

Mr Bob Fletcher  
Secretary, Modification Panel  
Joint Office of Gas Transporters  
51 Homer Road  
Solihull  
B91 3LT

3<sup>rd</sup> February 2012

Dear Bob

**RE: UNC Modification 0395 – “*Limitation on Retrospective Invoicing and Invoice Correction*”.**

1. British Gas supports the implementation of Modification Proposal 0395 and believes that it will play an important role in reducing the risk that Shippers face in the current gas settlement process.
2. The rules within the UNC provide a mechanism for Shippers to be retrospectively invoiced for corrections in the settlement record up to five years. This ongoing exposure creates risk for Shippers which in turn creates cost. We recognise that when the current rules were developed under MOD152 the industry acknowledged these risks but erred on the side of caution in order to allow parties a period of time to become familiar with the rules before a review was held.
3. We agree with the Proposer that, having allowed this process to bed in during the last three years, it is now appropriate to review whether five years remains a suitable limit for retrospective invoices. The conclusion we have drawn during the development of this Proposal is that a move to a three year limit would benefit both the industry and customers, and should therefore be pursued as soon as possible.
4. In particular we note the evidence presented to the Workgroup which highlighted that the number of sites without a meter reading at the end of Year 2 is only 4.5%, suggesting that the level of unreconciled energy beyond this point in time is low<sup>1</sup>. Indeed, we believe that there is merit in the argument that this Proposal may act as an additional incentive on parties to

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<sup>1</sup> We note that the absence of a meter reading does not necessarily mean there is unreconciled energy at the site, hence our assumption that the potential impacts here are lower than the 4.5% exception rate may suggest.

ensure they collect and submit meter readings in good time; something which would have wider benefits.

5. We also consider that this Proposal should enable Shippers to deliver wider customer benefits. A reduced Shipper exposure to retrospective industry costs for example will in practice also lead a reduced customer exposure to retrospective industry costs. Whilst this does not necessarily directly facilitate any of the Code objectives, we consider that the implementation of this Proposal may be in keeping with Ofgem's primary duty.
6. We understand some may try to argue, as they did during the development of MOD152, that this Proposal somehow conflicts with the Statute of Limitations. We dismiss this line of argument however, and note that in considering this point Ofgem have previously concluded that "*Although the Limitation Act was raised as an objection to a limit of less than six years by some industry respondents, we consider that it is not of significant relevance to our decision. The reconciliation process is not in itself a remedy for contractual breach but a discrete operational process provided for and operated in accordance with the UNC contract*"<sup>2</sup>. In the absence of any new information as to why this argument is invalid therefore, we see no reason why the Proposal should not be implemented.
7. Our assessment of how these Proposals meet or do not meet the Relevant Objectives of Code are set out below.

***(d) 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.***

8. This proposal will reduce Shipper risk by reducing the limit of retrospective invoices by a further two years. This decrease in Shipper risk will result in lower risk premiums in the market and thus an improvement in effective competition.
9. If you have any queries relating to this representation, please do not hesitate to telephone me on (07789) 570501.

Yours sincerely

David Watson  
Head of Market Design & New Markets, British Gas

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<sup>2</sup> Ofgem Decision Letter, MOD152