

Modification proposal:	<b>Uniform Network Code (UNC) 809: Distribution of Last Resort Supplier Payment (LRSP) claims to include IGT sites (UNC809)</b>		
Decision:	The Authority <sup>1</sup> directs this modification be made <sup>2</sup>		
Target audience:	UNC Panel, Parties to the UNC and other interested parties		
Date of publication:	30 November 2022	Implementation date:	To be confirmed by the code administrator

## Background

On 11 March 2022, we provided consent for Independent Gas Transporters (“IGTs”) to revise their 2022/23 charges to reflect Last Resort Supplier Payment (“LRSP”) costs.<sup>3</sup> The consent was intended to facilitate, “LRSP cost recovery evenly between gas customers connected directly to a Gas Distribution Network (“GDN”) and those connected via an IGT network.”

On 20 April 2022, we consulted<sup>4</sup> on options for the recovery of an LRSP claim from domestic customers connected directly to GDNs and those connected via IGTs for 2022/23 (“the interim solution”) and for 2023/24 and beyond (“the enduring solution”).

On 16 June 2022, we published our decision on the interim solution (“June open letter”).<sup>5</sup> In our decision, we stated that: ‘Industry has raised a uniform network code (UNC) modification [UNC809] which seeks to address the enduring solution. Ofgem will consider the UNC modification in due course’.

<sup>1</sup> 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.

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

<sup>3</sup> <https://www.ofgem.gov.uk/publications/recovery-igts-last-resort-supply-payment-lrsp-claims-arising-failed-suppliers>

<sup>4</sup> <https://www.ofgem.gov.uk/publications/recovery-gas-transporters-last-resort-supply-payments>

<sup>5</sup> <https://www.ofgem.gov.uk/publications/decision-letter-about-recovery-last-resort-supply-payment-claims-customers-connected-gdn-and-igt-networks>

## The modification proposal

On 1 June 2022, Northern Gas Networks (“NGN”, “the Proposer”) raised UNC809: ‘*Distribution of Last Resort Supplier Payment (LRSP) claims to include IGT sites*’.<sup>6</sup> The Proposer states that the modification will add clarity to the UNC to confirm that LRSP is recovered from all relevant Supply Meter Points<sup>7</sup> including those connected via an IGT Connected System Exit Point (“CSEP”).

This is to ensure that all customers, whether connected via an IGT CSEP or directly connected to a Gas Distribution Network (“GDN”), bear the costs resulting from a Supplier of Last Resort (“SoLR”) event equally given that all customers are afforded the same protection in the event of a SoLR appointment. The Proposer argues that, without an enduring solution in the UNC, “the Supply Meter Points which are directly connected to the DNs would bear the entire share of costs, with Supply Meter Points that are connected via an IGT network bearing none of the cost; resulting in a cross subsidy against DN connected Supply Meter Points”.

## UNC Panel<sup>8</sup> recommendation

At the UNC Panel meeting on 15 September 2022, 13 out of the 14 present of the UNC Panel considered that UNC809 would better facilitate the UNC objectives and the Panel therefore recommended its approval. Of the members representing consumers, both the Consumer Voting Member and Non-domestic Consumer Voting Member voted to recommend implementation.<sup>9</sup>

## Our decision

We have considered the issues raised by the modification proposal and the Final Modification Report (“FMR”) dated 15 September 2022. We have considered and taken into account the

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<sup>6</sup> <https://www.gasgovernance.co.uk/0809>

<sup>7</sup> A ‘Supply Meter Point’ refers to an individual gas supply which is identified by a unique number known as a ‘Meter Point Reference Number’.

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

<sup>9</sup> <https://www.gasgovernance.co.uk/sites/default/files/ggf/2022-09/Determinations%20Record%20296%2015%20Sep%2022%20v1.0%20.pdf>

responses to the industry consultation on the modification proposal which are attached to the FMR<sup>10</sup>. We have concluded that:

- implementation of the modification proposal will better facilitate the achievement of the relevant objectives of the UNC;<sup>11</sup> and
- directing that the modification be made is consistent with our principal objective and statutory duties.<sup>12</sup>

### **Reasons for our decision**

We consider this modification proposal will better facilitate UNC Relevant Code Objectives (RO) (c) and (f). We also consider that UNC Charging Methodology Relevant Objective (CMRO) (a) is not applicable in this case.

