

## Stage 04: Final Modification Report

# 0387:

## Removal of Anonymity from Annual Quantity Appeal and Amendment Reports

What stage is this document in the process?

- 01 Proposal
- 02 Workgroup Report
- 03 Draft Modification Report
- 04 Final Modification Report

This modification will mean any report issued by the Network Owners regarding Shipper performance in AQ Amendment and Appeal process is not anonymous.



Panel did not recommend implementation



Medium Impact: Network Owners, Shippers

0387

Final Modification Report

19 January 2012

Version 2.0

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## About this document:

This document is a Final Modification Report, presented to the Panel on 19 January 2012.

The Authority will consider the Panel's Recommendation and decide whether or not this change should be made.

# 1 Summary

## Is this a Self-Governance Modification?

The Modification Panel determined that this modification should not follow the Self Governance procedures as it was felt that it may have a material impact on smaller Shippers and therefore be detrimental to competition.

## Why Change?

The current provisions for industry reporting in this area apply unequally, with some Shippers afforded anonymity and others not. This means that some parties are afforded more protection than others and are party to more information than others. It is considered that the lack of transparency does not foster an environment of accountability regarding compliance with Code.

## Solution

This proposal will obligate the Network Owners to ensure that any industry report detailing Shipper performance in the AQ Appeals or Amendments processes are published without anonymity. It will also obligate the Network Owners to publish the last available set of such reports with the anonymity removed.

## Impacts & Costs

This modification will not change the rules around how the AQ appeal process works, nor the data which must be collected in order to publish the reports in question. It will not therefore have an impact on Network Owners other than the requirement to include Shipper Short Code within these reports in place of the "code-words" which currently exist.

The impact on Shippers will be limited to the fact that more information will be publicly available about the way in which they have used to AQ appeal and amendment processes.

## Implementation

This modification should be implemented as soon as possible after an Ofgem direction to implement.

## The Case for Change

Firstly, Shippers will not face different treatment from the Network Owners with regards to the degree to which performance data is publicly shared, creating a level playing field in terms of what data is made available between Shippers, and secondly the increased transparency of these reports will deter any Shippers from misusing industry processes for the amendment and appeal of AQs.

## 2 Why Change?

The current industry reporting only offers partial anonymity, with some Shippers being easily identifiable in the report and others afforded full anonymity by virtue of the fact that portfolio size is given as a data item. British Gas for example can be easily identified by the number of Supply Points shown against them in the report whereas it is not always clear who the other Shippers are. Other Shippers are also affected. This discrimination is unwarranted and affords different levels of protection to different Shippers. It is believed that the information contained within the reports is not commercially confidential and that furthermore no Shipper should have anything to hide in these reports. Consequentially, it is proposed that anonymity should be removed for all – in both current reports on AQ appeal and amendment processes and in future reports for the same subject.

As well as creating a level playing field in terms of the information available to Shippers, it is believed this will also act as a deterrent to Shippers who may seek to breach the UNC rules on AQ amendments and appeals. By knowing that reports will be published identifying them and their performance for other Shippers to see, any Shipper considering misusing the process in this way will be aware that their performance will be scrutinised by their competitors, and will be less likely to misuse the processes. This will therefore afford greater control against the AQ amendment and appeal processes.

## 3 Solution

This proposal will obligate the Network Owners to ensure that any future industry report detailing Shipper performance in the AQ Appeals or Amendments processes are published without anonymity. It will also obligate the Network Owners to publish the last available set of such reports with the anonymity removed.

British Gas has proposed a new set of reports on AQ Appeal performance under Modification 0378. For clarity, the removal of anonymity proposed under this Modification would also apply to the reports proposed in Modification 0378, if that proposal is implemented.

## 4 Relevant Objectives

Implementation will better facilitate the achievement of **Relevant Objectives d and f.**

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	Yes, see below.
g) compliance with the Regulation and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators	

It is considered that this Proposal facilitates UNC Relevant Objectives (d) and (f).

