

Modification Report
Facilitating a Supply Point Enquiry Service for Non-Domestic Supply Points
Modification Reference Number 0296
Version 5.0

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

In January 2010, Ofgem rejected UNC Modification Proposal 0253, “*Facilitating a Supply Point Enquiry Service for Large Supply Points*” citing concerns that the proposal may lead to domestic data being included on any report, and thus presenting potential issues with the Data Protection Act. They also referenced the lack of costs provided for the proposed report, and commented that they believed it was therefore difficult to confirm the proposal met the relevant objectives. Finally, Ofgem commented on the current ambiguity within the UNC about the definition of “contemplated” within section G 1.17.

British Gas have raised this proposal in order to address those concerns whilst still amending the UNC in order to permit access to a Supply Point Enquiry service for all *non-domestic* supply points. In addition, and although British Gas interprets section G 1.17 to mean that we should gain the customer’s permission before submitting a Supply Point Enquiry, we also seek to address Ofgem’s concern about the potentially ambiguous drafting here.

Presently, the UNC (G1.17) only permits a Supply Point Enquiry where an Enquiring User is “*contemplating submitting a Supply Point Nomination*”. This means that, for a User to provide a quotation to a customer, the User must first submit the Supply Point Enquiry to the Transporters Agent and then receive the Supply Point Enquiry data.

The problem is that the process of submitting a Supply Point Enquiry and receipt and secondary processing of this data into a quotation adds time and cost to each User.

If the UNC permitted the provision of Supply Point Enquiry data for all non-domestic supply points, and this data was available to Users as and when they needed it, then Users would be able to improve their internal quotation processes and possibly remove costs from the wider business.

Users may then choose contract with xoserve directly for the provision of this report on a commercial basis.

The Proposal

This proposal will amend the UNC such that the ambiguity around when Users may submit a Supply Point Enquiry is removed. Specifically we believe that the word “contemplating” in this context should follow a legal definition, which in this context means that the Supply Point Enquiry is “*triggered where there is a change of activities which compels a Party to consider carefully and*

*at length a course of action*¹. In relation to the UNC, we believe that this should be interpreted that the Shipper must have had dialogue (spoken, written or otherwise) with the customer and have used that dialogue to gain their permission to access the data. For the avoidance of doubt, this part of the proposal would apply to all Supply Point Enquiries regardless of whether they were for domestic or non-domestic sites.

This proposal would also amend the UNC to enable Transporters to release the same data as is available to Users following a Supply Point Enquiry via an online portal to requesting Users, in such a manner so that data access is protected in the same way. In accessing or using the data, Shippers would be warranting that they have the customer's permission to access this data. For clarity, this part of the proposal applies to non-domestic customers only.

2 User Pays

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

This proposal is not User Pays as it will not by itself lead to any new costs, but simply enable future services to be created.

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

No User Pays charges applicable.

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

No User Pays charges applicable to Shippers.

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

No charges applicable for inclusion in ACS.

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

¹ Akavan Erityisalojen Keskuslitto AEK ry and others v Fujitsu Siemens Computers Oy C-44/08

(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;

The implementation of this proposal would enable Users to obtain data from the Transporters' Agent, which could improve their internal processes and provide quicker responses to customer quotations. This would not only improve the customer experience through the acquisitions process but also secure effective competition between relevant shippers and suppliers, by improving the quality of information available for them to provide quotations on.

Consumer Focus consider that due to the absence of credible data controls, the modification is highly likely to facilitate abuse of consumer data by suppliers. By its nature, market abuse is anti-competitive: it creates perverse incentives, rewarding those who transgress acceptable norms and penalising those who behave; and corrodes consumer confidence and engagement. Consumer Focus therefore considers that this modification would have a negative effect on the facilitation of code objective (d).

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;

Implementation would not be expected to better facilitate this relevant

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 most appropriate way to recover the costs:

No costs applicable to Transporters.

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)

Not applicable.

Development and capital cost and operating cost implications

No such costs have been identified.

Consequence for the level of contractual risk of Users

No such consequences.

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

No such implications.

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.

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

Advantages

- Enabling the improvement to the accuracy and timeliness of quotations to customers and improving competition.
- Enabling a reduction in transaction costs which currently represent a significant barrier to competition in a low margin industry such as utilities.
- Enabling the improvement of the customer's experience of the quotation process.
- Reducing the level of risk suppliers assume by taking on contracts based on information estimated by the customer.
- Removing the ambiguity around the meaning of the word "contemplating" for the submission of supply point enquiries.

Disadvantages

- See above.

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
BOC Ltd	Supports
British Gas	Supports
Consumer Focus	Not in Support
E.ON UK	Supports
Gazprom	Supports
MEUC	Not in Support
National Grid Distribution	Supports
RWE npower	Supports
Scotia Gas Networks	Supports
SSE	Supports

Of the ten representations received, eight respondents supported implementation and two were not in support.

