

Modification Report
Publication of Objection Rates for LSP Supply Points
Modification Reference Number 0255
Version 4.0

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

Summary

The objection process is a mechanism that is detailed within the UNC to allow Shippers to prevent an LSP customer from switching supplier as a result of an erroneous transfer, or in breach of their contract. This process saves Shippers from having to re-nominate a site to return it to the correct portfolio. Ofgem has expressed concern that the objections process is used by some Shippers to retain customers, as opposed to correcting incorrect transfers, and in part this is owing to the lack of visibility surrounding objections. We propose to publish objection rates to encourage appropriate practice.

Licence Conditions

SLC 14.2 of the Supplier's licence allows Suppliers to object to any transfer of a non-domestic customer from its portfolio to that of a competitor only if:

- the contract with that customer allows for the current Supplier to prevent the Proposed Supplier Transfer. Supplier contracts generally prevent transfer if the Customer has not paid any outstanding invoice or a fixed term contract has not yet expired ; or
- the Supplier that initiated the Proposed Supplier Transfer has agreed with the current Supplier that the transfer was initiated in error.

Section 14.3 of the Supplier's licence gives a requirement to inform the customer that their transfer has been blocked, why this has been done and possible remedies.

UNC provisions

The Supply Point Transfer process is currently operated by xoserve, under the auspices of the UNC, and so this is where the objection process operates in practice. The relevant section that deals with such a process is Section G of the UNC, specifically Section G2.8.1(b), which allows an Existing Supplier to lodge a Supply Point Objection within seven business days after the new Supplier has submitted a Supply Point Confirmation.

If an Objection is lodged, then the Transporter will not be active in determining the merits of the objection, but it will be up to the Suppliers to resolve the issue.

Concerns with current process

This regime was clearly intended to help prevent incorrect transfers occurring, so avoiding the need for Suppliers to re-nominate a site to correct

the error. At present the current regime is open to abuse. There is currently no requirement in either the licence or the UNC for a Supplier to justify why an objection has been raised to either the Transporter or the new prospective Supplier, even if the objection is clearly spurious. There is therefore no constraint placed upon this process to prevent abuse by Suppliers, and there is a considerable body of anecdotal evidence that certain Suppliers object to a Supply Point Transfer to gain time to renegotiate a lower contract with the customer prevent their transfer and possibly lock them into a further fixed term contract. At the very least raising spurious objections create additional work for Suppliers in ensuring their customer transfers on time.

In addition to this lack of oversight, there is no public reporting on the number or frequency of objections that are raised by a Supplier. In the unlikely event of a Supplier being challenged on excessive use of the process for anti-competitive practices, there is no framework in penalising the Supplier, outside of general competition law or licence enforcement. Both of these remedies are complex and expensive, and seem to be a disproportionate response for breaching a UNC provision.

It is the regulator's belief that the practice of objecting to most transfers is detrimental to the customer as it is helping to restrict the ability of that customer to switch to a lower price contract and that the objections process is used (in conjunction with automatic contract rollover) as a customer retention tool. At the very least it creates administrative inconvenience to the customer, and delays them moving to their preferred Supplier.

Proposed Solution

To address Ofgem's concerns it is proposed that greater visibility is given to the current objections regime.

To this end, xoserve will publish a quarterly report on the joint office website detailing by Shipper licence the % of LSP Supply Point Transfer Objections which are successful (i.e not withdrawn) compared to the total number of Supply Point Transfer Objections raised by that Shipper. To ensure maximum visibility this list would not be anonymous. A threshold of 10 objections would trigger inclusion on the list to ensure that low numbers of objections by Small Shippers do not result in a potentially high % result, distorting the publication of the information. It is our understanding that xoserve is currently looking at the reports it can provide as part of its Information Provision project, and that if this report is included, the additional costs would be small.

Benefits of process

A key requirement of a fully functioning market is information transparency. This modification will provide that transparency to the industry on how frequently that the objections process is used. We would expect that all Shippers would use this error correction tool to object to some transfers on a regular basis but not to object to all, or the vast majority, of transfers. This report will highlight any such abuse of the process, and so will help deter such anti-competitive activity.

2 User Pays

a) Classification of the Proposal as User Pays or not and justification for classification

User Pays. An xoserve cost estimate produced using the ROM methodology indicated that implementation costs would be about £4,000 if this change is incorporated into the xoserve Information Provision project. If the Proposal is not included in the Information Provision project, costs may increase to a maximum of £26,000.

b) Identification of Users, proposed split of the recovery between Gas Transporters and Users for User Pays costs and justification

It is proposed that 100% of the cost is met by Transporters on the grounds that the low cost does not justify the administration of a User Pays charge.

c) Proposed charge(s) for application of Users Pays charges to Shippers

NA

d) Proposed charge for inclusion in ACS – to be completed upon receipt of cost estimate from xoserve

NA

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;

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;*

Publication of this information will help encourage use of the objections process only as a mechanism to correct erroneous transfers or when the contract with the customer provides for it, and not as a customer retention tool. This will encourage appropriate behaviour, so improving competition by reducing the current level of unnecessary administration experienced by Shippers in handling spurious objections.

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;

Some members of the Distribution Workstream believe this modification will encourage adherence to the provisions of the UNC and reduce the administrative burden on Shippers, so furthering this objective.

Some members of the Distribution Workstream believe the reference should be adherence to the provisions of the Suppliers licence and therefore does not further this objective.

4 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.

5 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

cost appropriate way to recover the costs:

As the costs incurred in this process are minimal, it may not be economic to recover the costs that are incurred by the transporter by use of a User Pays mechanism.

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

No such consequence is anticipated.