**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.**

British Gas considered that ensuring that all Shippers are afforded the same amount of information regarding competitors' performance in the AQ amendment and appeal processes will ensure that no one group of Shippers is advantaged over the other.

Some Workgroup members considered that the deterrent effect of transparency in this area may lead to greater control over Shipper's performance in managing the AQ amendment and appeal processes and therefore increase protection against any

misuse of the processes. As these processes are used to allocate £billions of cost in the market, the greater control associated with this modification will help ensure the fair allocation of costs, thus facilitating effective competition between Shippers. However, some Workgroup members considered that the additional transparency would allow parties to draw conclusions on an individual party's behaviour based on performance, which may or may not be justified. Therefore this may lead to reputational impact.

Some Workgroup members did not consider this modification will further this relevant objective as there is no evidence the current process is being abused, therefore the removal of anonymity will not provide any additional transparency.

Consumer Focus considered that this objective will be better facilitated through the creation of an effective deterrent against misuse of the AQ amendment and appeal processes and believed that this should help to guarantee the cost reflectivity of settlement, thereby facilitating competition.

Corona Energy felt it should also be noted that the publication of the information could (with the implementation of Modification 0387) reveal the commercial strategies of suppliers that change their portfolio size or position within the market. It is not clear how or why this would further competition.

**f) *Promotion of efficiency in the implementation and administration of the Code***

The Proposer considered that this modification would provide greater transparency over the degree to which Shippers are compliant with the existing Code obligations not to misuse the AQ amendment and appeal processes, thus facilitating efficiency in the implementation and administration of the Code.

When considered by the Workgroup, some members disagreed that this relevant objective will be furthered by implementation of this modification, as there is no evidence that additional transparency will modify a party's behaviour to improve overall performance in the AQ amendment and appeals processes.

Consumer Focus considered that objective (f) would be better facilitated, as the deterrent effect created by transparency should increase incentives to comply with code provisions.

Scottish Power was unclear what benefit is gained by re-publishing the last set of reports with anonymity removed. They believe that these reports have already been made available to Ofgem with Shipper identities revealed and they are free to take what, if any, action they perceive necessary. It would be inefficient for historic data to be re-published and Scottish Power do not understand what the intent of this is, as the proposer has not substantiated this part of the modification.

**General**

Though EDF Energy support implementation of this modification, it is not clear which relevant objectives this modification would facilitate. In particular EDF note that the proposer suggests that removal of anonymity would benefit competition by deterring

Shippers from not complying with the UNC requirements in the AQ Review and Appeal processes. EDF have seen no evidence that Shippers are not complying with the UNC requirements in this area, and so it would appear that implementation of this modification would maintain current practices and so have no impact on competition.

Scotia Gas Networks observed that the evidence that has been provided to date for implementing this modification leads them to believe that there will be neither a positive or negative impact on the relevant objectives.



## 5 Impacts and Costs

### Consideration of Wider Industry Impacts

This modification will impact both Shippers and Network Owners. Network Owners, who publish these industry reports will replace the existing “code-words” for actual Shipper Short Codes and some Shippers will no longer be afforded anonymity for their actions.

### Costs

Indicative industry costs – User Pays	
Classification of the Proposal as User Pays or not and justification for classification	
This modification is not considered to be User Pays, as it would not present Network Owners with any additional cost.	
Identification of Users, proposed split of the recovery between Gas Transporters and Users for User Pays costs and justification	
n/a	
Proposed charge(s) for application of Users Pays charges to Shippers	
n/a	
Proposed charge for inclusion in ACS – to be completed upon receipt of cost estimate from Xoserve	
n/a	

### Impacts

Impact on Transporters’ Systems and Process	
Transporters’ System/Process	Potential impact
UK Link	<ul style="list-style-type: none"> <li>None.</li> </ul>
Operational Processes	<ul style="list-style-type: none"> <li>Transporters will be required to issue out industry reports on the use of the AQ appeal and amendment process with the Shipper Short Code.</li> </ul>
User Pays implications	<ul style="list-style-type: none"> <li>None.</li> </ul>

## Where can I find details of the UNC Standards of Service?

In the Revised FMR for Transco's Network Code Modification

### **0565 Transco Proposal for Revision of Network Code Standards of Service**

at the following location:

<http://www.gasgovernance.co.uk/sites/default/files/0565.zip>

Impact on Users	
Area of Users' business	Potential impact
Administrative and operational	• None.
Development, capital and operating costs	• None.
Contractual risks	• None.
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	• None.
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.

