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6th November 2009

**Re: UNC Modification Proposal 0255 “Publication of Objection Rates for LSP
Supply Points Modification Reference Number”**

Dear John

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

Although we are sympathetic to the issues that the Proposer has raised we have the following concerns with this Modification Proposal:

1. No material evidence has been provided by the Proposer, or any other party, that the objection process is being abused or that publication of a report would in any resolve such matters;
2. Supplier licence compliance is not a matter that should be dealt with via the UNC; and
3. This Modification Proposal should have been progressed as a User Pays Modification Proposal with all costs being borne by Shipper Users

1. The Modification Proposal

The justification for the Modification Proposal appears to be based on a concern raised by Ofgem that the objections process is being inappropriately used by some Shippers to retain customers. We are not aware that Ofgem have such concerns and we, as a Transporter, have not been asked by Ofgem to provide any information to support such claims.

The Proposer has also highlighted concerns that;

1. there is no public reporting on the number or frequency of objections that are raised by a Supplier; and
2. there is no framework for penalising a Supplier outside of general competition law or licence enforcement.

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

We would like to make it clear that implementation of this Modification Proposal will not remedy either of the above issues. The proposed report (sample shown below) will not report on the number or frequency of objections and the proposed solution does not include the introduction of a penal mechanism within the UNC.

Below is an extract from a sample report that was presented at the October 2009 Distribution Workstream and is based on actual data. If this Modification Proposal were to be implemented then the Shipper column would contain actual Shipper short codes (i.e. the report would not be anonymous).

Periodic LSP Objection Rate Report
Date Range - 01/05/08 to 31/07/08

Shipper (Incumbent)	% of Objections Not Cancelled	% of Objections Cancelled
A	94.69%	5.31%
B	96.67%	3.33%
C	97.58%	2.42%
D	98.92%	1.08%
E	98.32%	1.68%
F	98.58%	1.42%
G	96.90%	3.10%
H	98.70%	1.30%
I	68.33%	31.67%
J	90.35%	9.65%
K	99.07%	0.93%
L	100.00%	0.00%
M	100.00%	0.00%
N	100.00%	0.00%
O	44.44%	55.56%
P	100.00%	0.00%

Although we do acknowledge that Shipper “O” and Shipper “I” appear as outliers on this report we do not believe that the automatic assumption should be that they are in breach of their Supplier licence. Reporting such information, and accepting such an interpretation, could lead to Shippers being incorrectly perceived as acting in an anti-competitive manner.

We believe that if the objection process is being used to facilitate anti-competitive behaviour, and as a result Suppliers are in breach of their licence, then this matter should be investigated by Ofgem. The Distribution Networks have confirmed that they would supply Ofgem directly with any data available that was requested for investigating such matters.

2. User Pays

We do not agree with the Proposer in that this Modification Proposal should be funded by Transporters. Implementation of this Modification Proposal would quite clearly deliver no benefits to Transporters.

The relative low cost of implementation has been cited, by certain Shippers, as the reason for the implementation of this Modification Proposal being funded by Transporters. The claims that the cost of carrying out the administrative activities to raise a one-off User Pays charge to Shippers would be more than the cost of implementation are simply not true.

Following the principles set out in the User Pays guidance note, this Modification Proposal should have been raised as a User Pays Modification Proposal that is to be funded 100% by Shipper Users. If, for any Modification Proposal, the Transporters believed that it would be inefficient or uneconomical to raise User Pays charges then they would not do so (i.e. there would be no new charge(s) within the Agency Charging Statement).

3. 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;

We do not necessarily agree with the Proposer that implementation of this Modification Proposal will better facilitate this relevant objective. Conversely, if incorrect assumptions are made based upon the data within such a report, Shippers may be inadvertently branded as actively carrying out anti-competitive practices and hence suffer commercial consequences for this. This would be detrimental to the furthering of this relevant objective (in particular (d)(ii)).



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.

In summary, we are **not supportive** of the implementation of this Modification Proposal. Hopefully these comments have been helpful, if you have any questions relating to this Representation then please do not hesitate to contact me.

Yours sincerely

{by e-mail}

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