as User Pays.

**b) Identification of Users, proposed split of the recovery between Gas Transporters and Users for User Pays costs and justification**

No User Pays charges applicable.

**c) Proposed charge(s) for application of Users Pays charges to Shippers**

No User Pays charges applicable to Shippers.

**d) Proposed charge for inclusion in ACS – to be completed upon receipt of cost estimate from xoserve**

No charges applicable for inclusion in ACS.

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

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

Implementation would not be expected to better facilitate this relevant objective.

**Standard Special Condition A11.1 (b): *so far as is consistent with sub-paragraph (a), the (i) the combined pipe-line system, and/ or (ii) the pipe-line system of one or more other relevant gas transporters;***

Implementation would not be expected to better facilitate this relevant objective.

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

Implementation would not be expected to better facilitate this relevant objective.

**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; and/or (iii) between DN operators (who have entered into transportation arrangements with other relevant gas transporters) and relevant shippers;***

Some Workgroup members believed that the modification ensures the correct allocation of energy from 01 April 2012, thus being a benefit to competition. However, some members believed that this was the purpose of the 0229 Proposal and this modification was to confirm some technicalities and clarity of the AUG year.

Some Shippers believed that the legal text currently in the UNC meant that cost

allocation would occur from 01 April 2011, the effect of this modification would be to extend the period for which we have incorrect allocation of costs, damaging competition to the extent that the interim payment considered in code (0317) is insufficient.

### 0339A

British Gas considers implementation of this Proposal would allocate costs more accurately to the relevant LSP and SSP market sectors at a point in time which strikes the right balance between providing cost certainty to the LSP sector and accurate charges for the SSP sector. In doing so, this will in turn achieve the earliest removal of the cross subsidy that is currently present between the sectors. It is generally recognised that cross subsidies are not beneficial to competition and so removing them will have a positive impact.

In addition, this proposal introduces an incentive to appoint an AUGE in a timely manner and ensure that an appropriate methodology is not unduly delayed. In doing so, this ensures that the benefits above are introduced sooner than would otherwise be the case.

Furthermore, as this proposal removes the uncertainty over when the methodology considered under MOD0229 will be effective from, we consider that this modification will improve Shippers ability to plan effectively, thereby improving their ability to compete.

British Gas consider that whilst delaying the reallocation of unidentified gas costs until 01 April 2012 under Modification 0339, it will provide certainty to Shippers that the reallocation of costs will happen from a fixed point in time, and provides LSP Shippers with *absolute* certainty of the costs they will face, they are concerned it does nothing to ensure these improvements in cost certainty are balanced with the SSP Shipper's need for cost accuracy. British Gas therefore consider it does meet the relevant objectives of the UNC, but that both Modification Proposals 0339A and 0340 provide more balanced solutions.

Corona Energy considers that a retrospective charging structure will have a disproportionate affect on smaller suppliers and is therefore anti-competitive.

RWE npower considers that implementation of Modification 0339 would detrimentally affect the relevant objectives as it would not secure effective competition as soon as in the current UNC. They view that any further delay on the part of the LSP sector in taking a share of unallocated gas will result in inequity across the industry.

Scottish Power considers the introduction of Modification 0339A will ensure that the correct allocation of energy between LSP and SSP shippers takes effect from 01 October 2011, hence being of benefit to competition. This will enable the existing cross subsidy between LSP and SSP shippers to be removed, which will improve competition.

Total Gas & Power considers that Modifications 0339, 0339A and 0340 all create retrospective charges, which will unfairly penalise or benefit shippers depending on

whether their market share has increased or decreased since when the costs were first incurred. There is also a risk that shippers will be required to fund any shortfall in charges from defunct shippers.

**Standard Special Condition A11.1 (e): *so far as is consistent with sub-paragraphs (a) to (d), the provision of reasonable economic incentives for relevant suppliers to secure that the domestic customer supply security standards (within the meaning of paragraph 4 of standard condition 32A (Security of Supply – Domestic Customers) of the standard conditions of Gas Suppliers’ licences) are satisfied as respects the availability of gas to their domestic customers;***

Implementation would not be expected to better facilitate this relevant objective.

