

Modification proposal:	Uniform Network Code (UNC) 0788: Minimising the market impacts of 'Supplier Undertaking' operation (UNC788)		
Decision:	The Authority ¹ directs this modification be made ²		
Target audience:	UNC Panel, Parties to the UNC and other interested parties		
Date of publication:	29 October 2021	Implementation date:	1 November 2021

Background

When a shipper is terminated from the Uniform Network Codes (UNC) for any reason, there are existing industry processes to ensure that gas continues to flow to end consumers and that the registered supplier to those consumers is responsible for transportation charges and energy costs. In addition, suppliers are required by Gas Supply Standard Licence Condition (SLC) 18.4³ to take all reasonable steps to ensure that they have arrangements with a gas shipper within 25 working days.⁴

While immediate continuity of shipping arrangements is the most efficient outcome, there may be a period during which no replacement shipper is appointed due to the commercial nature of the supplier-shipper relationship. Furthermore, when a supplier secures commercial arrangements with another shipper or has a pre-existing relationship with another shipper, the transfer of meter points within industry systems can take time, potentially leaving some meter points without a registered shipper for a period of time. Under existing arrangements, only once these meter points are transferred to an operational shipper in the industry systems, can the new shipper take on the associated rights and obligations (including the ability to trade) for those meter points.

¹ References to the "Authority", "Ofgem", "we" and "our" are used interchangeably in this document. The Authority refers to GEMA, the Gas and Electricity Markets Authority. The Office of Gas and Electricity Markets (Ofgem) supports GEMA in its day to day work. This decision is made by or on behalf of GEMA.

² This document is notice of the reasons for this decision as required by section 38A of the Gas Act 1986.

³ Undertakings to Relevant Gas Transporters

⁴ Consolidated standard licence conditions are available on [our website](#).

The modification proposal

UNC788 was raised by National Grid NTS (the proposer) and seeks to insert text to UNC Transportation Principal Document Section E to allow suppliers with 'shipper-less' sites to deliver gas into the system for those sites by allowing them to make use of existing relationships with other shippers. A supplier may have relationships with multiple shippers if, for example, they are in the process of migrating their shipping arrangements to a new shipper, or they have been appointed as Supplier of Last Resort (SoLR) and are in the process of migrating the supply points to their usual shipper. In parallel, but separate to this process, a change is also proposed to the Deed of Undertaking that gas suppliers provide to Gas Transporters pursuant to Gas Supply SLC18.2, so is not considered further in this decision.

The proposer considers that UNC788 better facilitates relevant objective (a)⁵ because it introduces a more efficient and potentially more economic means of securing delivery of supplies of gas to the system to balance the demands from the consumers at a meter point without a registered shipper.

The proposer also considers UNC788 better facilitates relevant objective (d)⁶ because enabling shippers to procure gas (as opposed to incurring a proportion of the residual balancing costs, the level of which are outside the control of the shippers) enables greater optimisation of those costs thereby better securing effective competition between Shipper Users compared to the current arrangements.

The proposer considers the modification has no impact on all other objectives.

The Authority granted urgent status for UNC788 on 19 October 2021.⁷

⁵ Relevant objective (a) of the UNC is "efficient and economic operation of the pipe-line system" as set out in Standard Special Condition A11: Network Code and Uniform Network Code of the Gas Transporter Standard Special Conditions Part A, available at: <https://epr.ofgem.gov.uk//Content/Documents/Standard%20Special%20Condition%20-%20PART%20A%20Consolidated%20-%20Current%20Version.pdf>

⁶ Relevant objective (d) of the UNC is "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" as set out in Standard Special Condition A11: Network Code and Uniform Network Code of the Gas Transporter Standard Special Conditions Part A.

⁷ The urgency decision was published on 20 October 2021 and can be found on [our website](#).

Ofgem approved a one-day consultation on 20 October 2021. Thirteen representations were received: nine supported implementation, three offered qualified support and one provided comments.

UNC Panel⁸ recommendation

At UNC Panel meeting on 28 October 2021, a majority of the UNC Panel considered that UNC788 would better facilitate the UNC objectives and the Panel therefore unanimously recommended its approval. The majority of Panel members considered UNC788 better facilitated relevant objectives (a) and (d).