British Gas believe this proposal will improve the level of protection domestic and non-domestic customers receive against Shippers who request Supply Point enquiry data without their permission. The Supply Point Enquiry process currently allows any Shipper to request data about any site, domestic or non-domestic, when it is merely “contemplating submitting a Supply Point Nomination”⁵. As “contemplating” is not defined in the Uniform Network Code, it is currently possible for a Shipper to request Supply Point Enquiry data for large numbers of sites from the Network Owners agent, xoserve, on the basis that they are “contemplating” entering in to contract discussions with the customer, with no check on the validity of this claim. This Proposal ensures that in future all Supply Point Enquiry data requests, however they are submitted, must be done with the customer’s express permission. They are aware that some may argue this increased protection is still insufficient and that a process which relies on Shippers warranting that they have the express permission of the customer is inadequate. They reject this argument, and contend that both the proposed obligation in the UNC to obtain the express permission of the customer before proceeding, and the traceable nature of online requests provides sufficient control over the process. They also consider that as the current process allows the Shipper to simply warrant that they are “contemplating submitting a Supply Point Nomination”, a rejection of this

Proposal would continue to allow the persistence of “unfettered access” to customer data, leaving all customers with a lower level of protection that they would receive under this Proposal.

The Members of the Major Energy Users Council although not opposed to authorising shippers/suppliers to access site information believe that the modification does not provide sufficient safeguards to prevent “fishing expeditions” and that a more positive method of customer approval be introduced to ensure that the consumer is totally in control of their data and that they are also aware of any shipper/supplier that attempts to access their data. They ask in the interest of protecting consumers’ interests by directing that this modification should not be implemented.

Consumer Focus raise concerns relating to the release of information in terms of control and demonstration of authorised access. They believe that the absence of credible controls is likely to facilitate the abuse of data. They highlight that their concerns on this modification are confined to the absence of data safeguards. They have no objections in principle to facilitating quicker access to customers’ information during the quoting process where the customer has given their permission.

National Grid Distribution understands that a further element of the proposal is to define the term ‘contemplating’, as contained within UNC TPD Section G1.17.1 for Supply Point Enquiries in respect of all Supply Points. Evidence of ‘contemplating’ would be that the User has ‘warranted’ that they have had dialogue with the relevant consumer to gain permission to access the data. National Grid Distribution believes the indicative Legal Text provided in the Draft Modification Report correctly reflects this.

SSE believes the legal text within the modification provides clarity around the word ‘contemplating’ for all enquiries on all supply points and fits with SSE’s own interpretation. They note that the proposer has indicated that they would like to enable Transporters to provide the data through an online portal and SSE believes the drafted legal text enables this. Although the modification does not specify how the data might be made available to shippers, SSE is concerned about ensuring that data will not reach parties other than shippers and suppliers and for the specified purposes.

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

No programme of works would be required as a consequence of implementing the Modification Proposal.

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

Proposal could be implemented with immediate effect following direction from Ofgem.

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

The Panel considered Modification 0296 on 20 January 2011.

The Panel Chair summarised that the modification seeks firstly to define the circumstances in which Shippers may obtain Supply Point information. The present provision of when "contemplating" supplying a customer is open to interpretation, and this proposal clarifies that written or verbal consent is required. By providing clarity to the terms of the UNC, implementation could be expected to facilitate the Relevant Objective of the efficient administration and operation of the UNC.

In addition, the modification seeks to empower the release of data regarding non-domestic supply points via an online portal. This is, however, only a facilitating modification and a further initiative would be needed in order to develop such a service. By opening the possibility of developing services in support of competition,

implementation of this element may be regarded as facilitating the securing of effective competition. If such services are proposed, the pre-existence of the ability to release data would also be consistent with efficient administration and operation of the UNC.

The Consumer Representative was concerned that, while the provisions in the UNC would be clearer, the proposed controls on data release were insufficient and capable of abuse, such that implementation would not be consistent with facilitating efficient administration and operation of the UNC.

10 Members voted in favour of implementation. Therefore the Panel recommended implementation of this modification.

Panel's view of the benefits of implementation against the Code Relevant Objectives	
Description of Relevant Objective	Identified impact
a) Efficient and economic operation of the pipe-line system.	None
b) 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.	None
c) Efficient discharge of the licensee's obligations.	None.
d) 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.	Supported by creating an opportunity for services to be developed that rely on the Transporters being permitted to release data.
e) 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.	None
f) Promotion of efficiency in the implementation and administration of the Code	Subject to the data release safeguards being sufficient, promoted by clarifying terms within the UNC, and by introducing terms which will support the subsequent development

	of services.
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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

Please note that revised legal text has been provided and published on the Joint Office web site as a separate document alongside this report.

For and on behalf of the Relevant Gas Transporters:

Tim Davis
Chief Executive, Joint Office of Gas Transporters