

Mr. Tim Davis
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 Modification 0199: "Clarification Around the Application of the UNC Dispute Resolution Process"

Dear Tim,

RWE Npower does not support the above Proposed Modification.

While it is true that there have in the past been questions as to the extent to which GT Section A of the UNC General Terms can be applied in the case of a User being unable to directly link a dispute to a chargeable service covered in TPD Section S, our opinion is that the above Proposed Modification is more likely to increase levels of contractual risk between parties than decrease them.

The Proposer wishes to amend Section A1.1.2 (a) of the General Terms to read as follows:

“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 (Proposed change to the wording highlighted).

With the extension of the current definition to specifically state that GT Section A can also be applied to disputes other than those relating to TPD Section S, and without stating exactly what other areas GT Section A is applicable to, our concern is that this could potentially be interpreted as applying even to disputes between Users which are not directly related to the UNC.

It is the opinion of RWE that the current arrangements are better than the Proposed Modification in the respect that they do at least provide a generally accepted scope for the resolution of certain specific disputes. If the Proposed Modification were to be approved by Ofgem there is a strong possibility that the accepted boundaries would no longer apply and this could potentially lead to more rather than less confusion as to which areas GT Section A can be applied to, with, in our view, an accompanying increase in contractual risk.

npower

Oak 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

It may be that meetings between industry parties at a future date would be useful for discussion on how to further define the areas to which GT Section A can be applied. However, we do not feel that the Proposed Modification is a route that we wish to go down, particularly as the “dispute” definition which the Proposer wishes to put into the UNC seems rather less precise and more open to interpretation than the current definition contained in GT Section A1.1.2 (a).

Therefore, we are unable to see how this Proposal, if approved, would assist in meeting the aim of clearly defined and less ambiguous regulation.

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