

Modification proposal:	Uniform Network Code (UNC) 0192: Introduction of DNO Obligations to facilitate resolution of unresolved USRVs (UNC192)		
Decision:	The Authority ¹ directs that this proposal be made ²		
Target audience:	The Joint Office, Parties to the UNC and other interested parties		
Date of publication:	12 November 2008	Implementation Date:	To be confirmed by the Joint Office

Background to the modification proposal

The UNC and the Network Code Reconciliation Guidelines contain provisions for the validation of Non Daily Metered (NDM) and Daily Metered (DM) Reconciliation Values.³ They set out processes for managing the investigation and resolution of Reconciliation Values which are outside the prescribed validation tolerances and have been suppressed by shippers.

Gas Transporters (GTs) are responsible for the investigation, resolution and subsequent release of suppressed Reconciliation Values generated from Daily Reads and Must Reads except where it is identified that these have arisen as a result of the Meter Information held on the Supply Point Register being incomplete, out of date or otherwise incorrect. Users are responsible for the investigation of all other suppressed Individual Meter Point Reconciliation Values. These are known as User Suppressed Reconciliation Values (USRVs).

The resolution of USRVs ensures the correct allocation of energy to supply points within the associated shipper's portfolio. This in turn reduces the incorrect allocation of energy and related transportation charges to other shippers via the Reconciliation by Difference (RbD) processes.

The UNC attempts to incentivise Users to resolve USRVs as rapidly as possible to ensure that costs are reconciled to those who incurred them. To this end defined charges are applied where USRVs are not reconciled within a defined time period, and the scheme under which these charges are applied is administered by GTs. These charges were most recently reviewed by UNC141,⁴ directed by the Authority on 11 September 2007 and implemented on 21 May 2008, which revised the financial incentives imposed upon Users. This incentive regime that was introduced is based on a maximum £30 per month charge per item, which is subject to an upward cap.

UNC Modification proposal 152V,⁵ directed by the Authority on 10 October 2007 and implemented in April 2008, creates a rolling 'cut-off' between four and five years

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

² This document is notice of the reasons for this decision as required by section 38A of the Gas Act 1986.

³ As defined under Section E, 1.3.6 (c) of the UNC, at http://www.gasgovernance.com/NR/rdonlyres/BA92D3A2-10D2-4232-BFB7-A75D1BF204B1/27922/02_06_TPDE.pdf

⁴ 'Uniform Network Code (UNC): Revision to the User Suppressed Reconciliation Values financial incentives arrangements (UNC141 and 141A)' at <http://www.gasgovernance.com/NR/rdonlyres/E19EEF45-C344-44FC-A93D-C26BCAB26A13/19885/141D.pdf>

⁵ 'Uniform Network Code (UNC) 0152V, 0152AV and 0152VB: Limitation on Retrospective Invoicing and Invoice Correction (UNC152)' at <http://www.gasgovernance.com/NR/rdonlyres/30E30022-D414-4021-8B07-32572611562A/20570/UNC152D.pdf>.

following the occurrence of an error, with errors occurring before this cut-off considered to be 'timed-out' for the purposes of billing (i.e. if errors were subsequently discovered that related to those dates they could not be corrected). This creates a situation where long-standing unresolved USRVs could potentially be 'timed out' under these arrangements.

Review Proposal 158⁶ was raised by British Gas Trading in July 2007. A Review Group was subsequently convened with the purpose of reviewing the current UNC incentives for USRVs, following the introduction of UNC152V. Modification Proposal UNC192 (the Modification Proposal) which was raised following the consideration of Review Proposal 158, seeks to introduce provisions to ensure that no USRVs are 'timed out' and left unresolved as a result of the introduction of Modification Proposal 0152V.

Allowing USRVs to 'time out' could create a level of financial uncertainty for all Users. There may also be a perverse incentive for Users to leave USRVs unresolved to the extent that the aggregate liabilities up to the point they are timed out may be less than the true Reconciliation Value.

The modification proposal

The Modification Group considered it appropriate for GTs to administer a 'backstop' arrangement to seek resolution of USRVs before they reach the four to five year cut off date for invoicing. It was identified that this service should be undertaken on behalf of GTs by the GTs' agent (i.e. xoserve) and would be charged for as a UNC User Pays Service set out in the Agency Charging Statement (ACS).

The Modification Proposal seeks to empower the GT to resolve a USRV using its agent with effect from the 30th USRV month after the USRV month in which it was created. In addition, historic USRVs which have been outstanding for 30 or more months in the month in which the Modification Proposal is implemented will be resolved by the GTs' agent in that month (the Back Stop Reconciliation Month).

The GTs' agent would use reasonable endeavours to resolve the USRV using conventional methods, including the use of data available from their own systems or from data provided by relevant shippers, and if such information is unavailable, the possibility of a site visit. In the event of the GTs' agent being unable to resolve the USRV, at the relevant GT's discretion, a zero Reconciliation (i.e. no reconciliation leaving the position as invoiced) would be applied and this would be deemed to be a final resolution of the USRV and any linked USRVs). The resolution determined by the GT would be binding.

UNC Panel⁷ recommendation

At the Modification Panel meeting held on 21 August 2008, the Panel recorded a majority verdict in favour of implementing Modification Proposal 0192. Therefore the Panel recommended implementation of Modification Proposal 0192.

The Authority's decision

The Authority has considered the issues raised by the modification proposal and the Final Modification Report (FMR) dated 9 October 2008. The Authority has considered and taken

⁶ Deliberations of this group are available at <http://www.gasgovernance.com/Code/Reviews/Closed/RG0158>

⁷ The UNC Panel is established and constituted from time to time pursuant to and in accordance with the UNC Modification Rules.

into account the responses to the Joint Office's consultation on the modification proposal which are attached to the FMR⁸. The Authority has concluded that:

1. implementation of the modification proposal will better facilitate the achievement of the relevant objectives of the UNC⁹; and
2. directing that the modification be made is consistent with the Authority's principal objective and statutory duties¹⁰.

