

Workstream Report
Changes to the Reasonable Endeavours Scheme
to better incentivise the detection of Theft
Modification Reference Number 0231
Version 3.0

This Workstream Report is presented for the UNC Modification Panel's consideration. The Distribution Workstream considers that the Proposal is sufficiently developed and should now proceed to the Consultation Phase.

1 The Modification Proposal

Background

At the end of August 2006 the Energy Retail Association (ERA) and the Energy Networks Association (ENA) jointly established a Workgroup to look at how participants in the Gas and Electricity markets might promote the detection, investigation and prevention of energy theft.

The Development Group produced a final proposals document in June 2007, which was submitted to Ofgem. As part of the Workgroup Groups' findings it was agreed that participants are not sufficiently commercially incentivised under the current regime to investigate, detect and prevent theft.

It was agreed that where there are arrangements in place to mitigate the costs of investigating theft, the process is burdensome and does not adequately cover the costs incurred by participants in investigating theft, and in some cases does not cover the administrative costs associated with making a claim.

In their document titled 'Theft of Electricity and Gas – Next Steps – 06/05' dated 17th January 2005, Ofgem stated that;

“The principles behind the Reasonable Endeavours Scheme appear to be sound basis for these arrangements. Under the Reasonable Endeavours Scheme gas suppliers and GTs are currently able to recover gas charges and other defined costs where they have undertaken reasonable endeavours to recover these from the customer but have failed to do so.”

It is our belief that, while the current regime provides a sound basis, the level of compensation available to shippers through the Reasonable Endeavours Scheme is insufficient to incentivise increased Shipper activity to identify theft.

Furthermore, the current regime provides a perverse incentive whereby Shippers who are actively engaged in the detection of theft are exposed to the full cost of the Energy they notify as stolen, often with little chance of recovering these costs from the end user.

Whilst the Reasonable Endeavours Incentive Scheme offers Suppliers the opportunity to recover some of their costs in investigating theft, the level of compensation available does not provide sufficient incentive.

Furthermore, the Reasonable Endeavours Incentive Scheme is operated outside of the Uniform Network Code arrangements, which we believe contributes to a lack of

understanding and clarity, on the part of Shippers, around the process.

Proposal

The current process is administered by the Transporters agency out side of any formal Governance arrangements.

1. Governance

There are currently two different documents relating to the Reasonable Endeavours scheme which will be affected by this modification; the Reasonable Endeavours Allowances Scheme (otherwise known as the Designation, see Appendix Two for the current document) and the Reasonable Endeavours Scheme and Guidance (see Appendix Three for the current document).

This proposal requires the obligations existing in the Reasonable Endeavours Allowances Scheme, pages three to six inclusive in the attached Appendix Two, produced by the Transporters under their licence and designated by Ofgem, to be incorporated within the Uniform Network Code document, thus creating an appropriate governance framework in which it can continue to operate.

In addition, and in order to improve both the clarity and transparency of the Reasonable Endeavours Scheme, this proposal also requires a new UNC Related Document to be created. The content of this document would be the guidance contained within the Reasonable Endeavours Scheme Document, pages three and four in the attached Appendix Three, produced by Transporters. For clarity, the guidelines contained at the end of this document, on pages five and six, will remain outside the Uniform Network Code, and hence will not be subject to Uniform Network Code processes or governance.

It is proposed the new UNC Related Document will only be amendable by the raising of a Modification Proposal and consequently the application of the Modification Rules.

2. Claim Levels

The Reasonable Endeavours Scheme provides a sound framework, which if developed upon, could create a robust incentive mechanism.

However, it is widely accepted that that the current levels of compensation payable under the Reasonable Endeavours Scheme do not provide sufficient incentive upon all Shippers to detect theft.

Under the existing scheme, for some claim types, Shippers are able to make claims under the scheme to recover their actual costs without a limit to the value able to be claimed: this proposal would not change this.

In order to provide adequate incentives, the level of compensation available to Shippers under each claim type has a 'capped' or fixed limit which would be extended to a maximum of £1000 in each case under this proposal.

The Scheme, in some circumstances, allows for Shipper to make claims under more than one claim type. This proposal would not change this and the combinations of claims allowed under the scheme per incident would remain

as they are in the current arrangements.

