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The Joint Office, relevant Gas
Transporters, Shippers and other
interested parties

Your Ref:
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19 April 2006

Dear Colleague,

Uniform Network Code modification proposal 005: 'Provision of a Guarantee of Pressure for Meter Points operating above 21 mbar by the Relevant Transporter' (formerly network code modification proposal 726).

Having considered the issues arising from this proposal and having regard to its statutory duties, **Ofgem¹ has decided not to direct the implementation of the modification**, as we do not believe that it will better facilitate the achievement of the relevant objectives of the Uniform Network Code (UNC), as set out in standard special condition A11 of relevant Gas Transporters (GTs) Licences². In this letter we explain the background to the modification proposal and outline the reasons for making our decision.

Background to the proposal

The UNC currently provides certainty for the delivery of volumes to a consumer's meter point, and where the site operates at less than 21 millibars it also provides a guarantee of pressure for these 'low pressure' sites. In contrast, aside from the very large I&C market where a 'guarantee' forms a part of NEXA agreements, there is currently no guarantee of pressure for meter points that normally operate at pressures in excess of 21 millibars.

Historically, as bundled service providers to customers, including those operating at pressures in excess of 21 millibars, GTs were able to take a holistic view as to the management of the network. Given the continued unbundling of services, shippers perceive the need for a process to be incorporated into the UNC to enable the guarantee of pressure to be provided by the relevant GT, to allow certainty for long-term investment for customers and asset managers, as well as ensuring that suppliers can fulfil their supply contracts.

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

² This Licence Condition can be viewed at:

http://62.173.69.60/document_fetch.php?documentid=6547

Transition from Transco's Network Code to the UNC

This modification proposal was originally raised in respect of Transco's network code, and followed the modification rules pertaining to that code. Following the implementation of modification proposal 745³, and in accordance with the Part IV, paragraph 2.1 of the UNC transitional rules, this modification proposal is deemed to be made in respect of the UNC.

At its meeting of 3 May 2005, the UNC Modification Panel agreed to the re-numbering of live modifications carried over into the UNC under the transitional rules, with modification proposal 726 being re-numbered as UNC modification proposal 005. The Panel also voted for this modification proposal to proceed without re-consultation.

Ofgem has therefore considered this modification proposal against the relevant objectives of the UNC, as set out in standard special condition A11 of relevant GT licences.

The proposal

The final version of the proposal (v4.0) seeks to facilitate in the UNC (via an ancillary agreement) the ability for consumers to enter into arrangements with the relevant GT to receive a guarantee of pressure for meter points operating above 21 mbar. Such arrangements would be requested by the consumer (possibly via an agent), to be entered into by the consumer and the relevant GT as a bi-lateral agreement, thereby negating the need to re-enter into arrangements whenever a change of supplier takes place.

In effect the proposal would:

1. In respect of non-NTS loads, place an obligation on the relevant GT to agree to provide pressure in excess of 21 millibar at the Emergency Control Valve (ECV) of a service where this can be physically supported under normal operating conditions.
2. Place an obligation on the relevant GT to maintain a pressure in excess of the 'statutory minimum' at the ECV of a service where an agreement exists to provide an agreed pressure.

Respondents' views

This section is intended to summarise the principal themes of the respondents' views rather than provide a comprehensive overview of the responses received. Respondents' views can be found in full on the GTs Information Service⁴

Ten representations were received to the consultation on this Modification Proposal. Six parties, all of whom are shippers, supported implementation. A further shipper offered qualified support. The remaining three parties, all GTs, opposed implementation.

Those who **supported** the modification proposal argued that formalizing the facility of a pressure service at a meter point in the UNC would facilitate effective competition between shippers and between suppliers because the service would be available on a non-discriminatory and consistent basis. Some considered that through ensuring suppliers with enhanced pressure requirements can continue to meet their supply

³ See www.ofgem.gov.uk/temp/ofgem/cache/cmsattach/11299_745_letter.pdf

⁴ <https://gtis.gasgovernance.com>

contracts, the service should continue to be offered on a non-discriminatory basis and that this modification merely formalizes an existing process. The proposer and others argued for 'certainty' and 'safeguards' in a market subject to fragmentation and unbundling. Others noted that existing arrangements to supply a higher pressure are operating safely and securely to those consumers requiring this service.

