

MODIFICATION PROPOSAL 421 – **Improve AQ Performance** ~~Provision for an AQ Review Audit~~

LEGAL TEXT

Proposed Amendments to the Uniform Network Code

UNC General Terms – Section C

Insert the following new definition after the definition of "Back Stop Reconciliation Month"

“**Code Administrator**” has the meaning ascribed to that term in paragraph 2.1 of the Modification Rules;

UNC Transportation Principal Document – Section G

Amend paragraph 1.6.18 a, b and c and insert the following new paragraph 1.6.18 d and e:

“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~~ (on a non attributable basis):

- (a) ~~in respect of each User,~~ 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) ~~in respect of each User,~~ 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) in respect of each User, 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;_

(d) in respect of each AQ Review Incentivised User (in respect of the relevant AQ Review Year), the percentage (to two decimal points) of Smaller Supply Meter Points within that AQ Review Incentivised User's Smaller Supply Meter Point AQ Review Portfolio of which:

(i) the Provisional Annual Quantity, or

(ii) where paragraph 1.6.7 applies in relation to that Smaller Supply Meter Point, the User Provisional Annual Quantity,

differs from the Annual Quantity of that Smaller Supply Meter Point for that AQ Review Year;

(e) in respect of each AQ Review Incentivised User (in respect of the relevant AQ Review Year), the percentage (to two decimal points) of Larger Supply Meter Points within that AQ Review Incentivised User's Larger Supply Meter Point AQ Review Portfolio of which

(i) the Provisional Annual Quantity; or

(ii) where paragraph 1.6.7 applies with respect to that Larger Supply Meter Point, the User Provisional Annual Quantity,

differs from the Annual Quantity of that Larger Supply Meter Point for that AQ Review Year.”

Insert the following new paragraph 1.6.20 c and d:

“1.6.20 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:

(a) paragraph 1.6.18(a) and (b), by no later than:

(i) 1 July, in respect of Smaller Supply Meter Points on an interim basis;

(ii) 1 August, in respect of Larger Supply Meter Points on an interim basis;

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

in each case in the relevant Gas Year;_

(b) 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;_

(c) paragraph 1.6.18(d), by no later than:

- (i) 1 July in the relevant AQ Review Year on an interim basis; and
- (ii) 1 November in the next following Gas Year on a final basis; and
- (d) paragraph 1.6.18(e), by no later than:
 - (i) 1 August in the relevant AQ Review Year, on an interim basis; and
 - (ii) 1 November in the next following Gas Year, on a final basis.”-

Insert the following new paragraph 1.6.26:

“1.6.26 Preparation and publication of the reports pursuant to paragraphs 1.6.18(d) and (e) and 1.6.20(c) and (d) will be performed as a User Pays Service.”

Insert the following new paragraphs 1.21 and 1.22:

1.21 AQ Review Performance Incentive

1.21.1 For the purposes of the Code, in relation to any User and a Gas Year (an “**AQ Review Year**”):

- (a) the **AQ Review Portfolio** is all of the User’s Registered Supply Meter Points on the last day of that ‘AQ Review Year’, but excluding;
 - (i) any DM Supply Meter Point;
 - (ii) any New Supply Meter Point first entered into the Supply Point Register in the AQ Review Year the Annual Quantity of which does not change on commencement of the next following Gas Year;
 - (iii) any Supply Meter Point in relation to which that User became the Registered User after 31 March in that Gas Year;
 - (iv) any Specified Exit Point;
- (b) the “**Larger Supply Meter Point AQ Review Portfolio**” is the totality of
 - (i) all of the Larger Supply Meter Points within the User’s AQ Review Portfolio in relation to that AQ Review Year excluding Trans-threshold Larger Supply Meter Points; and
 - (ii) all of the Trans-threshold Smaller Supply Meter Points within that User’s AQ Review Portfolio in relation to that AQ Review Year;
- (c) the “**Smaller Supply Meter Point AQ Review Portfolio**” is the totality of the Smaller Supply Meter Points within the User’s AQ Review Portfolio in relation to that AQ Review Year;
 - (i) all of the Smaller Supply Meter Points within the User’s AQ Review Portfolio in relation to that AQ Review Year excluding Trans-threshold Smaller Supply Meter Points; and