For clarity this proposal does not amend or introduce an overall limit to the value of a claim.

Under the existing scheme, where a maximum claim value or ‘capped limit’ is set, the maximum value refers to claims for a specific charge type and does not set a limit for the overall claim value.

Where Shippers have incurred costs under multiple claim types, they are able to claim up to any capped value under each claim type with no overall limit set.

The existing scheme sets out which combinations of claim type can be used for a single incident. These ‘valid claim combinations’ would be replicated under this proposal.

The maximum permitted claim values are set out in a table within the present Scheme. It is therefore proposed that the UNC is amended such that this table, with the revised values, is incorporated within the UNC and becomes part of the scheme as included within the UNC. To illustrate what is envisaged by the Proposal, an amended table is attached to this proposal as Appendix One.

2 User Pays

a) **Classification of the Proposal as User Pays or not and justification for classification**

This proposal would not require User Pays arrangements. The recovery mechanism used by transporters for costs under this scheme are set out in the Transporter Licence.

b) **Identification of Users, proposed split of the recovery between Gas Transporters and Users for User Pays costs and justification**

No User Pays charges applicable.

c) **Proposed charge(s) for application of Users Pays charges to Shippers**

No User Pays charges applicable to Shippers.

d) **Proposed charge for inclusion in ACS – to be completed upon receipt of cost estimate from xoserve**

No charges applicable for inclusion in ACS.

3 **Extent to which implementation of the proposed modification would better facilitate the relevant objectives**

Standard Special Condition A11.1 (a): *the coordinated, efficient and economic operation of the pipe-line system to which this licence relates;*

Implementation would not be expected to better facilitate this relevant objective.

Standard Special Condition A11.1 (b): *so far as is consistent with sub-paragraph (a), the (i) the combined pipe-line system, and/ or (ii) the pipe-line system of one or more other relevant gas transporters;*

Implementation would not be expected to better facilitate this relevant objective.

Standard Special Condition A11.1 (c): *so far as is consistent with sub-paragraphs (a) and (b), the efficient discharge of the licensee's obligations under this licence;*

Implementation would not be expected to better facilitate this relevant objective.

Standard Special Condition A11.1 (d): *so far as is consistent with sub-paragraphs (a) to (c) the 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;*

By creating a robust incentive mechanism this proposal would better facilitate condition A11.1(d) as it would provide a more accurate energy allocation between Shippers, thus promoting competition.

Standard Special Condition A11.1 (e): *so far as is consistent with sub-paragraphs (a) to (d), the provision of reasonable economic incentives for relevant suppliers to secure that the domestic customer supply security standards (within the meaning of paragraph 4 of standard condition 32A (Security of Supply – Domestic Customers) of the standard conditions of Gas Suppliers' licences) are satisfied as respects the availability of gas to their domestic customers;*

Implementation would not be expected to better facilitate this relevant objective.

Standard Special Condition A11.1 (f): *so far as is consistent with sub-paragraphs (a) to (e), the promotion of efficiency in the implementation and administration of the network code and/or the uniform network code.*

Implementation would not be expected to better facilitate this relevant objective.

4 The implications of implementing the Modification Proposal on security of supply, operation of the Total System and industry fragmentation

No such implications have been identified.

5 The implications for Transporters and each Transporter of implementing the

Modification Proposal, including:

a) implications for operation of the System:

No such implications have been identified.

b) development and capital cost and operating cost implications:

The Proposal increases incentives for Shippers and it is likely more claims will be submitted with a subsequent increase in Transporter operating costs.

c) extent to which it is appropriate to recover the costs, and proposal for the most appropriate way to recover the costs:

No cost recovery proposed.

d) Analysis of the consequences (if any) this proposal would have on price regulation:

No such implications have been identified.

6 The consequence of implementing the Modification Proposal on the level of contractual risk of each Transporter under the Code as modified by the Modification Proposal

No such consequence is anticipated if Transporter licence conditions are changed to reflect the requirements of this proposal.

7 The high level indication of the areas of the UK Link System likely to be affected, together with the development implications and other implications for the UK Link Systems and related computer systems of each Transporter and Users

No changes to systems would be required as a result of implementation of this Proposal.