Reasons for the Authority's decision

We agree with the findings of the Panel that implementation of this proposal will better facilitate the Relevant Objectives of the UNC. We consider the impact of the proposal against the aims of the Relevant Objectives below. Please note that unless we have directly stated otherwise we consider the proposal to be neutral against the aims of the Relevant Objectives.

Relevant Objective (d): the securing of effective competition between relevant shippers;

Ofgem agrees with the conclusion of the FMR that implementing this proposal would provide for the prompt and timely resolution of existing longstanding and newly raised USRVs, which in turn would increase the level of certainty for Users charged through Reconciliation by Difference (RbD). The proposal will mitigate the perverse incentive on Users not to resolve USRVs in certain circumstances and therefore increase confidence in the accuracy of User charges. Implementation would also ensure that costs associated with the resolution of USRVs are targetted at those Users who had not acted to resolve them within an agreed time period.

Relevant Objective (f) the promotion of efficiency in the implementation and administration of the network code and/or the uniform network code;

Ofgem considers that implementation of the Modification Proposal will mitigate the possibility of a perverse incentive upon Users to benefit by raising but not resolving USRVs, in certain circumstances. The possibility of this perverse incentive is an unintended consequence created by the implementation of UNC Modification 0152V. For this reason Ofgem considers that the proposal promotes the efficient implementation of the network code.

Charging methodology

One respondent to the consultation expressed concern that the indicative charges were presented in the Modification Proposal as a "fait accompli", and that the proposal as it stood did not include a rigorously costed framework. It further commented that it would be difficult to achieve a price in proportion to resources used, as implementation would require a dynamic process which was, as yet, uninitiated.

We have some sympathy with this respondent's views. We note that Users are being asked to comment on a modification proposal without seeing the proposed charging

⁸ UNC modification proposals, modification reports and representations can be viewed on the Joint Office of Gas Transporters website at www.gasgovernance.com

⁹ As set out in Standard Special Condition A11(1) of the Gas Transporters Licence, see: http://epr.ofgem.gov.uk/document_fetch.php?documentid=6547

¹⁰The Authority's statutory duties are wider than matters which the Panel must take into consideration and are detailed mainly in the Gas Act 1986.

statement, with its underlying methodology. The User Pays arrangements are still relatively new and we note that a proposal¹¹ has been raised by this same respondent in order to enhance the governance of modification proposals which have a User Pays element and in particular the complementary development of charging statements. Notwithstanding these ongoing developments, we note that GTs are obligated by Standard Special Condition (SSC) A15¹² of their licences to ensure that the costs of the agency are determined on an activity cost basis such that the services and systems costs associated with each activity, as set out within the UNC, are separately assessed and allocated on a transparent basis. We also note that GTs issued a joint statement¹³ confirming the basis on which the £40 charge referenced within the FMR had been arrived at and that they had used Activity Based Costing principles in accordance with their licence. The GTs have also confirmed that the ACS will be modified to reflect this new service and associated charges in the event that the Modification Proposal is approved, and that the charge would be reviewed on an ongoing basis.

Given the above, we consider that the GTs have acted in accordance with their licence obligations in the development of this proposal, and that they will be cognisant of the need to produce and gain approval of a revised ACS when determining an implementation date¹⁴.

Early resolution of USRVs

One respondent asked if a User could elect to pass a USRV on to the GTs' agent prior to the 30th month following creation of a USRV. Whilst this is not envisaged by the proposal, we note that Users are able to enter into bilateral contracts with the GTs' agent for bespoke services above and beyond those described in the UNC or the ACS. Should the agent offer such a service, it would be bound to do so with all parties in a non-discriminatory manner.

Resolution of USRVs outstanding at implementation

The Modification Proposal would require the GTs' agent to resolve existing USRVs that have been raised prior to the implementation of the modification and that some of these may be greater than 30 months old. There may be a potential concern that the proposal imposes a set of rules on parties who have raised USRVs that they were unaware of at the time that the USRVs were raised. We note that this was specifically envisaged within the business rules developed by the modification group, that no parties have raised any concerns through the modification process and that the number of USRVs that are currently greater than 30 months old are in any case limited. Ofgem considers that in this instance the modification facilitates the intention of the UNC and mitigates a possible perverse incentive caused by an unintended consequence of UNC 152V. We further note that Users are likely to have a further opportunity to resolve any currently outstanding USRVs between the publication of the Authority's decision and the implementation of this modification. We would expect that a revised ACS would be in place for 1 April 2009 although this may be done sooner.

¹¹ UNC modification proposal 213: 'Introduction of User Pays Governance Arrangements into the UNC'.

¹² SSC A15 'Agency'; http://epr.ofgem.gov.uk/document_fetch.php?documentid=6551

¹³ http://www.gasgovernance.com/NR/rdonlyres/3F7F02B5-F370-477D-A810-60EB5DD6CEE9/27736/DNO_Letter_to_Accompany_Mod192_V1.pdf

¹⁴ See UNC modification rule 9.7: http://www.gasgovernance.com/NR/rdonlyres/OB531FB8-8EAB-4F8B-8FC1-67DC428D67B6/12798/01_10_MR1.pdf

Decision notice

In accordance with Standard Special Condition A11 of the Gas Transporters Licence, the Authority, hereby directs that modification proposal UNC 192: *'Introduction of DNO Obligations to facilitate resolution of unresolved USRVs'* be made.



Ian Marlee

Director, Trading Arrangements

Signed on behalf of the Authority and authorised for that purpose.