UNC Modification	At what stage is this document in the process?
# UNC 0688: ## Recovery of Shipper Losses incurred in Supplier of Last Resort events	01 Modification 02 Workgroup Report 03 Draft Modification Report 04 Final Modification Report

Purpose of Modification:

A change is proposed to allow Shippers that have incurred unrecoverable costs from shipping for sites where the Supplier is subject to a Supplier of Last Resort event, to recover such costs via Balancing Neutrality Charges.

	The Proposer recommends that this Modification should be: • subject to self-governance; and • assessed by a Workgroup This Modification will be presented by the Proposer to the Panel on 18 April 2019. The Panel will consider the Proposer's recommendation and determine the appropriate route.
	High Impact: None
	Medium Impact: Shippers
	Low Impact: None

Contents

Timetable

The Proposer recommends the following timetable:	
Initial consideration by Workgroup	02 May 2019
Workgroup Report presented to Panel	15 August 2019
Draft Modification Report issued for consultation	15 August 2019
Consultation Close-out for representations	06 September 2019
Final Modification Report available for Panel	09 September 2019
Modification Panel decision	19 September 2019

Any questions?

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1 Summary

What

Currently, when a Supplier is in financial failure, Ofgem will carry out various checks and look to appoint a Supplier of Last Resort (SoLR), who will be assigned the affected customers. The SoLR Supplier is able under the Supplier licence to claim for the costs it has incurred from taking on these customers, including the outstanding domestic customer credit balances.

In the period between the SoLR direction and the relevant Supply Meter Points transferring to the new Supplier under SoLR, the Shipper registered for the Supply Meter Points is still liable for all the costs of supplying them, including, but not limited to, the gas, transportation and settlement costs. There is currently no avenue of protection through legislation and the Shipper has no control over the timescales involved in the process. Shippers must comply with any relevant directions given to them by Ofgem to facilitate the SoLR supplying gas or to make arrangements to convey gas to the premises regardless of the fact that the costs being incurred are unlikely to be recovered.

Why

This position is leading to increased pressures on Shippers which could ultimately have a negative impact on the gas market as a whole. If this situation is not rectified it is likely that:

- Shippers will be unwilling/unable to offer shipping services to Suppliers;
- less new Suppliers will be able to enter the market; and
- there will be less competition for end consumers.

In addition to the above, this situation is putting existing Shippers in an untenable position and could ultimately lead to Shipper failure. If this were to be the case, there is currently no statutory or licence provision to appoint a "Shipper of Last Resort" regardless of whether or not the Supplier remains solvent. The potential consequences of an event such as this would have significant ramifications for the whole of the industry.

How

In the absence of any relevant license process for recovering costs as a Shipper, it is proposed that Shippers are able to claim any costs incurred as part of a SoLR event via Balancing Neutrality Charges. Shippers will be able to claim the wholesale gas and Unidentified Gas costs for the period between the Supplier going into administration/having its licence revoked and the transfer of the customers to the appointed Supplier in the agreed timescales.

2 Governance

Justification for Self-Governance

The UNC panel determined that this Modification proposal be sent to the Authority for direction.

3 Why Change?

When a gas or electricity Supplier has its licence revoked (primarily due to going into administration), Ofgem is required to reallocate those customers to another licence holder. This is termed the Supplier of Last Resort (SoLR) process. The powers to do so sit in the Gas Act 1986 and Electricity Act 1989 (as amended). A SoLR

Supplier can claim the additional costs for the supply of the customer over and above what it expects to recover. This can include domestic customer credit balances outstanding. Once the amounts have been agreed, Ofgem then directs the gas transporters to pay the SoLR Supplier and then recover the same amount from the industry via transportation charges.

By contrast, there is currently no process for the costs that a Shipper would incur during a SoLR event to be recovered. The registered Shipper of the supply points of the now defunct Supplier is unable to switch the customers away until the SoLR process is completed. So in a situation where the Shipper is different to the Supplier, Shippers are left carrying the financial burden of supplying the sites until the sites have been switched to the SoLR Shipper (the timescale of which can vary owing to the circumstances of the event) and have no realistic means of recovering the costs. By contrast the SoLR supplier is able to start charging the new customers for their energy use from the date of the SoLR transfer.

