

Mr. Julian Majdanski  
Joint Office of Gas Transporters  
First Floor South  
31 Homer Road  
Solihull  
West Midlands  
B91 3LT

Your ref  
Our ref  
Name Chris Hill  
Phone 01905 340589  
Fax  
E-Mail christian.hill@rwenpower.com

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**Re: Proposed UNC Modifications 0185 and 0185A – “Meter Error Notification Process”**

Dear Julian,

RWE Npower supports Proposed Modification 0185 and gives only qualified support to Proposed Modification 0185A. Following the lengthy discussions last year in relation to this subject at Review Group 0131, we are pleased to see that steps are now being taken to deal with this issue as it is one which has been of concern to RWE Npower for some time.

We strongly feel that Shippers need to be involved in the process at an earlier stage than is now possible under the 643 “Gentlemen’s Agreement”, which is triggered only when a Measurement Equipment Error Report is finalised. We also feel that a process to deal with a matter of such importance needs to be formally codified which is not currently the case.

The length of time which it took for the final size of the £25.8 million error in the South East LDZ to be communicated to Shippers was, in our view, unacceptable. We recognise that Transporters are often hesitant to give an indication of the size of a potential error until they are certain that the figures are correct. However, there is no reason why Shippers should not be involved in the process at an earlier stage as long as the Transporters are given the necessary assurances that they will not be held liable for figures provided before the final calculation differing from that final number. In addition, this will provide Shippers with a greater level of comfort that the numbers are not simply coming from some “Black Box”, the workings of which are invisible to them. The newly introduced ability of Shippers to propose changes to the process should also give Shippers additional peace of mind and it is our view that this should go some way towards reducing one risk of operating in the UK gas market, which should in turn assist in ensuring competition between Shippers and thus furthering Standard Special Licence Condition A11.1 d i).

We note that Proposed Modification 185A contains provision for what the proposer describes as necessary changes to the Offtake Arrangements Document while Proposed Modification 185 does not. Nonetheless, we do not consider this a significant failing in Proposed Modification 185 as these changes can always be made later. As the Offtake Arrangements Document is primarily a Transporter to Transporter section of the UNC, we do not envisage that Shipper consent would necessarily be a priority requirement for this change to take place, particularly as the relevant changes are acknowledged to be required and will doubtless take place as a matter of course should

npower

Bank House  
Bridgwater Road  
Worcester WR4 9FP

T +44 (0)1905/34 05 21  
F +44 (0)1905/34 04 88  
I www.npower.com

Registered office:  
Npower Limited  
Windmill Hill Business  
Park  
Whitehill Way  
Swindon  
Wiltshire SN5 6PB

Registered in England  
and Wales no. 3653277

Proposed Modification 185 rather than Proposed Modification 185A be implemented by Ofgem.

With reference to the Measurement Error Notification Guidelines, we would like to explain our position on certain differences between those guidelines suggested in Proposed Modification 185 and those guidelines suggested in Proposed Modification 185A. While we are of the opinion that both of the Proposed Modifications are superior to the current 643 arrangements, there are certain areas in the Mod 185A guidelines that we are uncomfortable with for the reasons outlined below.

Under the definition of “Appointed Independent Technical Expert”, the Mod 185 Guidelines define this as: *“the Independent Technical Expert...who is not in the direct employment of either the Upstream or Downstream Transporter”*. By contrast, the Mod 185A Guidelines completely remove the disqualification of an Independent Technical Expert employed by either of the affected Transporters.

While we would not wish to suggest that such an Expert would be any more likely to be in any way biased, we feel it would assist in creating a feeling of impartiality throughout the process if the recommendation contained in the Mod 185 Guidelines were followed. We would also be perfectly happy for this rule to be applied in relation to Independent Technical Experts employed by any affected Shipper in order to allay any fears that Transporters might have on the subject.

Moving on, in the section dealing with providing a Framework for Meter Error Notification, the Mod 185 Guidelines request the provision of both average and maximum flow rates for the affected meter during the 12 months prior to the identification of the error. The Mod 185A Guidelines suggest the provision of only the average flow rates over this time period. It is our belief that provision of the maximum flow rates as well as the average will better assist Shippers in being able to make an earlier estimate of the likely size of the reconciliation that they will be faced with if affected. We therefore consider the Mod 185 Guidelines to be superior in this respect as they will assist in removing some of the uncertainty which affected Shippers face under the current process in relation to prediction of the size of any final reconciliation.

We also disagree with the insistence in Mod 185A’s Guidelines which recommend that a request by a User will only be considered to be so where, *“two(2) or more **“Users’ Representatives”** (i.e. Shipper Panel Members or their nominated alternates) determine it to be so”*. Mod 185’s Guidelines suggest that such a request will be considered to be so where, *“two (2) or more legally separate companies who are registered as Users determine it to be so”*. This seems to us to be much fairer as not all Shippers are Panel members and the recommendation contained in the 185A guidelines may unfairly preclude affected Shippers who are not Panel members from requesting inclusion of a potential meter error for which they may be liable for reconciliation on the agenda of the Offtake Arrangements Workstream. Although we understand that Transporters wish to avoid spurious requests, we would have thought that the requirement for two of the three affected parties (two of whom will always be Transporters) to jointly make a request would assist in the avoidance of such a situation.

Lastly, we find the section in Mod 185A’s Guidelines relating to the Effect of Determination a little baffling. Mod 185’s Guidelines state: *“The Appointed Independent Technical Expert’s final determination shall (unless given after the appointment of another expert) be final and binding on the parties”*. This seems perfectly reasonable. However, Mod 185A’s Guidelines then remove the full stop and add a caveat: *“...except in the event of fraud or where it is so clearly erroneous on its face that it would be unconscionable for it to stand, in which case another Independent Technical Expert may be appointed.”* Although no one would wish to support fraud, we are concerned about the “clearly erroneous” part of the sentence. Who would make the decision that an Expert’s finding was “clearly erroneous”? And on what basis? We are uncomfortable with this part of the sentence and feel that there is no need for it to be in there as an Expert would, by the very virtue of their being an Expert, be unlikely to come up with any wildly unrealistic final figures. Common sense would also likely prevail in such a situation and we

therefore cannot understand what the motivation for the inclusion of this caveat is or how it would function in practice.

Finally, our view is that although both proposals are likely to result in some costs relating to maintenance of the formal document we feel certain that the benefits deriving from any new process implemented by Ofgem will outweigh these costs.

If you wish to discuss any points raised in this response further, please do not hesitate to contact me.

Regards,

Chris Hill

Gas Codes Analyst