

## **Modification Proposal 0442 - Justification for Urgency**

Further to Ofgem's published document entitled '*Ofgem Guidance on Code Modification Urgency Criteria*', British Gas believes that the particular circumstance which we are seeking to address under Modification Proposal 442 satisfies the following urgent criteria:

1. Be linked to an **imminent issue or a current issue** that if not urgently addressed may cause:

a. **A significant commercial impact** on parties, consumers or other stakeholder(s);

### **Imminent or current issue**

The 2013/14 AUG Statement (AUGS) is due to be implemented on 1<sup>st</sup> April 2013. It has been acknowledged by both the AUGS and industry parties that the new methodology that has been developed and communicated by the AUGS over the past few months is more robust than the existing methodology.

It is therefore essential that this issue be addressed and rectified as soon as possible and ahead of 1<sup>st</sup> April 2013.

Our rationale for treating as urgent is that we would expect a modification proposal, which progressed under 'normal' procedural circumstances, to take at least six months to progress from the date raised to the date it is passed to Ofgem for decision (and possibly much longer).

With a further period of implementation subsequently required following an Ofgem decision, this would mean that under normal conditions we would not expect this proposal to be able to be implemented until the end of Q3 or early Q4 at the very earliest. This delay (of at least six months) will significantly undermine certainty and confidence in the process and significantly impact the benefits to the Smaller Supply Point sector, which consists predominantly of domestic consumers.

We note within the Ofgem Guidance document, that specific reference is made to the issue of retrospective elements within an urgent modification proposal and note Ofgem's view that '*retrospective modifications should be avoided as they undermine market confidence*' and that it '*is a general principle that rules ought not to change the character of past transactions*'.

Therefore we believe it prudent to progress the modification proposal as an urgent modification to negate the requirement for any retrospection and to ensure that there is industry confidence and certainty in a timetable to introduce a new methodology for the 2013/14 AUG Year and that SSP consumers can receive the associated, significant benefits as soon as possible.

### **Significant commercial impact**

As described within the modification proposal, the financial benefits associated with the implementation of a new methodology, to SSP (predominantly domestic) consumers is expected to be in the region of £50m (dependant upon the final volume figures issued by the AUGS), this can be equated to just over £4m per month (based on an average monthly figure across a twelve month period).

British Gas (and numerous other code parties) continues to believe that the industry could successfully work towards and deliver to a 1<sup>st</sup> April 2013 implementation date (and negate the need for any modification proposal) if all parties wanted to, we believe that our proposal, which seeks to amend the implementation date of the 2013/14 AUGS from 1<sup>st</sup> April 2013 to 1<sup>st</sup> June 2013, provides sufficient additional time for all parties.

Even though this modification approach already sacrifices an element of benefit to SSP customers, as the proposal will eliminate two months worth of SSP consumer benefit (circa £8m), it is clearly more beneficial than the proposed approach of delaying the introduction of a new methodology and losing the circa £50m benefit for a full year.

As aforementioned, we would expect at least a six month delay should the procedure not follow an urgent timetable and are therefore concerned that should the proposal be processed under normal modification process timescales that the benefit will significantly decrease even further, with an additional ~£4m of benefit being lost for every month of delay.

For example: within a 'best case scenario' (although unlikely to be achieved in our opinion) a 1<sup>st</sup> October 2013 implementation date would decrease the benefit to SSP consumers by over £16m (for the period 1<sup>st</sup> June to 1<sup>st</sup> October), in addition to the ~£8m already lost for the 1<sup>st</sup> April to 1<sup>st</sup> June period.

It is therefore evident that the issue which the modification proposal is seeking to address has indeed a significant commercial impact upon consumers.