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14<sup>th</sup> April 2008

**Re: UNC Modification Proposal 0196 “Alteration to shipper penalties for end user failure to interrupt”**

Dear Julian

Thank you for the opportunity to comment upon this Modification Proposal, I can confirm that we are **not supportive** of its implementation.

***1. The Modification Proposal***

Modification Proposal 0196 seeks to remove Section G 6.9.6 to 6.9.9 from the Uniform Network Code (UNC) Transportation Principal Document (TPD). UNC Modification Proposal 0090 (Revised DN Interruption Arrangements) was implemented on 1<sup>st</sup> April 2008 and effectively removed and replaced the entire Section G from the UNC TPD, subsequently Section G 6.9.6 no longer relates to 'Failure to Interrupt' arrangements and Section G 6.9.7 to 6.9.9 no longer exist.

As you will be aware, the revised DN interruption arrangements introduced by Modification Proposal 0090 necessitate a transitional period; this commenced on 1<sup>st</sup> April 2008 and will end on the 30<sup>th</sup> September 2011. For the transition period Section G of UNC TPD (pre 1<sup>st</sup> April 2008) now appears in the Transition Document Part IIC (Transitional Rules) as Section 9 (Transitional Interruption Regime: Interruptible Supply Points). For the purposes of this Representation, and following discussions with the Proposer, we have assumed this Proposal is referring to Section 9.9.6 to 9.9.9 of the Transition Document Part IIC and that the Proposer is aware that these arrangements will cease in September 2011. It may be deemed necessary for a variation to be submitted to the Proposal to give clarity to the wider industry.

The '5 strikes rule' principle that the Proposer has described has been part of the interruption arrangements for a number of years and acts as suitable incentive to ensure that Users take every appropriate action to secure interruption at such Supply Points when required to do so by the Transporter. The current national portfolio of Interruptible Supply Points are sites nominated by the Registered User and are not specifically, on a site by site basis, required by the Transporter. The Registered User should only be nominating sites as interruptible where there they have sufficient assurances that the necessary contractual arrangements are in place to ensure that such instances of failure to interrupt do not occur.

24 hour gas escape number  
Rhif 24 awr os bydd nwy yn gollwng

**0800 111 999\***

\*calls will be recorded and may be monitored  
caiff galwadau eu recordio a gellir eu monitro

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Paragraph 9.9.8 (previously Section G 9.6.8) makes provision for the '5 strikes rule' to not apply where the User can demonstrate to the Transporter that such failures were out of their control and that they had taken all reasonable steps to comply with the Transporter's requirement. We believe this is an essential part of the arrangements and we are not aware of any circumstances where the '5 strikes rule' has been necessary; this supports our belief that the current arrangements are a fundamental part of protecting the integrity of the interruption regime. The transitional arrangements that now cover the '5 strikes rule' element of the interruption regime were proposed, discussed and consulted on as part of the Modification Proposal 0090 process and were deemed to be appropriate, we are not aware of any reason why this may longer the case

For the enduring DN interruption arrangements the ability to nominate any Supply Point as Interruptible will cease. Transporters will publish their requirements in particular geographic locations and Users will need to go through a tender process to secure interruption contracts. One of the drivers for the change in DN interruption arrangements has been that current Interruptible Supply Points are not necessarily required by the Transporter and therefore receive an inappropriate transportation charge discount (as they do not pay LDZ Capacity Charges). By offering interruption through a tender process, by location, this will ensure that only sites that are of benefit to the Transporter will receive an appropriate remuneration. The '5 strikes rule' will no longer be appropriate, from 1<sup>st</sup> October 2011, as the Transporter would not be able to revert an entire User portfolio to a firm basis (i.e. cancel the contracts that are in place) as those sites will be required to ensure security of supply obligations.

## ***2. Extent to which implementation of the proposed modification would better facilitate the relevant objectives***

***Standard Special Condition A11.1 (a): the efficient and economic operation of the pipe-line system to which this licence relates;***

We do not believe the Proposal will better facilitate this relevant objective

***Standard Special Condition A11.1 (b): so far as is consistent with sub-paragraph (a), the coordinated, efficient and economic operation of (i) the combined pipe-line system, and/ or (ii) the pipe-line system of one or more other relevant gas transporters;***

We do not believe the Proposal will better facilitate this relevant objective

***Standard Special Condition A11.1 (c): so far as is consistent with sub-paragraphs (a) and (b), the efficient discharge of the licensee's obligations under this licence;***

We do not believe the Proposal will better facilitate this relevant objective

***Standard Special Condition A11.1 (d): so far as is consistent with sub-paragraphs (a) to (c) the securing of effective competition: (i) between relevant shippers; (ii) between relevant suppliers; and/or (iii) between DN operators (who have entered into transportation arrangements with other relevant gas transporters) and relevant shippers;***

The Proposer has argued that the '5 strikes rule' is a disproportion penalty on Users, however, we disagree with this as the rules are in place to ensure the necessary arrangements are in place between Users and end consumers and ultimately give protection to the integrity of the regime. A

significant problem will have to have occurred for such action to be taken by the Transporter, this would only be under circumstances where the User has not taken all reasonable steps to comply with the requirements; they would therefore be undermining their own competitive position.

***Standard Special Condition A11.1 (e): so far as is consistent with sub-paragraphs (a) to (d), the provision of reasonable economic incentives for relevant suppliers to secure that the domestic customer supply security standards (within the meaning of paragraph 4 of standard condition 32A (Security of Supply – Domestic Customers) of the standard conditions of Gas Suppliers’ licences) are satisfied as respects the availability of gas to their domestic customers;***

We do not believe the Proposal will better facilitate this relevant objective

***Standard Special Condition A11.1 (f): so far as is consistent with sub-paragraphs (a) to (e), the promotion of efficiency in the implementation and administration of the network code and/or the uniform network code.***

We do not believe the Proposal will better facilitate this relevant objective

***4. The implications for Transporters and each Transporter of implementing the Modification Proposal, including:***

***a) Implications for operation of the system***

We do not believe that implementation of this Proposal will present such implications

***b) Development and capital cost and operating cost implications***

We do not believe that implementation of this Proposal will present and cost implications

***c) Whether it is appropriate to recover all or any of the costs***

No cost recovery would be necessary

***d) Analysis of the consequences (if any) this proposal would have on price regulation***

We do not believe there would be any consequences on price regulation from the implementation of this Proposal.

***6. The development implications and other implications for the UK Link System of the Transporter, related computer systems of each Transporter and related computer systems of Users***

There would be no implications for the UK Link System of the Transporters.

***10. Analysis of any advantages or disadvantages of implementation of the Modification Proposal***

***a) Advantages***

The Proposer has stated that the implementation of this Proposal will remove an 'unduly onerous risk from Shipping / Supplier Community'; however, we do not see that the current arrangements present a risk to those Users that have the necessary arrangements in place with the end consumer. We therefore do not agree with advantages specified within the Proposal and have not identified any others

***b) Disadvantages***

The current arrangements put in place offer an appropriate level of incentive for users to ensure the interruption regime is robust, removal of the '5 strikes rule' could seriously compromise this position.

***14. Recommendations on the time scale for implementation of the whole or any part of the this Modification Proposal***

This Proposal could be implemented relatively quickly as there are no system implications.

In summary we are not supportive of this Modification Proposal and believe that the current, transitional, arrangements are appropriate and offer a suitable incentive to Users that participate in the interruption regime. If you have any questions relating to this Representation please do not hesitate to contact me.

Yours sincerely

Simon Trivella  
Commercial Analyst  
Wales & West Utilities