Impact on UNC Related Documents and Other Referenced Documents	
Network Exit Agreement (Including Connected System Exit Points) (TPD J1.5.4)	• None.
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

The Proposer considered that this modification should be implemented as soon as possible after an Ofgem direction to implement.

The Workgroup did not provide a timescale for implementation of this modification (as referred to in 6.2.1 of the Modification Rules) as it is not required for the purposes of enabling the Authority or any persons, including but not limited to Users, Transporters, Third Party Participants and Non Code Parties to be aware of the potential benefits or constraints associated with such timing.

## 7 The Case for Change

In addition to those identified above, the following have also been identified:

### Advantages

- None.

### Disadvantages

- None.

## 8 Legal Text

### Text

The following legal text has been provided by National Grid Distribution:

#### Uniform Network Code – Transportation Principal Document Section G

*Amend paragraphs 1.6.18 and 1.6.20 as follows:*

1.6.18 The Transporters shall publish, by the dates specified in paragraph 1.6.20, a report containing the following information in respect of each User:

- (a) in aggregate across all End User Categories:
  - (i) the number of applications made by the User during the User AQ Review Period (in accordance with paragraph 1.6.4) for an increase in the Provisional Annual Quantity and for a decrease in the Provisional Annual Quantity;
  - (ii) the number of such successful applications made by the User during the User AQ Review Period (in accordance with paragraph 1.6.7) that resulted in a User Provisional Annual Quantity shown by the resulting increase and decrease in comparison to the Provisional Annual Quantity;
  - (iii) the number of Speculative Calculation enquiries made by the User during the preceding Gas Year;
- (b) by each End User Category:
  - (i) the number of Supply Meter Points where the Annual Quantity has increased or decreased as a result of the successful applications referred to in (a)(ii) shown as a percentage of the total number of Supply Meter Points in that End User Category;
  - (ii) the change to the Annual Quantity in aggregate (expressed in kWh) that has occurred due to the increases or decreases as a result of the successful applications referred to in (a)(ii);
  - (iii) the number of Supply Points that have moved from one End User Category to another End User Category as result of the successful applications referred to in (a)(ii);
- (c) by each LDZ, the number of such successful applications made by the User during the User AQ Review Period (in accordance with paragraph 1.6.7) that resulted in a User Provisional Annual Quantity shown by the resulting increase and decrease in comparison to the Provisional Annual Quantity.

1.6.20 [For the purposes of all reports published by Transporters under this paragraph 1.6:](#)

- (a) the dates for the publication of the information to be contained in the report in accordance with paragraph 1.6.18 shall be in the case of:
  - (i) paragraph 1.6.18(a) and (b), by no later than:
    - (1) 1 July, in respect of Smaller Supply Meter Points on an interim basis;
    - (2) 1 August, in respect of Larger Supply Meter Points on an interim basis; and

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(3) 1 November in respect of all Supply Meter Points on a final basis;

in each case in the relevant Gas Year.

(ii) paragraph 1.6.18(c), by no later than 1 November in the relevant Gas Year, in respect of all Supply Meter Points on a final basis.

(b) the Transporters shall name the relevant User(s) in the report.

**Part IIC – Transitional Rules**, insertion of new paragraph 1.7.5 as follows:

1.7.5 Within 10 Business Days of the implementation of Modification 0387, the Transporters shall re-publish the final report(s) published pursuant to TPD Section G 1.6.20(a)(i)(3) and 1.6.20(a)(ii) prior to such implementation naming the relevant User in such report(s).