**Standard Special Condition A11.1 (f): *so far as is consistent with sub-paragraphs (a) to (e), the promotion of efficiency in the implementation and administration of the network code and/or the uniform network code.***

This modification removes ambiguity from the UNC and clarifies the date the AUG statement applies – the first AUG year will be applied from 01 April 2012.

#### 0339A

British Gas considers this proposal will facilitate better-informed decision taking with regard to the allocation between market sectors of unidentified gas, and ensures that the level of contribution by the LSP sector to the SSP sector is set in a fair and transparent manner. As above, this proposal introduces an incentive to appoint an AUGE in a timely manner and ensure that an appropriate methodology is not unduly delayed. In doing so, this ensures that the benefits above are introduced sooner than would otherwise be the case.

This Proposal incentivises all UNC Parties to ensure the AUGS is developed as per the timeline considered by MOD0229.

British Gas, and RWE npower consider the current UNC is clear in its interpretation of the relevant date of affect of Modification 0229. As such, RWE npower considers that this Modification does not meet this relevant objective.

British Gas considers that it is efficient administration of the UNC to ensure parties are adequately incentivised to ensure the AUGE process is delivered on time. They consider that the whilst each of these proposals do this by making it clear that any delay to the AUGE implementation timeline will not effect the point when SSP Shippers will benefit from accurate charges, the incentive on LSP Shippers to avoid delay is increased as the effective from date for the initial AUGS is brought forward.

Scottish Power believes both Modifications provide clarity and certainty over the application date of the AUGS, therefore removing any ambiguity, over the date that the first AUG statement will apply from. They also believe that Modification 0339A encourages all UNC Parties to ensure that the AUGS is developed in line with the timescales considered by UNC0229 and is not unduly delayed.



Total Gas & Power considers that the intent of Modification 0229, and the associated AUGE guidelines, was clear as to when charges should be applied to shippers. They believe that none of modifications provides clarity on the current process. They therefore do not consider that implementation of any of these modification will facilitate this relevant objective.

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

No implications on security of supply, operation of the Total System or industry fragmentation have been identified.

**5 The implications for Transporters and each Transporter of implementing the Modification Proposal, including:**

**a) implications for operation of the System:**

There are no implications for operation of the System.

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

Some additional administrative costs could be incurred undertaking an associated reconciliation between the annual charge identified in 0317 and the AUG statement.

**c) extent to which it is appropriate to recover the costs, and proposal for the most appropriate way to recover the costs:**

Not applicable.

**d) Analysis of the consequences (if any) this proposal would have on price regulation:**

No consequences have been identified.

**6 The consequence of implementing the Modification Proposal on the level of contractual risk of each Transporter under the Code as modified by the Modification Proposal**

No such consequence is anticipated.

**7 The high level indication of the areas of the UK Link System likely to be affected, together with the development implications and other implications for the UK Link Systems and related computer systems of each Transporter and Users**

There are no development implications for the Transporters' UK-Link system or any other Transporter system. The Proposer is not aware of the implications for Users computer systems.

Total Gas & Power considers that if Modification 0339 is implemented and the AUGE does not deliver a valid statement by 01 April 2012, then there will be a requirement to retrospectively reconcile charges or credits to customers.

Modifications 0339A and 0340 will require retrospective charges in any event. Any form of retrospective payment process will be very costly to implement for shippers and will require significant system changes to track payments.

## **8 The implications of implementing the Modification Proposal for Users, including administrative and operational costs and level of contractual risk**

### *Administrative and operational implications (including impact upon manual processes and procedures)*

Total Gas & Power considers any form of retrospective charges will create significant costs as customers are billed or credited a significant time after the event.

### *Development and capital cost and operating cost implications*

0339A will provide for an increase in the accuracy of operating costs from 1<sup>st</sup> October 2011.