Our decision

We have considered the issues raised by the modification proposal and the Final Modification Report (FMR) dated 28 October 2021. We have considered and taken into account the responses to the industry consultation.⁹ We have concluded that:

- implementation of the modification proposal will better facilitate the achievement of the relevant objectives of the UNC; and
- directing that the modification be made is consistent with our principal objective and statutory duties.¹⁰

Impact assessment

Section 5A of the Utilities Act 2000 imposes a duty on the Authority (its "Section 5A duty") to undertake an impact assessment in certain circumstances. In particular, that applies where it appears to the Authority that a proposal is important. A proposal is important for these purposes if its implementation would be likely to, among other things, "have a significant impact on persons engaged in the shipping, transportation or supply of gas conveyed through pipes". Where this applies, the Authority is obliged to carry out an impact assessment.

⁸ The UNC Panel is established and constituted from time to time pursuant to and in accordance with the UNC Modification Rules.

⁹ UNC modification proposals, modification reports and representations can be viewed on the Joint Office of Gas Transporters website at www.gasgovernance.co.uk

¹⁰ The Authority's statutory duties are wider than matters which the Panel must take into consideration and are detailed mainly in the Gas Act 1986 as amended.

The Authority has not found it necessary to reach a decision on the implications of the reasons set out in our letter for the application of its Section 5A duty. This is because of the exceptions to this duty. These apply if it appears to the Authority that the urgency of the matter makes it impracticable or inappropriate for the Authority to comply with the section 5A duty.

The Authority considers it is both impracticable and inappropriate to comply with the Section 5A duty for this decision. The timeline for decision does not allow for a full impact assessment. The proposal put forward seeks to mitigate the risk that suppliers could be exposed to cashout prices if a shipper were to exit the market and we agree with the proposer that current market conditions materially increase the risk of this occurring. Our decision provides an option to limit suppliers' exposure to cashout prices. With the time available, we did consider the potential impacts of the proposed option and have taken account of those potential impacts in this decision.

Reasons for our decision

We consider this modification proposal will better facilitate UNC objectives (a) and (d) and has a neutral impact on the other relevant objectives.

(a) the efficient and economic operation of the pipe-line system to which this licence relates

The proposer considers that UNC788 better facilitates relevant objective (a) because it introduces a more efficient and potentially more economic means of securing delivery of supplies of gas to the system to balance the demands from the consumers at a meter point without a registered shipper. Eleven of the thirteen consultation respondents also considered that UNC788 better facilitates objective (a).

We have carefully considered the modification proposal, consultation responses, and views of the Panel. We consider that this modification would better facilitate objective (a) because it more closely aligns the operation of the system in the case of shipper termination to the business-as-usual arrangements where shippers input gas on behalf of suppliers. Where a supplier with 'shipper-less' sites has arrangements with another shipper, but due to constraints in their own internal systems or the central systems they cannot readily transfer

the sites to the new shipper's portfolio, we consider it is inefficient for that supplier to be unable to make use of alternative commercial arrangements with another shipper.

The majority of respondents agreed that the proposal would lead to more accurate and efficient balancing of the system, and therefore reduced balancing costs for shippers and suppliers. One respondent noted that the cashout price is not always more expensive than the price that a shipper may pay for gas they have sourced themselves. However, they agreed that in principle the modification should limit suppliers' and shippers' exposure to residual balancing costs and enhance risk mitigation. We consider that in the current volatile wholesale market, there is a high likelihood that incoming shippers can source gas at a lower price, on average, than the cashout price. We agree that, even where this may not be the case, it is efficient and economic to enable suppliers and shippers to mitigate the risk of high cashout prices if they wish to.

While we consider that UNC788 introduces a somewhat manual process for the Central Data Service Provider (CDSP) and/or National Grid NTS to reconcile inputs against the correct portfolios, we note that National Grid NTS's consultation response confirms that this is not a material additional cost in their view. A Gas Distribution Network (GDN) respondent expressed concern that the proposal would see transportation costs being managed by suppliers but energy costs being managed by shippers under the Deed of Undertaking, and they questioned whether that would be manageable for the CDSP and UNC Parties. Our view is that the costs associated with a relatively short-term manual process is likely to deliver benefits that outweigh the costs of such manual processing, and we expect the proposer and CDSP to engage with UNC Parties further on the operation of the processes set out in this modification.