- (ii) all of the Trans-threshold Larger Supply Meter Points within that User's AQ Review Portfolio in relation to that AQ Review Year;
- (d) a "**Trans-threshold Larger Supply Meter Point**" is a Larger Supply Meter Point on the last day of the AQ Review Year which was a Smaller Supply Meter Point on the first day of the AQ Review Year;
- (e) a "**Trans-threshold Smaller Supply Meter Point**" is a Smaller Supply Meter Point on the last day of the AQ Review Year which was a Larger Supply Meter Point on the first day of the AQ Review Year;
- (f) the "**Inactive Larger Supply Meter Point AQ Review Number**" is the total number of Supply Meter Points within the User's Larger Supply Meter Point AQ Review Portfolio in relation to that AQ Review Year, the Annual Quantity of which does not change on commencement of the Gas Year next following the AQ Review Year; and
- (g) the "**Inactive Smaller Supply Meter Point AQ Review Number**" is the total number of Supply Meter Points within the User's Smaller Supply Meter Point AQ Review Portfolio in relation to that AQ Review Year, the Annual Quantity of which does not change on commencement of the Gas Year next following the AQ Review Year.

1.21.2 For the purposes of the Code, in relation to an AQ Review Year:

- (a) the "**AQ Review Incentive Aggregate Payment**" is the aggregate of the payments received by the Transporters in a month in respect of Larger Supply Meter Point AQ Review Incentive Charges and Smaller Supply Meter Point AQ Review Incentive Charges in respect of that AQ Review Year;
- (b) an "**AQ Review Incentivised User**" is a User which acceded to the Code prior to the commencement of that AQ Review Year.

1.21.3 Where an AQ Review Incentivised User's Inactive Larger Supply Meter Point AQ Review Number in relation to an AQ Review Year is more than 15% (to two decimal points) of the number of Supply Meter Points in that User's Larger Supply Meter Point AQ Review Portfolio, the Transporters shall notify that User accordingly and the User shall (in accordance with Section S) pay the Transporters (allocated between them in such proportion as the Transporters shall determine):

- (a) a "**Larger Supply Meter Point AQ Review Incentive Charge**" calculated as follows:

$$I = N * \text{£}512$$

Where:

I is the Larger Supply Meter Point AQ Review Incentive Charge

and

N is the User's Inactive Larger Supply Meter Point AQ Review Number in relation to that AQ Review Year; and

- (b) a User Pays Charge in respect of the User Pays Service pursuant to paragraphs 1.6.18(e) and 1.6.20(d).

1.21.4 Where an AQ Review Incentivised User's Inactive Smaller Supply Meter Point AQ Review Number in relation to an AQ Review Year is more than 15% (to two decimal points) of the number of Supply Meter Points in that User's Smaller Supply Meter Point AQ Review Portfolio, the Transporters shall notify that User accordingly and the User shall (in accordance with Section S) pay the Transporters (allocated between them in such proportion as the Transporters shall determine):

- (a) a "**Smaller Supply Meter Point AQ Review Incentive Charge**" calculated as follows:

$$I = N * \text{£}20$$

Where:

I is the Smaller Supply Meter Point AQ Review Incentive Charge

and

N is the User's Inactive Smaller Supply Meter Point AQ Review Number in relation to that AQ Review Year; and

- (b) a User Pays Charge in respect of the User Pays Service pursuant to paragraphs 1.6.18(d) and 1.6.20(c).

