

Modification proposal:	Uniform Network Code (UNC) 238: Amendment to Protected Information Provisions to facilitate DNO compliance with SPAA Schedule 23 (UNC238)		
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:	18 March 2009	Implementation Date:	To be confirmed by the Joint Office

Background to the modification proposal

Gas Transporters (GTs) are obligated under Standard Special Condition (SSC) A31 of their licence to provide and maintain an information service relating to each supply point connected to their network. This information includes, but is not limited to:

- The identity of the shipper responsible for each premises;
- The identify of the supplier;
- The type of metering installed; and
- Any technical data which the shipper may reasonably require for balancing and change of supplier (COS) purposes.

The primary means for disseminating this information is via a website service, though the GTs also operate telephone enquiry services which fulfil the same role.

Following an industry summit in June 2003, a co-operative programme named the Customer Transfer Programme (CTP)³ was established encompassing suppliers, distributors, GTs and industry bodies. The aim of this programme was to investigate, understand and address the issues faced by customers when they switch suppliers. The CTP identified a requirement for a national online meter point enquiry service, covering all Gas Transporters (GTs).

A Change (CP-06/057⁴) was therefore made to the Supply Point Administration Agreement (SPAA⁵) to which all GTs are obligated to accede under Standard Special Condition 14 of their licence introducing a mandatory Schedule 23 providing for a Single Centralised Online Gas Enquiry Service (SCOGES). This schedule sets out who can be granted access to this service and may include suppliers and 'other persons' for the specific purpose of COS processes.

Prior to the introduction of Schedule 23 into the SPAA, this supply point information had been provided by GTs to shippers in accordance with the provisions of the UNC. UNC modification 087 was raised in response to GT concerns that this area should not be subject to dual governance, and sought to remove the reference UNC references to

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 See www.energymarkets.gov.uk/switchingsupplier.html

⁴ http://epr.ofgem.gov.uk/document_fetch.php?documentid=9649

⁵ The SPAA is primarily designed to provide governance around the standard industry procedures between non-contracting parties, for instance between incoming and outgoing suppliers during the change of supplier (COS) process.

supply point information which had been superceded by the SPAA. On 30 October 2006 the Authority directed that UNC087 be implemented⁶.

The modification proposal

The proposer states that there are currently three main considerations a GT has to take into account when considering how they will apply SPAA Schedule 23:

- The 'Protected Information' provisions contained within TPD Section V5 of the UNC place restrictions on a GT's ability to disclose Protected Information, though it is permitted where the GT is required to do so under its licence.
- Gas Transporter Licence Standard Special Condition (SSC) A31⁷ requires the transporter to disclose specified information to those recipients listed in the SSC A31. Legitimate recipients include 'an appropriate person specified in the UNC for balancing or COS purposes'.
- Section 105 of the Utilities Act 2000 does not apply in respect of the prohibition of disclosure of Protected Information where such disclosure is required to be made by a GT as a condition of its licence.

In order to provide absolute clarity around the provision of information to suppliers and others persons, UNC238 seeks to add an exception to the protected information provisions in Section V5.5 of the UNC. This would specify that the information may be released to for COS purposes, pursuant to applications made in accordance with the principles contained in the 'Other Users Access' provisions of SPAA Schedule 23.

The proposer feels that this modification would facilitate UNC relevant objective c)⁸ *'the efficient discharge of the licensee's obligations under this licence'*, as it would provide greater clarity regarding disclosure of information under Standard Special Condition A31: *Supply Point Information Service*⁹. This would in turn minimise any contractual risks to GT's and allow them to fulfil the intent of SPAA Schedule 23, while remaining complaint with the UNC.

UNC Panel¹⁰ recommendation

At the Modification Panel meeting held on 18 December 2008, of the 8 Voting Members present, capable of casting 10 votes, 10 votes were cast in favour of implementing this modification proposal. Therefore the Panel recommend implementation of this modification proposal.

The Authority's decision

The Authority has considered the issues raised by the modification proposal and the Final Modification Report (FMR) dated 11 February 2009. The Authority has considered and taken into account the responses to the Joint Office's consultation on the modification proposal which are attached to the FMR¹¹. The Authority has concluded that:

⁶ http://epr.ofgem.gov.uk/document_fetch.php?documentid=9684

⁷ http://epr.ofgem.gov.uk/document_fetch.php?documentid=6569

⁸ 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

⁹ <http://epr.ofgem.gov.uk/index.php?pk=doc226719>

¹⁰ The UNC Panel is established and constituted from time to time pursuant to and in accordance with the UNC Modification Rules

¹¹ UNC modification proposals, modification reports and representations can be viewed on the Joint Office of Gas Transporters website at www.gasgovernance.com

1. implementation of the modification proposal will better facilitate the achievement of the relevant objectives of the UNC¹²; and
2. directing that the modification be made is consistent with the Authority's principal objective and statutory duties¹³.

Reasons for the Authority's decision

In line with our previous comments on modification proposal UNC087 we consider that access to the SCOGES service should be available to shippers *and* suppliers in order for them to manage customer transfers and aid customer queries. Schedule 23 also states that access can also be granted to other parties, being agents of the shipper/supplier.

Whilst we do not consider that GTs are currently precluded from providing this information to suppliers and other appropriate persons for COS purposes, we recognise that the responsibility for granting such access now rests with the SPAA Executive Committee rather than the individual GT, albeit the GTs have a representative on that committee. We consider that the insertion of this additional text will clarify for the avoidance of doubt, that adherence to the SPAA is also consistent with the requirements set out in Section V5 of the UNC, particularly as SLC 14 of the GT licence requires all GTs to become a party to and comply with the SPAA. Under mandatory Schedule 23 of the SPAA paragraph 7.2 describes how and under what terms access *will* be granted to suppliers. As stated above under Section V5 of the UNC protected information provisions, GTs are permitted to disclose protected information where they are required to do so under their licence. This will also fulfil the requirements of Section 105 of the Utilities Act 2000.

We therefore agree that this modification will remove any ambiguity in this area and provide GTs further comfort. We also note that there were no objections from respondents. We agree that the relevant objective c) '*the efficient discharge of the licensee's obligations under its licence*' of the UNC will be facilitated to the extent that it provides further clarification for GTs on whom they can send protected information to and should therefore assure compliance with both the UNC and SPAA, efficiently discharging both Standard Special Conditions 14 and 31.

Decision notice

In accordance with Standard Special Condition A11 of the Gas Transporters Licence, the Authority, hereby directs that modification proposal UNC238: '*Amendment to Protected Information Provisions to facilitate DNO compliance with SPAA Schedule 23*' be made.

Mark Feather
Director, Industry Codes and Licensing

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

¹² 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

¹³The Authority's statutory duties are wider than matters which the Panel must take into consideration and are detailed mainly in the Gas Act 1986.