#### ***RO (c) so far as is consistent with sub-paragraphs (a) and (b), the efficient discharge of the licensee's obligations under this licence***

We consider that the proposal has a positive impact on RO (c).

The Proposer considers that RO (c) and CMRO (a) are furthered by the modification as it will ensure that the GDNs remain cost neutral in relation to LRSP claims whilst passing these costs through to the relevant customer base in accordance with Standard Special Condition A48 of the Transporters Licence.<sup>13</sup> This is based on the principle that all Supply Meter Points, whether directly connected to a GDN, or via an IGT CSEP, are treated equally in a SoLR event, so equally bear the cost of any valid LRSP claims.

In their consideration of the ROs, some Panel Members agreed with the Proposer's assessment, and saw the modification as having a positive impact on RO (c) in several ways.

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<sup>10</sup> UNC modification proposals, modification reports and representations can be viewed on the Joint Office of Gas Transporters website at [www.gasgovernance.co.uk](http://www.gasgovernance.co.uk)

<sup>11</sup> As set out in Standard Special Condition A11(1) of the Gas Transporters Licence, available at: <https://epr.ofgem.gov.uk//Content/Documents/Standard%20Special%20Condition%20-%20PART%20A%20Consolidated%20-%20Current%20Version.pdf>

<sup>12</sup> 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.

<sup>13</sup> Standard Special Condition A48: Last Resort Supply: Payment Claims  
<https://epr.ofgem.gov.uk//Content/Documents/Standard%20Special%20Condition%20-%20PART%20A%20Consolidated%20-%20Current%20Version.pdf>

Firstly, they considered that UNC809 will distribute SoLR costs fairly and in line with Ofgem's intent in its open letter issued for recovery of LRSP costs from IGTs.<sup>14</sup> Secondly, they stated that UNC809 adds clarity to the UNC in relation to IGT sites being included in LRSP claim calculations and their corresponding charges from April 2023. They also noted that the proposal is consistent with open letters from Ofgem in relation to the current charging year<sup>15</sup>, and is consistent with how IGT sites were treated prior to April 2022.

However, other Panel Members noted that IGTs already have a licence condition to recover LRSPs from their system users and therefore, this modification does not positively impact RO (c). These Panel Members considered that it is not efficient to reinstate an obligation on Transporters to fulfil this process. We disagree with this view. The proposed modification provides a pragmatic solution to the problem surrounding the contribution of IGT-connected consumers towards SoLR cost recovery. It continues the approach that is being followed this year (under our "interim solution") and what was followed prior to April 2022, where IGTs made payments to GDNs for LRSP costs relating to the IGT-connected consumers. Therefore, it is a process which is familiar to GDNs and IGTs and market participants. The resulting clarity will avoid the unequal treatment of Supply Meter Points connected to a GDN to those connected to an IGT CSEP. Therefore, the proposed solution will promote efficiency in the discharge of the licensee's obligations by ensuring that both GDNs and IGT CSEPs bear the costs of SoLR events, which falls under the principle of fair treatment of customers in the Gas Transporter Licence.<sup>16</sup>

For these reasons we consider that the modification has a positive impact on RO (c).

***CMRO (a) save in so far as paragraphs (aa) or (d) apply, that compliance with the charging methodology results in charges which reflect the costs incurred by the licensee in its transportation business***

In their assessment of CMRO (a), a Panel Member saw the proposal as having a positive impact on this objective because, "The charges are paid out by GDNs so they are costs

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<sup>14</sup> 11 March 2022 open letter: <https://www.ofgem.gov.uk/sites/default/files/2022-03/2022-03-11%20IGT%20LRSP%20letter%20-%20authorised.pdf>

<sup>15</sup> Our open letters on 20 April 2022 and 16 June 2022, links to which have been added in footnote 5 and 6 respectively.