Realistically it is not practical for a Shipper to protect itself from these costs via normal routes for dealing with a counterparty, which is through credit cover or margin. Shippers cannot simply abandon customers of Suppliers who are struggling; any form of credit cover would have to be excessive to cover for the period of time in which a Supplier fails to pay its bills as it goes into default and then additional costs when the Supplier's customers are being transferred. In addition, during a SoLR event, the Supplier is invariably in administration and so it is debatable as to whether credit cover lodged by the Supplier with its Shipper can be used to cover shipping to the defunct Supplier's customers which have been transferred by Ofgem to another Supplier. .

Under the current arrangements therefore the Shipper does not have any control over the costs being incurred during the SoLR event, the time period they will be incurred for and are very likely to recover costs if a Supplier fails. This increases the risk of Shipper failure and discourages Shippers from engaging with smaller Suppliers.

There is a general acceptance that the ultimate costs of a Supplier failure is borne by the industry to facilitate competition. To not restrict competition in shipping services for smaller Suppliers there seems to be a need to develop a similar process for Shippers for the limited period between a Supplier ceasing operations and the customers being reassigned.

The Supplier Licensing review will not be changing the process for allocating Shipper costs during a SoLR, and so a UNC-based solution is required.

4 Code Specific Matters

Reference Documents

None identified.

5 Solution

Shippers will be able to claim costs from the industry in the event they are exposed to unrecoverable costs from a Supplier of Last Resort Event. Any claim will be limited to those unavoidable systems costs that a Shipper of a defunct Supplier incurs between the Supplier going out of business and the defunct Supplier's customers being transferred.

Business Rules

1. Shippers may submit a claim for the UNC-related costs incurred during a SoLR event, termed an "SoLR Shipper Cost Claim". A SoLR Shipper Cost Claim will be for the energy costs incurred by a

Shipper to Supply Meter Points registered to a Supplier ("default Supplier") for the period after the SoLR direction takes effect, up to the transfer of the Supply Meter Points to another Supplier. ("SoLR Period"). There will be one claim per SoLR event.

2. The SoLR Period is the whole number of Gas Days between the date that the SoLR direction takes effect and the day in which the sites are transferred. For the avoidance of doubt both the Gas Day in which the SoLR direction takes effect and the Gas Day the SoLR customers transfer will be included in the SoLR Period.
3. The SoLR Period may differ for Supply Meter Points if the Supply Meter Points for the defaulting supplier transfer on different Gas Days.
4. A SoLR Shipper Claim may only be for the Supply Meter Points (including NTS Supply Meter Points and IGT Meter Points) that have been transferred from the default Supplier to another Supplier as part of the SoLR process.
5. An SoLR Cost Claim may comprise the following cost components incurred during the SoLR Period for each Supply Meter Point transferred in the SoLR process.
    a. Wholesale Gas Costs
    b. Unidentified Gas costs.
6. Wholesale Gas Costs for each Supply Meter Point shall be calculated as the following:
    a. Sum of NDM Supply Meter Point Demand (calculated in accordance with UNC TPD H2.2) for all Class 3 and Class 4 Supply Points for the SoLR Period, multiplied by the mean of the System Average Price for the SoLR Period For the avoidance of doubt the calculation must be undertaken using the settlement position for these sites at D+5.
    b. Sum of daily offtakes for Class 1 & Class 2 Supply Points (excluding any NTS sites) for the SoLR Period, multiplied by the mean of the System Average Price for the SoLR Period. For the avoidance of doubt the calculation must be undertaken using valid meter readings for the Days in question.
7. Unidentified Gas Costs shall be calculated as the proportion of Unidentified Gas allocated to the Shipper from the Supply Meter Points registered to the SoLR Supplier at D+5 for each Day in the SoLR period, multiplied by the mean of the System Average Price for the applicable period
8. No SoLR Shipper Cost Claim may be made with a materiality less than £50,000.
9. Any SoLR Shipper Cost Claim that will have a total materiality of more than £1,000,000 shall be treated as a claim for £1,000,000
10. A SoLR Shipper Cost Claim must be submitted within 12 months of an SoLR event occurring, which will limit the amount of any claim to 12 months.
11. The SoLR Shipper Cost Claim will be submitted to the CDSP and contain the following:
    a. details in relation to the nature and duration of the SoLR Shipper Cost Claim, including copies of the invoices between the Transporters and the Shipper and the Supplier (such information to be applicable to the claim, for example at Supply Meter Point level).
    b. the relevant system files and supporting information (to include workings and methodology).
    c. the materiality of the claim in terms of volume of gas, including details of the methodology used to calculate such materiality.
    d. the exact financial impact of the adjustment including energy (by reference to the monthly average of the System Average Prices) for the period of the claim.
    e. the dates in respect of which the claim will apply
    f. a warranty that no previous claims which are the same in nature and/or are in relation to the same dates as the claim being made by the Shipper have been made;
12. The CDSP shall notify the relevant Transporter of the claim and the information referred to in BR 11, and the Transporters shall consider the claim and communicate to the CDSP (who shall notify the Shipper) its approval or rejection of such within 90 days of receipt of the claim, during which time the Transporters and the CDSP shall be entitled to raise queries in relation to the claim and/or to request further information from the Shipper.