### *Consequence for the level of contractual risk of Users*

Some Workgroup members believed that the timing of the application of the first AUG Year could have an impact on a Users contractual risk in terms of the extent of their liability for Unidentified Gas costs so incurred. If the AUGE does not produce a statement in time for 01 April 2012, costs would still be reconciled back to the 01 April 2012.

Should the AUG statement be provided and accepted by 01 April 2012 there would be no requirement to prospectively apply the terms of UNC0317, for that AUG Year. However, should the AUGS be delayed beyond 2012 there would be a consequential impact associated with UNC0317 i.e. £2.75m would not be netted off against the AUG Statement.

EDF Energy note that under the current arrangements SSP Shippers are exposed to all of the costs of unallocated energy. They recognised as part of the Ofgem Significant Code Review (SCR) in Gas Security of Supply arrangements, Ofgem noted one of their key objectives was to ensure that risks were targeted at those who were best placed to manage and mitigate these. Allocating LSP unidentified gas costs to LSP shippers as early as possible would be consistent with this approach, as LSP Shippers are arguably better placed to forecast this level of energy than SSP Shippers, who may not have any exposure to this market, and are in a better position to identify and reduce this energy. They therefore consider that implementation of Modification 0339 or 0339A will ensure that the costs and risks are correctly targeted as soon as possible.

**9 The implications of implementing the Modification Proposal for Terminal Operators, Consumers, Connected System Operators, Suppliers, producers and, any Non Code Party**

Total Gas & Power considers that introducing a retrospective charge will mean that LSP consumers will be charged additional costs a year after they have been incurred and shippers are likely to build additional costs into their charges to cover any unrecoverable debt. They also believe that a retrospective charge is unlikely to be passed on in full to SSP consumers, so providing a windfall profit to those organisations.

**10 Consequences on the legislative and regulatory obligations and contractual relationships of each Transporter and each User and Non Code Party of implementing the Modification Proposal**

Total Gas & Power considers the likelihood of contractual dispute between consumers and shippers will increase if retrospective charges are implemented.

**11 Analysis of any advantages or disadvantages of implementation of the Modification Proposal**

**Advantages**

- Ensures that the date for the first application of the reallocation of Unidentified Gas is clearly set out within the UNC.

British Gas considers 0339A offers the following advantages:

- Provides for relief from inaccurate unidentified gas allocation costs for SSP Shippers at the earliest possible point in time, without exposing the LSP community to uncertainty.
- Aligns the reallocation of unidentified gas costs from the AUGS with the start of the Gas Year, simplifying industry processes.
- Provides a similar level of cost certainty as Shippers currently receive under the process for managing Gas Network Pricing Changes.

**Disadvantages**

- Should the AUGS be delayed beyond 2012, some Workgroup members consider this Modification will not deliver the intent of Mod0229 and its interaction with Mod0317 ie the potential duplication of charges resulting from the AUGS and Mod0317.
- British Gas considers 0339A exposes the SSP Shipper community to known inaccurate charges for five months over and above the date considered by MOD0340, allowing a distortion in the competitive markets

to be perpetuated and for domestic customers to continue to be exposed to exaggerated prices.

**12 Summary of representations received (to the extent that the import of those representations are not reflected elsewhere in the Modification Report)**

Representations were received from the following parties:

Organisation	Position		Preference
	0339	0339A	
British Gas	Supports	Supports	0339A
Corona	Not in Support	Not in Support	-
EDF Energy	Supports	Supports	0339A
E.ON UK	Not in Support	Supports	0339A
First Utility	Not in Support	Not in Support	-
Gazprom	Not in Support	Not in Support	-
RWE Npower	Not in Support	Comments	-
Scottish Power	Not in Support	Supports	0339A
SSE	Supports	Supports	0339A
Total Gas & Power	Not in Support	Not in Support	-

Of the ten representations received, three parties offered support to Modification 0339 with the remaining seven not in support. The same parties offered five representations in support of Modification 0339A, one offering comments, with three parties not in support. Of the ten representations received five gave a preference to Modification 0339A and none to 0339.