Some respondents expressed concern that UNC788 does not include a deadline by which suppliers should have regularised their shipping arrangements for all affected meter points, which could lead to inefficient outcomes if suppliers opt to operate through the manual processes envisaged by UNC788 for an extended period. We agree that this is a risk, although we consider there are incentives for suppliers and shippers to properly transfer meter points to the correct portfolio as soon as possible, for example to be able to update industry data relating to those meter points and object to switch requests. We therefore do not consider that the legal text necessarily needs to be amended at this time, although we expect that National Grid NTS, the CDSP and GDNs will monitor this and consider whether further modifications may be required if this risk materialises into an issue.

(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

Ten of the thirteen consultation respondents agreed with the proposer that UNC788 better facilitates relevant objective (d). One respondent suggested there may be few instances of suppliers having relationships with more than one shipper, and some others commented on the eligibility criteria to use the process proposed in this modification. While we cannot comment on specific commercial relationships, we consider that due to the current market circumstances there is an increased likelihood of suppliers having relationships with more than one shipper. For example, this may occur when a supplier is appointed as the Supplier of Last Resort (SoLR) for a portfolio that used a third-party shipper, and the SoLR already has their own shipping arrangements for the rest of their portfolio. In such a case, the SoLR will (perhaps temporarily) have a commercial relationship with the failed supplier's shipper and their regular shipper. Indeed, this arrangement is supported by SLC12¹¹ of the Gas Shipper Licence.

A small number of respondents noted an inconsistency between the modification proposal and the accompanying legal text, relating to who would be eligible to use the process proposed in UNC788. The modification proposal states that a supplier could deliver gas if "that Supplier has arrangements in place with another Shipper User for the provision of gas to Supply Meter Points other than the Terminated Supply Meter Points". However, the legal text does not require the incoming shipper to already be registered to any of the supplier's meter points; the legal text only requires the shipper to present evidence to National Grid NTS that the supplier has authorised the shipper to deliver gas on their behalf.

We consider that the legal text as drafted better facilitates competition between suppliers and shippers, as per objective (d), as it places suppliers on a level playing field regardless of when they made arrangements with the new shipper or the nature of their wider portfolio. This

¹¹ Provisions Relating to Continuity of Supply.

outcome allows for greater flexibility for suppliers in finding, and transferring their meter points to, an alternative shipper but the onus of ensuring that happens will still fall on the supplier. We note that the respondents who commented on this discrepancy also supported the drafting of the legal text rather than the stricter requirement within the modification proposal.

Other issues

Seven of the thirteen respondents commented on the accelerated timeline for this urgent modification: three noted they had insufficient time to review the legal text, two noted insufficient time to comprehend consequential impacts and two stated it affected their ability to comment on all aspects of the modification. We acknowledge these concerns but directed an exceptionally urgent timetable for UNC788 based on our assessment of the urgency, as explained in our decision on urgency.¹² We note that the Panel felt unable to make a recommendation on UNC788 on the original date directed in our urgency decision, due to a concern raised by Xoserve as to the implementation approach for this proposal. The Panel was re-convened as soon as possible following resolution of this query, and we confirmed that we agreed to the amended timetable.¹³

We have carefully considered whether the limited time available for review of the proposal and legal text should prevent us from making a decision on this proposal. We note that this proposal received thirteen consultation responses and the majority of those offered support or qualified support for the modification. We consider that the legal text adequately reflects the intent of the modification, as confirmed by the Proposer during the Panel meeting. We consider that the broader legal text is beneficial to suppliers as it provides less restrictions on the relationship between the shipper and the supplier, and we considered this in our decision to approve the modification. A delayed decision on UNC788 could leave suppliers exposed to cashout prices if a shipper were to exit the market, and we agree with the proposer that the current market conditions materially increase the risk of this occurring. We have therefore decided that it is consistent with our broader duties that we should approve this modification.

¹² The urgency decision was published on 20 October 2021 and can be found on [our website](#).

¹³ Ofgem letter regarding the amended timetable is available here www.gasgovernance.co.uk/788

Decision notice

In accordance with Standard Special Condition A11 of the Gas Transporters licence, the Authority hereby directs that modification proposal *UNC788: 'Minimising the market impacts of 'Supplier Undertaking' operation'* be made.

Eleanor Warburton

Deputy Director - ESO and Gas Systems

Signed on behalf of the Authority and authorised for that purpose