

Representation - Draft Modification Report UNC 0734S

Reporting Valid Confirmed Theft of Gas into Central Systems and Reporting Suspected Theft to Suppliers

Responses invited by: 5pm on 18 January 2022

To: enquiries@gasgovernance.co.uk*Please note submission of your representation confirms your consent for publication/circulation.*

Representative:	David Mitchell
Organisation:	Scotland Gas Networks Ltd and Southern Gas Networks Ltd
Date of Representation:	18 th January 2022
Support or oppose implementation?	Comments
Relevant Objective:	d) Positive
Relevant Charging Methodology Objective:	Not Applicable

Reason for support/opposition: Please summarise (in one paragraph) the key reason(s)

SGN would like to offer comments in response to this modification proposal.

We support the intent of the modification as it seeks to (i) place an obligation on Shipper parties to ensure that valid confirmed theft of gas data received from Suppliers via the Retail Energy Code (REC), is appropriately entered into central systems for the purposes of Settlement and (ii) facilitate the transfer of similar information that Shippers may be aware of back to Suppliers .

Currently there is no code obligation to mandate Shipper parties to record theft of gas data received from suppliers therefore this modification would significantly improve the current situation.

Whilst we support the intent of this modification we do have reservations regarding both the obligation that will be placed on Shippers to use reasonable endeavours to ensure Suppliers who they provide Shipping services for are made aware of any suspected theft of gas which they themselves have been made aware of as per business rule 8, and the general expectation that shippers will receive information relating to theft of gas from an entity that is not a UNC party business rule 1.

Our principle concern is driven by a desire to ensure that Shipper parties remain GDPR compliant whilst discharging the obligations placed on them as a result of this modification.

We anticipate Shippers will have an interest in knowing whether the information received from Suppliers is personal data (and potentially criminal offence data) and, if it is, that there is a framework in place (in the normal fashion) describing what their GDPR obligations are with respect to that data. Likewise, when Shippers release such information, they will be interested in knowing that the information will be handled in a manner compliant with GDPR rules.

It may be these matters are something that can be addressed within (or at least involving) the UNC's Data Permissions Matrix. We therefore believe that more work could be considered by the administrators of the data permission processes of UNC and REC to understand the type of data that is expected to be shared between UNC shipper parties and supplier entities, and to put in place a system of data controls, to record the legal basis of the sharing the data.

It may be that, following further work, the GDPR risks will be considered smaller rather than greater, but in the absence of that work our position, as a Gas Transporter sitting outside the relevant risk perimeter, is that the current proposal is to share personal data (potentially being criminal offence data) between codes without that sharing being governed by the type of contractual structure that would normally be put in place. This potentially exposes both Shippers and Suppliers.

It is possible that, due to recent events in the shipping and supply market, that all legal entities that are shippers are also suppliers and vice versa. However, this is not the basis the gas market is designed to promote and the creation of a barrier to entry relating to GDPR compliance (in the form of the codes assuming that all legal entities will be shippers and suppliers) should be avoided.

Self-Governance Statement: *Please provide your views on the self-governance statement.*

We believe that this modification fulfils the self-governance criteria on the basis that it does not have a material impact on consumers or competition.

Implementation: *What lead-time do you wish to see prior to implementation and why?*

Implementation could be sixteen business days after a Modification Panel decision to implement, subject to no Appeal being raised however we are mindful that this will be driven by the CDSP's ability to deliver an enduring system solution or an interim solution for receiving theft of gas data from the Suppliers via the REC.

Impacts and Costs: *What analysis, development and ongoing costs would you face?*

SGN does not foresee any costs to its business as a result of this modification being implemented.

Legal Text: *Are you satisfied that the legal text will deliver the intent of the Solution?*

We are satisfied that the legal text will deliver the intent of the solution; however we have reservations regarding shipper parties remaining GDPR compliant when sharing theft of gas data.

Modification Panel Members have requested that the following questions are addressed:

Q1: In relation to Modification 0734S and Business Rule 8, do parties have any comments in relation to data protection? If so, please set out the specific nature of these below.

Business Rules 8 states that “Shippers shall use reasonable endeavours to ensure relevant Suppliers who they provide Shipping services for are made aware of any relevant suspected thefts which they themselves have been made aware of, by a party other than the relevant Supplier, and which relate to that relevant Supplier who they provide Shipping services for in relation to that Supply Meter Point. The Shipper shall retain evidence of such notification and acknowledge they may be asked to provide such evidence upon request from a relevant party”.

When the workgroup considered the wording for this Business Rule, in the context of GDPR, it was noted that the Business Rule does not request specific data items, therefore it falls to parties to assess their own compliance with GDPR in the context of how they submit their information. We believe that the lack of any standardisation in BR8 will mean that Shippers will be responsible for ensuring that there are no GDPR issues arising, from the information that they share with third parties which seems to be potentially wide ranging in nature (and potentially personal data) therefore we have reservations regarding this business rule.

Are there any errors or omissions in this Modification Report that you think should be taken into account? *Include details of any impacts/costs to your organisation that are directly related to this.*

Further work should be undertaken to understand the data items that are expected to be shared by parties to ensure GDPR compliance.

Please provide below any additional analysis or information to support your representation

None identified.