<sup>16</sup> The 'principle of fair treatment' refers to the 'Customer Objective' under D21: Treating Domestic Customers Fairly.

*incurred by the Transporter.*" However, another Panel Member believed that this CMRO is not relevant for this modification as SoLR charges are not transportation charges.

We agree with this Panel Member that CMRO (a) is not relevant for this modification. Even though the amended legal text falls under UNC Section Y Part B ('DN TRANSPORTATION CHARGING METHODOLOGY'), UNC809 does not propose changes to the DN charging methodology in the strict sense. For this reason, we consider that CMRO (a) is not applicable in this case.

***RO (f) so far as is consistent with sub-paragraphs (a) to (e), the promotion of efficiency in the implementation and administration of the network code and/or the uniform network code***

We consider that the proposal has a positive impact on RO (f).

The Proposer states that RO (f) is furthered by the modification by, *"...adding clarity to UNC, and by the alignment of CDSP systems."*<sup>17</sup> All Panel Members agreed that this modification had a positive impact on this RO, and some Panel members supported the Proposer's assessment by reiterating their consideration of RO (c) and CMRO (a) that the modification adds clarity to the UNC surrounding IGTs and LRSP payments. They also added that this clarity is consistent with Ofgem's open letters and how IGTs were treated prior to April 2022. Panel Members also considered that: "There is likely to be a marginal reduction in work for Shippers in that they do not have to make SoLR [payment claims] to IGTs". However, Panel also questioned this positive impact on RO (f) noting that IGT invoicing is covered by the IGT UNC not the UNC itself.

We agree with the Proposer and Panel Members that UNC809 positively impacts RO (f) by adding clarity to the UNC by stating clearly that IGTs will be also contributing towards LRSP claims from April 2023 onwards.<sup>18</sup> This clarity will promote efficiency in the implementation and administration of the UNC by preventing the unequal treatment of Supply Meter Points. To avoid an unequal treatment between consumers in the Financial Year 2022/23, we allowed a revision of SoLR tariffs mid-year for GDNs and the introduction of an interim solution. This

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<sup>17</sup> Central Data Services Provider ("CDSP") is a role that has been taken on by Xoserve since 1 April 2017.

<sup>18</sup> The proposed solution of UNC809 amends the UNC text in TPD Section Y Charging Methodologies, Part B – DN Transportation Charging Methodology, paragraph 11.3. Further details can be found in the FMR.

interim solution required ad hoc agreements to be put in place between GDNs and IGTs. The proposed solution will positively impact RO (f) by introducing an enduring solution that will prevent the events of this year from reoccurring.

For the reasons set out above, we consider that the proposal would have a positive impact on RO (f).

### **Our principal objective and statutory duties**

The Authority's principal objective is to protect the interests of existing and future consumers in relation to gas conveyed through pipes and electricity conveyed by distribution or transmission systems.

The proposed solution will ensure that customers contribute towards the costs resulting from a SoLR event equally whether they are connected to a GDN or an IGT CSEP, given that all customers are afforded the same protection in the event of a SoLR appointment. Without UNC809, there is a risk that the Supply Meter Points which are directly connected to the DNs would bear the entire share of SOLR costs, with Supply Meter Points that are connected via an IGT network bearing none of the cost. We agree with the Proposer that this would result in a cross subsidy against DN connected Supply Meter Points.

For these reasons, we consider that approving UNC809 is consistent with our principal objective to protect the interest of GB consumers.

### **Decision notice**

In accordance with Standard Special Condition A11 of the Gas Transporters licence, the Authority hereby directs that modification proposal UNC809: '*Distribution of Last Resort Supplier Payment (LRSP) claims to include IGT sites*' be made.

**Charlotte Friel**

**Deputy Director - Market Operations and Signals**

Signed on behalf of the Authority and authorised for that purpose