1.21.5 Where in relation to an AQ Review Year, there is no AQ Review Incentivised User whose Inactive Larger Supply Meter Point AQ Review Number in relation to that AQ Review Year is more than 15% (to two decimal points) of the number of Supply Meter Points in that User's Larger Supply Meter Point AQ Review Portfolio, each AQ Review Incentivised User shall (in accordance with Section S) pay each of the Transporters a User Pays Charge in respect of the User Pays Service pursuant to paragraphs 1.6.18(e) and 1.6.20(d) in respect of that AQ Review Year.

1.21.6 Where in relation to an AQ Review Year, there is no AQ Review Incentivised User whose Inactive Smaller Supply Meter Point AQ Review Number in relation to that AQ Review Year is more than 15% (to two decimal points) of the number of Supply Meter Points in that User's Smaller Supply Meter Point AQ Review Portfolio, each AQ Review Incentivised User shall (in accordance with Section S) pay each of the Transporters a User Pays Charge in respect of the User Pays Service pursuant to paragraphs 1.6.18(d) and 1.6.20(c) in respect of that AQ Review Year.

1.21.7 Where a User's Inactive Smaller Supply Meter Point AQ Review Number in relation to an AQ Review Year is 15% (to two decimal points) or less than the number of Supply Meter Points in that User's Smaller Supply Meter Point AQ Review Portfolio, each Transporter shall in respect of each month in which the AQ Review Incentive Aggregate Payment in respect of the relevant AQ Review Year is greater than zero, pay that User an "**AQ Review Incentive Aggregate Distribution Payment**" determined as follows:

$$D = R * (UC/TC)$$

Where:

- D is the AQ Review Incentive Aggregate Distribution Payment to the User
- R is the aggregate of the payments received by the Transporter in respect of Larger Supply Meter Point AQ Review Incentive Charges and Smaller Supply Meter Point AQ Review Incentive Charges in that month in relation to the relevant AQ Review Year
- UC is that User's Smaller Supply Meter Point AQ Review Portfolio for the relevant AQ Review Year
- TC is the aggregate number of Supply Meter Points in the Smaller Supply Meter Point AQ Review Portfolios for the relevant AQ Review Year of each User (a "**qualifying User**") whose Inactive Smaller Supply Meter Point AQ Review Number in relation to that AQ Review Year is 15% (to two decimal points) or less than the number of Supply Meter Points in that qualifying User's Smaller Supply Meter Point AQ Review Portfolio.

1.22 AQ Review Audits

1.22.1 For the purposes of this paragraph 1.22:

- (a) "**AQ Review Audit**" means a review in relation to a User of the conduct of functions which have a material impact on the operation, in relation to that User, of paragraphs 1.6.1 to 1.6.17 including the following:
- (i) the approach taken to the conduct of obligations under paragraphs 1.6.4 (including the warranty given at paragraph 1.6.4 (c)), 1.6.5, 1.6.6 and 1.6.13;
 - (ii) the determination of User Provisional Annual Quantities nominated by the User pursuant to paragraph 1.6.4(a);
 - (iii) the determination of estimates of Annual Quantities notified by the User pursuant to paragraph 1.6.13;
 - (iv) a review of the conduct of the following processes by the User:
 - (1) the collection and validation of Meter Readings (including Opening Meter Readings and Revised Meter Readings and pursuant to paragraph TPDM 3.9.1) and their submission to the relevant Transporters;
 - (2) the replacement of Supply Meter Installations;
 - (3) the provision of Meter Information Notifications;
 - (4) adjustments of Metered Quantities pursuant to Section TPD M1.9.1(a);
 - (5) management of supply meter points at premises the occupier of which cannot be traced;
 - (6) Isolations and Supply Point Withdrawals; and

- (v) the extent to which the User failed to comply with the provisions of the Code in respect of such matters in the relevant AQ Review Year;

together with such other matters as may be agreed between the User and the AQ Review Auditor, and the preparation of a report on all such matters by the AQ Review Auditor;

- (b) “**AQ Review Auditor**” means an energy consultant or auditor willing to conduct AQ Review Audits.