Two supporters didn't consider that additional costs would be placed on GTs as a result of this proposal, indeed there was the view that consumers currently supplied with enhanced gas pressures could incur excessive costs in securing suitable gas pressures should the relevant GT stop supplying gas at the present enhanced pressure. A number of supporters expressed the view that an ancillary agreement between the Transporter and end consumer would best meet the proposal's requirements and as a result the costs of administration would be minimized.

Supporters noted the existence of NExAs and suggested that there could be potential for discrimination between different types of user.

Those who **opposed** the modification proposal argued that it may lead to the GTs operating their systems at higher cost in order to maintain pressures at affected sites, and the additional cost may exceed Users' willingness to pay for the service provided, in which case this would not facilitate the efficient and economical operation of the pipe-line systems. Also, if implementation of the Proposal were to lead to the GTs investing in network development at a cost which exceeded Users' willingness to pay for the service provided, this could be regarded as inconsistent with the licensees' Gas Act obligations with respect to economic and efficient development of the pipe-line system, and hence with GT Licence obligations.

It was noted by opponents that unless an ancillary agreement exists there is no current obligation on the GT to provide enhanced pressure services. Indeed, GTs commented that maintaining pressures in some networks could lead to increased and unnecessary leakage as higher pressures would only normally be maintained for peak demand periods. Opponents considered the term 'normal operating pressure' to be unclear and difficult to define.

All GTs who submitted representations expressed concerns in establishing a bi-lateral agreement between the Relevant GT and the Consumer as it could be interpreted as constituting an arrangement in relation to the offtake of gas from the system and therefore prohibited.

Panel Recommendation

At the Modification Panel meeting held on 15 September 2005, of the nine Voting Members present, capable of casting ten votes, four votes were cast in favour of implementing this Modification Proposal. Therefore the Panel **did not recommend** implementation of this Proposal.

Ofgem's view

Ofgem agrees with the Panel's recommendation not to implement this proposal.

The proposal seeks to address an issue that arises out of historical arrangements for the provision of higher pressures by the GT to consumers. These arrangements have not in most cases been formalised and this proposal seeks to remedy that situation. Whilst

Ofgem is generally supportive of clarifying and formalising existing arrangements it can only do so, in the context of modifications to the UNC, when the proposal better facilitates the relevant objectives.

Respondents in favour of the proposal have cited promotion of competition as one of the reasons to support it. Ofgem would be concerned if a perceived risk of losing enhanced pressure rights was deterring consumers from switching supplier, effectively locking them into existing contracts. The proposer has recognized this difficulty and has suggested that the agreement (for higher pressure) is drawn up between the GT and the consumer. However, the question would then remain as to whether new consumers would be unfairly treated relative to existing consumers.

Further, as suggested by a number of respondents, an agreement with the GT for the offtake of gas from the system is a licensable activity under Section 5 of the Gas Act 1986. Ofgem considers that an agreement for enhanced pressure would constitute such an agreement. As such, only those licensed to do so, or subject to an applicable exemption, can lawfully enter into such an arrangement. Ofgem therefore considers that the proposed ancillary agreement between the consumer and the GT would be prohibited. For this reason alone, Ofgem would not be able to accept this modification proposal.

Ofgem note that the facility to obtain a guaranteed higher pressure is available under the UNC, taking the form of an ancillary agreement between shipper and GT with respect to a specific site. Where GTs offer such terms, they must be on a basis that would not give rise to undue discrimination. Ofgem considers that the transparency around these arrangements could be improved, and in particular as far as practicable, generic terms published.

In the situation of a consumer changing their shipper (through their supplier), it would be for the consumer to ensure that their pressure rights are maintained by the incoming shipper. If shippers wanted to formalize the 'flagging' of a pressure agreement by means of a customer transfer data item, they are at liberty to bring forward proposals to this effect.

Ofgem's decision

For the reasons outlined above, Ofgem do not consider that implementation of this proposal would better facilitate the achievement of the relevant objectives of the UNC, as outlined under standard special condition A11.

Yours sincerely,

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

Nick Simpson
Director, Industry Codes and Licensing