8 The implications of implementing the Modification Proposal for Users, including administrative and operational costs and level of contractual risk

Administrative and operational implications (including impact upon manual processes and procedures)

No such implications identified.

Development and capital cost and operating cost implications

No such costs have been identified.

Consequence for the level of contractual risk of Users

No such consequence is anticipated.

9 The implications of implementing the Modification Proposal for Terminal Operators, Consumers, Connected System Operators, Suppliers, producers and, any Non Code Party

Consumers and Suppliers are likely to benefit from the correct apportionment of energy due to the increased number of investigations undertaken resulting in the reduction of theft.

10 Consequences on the legislative and regulatory obligations and contractual relationships of each Transporter and each User and Non Code Party of implementing the Modification Proposal

No such consequences.

11 Analysis of any advantages or disadvantages of implementation of the Modification Proposal

Advantages

- Reduces disincentives on Users to investigate theft by increasing the level of compensation claimable.
- The level of compensation is more reflective to the cost of investigating theft.
- Provides transparency and a robust mechanism for the continued governance of the reasonable endeavours scheme.
- May help to improve the allocation of energy by market segment.
- May provide a disincentive to theft by increasing likelihood of detection and prosecution by Users.

Disadvantages

- May require additional administrative and operational resources to manage the increase in work load for Users and Transporters.
- Increases the existing compensation values and cost of operating the existing scheme.

12 Summary of representations received (to the extent that the import of those representations are not reflected elsewhere in the Workstream Report)

No written representations have been received.

13 The extent to which the implementation is required to enable each Transporter

to facilitate compliance with safety or other legislation

No such requirement has been identified.

- 14 The extent to which the implementation is required having regard to any proposed change in the methodology established under paragraph 5 of Condition A4 or the statement furnished by each Transporter under paragraph 1 of Condition 4 of the Transporter's Licence**

No such requirement has been identified.

- 15 Programme for works required as a consequence of implementing the Modification Proposal**

Implementation of the Proposal will require coordination with changes proposed to the Transporter's licence.

- 16 Proposed implementation timetable (including timetable for any necessary information systems changes)**

As the proposal addresses a deficiency in present day arrangements it should be implemented as soon as possible, subject to the required changes to the Transporter's licence.

- 17 Implications of implementing this Modification Proposal upon existing Code Standards of Service**

No implications of implementing this Modification Proposal upon existing Code Standards of Service have been identified.

- 18 Workstream recommendation regarding implementation of this Modification Proposal**

The Distribution Workstream considers that the Proposal is sufficiently developed and should now proceed to the Consultation Phase.

Appendix 1 – Table

<p>(i) Attendance at premises (including at primary or secondary sub-deduct premises) following a breach of paragraph 10(1) of Schedule 2B, including preparation of investigation report and notification to the police (actions 1 and 2 in RED)</p>	<p>Actual costs up to a maximum of £1000.</p>
<p>(ii) Attendance at premises (including at primary or secondary sub-deduct premises) following a breach of paragraph 11(2) of Schedule 2B including preparation of investigation report and notification to the police (actions 1 and 2 in RED)</p>	<p>Actual costs up to a maximum of £1000.</p>
<p>(iii) In cases (i) and (ii) above the assessment and pursuit of charges for gas taken (actions 3, 4 and 5 in RED)</p>	<p>Actual costs up to a maximum of £1000.</p>
<p>(iv) Attendance at premises (including at primary or secondary sub-deduct premises) where a supply has been taken in such circumstances as are mentioned in Standard Condition 7(4)(c) of the licence including assessment and pursuit of charges and attempted identification of person taking supply (actions 2, 3, 4 and 5 in RED)</p>	<p>Actual costs up to a maximum of £1000.</p>
<p>(v) Meter exchange costs, including material, labour and sundry costs relating to new meter and its installation</p>	<p>Actual costs up to a maximum of £1000.</p>
<p>(vi) Forensic tests</p>	<p>Actual costs up to a maximum of £1000.</p>
<p>(vii) Court fees including issue of summons, service, judgement and execution fees</p>	<p>Actual costs.</p>