## 9 Consultation Responses

Representations were received from the following parties:

Respondent	
Company/Organisation Name	Support Implementation or not?
British Gas	Support
Consumer Focus	Support
Corona Energy	Not in Support
EDF Energy	Support
E.ON UK	Not in Support
Major Energy Users Council (MEUC)	Support
National Grid Distribution	Not in Support
Regent Gas	Not in Support
RWE npower	Support
Scotia Gas Networks (SGN)	Comments
Scottish Power	Not in Support
SSE	Support
Wales & West Utilities	Neutral

Of the 13 representations received 6 supported implementation, 1 was neutral, 1 provided comments and 5 were not in support.

### Summary Comments

British Gas considers that given the significant sums of money allocated using data determined by the AQ review, an effective assurance regime is required to monitor Shipper performance. Whilst Ofgem have the right to see unanonymised data and could theoretically police this aspect of the market, British Gas would prefer the industry to take steps to enable them to provide their own assurance. If this is to happen then the first necessary step is to ensure that information about who has done what is transparent and available so that challenges can be made, and action taken wherever necessary. This means removing the anonymity from the MOD81 reports.

British Gas considers that transparency will also have other benefits, and in particular they argue that it will act as a deterrent to any Shipper who may in future consider abusing the AQ review process for commercial gain. If a Shipper knows that their performance will not be hidden behind a pseudonym, and that it will be easier for their actions to be scrutinised, they will be less likely to offend in the first place.

Whilst aware that some parties believe that the AQ amendment process is being misused, Consumer Focus noted that nothing has been proven in this regard, and pointed out that it is impractical for the regulator to monitor and enforce rules in all aspects of market functioning at any given time, and that this creates value in creating regulatory regimes that include natural incentives for market participants to behave themselves. Consumer Focus believed that transparent market operation and

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increased reputational regulation ('naming and shaming' / 'naming and faming') can play a part in delivering this, and regarded this modification as a small but prudent step in the right direction on both counts.

Corona Energy considers the additional information that is to be provided (being a high level summary of Shipper activities with no surrounding context), will not provide sufficient clarity to achieve the proposer's purpose, which is to demonstrate that Shippers are abiding with the provisions of the UNC. This modification will therefore add cost and complexity to the industry for no appreciable gain and may lead to unfounded accusations being levied regarding Shipper activity, which may be perfectly appropriate.

EDF Energy generally supports transparency provided that there is no commercially sensitive information that is being published. They are aware that some Shippers have expressed a view that removal of anonymity would release commercially sensitive information but have not seen a substantive argument that supports this claim. EDF also note that it is relatively easy to identify which Shipper is associated with which pseudonym.

The Proposer states it is unfair that certain suppliers, e.g. British Gas are disadvantaged as they can easily be identified. E.ON UK does not agree that it is particularly difficult to identify any of the larger suppliers. It is important to note that all of this information is available to Ofgem who can take action where they consider that misuse of the process exists. E.ON UK do not see how any external observer could better make an objective assessment. They are not against the principle of 'naming and shaming' but it must be based on a demonstrably level playing field otherwise it is not only misleading and therefore unhelpful but can be commercially damaging.

National Grid Distribution does not consider that the implementation of this modification would act as an effective deterrent to Users who may seek to breach the UNC rules on AQ amendments and appeals.

It was Regent Gas' understanding that the current provisions for industry are applied equally, in that the AQ appeals and Amendment report disguises the names of all Shippers, whilst acknowledging this does not stop shippers from taking calculated guesses to work out which disguised name corresponds to which shipper and agreeing that there is scope for the perception of abuse of the system because of incorrect assumptions.

Regent Gas went on to point out that, for the larger shippers who are publicly quoted companies, the size and changes in their supply points/meter point portfolio is in the public domain through their Annual Reports. However for those shippers that are private companies who do not need to disclose the size and changes in their portfolio, having this currently private information available to competitors along with other publicly available information such as annual accounts could lead to competitively sensitive information being calculated.

While supporting the modification, RWE npower does acknowledge that there may be potential for spurious accusations regarding Shipper performance. Under the proposed modification any challenge would be better focused and able to be resolved than would happen if anonymity was retained. In the future a performance

assurance/escalation framework to support this could prevent potential damage to a Shipper's reputation.