In comparison to Modification 0340 the same parties offered five representations in support of Modification 0340, one offered qualified support, with four parties not in support. Although British Gas and Scottish Power indicate a preference for 0339A against 0339 they both stated a preference for Modification 0340.

British Gas provided a detailed response on each Modification and it considers each of the Modifications if implemented would further the relevant objectives. However, it considers Modification 0339A resolves the conflict, which exists between Modifications 0339 and 0340 and the interim reallocation of unidentified gas costs introduced by Modification 0317. Under both Modifications 0339 and 0340 the £2.75m interim payment from the LSP to SSP communities would not be reconciled

against the final Allocation of Unidentified Gas Statement (AUGS), exposing the LSP community to a potential “double reconciliation”. Modification Proposal 0339A however expressly provides for the initial AUGS to discount any interim payment made under Modification Proposal 0317.

Corona Energy comments that the proposers have confirmed that these modifications would create the possibility of retrospective charges being charged to I&C shippers and customers. They also consider that retrospective charges would create perverse incentives for domestic shippers to delay the AUGS process. They consider these modifications could have an impact on competition and would require a full Regulatory Impact Assessment to be completed to properly assess the consequences of implementation.

EDF Energy considers it is widely recognised that cross subsidies are not beneficial to competition, or in the consumers’ interests. It is therefore imperative that this cross subsidy is removed as soon as possible.

E.ON UK is in support of Modification 0339A as it provides a solution to the problem of balancing the need to protect LSP shippers from the risk of exposure to unknown costs which they cannot include in customers contract rates; and the need to ensure that SSP shippers are not exposed to the burden of inaccurate costs for an unacceptable time. It achieves this by creating a date of 01 October 2011 for the application of the allocation of unidentified gas. This date falls in line with the timetable for the creation of the AUGS, which incorporates the publication of indicative methodology on 01 May and final version no later than 01 August. It will therefore ensure that all parties have a clear indication of eventual costs to facilitate planning and pricing decisions in time for the main I&C contracting round which falls in October. The 01 October applicable date will also provide an incentive on the AUGS to deliver the AUGS to the prescribed timeline.

First Utility considers both Modifications seek to introduce a fixed date for the application of Unidentified Gas charges to Larger Supply Points. As there is no guarantee that the AUGS will provide a view before any of the implementation dates proposed in these Modifications, there is then a danger that a retrospective element may be created, something which UNC Modification 0229 does not make any provision for. Given the way that the non-domestic supply market functions, any retrospection could create a significant risk for purely or mainly non-domestic suppliers with an attendant impact on competition in that sector.

Gazprom believe that Modification 0229 was clear in its intent and scope and that retrospection of any nature was not inherent within the proposal.

RWE npower wishes to see a fairer allocation of unidentified gas between the SSP and LSP sectors. Both Modifications achieve that objective, however, it is clear that 0339 further prolongs the cross-subsidy of the LSP market.

RWE npower considers expectations have been set of a process beginning in April and as such feel Modification 0339A does not fulfil that current expectation. They also question how it would fit with the current AUGS/AUGS timeline detailed within the AUGS guidelines.

Scottish Power is not supportive of delaying the application of the AUGS methodology for any longer than needs be. They therefore believe it is wholly inappropriate for the application of the AUGS methodology to be delayed to 01 April 2012. Nevertheless they recognise that the application date for the AUGS has to strike the right balance between cost certainty for LSP shippers and continuing inequitable and unrepresentative costs for SSP Shippers. They believe that introducing the AUGS with effect from 01 April 2011 or 01 October 2011, will not only have the effect of incentivising all parties to ensure that the AUGS is created promptly, but also ensure that the risk of unidentified gas is shared between the SSP and LSP markets in an equitable manner. They consider Modification 0339A offers a pragmatic approach in attempting to create the right balance between cost certainty for LSP shippers and the removal of the existing cross subsidy for SSP shippers.

