

Record of Determinations: Panel Meeting, 09 March 2011 held by Teleconference

Mins Ref	Modification	Vote Outcome	Shipper Voting Members				Transporter Voting Members					Determination Sought
			CWr	PB	RF	SL	AR	JF	JM	SMc	ST	
108.3	0371 – Unsecured Credit Limit allocated through payment history – late payments	The Panel recommend to the Authority that the modification should follow Urgent procedures with 9 votes cast in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	Recommend to the Authority that the modification should follow Urgent procedures

Attendees

Voting Members:

Shipper Representatives	Transporter Representatives
C Wright, British Gas (CWr) P Broom, GDF Suez (PB) R Fairholme, E.ON UK (RF) S Leedham, EDF Energy (SL)	A Raper alternate for C Warner, National Grid Distribution (AR) J Ferguson, Northern Gas Networks (JF) J Martin alternate for A Gibson, Scotia Gas Networks (JM) S McGoldrick alternate for R Hewitt, National Grid Transmission (SMc) S Trivella, Wales & West Utilities (ST)

Non-Voting Members:

Independent Suppliers' Representative	Ofgem Representative	Chairman
C Hill, First Utility (CH)	J Dixon, Ofgem (JD)	T Davis, Joint Office (TD)

Also in Attendance:

A Ross Northern Gas Networks (ARo), C Trigg Spark Energy (CT), G Evans Waters Wye (GE) and M Grewal Northern Gas Networks (MG)

Record of Discussions

105.3 Consider New Urgent Modifications

- a) Modification 0371 – Unsecured Credit Limit allocated through payment history – late payments

CT introduced the modification, explaining an administration error delayed the payment of a small invoice which set their payment history to zero, requiring them to provide substantial collateral to National Grid Distribution due to the impact on their credit limit. CT requested urgency to quickly address an obvious administration error as they had not deliberately withheld payment, and clarified that he was seeking a retrospective solution.

CH was of the view that the modification should be treated urgently, although noting the modification as drafted was not retrospective. TD advised that the modification could be amended to deliver a retrospective solution.

JD clarified Ofgem's urgency criteria and expressed concerns that the modification is short-lived and would be replaced by the implementation of Modification 0305. Normally urgent status was dependent on a date related event, and it was not evident that this was present. CT explained that National Grid Distribution was expecting collateral to be provided that day. ST did not believe this meant the criteria for urgency were met.

JD remained to be convinced a past event qualifies as an "imminent date related event", and invited views on whether anticipated next steps meant there was a case that a date related event was imminent. AR suggested there was a need to resolve the issue quickly as problems were being created for Spark.

ST clarified that a soft landing had been considered in the review of credit rules - perhaps this should be made available to resolve this issue as there does not appear to be a time related commercial impact.

PB accepted there was a significant commercial impact and the issue needs to be addressed quickly, though he is not keen on retrospective modifications.

CWr asked if the risk has always been there or was it due to the changes to credit rules. TD clarified that implementation of Modification 0305 would have resolved this issue. CWr was concerned that the risk has always been there and others may have suffered the pain who will not be covered by the modification, even if it is retrospective. He was therefore unsure urgency applied as the risk is not new.

SMc asked if there were any differences between this modification and Modification 0305, other than being retrospective. JF clarified that the legal text for both would need to be reviewed to ensure there were no unintended impacts, but the intention of 0371 was to bring forward implementation of part of 0305.

CWr asked what would happen if the modification does not stop further action being taken against Spark. It was recognised that a number of sanctions exist under the UNC, with termination as the ultimate sanction.

There was a consensus among Panel members to recommend to Ofgem that, given that there was an immediate and significant commercial impact, the Modification merited following the Urgent Procedures.

105.4 Any Other Business

None raised.

105.5 Conclude Meeting and Agree Date of Next Meeting

The Panel noted that the next meeting is planned for 10.30 on 17 March 2011 at the Energy Networks Association.