

Modification Report
Clarification around the application of the UNC Dispute Resolution Process
Modification Reference Number 0199
Version 3.0

This Modification Report is made pursuant to Rule 9.3.1 of the Modification Rules and follows the format required under Rule 9.4.

1 The Modification Proposal

Section A of the UNC General Terms sets out the process for the resolution of disputes between parties.

Historically there have been questions raised by Transporters as to the extent to which GT Section A can be applied where the user cannot link their dispute directly to a chargeable service covered in Section S of the TPD.

There are a number of services and obligations carried out by Transporters that are defined in UNC that are not covered by an Invoice Item as defined in TPC Section S and there is a lack of clarity as to whether they are subject to the query process as defined in Section A.

This Modification seeks to give clarity to the current situation by amending GT Section A 1.1.2 (a) as follows:

- (a) **"dispute"** is any dispute or difference arising between the Parties under or in connection with the Code, the Framework Agreement, any Ancillary Agreement or any Supplemental Agreement; and is not limited to disputes arising from Queries as defined within the Transportation Principle Document Section S.

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;

Implementation would not be expected to better facilitate this relevant objective.

Standard Special Condition A11.1 (b): so far as is consistent with subparagraph (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;*

Implementation would not be expected to better facilitate this relevant objective.

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

Implementation would not be expected to better facilitate this relevant objective.

Standard Special Condition A11.1 (d): so far as is consistent with subparagraphs (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;***

EDF Energy believes if there is disagreement between parties regarding the application of the UNC Dispute Resolution Process, then this could lead to an additional dispute that could only be resolved through the courts. Any court action has a cost, sometimes significant, associated with this. Clarifying the dispute resolution process could avoid these costs. It is widely recognised that reduced costs is beneficial to competition, and so, tentatively, it would appear that this proposal if implemented would benefit competition.

Standard Special Condition A11.1 (e): so far as is consistent with subparagraphs (a) to (d), the provision of reasonable economic incentives for relevant suppliers to secure that the domestic customer supply security standards... are satisfied as respects the availability of gas to their domestic customers;

Implementation would not be expected to better facilitate this relevant objective.

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

The Proposer believes that by adding clarity to the dispute resolution process, this Modification would;

- Better facilitate the efficient operation and administration of the UNC
- Reduce levels of contractual risk between parties

However the Transporters and other Distribution Workstream attendees do not believe further clarity is required.

3 The implications of implementing the Modification Proposal on security of supply, operation of the Total System and industry fragmentation

No implications on security of supply, operation of the Total System or industry fragmentation have been identified.

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

a) Implications for operation of the System:

No implications for operation of the system have been identified.

b) Development and capital cost and operating cost implications:

No development or capital costs would be incurred.

c) Extent to which it is appropriate to recover the costs, and proposal for the most appropriate way to recover the costs:

No additional cost recovery is proposed.

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

No such consequence is anticipated.

5 The consequence of implementing the Modification Proposal on the level of contractual risk of each Transporter under the Code as modified by the Modification Proposal

The Proposer believes this Modification would reduce levels of contractual risk between parties, however other Distribution Workstream attendees do not believe it would.

6 The high level indication of the areas of the UK Link System likely to be affected, together with the development implications and other implications for the UK Link Systems and related computer systems of each Transporter and Users

No changes to systems would be required as a result of implementation of this Proposal.

7 The implications of implementing the Modification Proposal for Users, including administrative and operational costs and level of contractual risk

Administrative and operational implications (including impact upon manual processes and procedures)

No such implications have been identified.

Development and capital cost and operating cost implications

No such costs have been identified.

Consequence for the level of contractual risk of Users

The Proposer believes this Modification would reduce levels of contractual risk between parties, however other Distribution Workstream attendees do not believe it would.

8 The implications of implementing the Modification Proposal for Terminal

Operators, Consumers, Connected System Operators, Suppliers, producers and, any Non Code Party

No such implications have been identified.

9 Consequences on the legislative and regulatory obligations and contractual relationships of each Transporter and each User and Non Code Party of implementing the Modification Proposal

No such consequences have been identified.

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

Advantages

May clarify part of the UNC to avoid any doubt regarding its interpretation.

Disadvantages

Some Distribution Workstream attendees do not believe further clarity is required.

11 Summary of representations received (to the extent that the import of those representations are not reflected elsewhere in the Modification Report)

Representations were received from the following parties:

Organisation	Position
British Gas	Support
EDF Energy	Support
National Grid Distribution	Not in Support
National Grid NTS	Not in Support
RWE Npower	Not in Support
Scottish Power	Not in Support
Scotia Gas Networks	Not in Support

National Grid NTS, National Grid Distribution, RWE Npower, Scottish Power and Scotia Gas Networks all believed that the prevailing arrangements are unambiguous. They believe the current definition is already wide enough to capture disputes beyond those related to a chargeable service. Scottish Power and Scotia Gas Networks suggested the amendment may only introduce the risk of unnecessary confusion by leaving open the question of whether there

may be limitations within the process.

12 The extent to which the implementation is required to enable each Transporter to facilitate compliance with safety or other legislation

No such requirement has been identified.

13 The extent to which the implementation is required having regard to any proposed change in the methodology established under paragraph 5 of Condition A4 or the statement furnished by each Transporter under paragraph 1 of Condition 4 of the Transporter's Licence

No such requirement has been identified.

14 Programme for works required as a consequence of implementing the Modification Proposal

No programme for works has been identified.

15 Proposed implementation timetable (including timetable for any necessary information systems changes and detailing any potentially retrospective impacts)

Implementation could be immediate on receipt of a decision.

16 Implications of implementing this Modification Proposal upon existing Code Standards of Service

No implications of implementing this Modification Proposal upon existing Code Standards of Service have been identified.

17 Recommendation regarding implementation of this Modification Proposal and the number of votes of the Modification Panel

At the Modification Panel meeting held on 18 September 2008, of the 9 Voting Members present, capable of casting 10 votes, 2 votes were cast in favour of implementing this Modification Proposal. Therefore the Panel did not recommend implementation of this Proposal.

18 Transporter's Proposal

This Modification Report contains the Transporter's proposal to modify the Code and the Transporter now seeks direction from the Gas and Electricity Markets Authority in accordance with this report.

19 Text

UNIFORM NETWORK CODE – GENERAL TERMS

SECTION A – DISPUTE RESOLUTION

Amend paragraph 1.1.2(a) to read:

1 GENERAL

1.1 Introduction

1.1.1 This Section A provides for the resolution of certain disputes between the Parties.

1.1.2 For the purposes of this Section A:

- (a) a “**dispute**” is any dispute or difference arising between the Parties under or in connection with the Code, the Framework Agreement, any Ancillary Agreement or any Supplemental Agreement; **and is not limited to disputes arising from Queries as defined within the Transportation Principal Document Section S.**
- (b) in respect of any dispute “**parties**” means the Transporter(s) and/or the User(s) party to such dispute, and “**party**” shall be construed accordingly.

For and on behalf of the Relevant Gas Transporters:

Tim Davis
Chief Executive, Joint Office of Gas Transporters