Scottish Power considers Modification 0339A has the further advantage of resolving any potential for the LSP NDM sector to face reallocations from both the initial £2.75m per annum, per implementation of Modification 0317, and once the AUGS's methodology is finalised and applied from 01 October 2011. Modification 0339A will ensure that the interim payment of £2.75m per annum will only apply from 01 April 2011 until the new start of the AUGS year, namely 01 October 2011.

SSE considers implementation of Modification 0229 recognised the fact that a cross subsidy exists between the LSP and SSP market sectors. From the initial starting point of the development of Modification 0229, a significant amount of time has elapsed and it is, therefore, important that this cross subsidy exists for as short a time as possible. They, therefore, support the modification, which allocates costs and risks between the LSP and SSP market sectors on a more correct and equitable basis at the earliest opportunity. Due to the amount of time that has elapsed on the whole suite of modifications and development work in this area, the LSP sector has had sufficient time to build any associated costs into tariffs.

Total Gas & Power is in support of correcting the cross-subsidy that currently exists between LSP and SSP sectors, though it was always been the intention not to create retrospective charges. They are therefore disappointed that the Legal Text for Modification 0229 created uncertainty. They consider that Modification 0339, 0339A and 0340 are unrelated changes seeking to create a fixed date for when unidentified gas charges will apply. A fixed date means that if the AUGS'S findings are delivered after that date, then retrospective charges will be levied. This creates a significant risk to suppliers. They note that shippers have no contractual control of the AUGS and if the AUGS does not deliver it does not ensure that the unidentified gas issues are resolved in good time it merely creates the risk of retrospection. This is avoided in the process that is currently in place.

Total Gas & Power considers that the modifications do not adequately address the issue of the interim payment continuing when the enduring solution charges are also being levied. As none of these issues exist in the current process the modifications go against the relevant objectives.

**13 The extent to which the implementation is required to enable each Transporter to facilitate compliance with safety or other legislation**

No such requirement has been identified.

**14 The extent to which the implementation is required having regard to any proposed change in the methodology established under paragraph 5 of Condition A4 or the statement furnished by each Transporter under paragraph 1 of Condition 4 of the Transporter's Licence**

No such requirement has been identified.

**15 Programme for works required as a consequence of implementing the Modification Proposal**

No programme of works would be required as a consequence of implementing the Modification Proposal.

**0339A**

This Proposal is able to be implemented immediately following a direction to do so from Ofgem. Given the likely materiality of the scale of any cost reallocation, were this Proposal to be approved, we propose that it be implemented without delay.

**16 Proposed implementation timetable (including timetable for any necessary information systems changes)**

It is recommended that this Modification Proposal be implemented immediately upon direction.

British Gas believe that the scale of misallocated of costs is so significant that the fixed date chosen for any reallocation should be as early as possible, preferably 01 April 2011.

**17 Implications of implementing this Modification Proposal upon existing Code Standards of Service**

No implications of implementing this Modification Proposal upon existing Code Standards of Service have been identified.

**0339A**

For clarity, this Proposal will amend the Code document itself and not the “*AUGE Guidelines Document*”.

**18 Recommendation regarding implementation of this Modification Proposal and the number of votes of the Modification Panel**

The Panel Chair summarised that both the original and alternative modification seek to clarify the application date for energy reconciliations in accordance with the first

Allocation of Unidentified Gas Statement. Modification 0339 proposes this should be 1<sup>st</sup> April 2012. Modification 0339A proposes this should be 1<sup>st</sup> October 2011, with the AUG year being redefined to commence on 1<sup>st</sup> October rather than 1<sup>st</sup> April.

Members recognised that either modification seeks to clarify the existing UNC text, which some have suggested is ambiguous. To this extent, therefore, implementation could be regarded as consistent with promotion of efficiency in the implementation and administration of the Code.