6 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

No such consequence is anticipated.

7 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.

8 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)

This Proposal is likely to reduce the number of spurious objections that are raised by Shippers, reducing the administration undertaken overall by Shippers in handling customer transfers.

Development and capital cost and operating cost implications

There is likely to be a reduction in operating costs for Shippers as fewer spurious objections are raised.

Consequence for the level of contractual risk of Users

No such consequence has been identified.

9 The implications of implementing the Modification Proposal for Terminal Operators, Consumers, Connected System Operators, Suppliers, producers and, any Non Code Party

The primary purpose of this modification proposal is to benefit Customers. Publishing the rate of objections that are raised by each Shipper, will discourage unfounded objections. This will reduce the instance of consumers

having their transfer delayed or blocked unnecessarily, so reducing the level of customer dissatisfaction generally and ultimately improving perception and operation of the gas market.

10 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.

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

Advantages

- Provides transparency around the objections process
- Will provide an incentive to use objections process in line with licence requirements.

Disadvantages

None identified

12 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	Supports
Corona Energy	Supports
EDF Energy	Not in Support
E.ON UK	Qualified Support
Gazprom	Supports
National Grid Distribution	Comments
Northern Gas Networks	Not in Support
RWE npower	Supports
Scotia Gas Networks	Not in Support
Scottish and Southern Energy	Not in Support
Scottish Power	Not in Support

Wales & West Utilities Not in Support

In summary, of the 12 responses received, 4 supported the modification proposal, 1 offered qualified support, 6 were not in support and 1 offered comments.

Northern Gas Networks (NGN), Scotia Gas Networks (SGN) and Wales and West Utilities (WWU) do not support the proposal. All Transporters question the costs being targeted to the Transporters “*on the grounds that the low cost does not justify the administration of the User Pays charge*”). They all believe that is a User Pays modification and that the level of costs should not be used to determine the assignment of costs.

WWU highlight that 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).

NGN consider that Transporters are neutral to the inter-shipper process and do not consider it is appropriate to obligate Transporters to publish the information requested in this modification proposal.

WWU highlight that Transporters can supply Ofgem any of the data requested to enable them to investigate any concerns that the objections process is being inappropriately used by some Shippers to retain customers. 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 the relevant objectives.

British Gas consider the report will not be able to highlight any abuse of the objections process or how frequently it is used, it will only provide an insight in to how many objections a supplier has decided to withdraw. As objections may legitimately be withdrawn, they believe any inferences drawn from the report alone will inevitably be incorrect. However, they consider that when combined with a wider evidence base the report may sufficiently illustrate abuse of the objections process, and that its existence alone may act as a further deterrent to any party considering such a course of action.

Corona Energy (CE) note the Transporters comments that the cost of this report should be recovered from Shippers via a user pays charge. However, CE would like to again take this opportunity to stress its concern that the ‘User Pays’ principle appears to have been distorted from the sensible concept that the UNC arrangements should have a degree of optionality and differentiation in service levels that they could pay for. It now appears that contrary to Ofgem’s early assurances that only optional ‘non-core’ services would be subject to this principle, every UNC change appears to be designated as ‘User Pays’

E.ON offered qualified support raising a concern that the report could prove damaging commercially if the wrong conclusions are drawn from the report.

EDF Energy consider that if there was an any issue with the use of the

objection process then this would relate to the Supply Licence of the businesses involved and not the UNC, and as such therefore is a matter for Ofgem. EDF Energy are concerned that this proposal will not provide any information of value to the industry and are concerned that this information could be deliberately miss-presented to consumers. EDF Energy fails to recognise how this proposal will facilitate the relevant objectives identified. The Supply Licence already dictates that the objection process can only be used in particular circumstances. Implementation of this proposal will not provide any greater incentive than that already contained within the Supply Licence.

EDF Energy disagrees that this is not a User Pays Proposal. Nevertheless given the low cost of implementation, they agree that it should be funded by the Transporters.

Scottish Power recognises the concerns the Proposer makes with regards to the current objection process. However, they do not consider the solution proposed is equitable to the issue identified. If a company believes another party is operating in an anti-competitive manner this should be addressed under the existing framework.

Scottish and Southern Energy (SSE) consider Suppliers have obligations regarding objections placed on them through their Supplier Licences. Indeed, Ofgem has previously made it very clear the circumstances under which objections can be raised. Whilst SSE have sympathy for the concerns that have been raised about the use of inappropriate objections within the non-domestic market, problems relating to the use of the right to object are a matter for Ofgem and remedies through the UNC place burdens on parties for whom it is not relevant.

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

Implementation is not required to enable each Transporter to facilitate compliance with safety or other legislation.

14 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

Implementation is not 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.

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

It is recommended this Proposal be incorporated into the Information Provisions project to reduce implementation costs.

16 Proposed implementation timetable (including timetable for any necessary information systems changes and detailing any potentially retrospective

impacts)

Implementation should be in line with the Information Provisions project.

17 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.

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

At the Modification Panel meeting held on 19 November 2009, of the 9 Voting Members present, capable of casting 9 votes, 5 votes were cast in favour of implementing this Modification Proposal. Therefore the Panel recommend implementation of this Proposal.

19 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.

20 Text

Uniform Network Code – Transportation Principal Document

Section G – SUPPLY POINTS

Add new paragraph

2.8.4.(c) " the Transporters shall arrange to be published on a quarterly basis a report which shows by each User the percentage of all objections lodged pursuant to Section 2.8.1.(b) above which are upheld and the percentage of such objections which are not upheld during the period covered by the report."

For and on behalf of the Relevant Gas Transporters:

Tim Davis

Chief Executive, Joint Office of Gas Transporters