

## **MODIFICATION REFERENCE NO. UNC 061 AND UNC 062**

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### **NOTICE OF EXCLUSION**

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Pursuant to the power conferred on it by Article 12 of the Electricity and Gas Appeals (Designation and Exclusion) Order 2005 (the "**Order**"), the Gas and Electricity Markets Authority has excluded from the right of appeal conferred by s. 173 of the Energy Act 2004 its decision (the "**061 Decision**") to consent to Modification Proposal UNC 061 ("Facilitating further demand-side response in the event that a Gas Balancing Alert is triggered") and its decision (the "**062 Decision**") to reject Modification Proposal UNC 062 ("Introduction of a Gas Balancing Alert "), both of which are contained in the letter (the "**Decision Letter**") dated 15 December 2005, a copy of which is attached hereto.

The delay caused by the holding of an appeal against the 061 Decision and/or the 062 Decision is likely to have a material adverse effect on the availability of gas for meeting the reasonable demands of consumers in Great Britain for the following reasons:

- (a) As outlined in the Decision Letter, Ofgem considers that Modification Proposal UNC 061 facilitates the delivery of additional demand side response which is likely to improve the supply/demand position and help avoid a gas deficit emergency.
- (b) Ofgem considers that it is important for this additional ability to be in place as soon as possible this winter in order to ensure that routes for demand side response to be provided to market are available to help avoid gas deficit emergency scenarios arising during the remainder of the winter period.
- (c) An appeal on the 061 Decision would delay the implementation of Modification Proposal UNC 061 potentially until March 2006, which would be likely to preclude the availability of additional demand side response over the remainder of this winter which could help to meet anticipated reasonable consumer demand. Any appeal on the 062 Decision would necessarily be inextricably connected with the 061

Decision and would create significant uncertainty as to the implementation of Modification Proposal UNC 061. Consequently, an appeal on the 062 Decision would be likely to delay the development of contractual arrangements for additional demand side response that Modification Proposal UNC 061 seeks to encourage.

- (d) Ofgem considers, for the reasons outlined above, that any delay in the implementation of Modification Proposal UNC 061 and the associated delivery of demand side response caused by holding an appeal on the 061 Decision and/or the 062 Decision would materially increase the probability of gas deficit emergencies occurring during this winter. Therefore, any appeal of the 061 Decision and/or the 062 Decision is likely to have a material adverse effect on the implementation of UNC 061 and contractual measures which are in Ofgem's view necessary to enhance security of supply and thus on the availability of gas for meeting the reasonable demands of consumers in Great Britain.
- (e) Ofgem also notes that, given the importance of gas as a fuel source in the generation of electricity, a gas deficit, such as that which may arise for the reasons outlined above, may also have a material adverse effect on the availability of electricity for meeting the reasonable demands of consumers in Great Britain.

In accordance with Article 13 of the Order this Notice has been published on Ofgem's website at [www.ofgem.gov.uk](http://www.ofgem.gov.uk) and has been sent to the following recipients:

- (a) The Joint Office;
- (b) Relevant Gas Transporters; and
- (c) Other interested parties.

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

**Nick Simpson**

**Duly authorised on behalf of the Authority**

**15 December 2005**