Members also recognised that implementing either modification would deliver certainty regarding the initial date for the energy reallocations. This would therefore provide some certainty, and increasing certainty regarding the market arrangements could be expected to facilitate the securing of effective competition.

However, some Members considered that, while the initial date would be certain, the value of any reconciliation would be uncertain. This is because the initial AUGS may not be available prior to these dates such that there may be retrospective reconciliations. Retrospectivity creates uncertainty and could undermine the securing of effective competition.

Other Members were concerned that costs are being incorrectly allocated at present and wished to see this corrected at the earliest possible opportunity, with more accurate cost targeting being expected to remove cross subsidies and facilitate the securing of effective competition. They therefore considered that implementation of either modification would facilitate effective competition even if costs were to be reallocated retrospectively.

Eight votes were cast in favour of implementing Modification 0339. Therefore the Panel determined to recommend implementation of Modification 0339.

Six votes were cast in favour of implementing Modification 0339A. Therefore the Panel determined to recommend implementation of Modification 0339A.

Members then considered which of the two modifications would, if one were implemented, better facilitate the achievement of the Relevant Objectives. 4 votes were cast in favour of 0339, and 4 in favour of 0339A.

Panel's view of the benefits of implementation 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.	Impacted
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	Impacted

## 19 Transporter's Proposal

This Modification Report contains the Transporter's proposal to modify the Code and the Transporter now seeks direction from the Gas and Electricity Markets Authority in accordance with this report.

## 20 Text

### UNC Modification Proposal 0339

#### LEGAL TEXT

#### Clarification of the AUG Year in respect of UNC Modification 0229

#### Transition Document Part IIC

*Amend paragraphs 1 and 2 as follows:*

1. It is acknowledged that the steps (including appointment of AUG Expert, establishing AUG Methodology and establishing AUG Table) first required under TPD Sections E10.2 and E10.4 will not be completed by ~~the start of the first AUG Year. (01 April 2011).~~
2. ~~Therefore, F~~for each twelve month period ~~AUG Year~~ commencing on 01 April 2011 ~~with the first AUG Year~~ up to but not including ~~the AUG Year commencing~~ 01 April next following the first occasion on which the Committee establishes and adopts an AUG Table as provided in TPD Section E10.4.3(g), TPD Section E10.4.4(a) shall not apply and there shall be deemed to be an AUG Table for the purposes of TPD Section E10.5 in which:
  - (a) there is only one Unidentified Gas Source;
  - (b) for that Unidentified Gas Source, the Unidentified Gas Quantity is:

- (i) for Larger DM SPCs, zero;
- (ii) for Larger NDM SPCs, defined (in relation to a Reconciliation Billing Period) as follows:

$$UGQ_{SPC} = \text{£}2,750,000 / (\text{TDSAP}_m * 12);$$

- (iii) for Smaller SPCs, defined as the negative of the amount in (b)(ii) above;

and TPD Section E10.5 shall be given effect accordingly.

*Add new paragraph 3 as follows:*

3. For the purposes of TPD Section 10:

- (a) In addition and separate to the establishment and adoption of a deemed AUG Table as set out in paragraph 2 above, for the avoidance of doubt, the first AUG Table to be adopted and published by the Committee as provided in TPD Section E10.4.3(h) shall apply (notwithstanding TPD Section E10.5.4) for the purposes of TPD Section E10.5 in relation to:
  - (i) the AUG Year commencing 01 April next following the adoption of such AUG Table, and
  - (ii) each prior AUG Year commencing with the first AUG Year;
- (b) as soon as reasonably practicable following the adoption of such AUG Table, the net aggregate amount of the User Unidentified Gas Amounts for each User and for all Reconciliation Billing Periods in each prior AUG Year (as referred to in paragraph (a)(ii) above) shall be paid (by or to the User, as provided in TPD Section E10.5.3), and shall be invoiced and payable in accordance with TPD Section S, as a single net aggregate payment, in satisfaction of TPD Section E10.5.3, (in addition to any payment made pursuant to any such deemed AUG Table as provided for in paragraph 2 above) without interest in respect of the period prior to the due date of the relevant invoice.