1.22.2 The Transporters shall maintain a list comprising persons available to act as AQ Review Auditors.

1.22.3 The listed AQ Review Auditors shall be such persons as the Uniform Network Code Committee, having considered their relevant experience and expertise, shall by panel majority select from persons (natural or corporate) nominated by Users and the Transporters, provided any such person has confirmed in writing to the Code Administrator that he accepts the nomination.

1.22.4 For the purposes of paragraph 1.22.3:

- (a) the Code Administrator shall no later than the end of each AQ Review Year invite nominations from Transporters and Users;
- (b) in each AQ Review Year each User and Transporter may nominate up to three persons for selection as an AQ Review Auditor;
- (c) the Panel shall select AQ Review Auditors from those persons nominated in response to the most recent invitation pursuant to paragraph (a) and those persons already selected as AQ Review Auditors, provided that any such person has not indicated to the Code Administrator that they no longer wish to be listed as an AQ Review Auditor;
- (d) the Uniform Network Code Committee shall select the AQ Review Auditors in respect of an AQ Review Year as soon as reasonably practicable after the end of that AQ Review Year.

1.22.5 Where a User receives a notification from the Transporters pursuant to paragraph 1.21.3 or 1.21.4 in respect of an AQ Review Year, the User may elect to engage an AQ Review Auditor to conduct an AQ Review in respect of the performance of that User of its Registered Supply Meter Points.

1.22.6 Where a User elects to engage an AQ Review Auditor pursuant to paragraph 1.22.4, that User shall provide, or procure that the AQ Review Auditor provides, a copy of that AQ Review Auditor’s final report in respect of the relevant AQ Review Year to the Authority.

1.22.7 For the avoidance of doubt, the responsibilities of an AQ Review Auditor engaged by a User shall be limited to assisting that User’s perform its relevant obligations under the Code and, without prejudice to the terms of engagement of any AQ Review Auditor and the User engaging him, each Party acknowledges and agrees that they are not owed a duty of care by any AQ Review Auditor (the benefit of such agreement being held on trust for the AQ Review Auditor by the User that engages him).”

UNC Transition Document - Part II C

Insert new paragraph 1.9.3^[1] as follows:

~~1.11 AQ Review Auditing~~

~~1.11.1~~ The provisions of paragraphs 1.6.18(d) and (e), 1.6.20(c) and (d), 1.21 and 1.22 shall apply to the AQ Review Year commencing 1 October 2011 (the “**Initial AQ Review Year**”) and each subsequent AQ Review Year, save that:

~~(a)~~ no charges shall be payable by a User pursuant to paragraphs 1.21.3(a) or 1.21.4(a) in respect of the Initial AQ Review Year;

~~(b)~~ in respect of the first AQ Review Year occurring within the first four AQ Review Years after the Initial AQ Review Year, in which:

~~(i)~~ the Inactive Larger Supply Meter Point AQ Review Number of an AQ Review Incentivised User in relation to that AQ Review Year is more than 15% (to two decimal points) than the number of Supply Meter Points in that User’s Larger Supply Meter Point AQ Review Portfolio; or

~~(ii)~~ the Inactive Smaller Supply Meter Point AQ Review Number of that AQ Review Incentivised User in relation to that AQ Review Year is more than 15% (to two decimal points) of than the number of Supply Meter Points in that User’s Smaller Supply Meter Point AQ Review Portfolio;

~~such User shall not be obliged to pay charges pursuant to paragraphs 1.21.3(a) or 1.21.4(a) in respect of such AQ Review Year save where such User was an AQ Review Incentivised User in relation to the Initial AQ Review Year which would, but for the operation of paragraph (a) above have been obliged to pay such charges in respect of the Initial AQ Review Year.~~

1.9.3^[1]2 In the event that the implementation date of Modification Proposal 421 is later than 28 October 2012 the functions referred to in paragraph 1.22.4 in relation to the First AQ Review Year shall be discharged as soon as reasonably practicable after such implementation date.”