MOD0xxx – Appendix One

Business Rules

1 INTRODUCTION

1.1 This document has been drafted to support Modification Proposal 0xxx. It explains in more detail the process which will be used in order to operate the Supplier Energy Theft Scheme (SETS).

2 BUSINESS RULES

The following business rules have been drafted to help set out the operation of the proposed SETS scheme.

2.1 Offences which are in scope for submission under the Scheme are defined within the Gas Act (1986), Schedule 2B. As part of the scheme, Shippers will have to warrant that have they clear evidence to prove (on the balance of probabilities) that a meter tampering offence has been committed which meets the definition under this part of the Act. For the avoidance of doubt, the person guilty of an offence need not be present at a site for an offence to qualify under this Scheme.

2.2 For the avoidance of doubt, valid detections under this scheme are those which meet the definitions for relevant offences under the Gas Act (1986), Schedule 2B. Shippers also need to ensure that theft detections they submit have complied with any relevant Code of Practice for handling theft which may exist at that time.

2.3 The initial "Scheme Year" (the annual period within which the scheme operates) will commence at 0.00am on the first calendar day of the month immediately following the month in which Ofgem implement this MOD, and end one year later. The next Scheme Year will start immediately at the end of the initial Scheme Year with subsequent Scheme Years following in the same manner.

2.4 From the start of the Scheme Year, Shippers may report, but subsequently withdraw, anything they detect which meets the definitions for relevant offences under the Gas Act (1986), Schedule 2B to the Network Owners (expected to be through their agent xoserve, using the agreed communications method prevalent at that time[1].

2.5 The introduction of the SETS will not change the data that must be submitted with each reported offence, nor will it introduce any obligations on the Network Owners or their agent to validate that data on receipt.

2.6 [insert section on how volumes of gas detected will be calculated]

2.7 The Network Owners (or their agent on their behalf) will log each reported and qualifying offence against the reporting Shipper, and reported offence will be applied to each Scheme Year based on the date on which the report is closed.

2.8 A report will be issued out to each Shipper by the Network Owners (or their agent on their behalf) after the end of each month which shows the number of valid offences recorded by that Shipper, the volume of gas detected, the aggregate number of valid offences recorded by all Shippers in the Scheme Year to date, and the aggregate volume of gas detected by all Shippers in the Scheme Year to date.

2.9 Credits and debits from the Scheme Year will be calculated based on the volume of gas detected shown in the monthly report for final month of each Scheme Year and the market share (based on throughput) as the end of the Scheme Year. This avoids the issue which would be created were market share of throughput figures to be taken part way through a year in which a Shipper either entered or left the market, skewing the data before the date of that entry or exit. This will be done from the following formula:

[1] At the time of writing, this is currently done through a Conquest form.

(X*(SVD / TVD)) – (X*SMS)

except where SMS equals zero when calculated to four decimal places, in which case no credit or debit will be applied.

Where
X is the total value of the scheme, amended in line with the percentage change in RPI[2] *between the index published for the start and the end of the Scheme Year.*
SVD is the amount of gas in volume detected and recorded as stolen by the Shipper.
TVD is the total amount of volume detected and recorded as stolen by all Shippers in the Scheme Year.
SMS is the Supply Point market share of throughput (excluding sites which are deemed out of scope by the modification proposal) of the Shipper expressed to four decimal places.

These credits and debits (the Provisional Assessment) for each Shipper will be communicated to that Shipper by the Network Owner (or their agent).

2.10 A "Qualifying Shipper" is a User who has been active in the market throughout the Scheme Year, i.e. excludes those Shippers who have acceded to the Code in the Scheme Year, or those who have discontinued their accession within the Scheme Year. This will ensure that those entering or leaving the market during a Scheme Year are not unfairly disadvantaged.

2.11 Any Shipper who found more than 51% of the total number of theft detections in the industry during the last full year (2009), according to xoserve "cleared as valid" theft of gas statistics, shall be deemed to be in the position of having advanced theft detection capabilities in relation to the market, and thus eligible for Windfall Avoidance measures.

2.12 Any amount of money paid to those parties eligible for Windfall Avoidance measures in the first two Scheme Years shall not exceed the amount which they are obliged to pay in to the Scheme as a result of their market share of throughput, and shall be added to their funding requirement in the subsequent Scheme year such that they do not benefit from it. By the third Scheme Year it is assumed that all Shippers will be in a position to compete on a level playing field, and thus all Shippers will be eligible to compete for the entire SETS fund at that point. A worked example of this is given below.

2.13 Windfall Avoidance example.

- *In the Scheme Year 1, Shipper A has a market share of throughput of 50%, and detects 75% of all theft volumes. With a total Scheme value in Scheme Year 1 of £12.062m, Shipper A will be liable for £6.031m of costs, but entitled to £9.047m in benefit, equating to a total incentive payment of £3.016m.*

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[2] RPI figure to be taken from the prevailing figure published by the Office for National Statistics. Link here.

