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Subject: FW: UNC 231 - Distribution workstream action point

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Dear Helen and Bob

Unfortunately I will not be able to attend Thursday's meeting. Please see the email below which covers my action point on UNC 231. I would be grateful if you could circulate this to the group.

At the last Distribution Workstream meeting Ofgem was asked for a view on how UNC 231 could potentially be accommodated through complimentary changes to the Gas Transporters Licence. Concerns were noted about retaining rules and obligations in the licence that would be met through the UNC. In particular, we were asked to consider the impact of UNC 231 on:

- a) SLC 7(8) – The requirement on a GT to set out in a document when a supplier will have been presumed to have used its reasonable endeavours (the Reasonable Endeavours Scheme or RES).
- b) SLC 7(6) – The allowances to be paid when a supplier has tried but failed to recover monies from a customer where a "theft" had been identified

The comments below are Ofgem's indicative thoughts only on how the Gas Transporter Licence might be amended, there may well be others. We note that, were UNC 231 to develop further, then we would give this additional consideration.

Please note that these comments should not be taken as giving any indication about whether Ofgem would approve or reject UNC 231 or whether we would propose an associated modification to the Gas Transporter Licence.

Were Ofgem to propose an associated modification to the Gas Transporter Licence this may be on the basis of the options below or on alternative drafting. Note that the modification to the licence condition would require approval of the licensed Gas Transporters under the Collective Licence Modification (CLM) process. It is by no means guaranteed that, if the Panel approves UNC 231, the CLM test will be passed. The same point applies to introducing new licence conditions, an option discussed below. In this situation, Ofgem would need to give further consideration on whether to approve UNC231. This is not an issue that we have fully considered at this point in time.

For ease of reference, SLC 7 can be found at the following link:  
[http://epr.ofgem.gov.uk/document\\_fetch.php?documentid=4308](http://epr.ofgem.gov.uk/document_fetch.php?documentid=4308)

#### **SLC 7(8) - RES**

We understand that UNC 231 proposes to take the document that each GT is required to put in place under SLC 7(8) and include it within the mandatory requirements of the UNC.

We have considered two alternative ways in which SLC 7(8) might be amended.

#### Option 1

Under Option 1 the current drafting of 7(8) would be replaced with the following:

*"For the purposes of paragraphs 5 and 7, the supplier concerned shall be presumed to have used its reasonable endeavours if it has acted in accordance with such direction as the Authority may issue from time to time for the purposes of this condition"*

This option would permit Ofgem to issue a direction which specifies that 1) for IGTs the position is to remain the

same as it is currently and 2) for the NTS and DNs, the supplier would be required to act in accordance with the RES set out in the UNC.

### Option 2

An alternative option would be to “switch off” SLC 7.8 for the NTS and DNs and introduce a new Standard Special Condition (SSC) which refers to the RES being set out in the UNC or which provides for the Authority to issue a direction in relation to the RES. Possible drafting for this new SSC could be:

*“For the purposes of Standard Licence Condition 7 paragraphs 5 and 7, the supplier concerned shall presumed to have used its reasonable endeavours if it has acted in accordance with [Section #] of the Uniform Network Code”, or alternatively:*

*“For the purposes of Standard Licence Condition 7 paragraphs 5 and 7, the supplier concerned shall presumed to have used its reasonable endeavours if it has acted in accordance with such direction as the Authority may issue from time to time for the purposes of this condition.”*

### **SLC 7(6) - Allowances**

We understand that UNC 231 also proposes to take the allowances currently set by the Authority under SLC 7(6) (this being the current Table 1 in the scheme of allowances designated by the Authority in 2005 as modified by UNC 231) and include it within the mandatory requirements of the UNC.

Our initial view is that the broad approaches set out in option 1 and 2 above are equally valid for consideration of SLC 7(6).

### Option 1

Under Option 1 the current drafting of SLC 7(6) would be replaced with the following:

*“The allowance referred to in paragraph 5 is as described in a scheme designated by the Authority from time to time for the purposes of this condition”*

This option would permit Ofgem to designate a scheme which 1) for IGTs sets out the allowances in that scheme and 2) for the NTS and DNs, refers to the allowances as those set out in the UNC.

### Option 2

The alternative option is to “switch off” SLC 7.6 for the NTS and DNs and introduce a new Standard Special Condition (SSC) which refers to the allowances as being set out in the UNC or which provides for the Authority to issue a direction in relation to the allowances. Possible drafting for this new SSC could be:

*“For the purposes of Standard Licence Condition 7 the allowance referred to in paragraph 5 is the allowance set out under [Section #] of the Uniform Network Code”, or alternatively:*

*“For the purposes of Standard Licence Condition 7, the allowance referred to in paragraph 5 is as described in a scheme designated by the Authority from time to time for the purposes of this condition.”*

Please note that, if a modification to SLC 7 is to be proposed then, in relation to SLC 7(6), we would propose to clarify that for IGTs, the allowance should relate to the amounts set out in the current Table 1 of the allowances scheme only. For NTS and DNs we would clarify that the allowances would be set out under the UNC. Therefore, we would remove any potential ambiguity in the interpretation of SLC 7(6) that may allow for allowances to be claimed “for the reasonable cost to the supplier concerned of complying with a request” in addition to those set out in a scheme/the UNC.

Regards  
Andrew

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