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value for all customers*

The Joint Office, relevant Gas Transporters and other interested parties

Our Ref: Net/Cod/Mod/UNC078
Direct Dial: 020 7901 7491
Email: industrycodes@ofgem.gov.uk

1 September 2006

Dear Colleague,

Ofgem's decision and direction in relation to UNC Modification Proposal 078: Variation/Withdrawal of a Modification Proposal.

Ofgem¹ has considered the issues arising from the modification report in respect of Uniform Network Code (UNC) modification proposal 078 and, having regard to the principal objective and statutory duties of the Authority², has decided to direct relevant Gas Transporters (GTs) to implement the modification proposal.

Ofgem considers that implementation of this proposal would better facilitate the achievement of the relevant objectives of the UNC, as set out under Standard Special Condition A11³ of the relevant Gas Transporters' licences, as compared with the existing provisions of the UNC.

Background

The UNC Modification Rules set out in detail the manner in which any proposed modification to the UNC will be handled, including stages such as development, consultation etc.

Currently, the Modification Rules allow for a Proposal to be varied by the original Proposer at any time before the Consultation Phase commences, being the point at which the UNC Panel determine that the proposal should proceed to consultation. At this point the UNC Panel will also appoint a Subject Matter Expert to produce the draft Modification Report (DMR).

The proposer may currently withdraw their proposal at any point prior to the DMR being prepared and ready to be issued for consultation in line with the agreed timetable. This will ordinarily be within fifteen working days of the UNC Panel meeting, unless instructed otherwise by the UNC Panel.

¹ Ofgem is the Office of the Gas and Electricity Markets Authority. The term 'Ofgem', 'the Authority' and 'We' are used interchangeably in this letter.

² Set out in Section 4AA of the Gas Act 1986, as amended.

³ This Licence Condition can be viewed at: http://62.173.69.60/document_fetch.php?documentid=6547

In the past these cut off dates have led to situations where, for instance, proposals have had to be withdrawn and resubmitted where an error or anomaly is found with the proposal and/or accompanying legal text, effectively requiring the process to be started again and potentially delaying the implementation of improvements.

The Modification Proposal

This proposal seeks to make three specific amendments to the UNC Modification Rules, as follows:

1. Extend the period a proposal can be varied from the current beginning of the Consultation Phase, up to any point before the UNC Panel votes on its recommendation. It is anticipated that the variation rule will be used to make changes to the legal text and correct other minor, immaterial errors. Any variation request will be at the Panel's discretion.
2. Allow for the withdrawal of a modification proposal at any point in the consultation phase up to the submission of the Final Modification Report (FMR) to Ofgem. As currently, any withdrawn proposal may be 'adopted' by another User who wishes to progress it through to completion.
3. Where a proposer's licence is withdrawn or the proposer is terminated under the UNC their proposal(s) will be automatically withdrawn. Again, under such circumstances a proposal may be adopted by another User.

Panel recommendation

At the 15 June 2006 meeting of the UNC Modification Panel, panel members voted in favour of recommending implementation of this modification proposal.

Ofgem's views

The Joint Office received 6 responses in relation to its consultation on this modification proposal, all of which supported its implementation.⁴ All respondents considered that the modification would further the relevant objective of promoting efficiency in the implementation and administration of the UNC, as set out in Standard Special Condition A11(f) of the GT Licence.

We agree with the views of respondents and the UNC Modification Panel, to the extent that the revisions to the Modification Rules set out in this proposal would introduce a greater degree of flexibility and efficiency within those rules. In particular we welcome the increased role of the Panel which, subject to its discretion, may allow for the variation of proposals where minor errors, anomalies or improvements are identified. This may increase the value of the consultation process, as modifications may be varied as a result of issues being highlighted by respondents, rather than as may currently be the case carried over into a further proposal and/or potentially increasing the likelihood of the proposal being rejected.

Whilst minor variations to the legal text are sometimes sought and subsequently made following the submission of the FMR to Ofgem, prompting a revised version to be issued, we consider that the process envisaged in the proposal would further improve the

⁴ Full responses can be viewed at <https://gtis.gasgovernance.com>

transparency around these situations. It may also reduce the number of minor modifications that are currently carried out without consultation but with Ofgem's consent, such as the correction of minor typographical errors or paragraph numbering.

We consider the increased role of the UNC Panel will improve the efficiency of the modification process, both in respect of its ability to oversee minor variations to the proposal and/or legal text, or if more appropriate, for it to be re-consulted upon. Although these actions may traditionally have been prompted by Ofgem following our consideration of the FMR, the Panel's enhanced role will allow for such action to be taken earlier in the process and reduce the instances where action by Ofgem is needed, consistent with the principles of best regulatory practice.

Only Parties to the UNC and, in limited circumstances energywatch⁵, can raise modification proposals to the UNC. This right lapses when an organisation ceases to be a Party. Given the nature of these rights and, in particular, the ongoing role and responsibilities of the proposer in the modification process as set out in the Modification Rules, we consider it is appropriate that any unresolved proposal of the former Party also lapses, unless adopted by a current Party. This adoption of withdrawn proposals is already a feature of the Modification Rules and should ensure that proposals which have merit proceed. Whilst this is likely to be an infrequent occurrence, we nonetheless consider this aspect of the proposal to be a useful clarification.

Should you wish to discuss any of the issues raised in this decision letter please contact me on the above telephone number or Samantha McEwen on 020 7901 7032.

Yours sincerely

A handwritten signature in black ink, appearing to read 'N. Simpson', written over a horizontal line.

Nick Simpson
Director, Industry Codes & Licensing

⁵ energywatch is designated as a Third Party Participant for the purposes of the UNC Modification Rules