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to customers*

The Joint Office, Relevant Gas
Transporters and other interested
parties

Our Ref: UNC/Mod/092
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29 August 2006

Dear Colleague

Ofgem's decision and direction to implement Uniform Network Code modification proposal 092: 'Provision of a Supply Point Enquiry Service for Smaller Supply Points'

Ofgem¹ has considered the issues arising from the modification report in respect of Uniform Network Code (UNC) modification proposal 092 and, having regard to the principal objective and statutory duties of the Authority², has decided to direct relevant gas transporters to implement the modification proposal.

Ofgem considers that it would better facilitate the achievement of the relevant objectives of the UNC, as set out under Standard Special Condition A11³ of the relevant Gas Transporters' (GTs) licences, as compared with the existing provisions of the UNC.

Background

Information such as the Annual Quantity (AQ) is routinely supplied to prospective shippers to Large Supply Points (LSPs) as part of the nomination process, and therefore not restricted solely to the incumbent shipper.

Since September 2005 Xoserve, acting on behalf of the relevant GTs, has provided ad hoc information relating to Small Supply Points (SSPs) to prospective shippers on request, mirroring the LSP arrangements set out above. However, in contrast to LSPs, this information is currently considered to be Protected Information under the terms of the UNC. This service was subsequently withdrawn by Xoserve in respect of SSPs following a recent review of its procedures.

The modification proposal

Modification proposal 092 seeks to require xoserve, via a UNC obligation upon the relevant GTs, to release data in relation to SSPs in line with prevailing arrangements under the electronic enquiry service for LSPs and new SSPs. In

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

² Set out in Section 4AA of the Gas Act 1986, as amended.

³ This Licence Condition can be viewed at:
http://62.173.69.60/document_fetch.php?documentid=6547

effect, the proposal seeks to codify and therefore ensure the enduring provision of the service Xoserve has recently withdrawn.

The proposal also seeks to place standard level agreements around the provision of the specified data and an auditable authorisation procedure to ensure that the requesting shipper is acting in good faith.

Panel recommendation

At its meeting of 03 August 2006, the UNC Modification Panel (the Panel) voted unanimously in favour of the proposal being implemented.

Ofgem's view

There were eight responses⁴ to the consultation on modification proposal 092, seven of which were in favour of implementation, though two of those offered qualifying comments. We concur with the majority view of respondents and the recommendation of Modification Panel members that this proposal should be implemented. We consider that the additional data that this proposal makes available would allow for Shippers to quote a price more reflective of actual costs when acquiring new customers, which will further facilitate the securing of effective competition.

The respondent who did not support the implementation of this modification proposal considered that it contradicts the intent of Modification Proposal 087⁵, which seeks to remove similar obligations from the UNC. They suggested that the service could instead be governed through the Supply Point Administration Agreement (SPAA). Modification Proposal 087 is not yet with us for a decision, though in any case we consider that each proposal must be judged on its own merits. The extent to which this service may or may not be more appropriately incorporated into the SPAA is outside the scope of this particular proposal, and in making its decision on this Modification Proposal Ofgem has made no assessment of, and does not preclude or advocate, the future migration of these provisions into the SPAA or any other agreement, should that be appropriate.

We have considered whether the implementation of this proposal and the subsequent release of previously protected information would facilitate behaviour which could be in any way considered discriminatory, such as cherry picking of prospective customers. To the extent that this is a concern, we welcome the provisions in the proposal which relate to the securing of the consumers consent. This should demonstrate that the shipper is making a bona fide enquiry as part of a contract offer. Evidence of such consumer consent shall be retained and provided to relevant GTs should there be suspicion of misuse. We would also expect evidence of such misuse to be brought to Ofgem's attention.

We note that one respondent raised some concerns with the legal text provided for this modification proposal, stating that whilst they recognised the urgency around this proposal, it would have benefited from further development. In particular they considered that there are elements of the proposal that seek to develop the service and introduce additional rules over and above the suspended practice. However, these concerns were not sufficient for the respondent to vote against the proposal being implemented at the Panel.

⁴ Respondents' views can be found in full on the Gas Transporters Information Service at: <https://qtis.gasgovernance.com>.

⁵ UNC Modification Proposal 087: 'Single Centralised On-line Gas Enquiry Service - Removal of redundant UNC provisions'

Ofgem considers that the provided legal text does fulfil the intent of the proposal insofar as reintroducing the service. Ofgem has sympathy with the view that this proposal may have benefited from further development, though the urgency of the matter by necessity precluded that on this occasion. However, we note that in directing the implementation of this modification, Clause 10.4 of the UNC Modification Rules comes into effect. This obliges relevant GTs to report to the Panel in respect of any urgent modification which has been implemented. The panel may then, at its discretion, determine whether the subject matter of the urgent modification should be subject to review procedures. Therefore, to the extent that any Party has any residual concerns with the legal text or any other matter, they will be able to raise them with the Panel, and/or raise further modification proposals as appropriate.

If you have any further queries in relation to the issues raised in this letter, please feel free to contact me on 020 7901 7355 or email: industrycodes@ofgem.gov.uk

Yours sincerely

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

Nick Simpson
Director, Industry Codes and Licensing