- *In Scheme Year 2, Shipper A again has a market share of throughput of 50%, and again detects 75% of all theft volumes. The Scheme value in Scheme Year 2 will be £12.062m (adjusted for inflation), plus an additional payment from Shipper A of the £3.016m incentive payment they received in Scheme Year 1; a total SETS fund of £15.078m.*

- *In total therefore, in Scheme Year 2, Shipper A will be liable for the £6.031m which their market share of throughput dictates they pay in to the Scheme in Year 2, plus the £3.016m incentive payment they received in Scheme Year 1; a total of £9.047m.*

- *At the end of Scheme Year 2, Shipper A would be entitled to an incentive payment of £5.278m (that being 75% of the total SETS fund) in Year 2 based on their share of the total SETS fund. This is a net incentive payment, over and above the amount of funding due from Shipper A based on their market share of throughput.*

- *This is process repeated with the £5.278m at the start of Scheme Year 3, i.e. it is added to Shipper A's funding requirement in that Scheme Year such that the total SETS fund will be £12.062m (adjusted for two years worth of inflation) plus an extra payment of £5.278; total of £17.340m.*

- *For the sake of clarity, as Shipper A will be able to fully compete for the total SETS fund in Scheme Year 3, with no added funding requirement in Scheme Year 4, the total SETS Fund in Scheme Year 4 and subsequent years will be £12.062m (adjusted for the appropriate amount of inflation).*

- *This ensures that (a) any Shipper with advanced theft detection capabilities does not benefit from any incentive payments in the first two Scheme Years, and that (b) any money which they were entitled to is competed for by all other Shippers. In the third Scheme Year, there will be no Windfall Avoidance measures.*

2.14 Throughout the Scheme Year an ongoing audit will be completed on a sample of the theft detection claims made by each Shipper. Specifically the Auditor will have the power to select a sample of theft detections that Shipper has made during the Scheme Year, and assess in each case within the selected sample whether there is sufficient evidence held by that Shipper to demonstrate that on the balance of probabilities a relevant offence took place under the Gas Act (1986), whether the Shipper in question adhered to the rules within any relevant Theft Code of Practice which may be in place at that time and whether the Shipper has complied with the provisions within these Business Rules on calculating the volume of gas which has been stolen. The audit will be expected to be impartial and even handed at all times in its approach to Shippers. The costs of the audit must be reasonable in relation to the overall value of the scheme.

2.15 The Network Owners will provide a report of the audit's findings, including an opinion as to whether each claim within the sample audited was valid or not. A version of this report which contains no confidential or commercially sensitive information will be made publicly available. The report will be final.

2.16 Upon receipt of the final audit reports covering all relevant Users, the Network Owners will recalculate each Shippers Provisional Assessment such that a volume of gas theft detected and submitted within the Scheme Year proportional to the volume of gas detected which has found to have been made erroneously during the audit are discounted. This will use the following formula:

(X*((STD*SER) / (TTD*TER)) – (X*SMS)

except where SMS equals zero to four decimal places, in which case no credit or debit will be applied.

Where
X is the total value of the scheme, increased in line with the percentage change in RPI between the index published for the start and the end of the Scheme Year.
SVD is the total volume of gas theft detected by the Shipper in the Scheme Year.
SER is the percentage of volume for that Shipper which have been audited and found to be valid, expressed as a decimal.
TVD is the total volume of gas detected as stolen in the Scheme Year.
TER is the percentage of volume in the whole market that Scheme Year which have been audited and found to be valid, expressed as a decimal.
SMS is the Supply Point market share of throughput (excluding sites which are deemed out of scope by the modification proposal) of the Shipper expressed to four decimal places.

2.17 A working example of the correction described above is given below:

- *Shipper A's total volume detected within the Scheme Year = 1000 gWH.*
- *Audit sample was 100 gWh, of which 5 gWh was found to be invalid, i.e. did not have sufficient evidence to demonstrate an offence under the Gas Act (1986). Failure rate of 5%.*
- *The Provisional Assessment made by the Network Owner or their agent should now be amended such that the total volume of theft detected claimed by Shipper A is reduced by 5%, to 950 gWh.*
- *The figure of 950 gWh is then used to compare the Shipper's relative performance in relation to theft detections.*

2.18 Not less than one month after the recalculation described in paragraphs 2.14 and 2.15 has been completed, the Network Owners will calculate a final set of credits and debits for each Shipper (the Final Assessment), and issue an anonymised report to each Shipper setting out the Final Assessments. Each Shipper will be told who they are within the anonymised report and will receive an appropriate invoice or credit note.

2.19 It is expected that, for the ease of administering the process for issuing credits and debits, the Network Owners will divide up the responsibility for issuing credit notes and invoices. Credits will be issued out within a reasonable time of corresponding debits being received, such that the Network Owners are never faced with a deficit and Shippers are not waiting for 100% of all debits to be paid before receiving any credits. This should be done in such a way as to not discriminate between Shippers, by paying out the proportion of credits to all eligible Shippers commensurate to the proportion of debits received at that time.

2.20 Credits and debits under the scheme will be managed under the process set out in Section S of the UNC.

2.21 If a Party believes that a material event has rendered the outcome of the scheme demonstrably inequitable, such as Supplier of Last Resort being invoked for a significant portfolio towards the end of a scheme year, they may propose to the UNCC that the scheme for that year be set aside in it's entirety. Any decision of the UNCC to do so however must be both unanimous and made before the credits and debits are issued out by the Network Owners.

2.22 For the avoidance of doubt, although the settlement of credits and debits will not complete until at least one month after the end of the Scheme Year, the next Scheme Year will still commence at 00:00am the day after the Scheme Year ends, that being the anniversary of the start of the first Scheme Year. This will effectively mean that the processes for two years' Schemes will overlap slightly.

3 PROCESS MAP