

## Representation

### Draft Modification Reports

#### **0395 - Limitation on Retrospective Invoicing and Invoice Correction (2-3 years) and 0398 Limitation on Retrospective Invoicing and Invoice Correction (3-4 years)**

#### **Consultation close out date:**

**Respond to:** enquiries@gasgovernance.co.uk

**Organisation:** **Corona Energy**

**Representative:** Richard Street

**Date of Representation:** 05/01/2012

#### **Do you support or oppose implementation?**

Not in Support of either Modification 0398 or Modification 0395

#### **Please summarise (in one paragraph) the key reason(s) for your support/opposition.**

Corona Energy does not support the proposals in UNC Modifications 0395 & 0398 as either is likely to substantially impact on competition in the LSP sector. Further, reducing the current reconciliation period greatly increases the length of time where any customer billing correction going back to the statute of limitation limit (six years in the Limitations Act 1980) could not be reflected in settlement, from a period 1-2 years to a period of 2-3 years (Modification 0398) or 3-4 years (Modification 0395). LSP shippers are unable to manage this risk either through their consumer contract (as legally unenforceable) or via a 'domestic portfolio hedge'. It therefore substantially increases the risk of small suppliers with larger I&C customers to incur unaffordable costs through bill corrections that cannot be mitigated in settlement. As in these circumstances the exposed Shipper is paying for gas that should correctly have been allocated via RbD to the SSP sector, both of these modifications effectively transfer risk from the SSP sector the large LSP NDM and DM sectors.

## **Are there any new or additional issues that you believe should be recorded in the Modification Report?**

The modification report has not captured the significant risk this modification presents to competition in the larger end of the I&C sector from suppliers being prevented from reflecting customer billing corrections in settlement for a much greater period than current.

The report also ignores the valid reasons for the adjustment of LSP meter reads for periods greater than 2-3 years which are outside the reasonable control of the Shipper and therefore rather subjectively implies that the costs on small suppliers will be low. This is incorrect. It is disappointing to CE that the workstream has failed to understand and assess these issues in the report. This is particularly so as many of the workstream attendees represent organisations that own metering or meter reading businesses that service most small suppliers and whose performance issues can often be the root cause of adjustments.

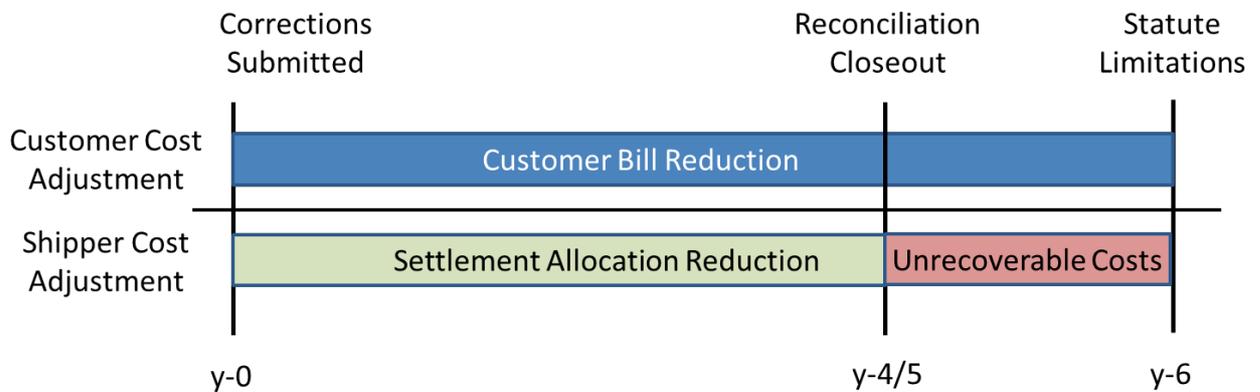
English law clearly provides parties six years to claim for errors such as these and it is not clear to Corona Energy why it is considered beneficial and appropriate to restrict in this particular instance. Indeed as the UNC is supposed to promote competition for shippers of all sizes including small shippers that are SME businesses it is unclear that sufficient attention has been given by the workstream to the impacts on smaller shippers.