13. The Transporters shall be entitled to reject the claim if it is considered that the information provided by the User is so clearly erroneous on its face that it would be unconscionable for the claim to be accepted, in which case the Transporters shall reject the claim and inform the CDSP (who shall notify the Shipper) of the rejection together with the Transporter's reason(s) for such rejection;
14. Once approved by the CDSP the SoLR Shipper Cost Claim will be included as an Aggregate System Payment which is then included in neutrality balancing charges.
15. If the Transporters consider that an amount exceeding £1 million (one million) pounds is to be re-paid to any User, the CDSP shall issue notification of such fact to Users.[Based on UNC TPD E1.3.9 (d).

Worked Example

To give an indication on costs, the following example is provided on the likely cost:

Daily cost for 100,000 gas customers would be the following:

Wholesale Costs

Average consumption per customer per day (Assume Typical Domestic Consumption Value for medium use customer 13,500 kWh)   13,500/365 = 37 KWh/day.

Total consumption for 100,000 = 3.7GWh

Cost (@2p/kWh) = £74,000/day

Unidentified Gas Costs

Assume UIG 4% of total portfolio then cost is £74,000*0.04 = £3,000/day

Total cost is therefore approximately £77,000 for 100,000 customers/day.

6 Impacts & Other Considerations

Does this modification impact a Significant Code Review (SCR) or other significant industry change projects, if so, how?

None.

Consumer Impacts

This modification will ensure that small new-entrant Suppliers will be able to supply customers, sourcing gas at wholesale prices. This will ensure competition can continue at current levels to the benefit of customers.

Cross Code Impacts

None. Though any claim is likely to include IGT Meter Supply Points as this will be dealt with at a wholesale level, there will be no requirement to reflect the requirements in the IGT UNC.

EU Code Impacts

We have reviewed the potential impact on the EU Balancing Code (https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014R0312). It is our view that the relevant article, Article 29, does not sets out, exhaustively, the only components that may be passed through the balancing neutrality mechanism.

Article 29(1) sets out the overall purpose of the provision, which is that *"The transmission system operator shall not gain or lose"*. Article 29(2) has to be taken in that context, which is therefore specifying certain components that must be passed through, rather than saying that these are the only components that must be passed through.

This modification therefore is not contrary to current EU legislation.

Central Systems Impacts

None as the amount will simply be an additional amount recovered via neutrality.

7 Relevant Objectives

Impact of the modification on the Relevant Objectives:	
Relevant Objective	Identified impact
a) Efficient and economic operation of the pipe-line system.	None
b) Coordinated, efficient and economic operation of (i) the combined pipe-line system, and/ or (ii) the pipe-line system of one or more other relevant gas transporters.	None
c) Efficient discharge of the licensee's obligations.	None
d) 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.	Positive
e) Provision of reasonable economic incentives for relevant Suppliers to secure that the domestic customer supply security standards… are satisfied as respects the availability of gas to their domestic customers.	None
f) Promotion of efficiency in the implementation and administration of the Code.	None
g) Compliance with the Regulation and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators.	None

The industry currently underwrites the costs of Suppliers going out of business via the SoLR process in order to promote competition in the gas and electricity retail markets. This Modification simply extends that principle to Shippers. By providing the same protection to Shippers this will further competition in the same manner as the SoLR process does for Suppliers.

8 Implementation

No implementation timescales are proposed, but we suggest that considering the current negative impact this issue represents to the market, this modification should be implemented as soon as possible.

9 Legal Text

To be provided.

10 Recommendations

Proposer's Recommendation to Panel

Panel is asked to:

- Agree that self-governance procedures should apply
- Refer this proposal to a Workgroup for assessment.