**TPD Section E; DAILY QUANTITIES, IMBALANCES AND RECONCILIATION**

*Amend paragraph 10.1.1 as set out below:*

10.1.1 For the purposes of the Code:

- (a) ...

- (b) ...
- (c) ...
- (d) ...
- (e) ...
- (f) ...
- (g) ...
- (i) **“AUG Year”** means the twelve month period commencing 01 April 2012 and the twelve month period commencing on each subsequent 01 April; and in relation to an AUG Year, a reference to the preceding year is to the twelve month period ending 31 March, before the start of the AUG Year.

### **UNC Modification Proposal 0339A**

#### **LEGAL TEXT**

#### **(Alternative to Mod 339) Clarification of the AUG Year in respect of UNC Modification 0229**

#### **Transition Document Part IIC**

#### **TPD Section E10**

*Amend paragraphs 1 and 2 as follows:*

1. It is acknowledged that the steps (including appointment of AUG Expert, establishing AUG Methodology and establishing AUG Table) first required under TPD Sections E10.2 and E10.4 will not be completed by the start of the first AUG Year. (~~1 April 2011~~).
2. ~~For each AUG Year commencing with~~ From 01 April 2011 the first AUG Year up to ~~but not including the AUG Year commencing~~ 30 September 2011 ~~April next following the first occasion on which the Committee establishes and adopts an AUG Table as provided in TPD Section E10.4.3(g), TPD Section E10.4.4(a) shall not apply~~ and there shall be deemed to be an AUG Table for the purposes of TPD Section E10.5 in which:
  - (a) there is only one Unidentified Gas Source;
  - (b) for that Unidentified Gas Source, the Unidentified Gas Quantity is:
    - (i) for Larger DM SPCs, zero;

- (ii) for Larger NDM SPCs, defined (in relation to a Reconciliation Billing Period) as follows:

$$UGQ_{SPC} = \frac{\pounds 2,750,000 - 1,375,000}{(TDSAP_m * 6 \cdot 12)}$$

- (iii) for Smaller SPCs, defined as the negative of the amount in (b)(ii) above; and TPD Section E10.5 shall be given effect accordingly.

3. For the purposes of TPD Section 10:

(a) In addition and separate to the establishment and adoption of a deemed AUG Table as set out in paragraph 2 (b) above, for the avoidance of doubt, the first AUG Table to be adopted and published by the Committee as provided in TPD Section E10.4.3(h) shall apply (notwithstanding TPD Section E10.5.4) for the purposes of TPD Section E10.5 in relation to:

- (i) the AUG Year commencing 01 April next following the adoption of such AUG Table, and
- (ii) each prior AUG Year commencing with the first AUG Year;

(b) as soon as reasonably practicable following the adoption of such AUG Table, the net aggregate amount of the User Unidentified Gas Amounts for each User and for all Reconciliation Billing Periods in each prior AUG Year (as referred to in paragraph (a)(ii) above) shall be paid (by or to the User, as provided in TPD Section E10.5.3), and shall be invoiced and payable in accordance with TPD Section S, as a single net aggregate payment, in satisfaction of TPD Section E10.5.3, (in addition to any payment made pursuant to any such deemed AUG Table as provided for in paragraph 2 above) without interest in respect of the period prior to the due date of the relevant invoice.

**TPD Section E; DAILY QUANTITIES, IMBALANCES AND RECONCILIATION**

*Amend paragraph 10.1.1 as set out below:*

10.1.2 For the purposes of the Code:

- (a) ...
- (i) **“AUG Year”** means the twelve month period commencing 01 October 2011 and the twelve month period commencing on each subsequent 01 October; and in relation to an AUG Year, a reference to the preceding year is to the twelve month period ending 30 September before the start of the AUG Year.

For and on behalf of the Relevant Gas Transporters:

**Tim Davis**  
**Chief Executive, Joint Office of Gas Transporters**