## Relevant Objectives:

*How would implementation of this modification impact the relevant objectives?*

Unlike domestic and micro-business customers, larger I&C customers routinely investigate and query their energy bills with their supplier. It is therefore common for billing anomalies to originate from consumer queries where both the shipper and network have overcharged for consumption. At present these errors can be corrected up to 4-5 years. As the customer is supported by The Statute of Limitations Act 1980, the supplier is required to reconcile customer billing back to a six year cut-off date. This situation therefore leaves the supplier having been allocated gas incorrectly and so leaves the shipper paying for gas its customer never used. As this gas should have been allocated to the SSP sector, it creates a cross subsidy between the two markets.

The current situation can be illustrated below:



The current situation is sub-optimal and the misalignment of the UNC with the statutory framework creates the risk of the above occurring; both of these modifications significantly increase the likelihood of this cost exposure occurring, as well as substantially increasing its materiality. Due to the low margins involved in operating in the LSP sector, being unable to correct either 2-3 years (Modification 0398) or 3-4 years (Modification 0395) of over-allocated energy will add significant and unwarranted costs onto a shipper, which will threaten the viability of smaller suppliers. We note that this is not a risk that organisations with a large SSP portfolio face where the individual cost exposure from SSP customers is much smaller and individual large corrections from larger I&C customers can be more easily absorbed.

Increasing the risk in a certain sector of the market to benefit another will jeopardise competition and therefore means that these modifications go against relevant objective (d) (ii) furthering of competition between relevant suppliers.

## Impacts and Costs:

*What analysis, development and ongoing costs would you face if this modification were implemented?*

If either modification is implemented then the risk exposure Corona Energy will face from bill corrections for I&C customers will exponentially increase. This will require a significantly higher risk premia being built into prices as well as an increase in unrecoverable costs being loaded onto other customers.

Corona Energy has provided evidence to demonstrate that the level of costs associated with this proposed change would significantly impact on the costs incurred by smaller independent shippers active in the LSP sector which they will be unable to hedge through obtaining a domestic portfolio of similar size. The evidence shows that the level of cost this proposal would place on such suppliers would be unsustainable and would therefore result in the reduction of competition.

## Implementation:

*What lead-time would you wish to see prior to this modification being implemented, and why?*

Given the serious impacts on the I&C market if either proposal were introduced we anticipate any implementation would be extremely difficult. We anticipate that the workload for Xoserve will be substantially increased as suppliers rush to raise a large number of reconciliations that would normally have otherwise been submitted gradually over a period of time that will instead be submitted ahead of any reduction in the reconciliation timescale. Some suppliers may feel forced to query anything that they suspect may be subject to a reconciliation before the deadline to avoid the cut-off.

This also needs to be considered in the context of other changes Ofgem and DECC are currently expecting small suppliers to deliver such as Smart Metering, Green Deal, RMR changes, Backbilling Codes of Practice, the Security of Supply SCR, REMIT, Project Nexus changes, removal of the DNO DM Read, etc. Corona Energy therefore believes an implementation date for 0395 (01 October 2012) will therefore be difficult for the suppliers to meet without jeopardising the delivery of other policy deadlines and changes. The 0398 implementation date (1 April 2012), being a month after the decision date is not feasible and will result in significant administrative costs to both the Transporter's Agent and Shippers.

Furthermore, a phased implementation of 0398, followed by 0395, as has been suggested is impractical. If either of these modifications is implemented, Shippers, particularly those who supply larger I&C sites, will need to undertake a review of their business activities in this sector in order to evaluate the risks to their businesses. They will also have to undertake substantial system changes to align their processes with the new cut-off deadline. Having to do this twice in quick succession will place significant additional costs onto the industry, and ultimately the customer.

**Legal Text:**

*Are you satisfied that the legal text will deliver the intent of the modification?*

We have not reviewed the legal text.

**Is there anything further you wish to be taken into account?**

*Please provide any additional comments, supporting analysis, or other information that that you believe should be taken into account or you wish to emphasise.*

No