Whilst recognising that a number of modifications have been raised recently in regards to the AQ Review and Appeals processes due to concerns raised by shippers, Scotia Gas Networks pointed out that there has been no evidence of concerns of misuse found and that removing anonymity from reporting may be an excessive change at this point in time. Scotia Gas Networks went on to observe that they feel that Modification 0378 will address many of the concerns that have been raised in support of this modification with regards to giving greater transparency to the AQ appeal process and so this Modification (0387) may not be required.

Scottish Power advised that when the MOD81 reports were introduced it was the Transporters who were particularly concerned about ensuring anonymity and meeting their requirements to keep information confidential. They recognise that the proposer is seeking transparency, though they are not clear whether or not transparency in the level proposed is acceptable in respect of the confidential information that would be exposed around market shares (by LDZ) and the aggregate AQs of all Shippers (by LDZ). Scottish Power note that the proposer was requested by Ofgem to consider other options to afford them the same anonymity as other Shippers, but chose not to do so. Such a solution would address one of the concerns that the proposer has.

Scottish Power do not support this modification as it releases commercially sensitive information in relation to market share and they would expect such information to be exempt from release under the Freedom of Information Act, on the basis of section 43 "information on the production costs and market share in an industry that could be used by competitors in conjunction with what was already known, to advance their position in the marketplace." Given that no controls have been explored or proposed around the release of the information they are seriously concerned over this aspect.

Scottish Power is concerned about how the information that is released into the public domain will be controlled. The modification does not set out what purpose the proposer believes they can serve from the release of this information and there is no explanation of what restrictions should be placed upon it. Scottish Power feels that the modification lacks sufficient controls to ensure that the data made available is not used for marketing or other purposes outwith the scope of the AQ Review. In particular they would like to seek assurances over who would receive any reports that would have specific Shipper information and how the subsequent release of this information to parties outside of Users would be restricted.

SSE advise that the main drivers behind this modification are that some shippers are not anonymous and also that the AQ Review process can be misused. They are concerned, however, that this modification should not act as a precedent for other industry reports where all shippers have anonymity. Making these reports transparent could have an effect on shippers' commercial confidentiality and weaken any differentiation shippers may have in certain areas.

Wales & West Utilities advise that throughout discussions on this proposal they have been unable to identify the clear benefit of implementation and in particular how implementation will facilitate the relevant objectives.

## 10 Panel Discussions

The Panel Chair summarised that, while AQ Appeal and Amendment Reports do not name Shippers, the larger Shippers in particular may be identifiable through educated guesses. This could mean that some Shippers are afforded more protection than others and are party to more information than others. Modification 0387 proposes that Shipper performance in the AQ Appeals or Amendments processes is published without anonymity. This would allow a degree of “naming and shaming”, and that may be expected to discourage any abuse of the process.

Members recognised that the deterrent effect of revealing Shipper’s performance in managing the AQ processes may change Shipper behaviour and hence help ensure that costs are allocated appropriately, thus facilitating the securing of effective competition. However, Members also recognised that the information may not be straightforward to interpret and inappropriate conclusions may be drawn regarding an individual party’s behaviour. This may lead to an inappropriate reputational impact and so be detrimental to the securing of effective competition. Members also noted that there is no firm evidence that the current process is being abused, and hence there may be no change in present or future behaviour as a result of implementing the modification, and consequently there would be no benefits.

Members noted that publication of the proposed information could reveal the commercial strategies of, in particular, the smallest Shippers. This could be regarded as disadvantaging these Shippers and hence implementation may be detrimental to the securing of effective competition.

Some Members considered that publishing additional information to support assurance about compliance with the UNC would be consistent with facilitating efficiency in the implementation and administration of the Code.

Members then voted and, with 2 votes cast in favour and 8 against, did not determine to recommend that Modification 0387 be implemented.

# 11 Recommendations

## Panel Recommendation

Having considered Modification Report 0387, the Panel recommends:

- that proposed Modification 0387 should not be made.