

Representation

Draft Modification Report

0338V: Remove the UNC requirement for a 'gas trader' User to hold a Gas Shipper Licence

Consultation close out date: 30 March 2012
Respond to: enquiries@gasgovernance.co.uk
Organisation: **E.ON UK**
Representative: Richard Fairholme
Date of Representation: 28 March 2012

Do you support or oppose implementation?

Not in Support

Please summarise (in one paragraph) the key reason(s) for your support/opposition.

We do not believe that the case for implementation of this proposal has been made and that it risks exposing both existing and future UNC signatories (and Ofgem) to additional risks and unintended consequences. In particular, we are concerned that carving up the UNC to suit particular Users is a dangerous precedent which may result, for example in legitimate penalties or sanctions being unable to be enforced on "Trader Users". Identifying which parts of the UNC could conceivably apply to Trader Users is clearly a very difficult task and whilst we do not have any particular detailed observations at this stage, our key concern is whether this will proposal will ensure the UNC is sufficiently robust in future. Our strong preference would be for the existing licensing and UNC arrangements to prevail, which we do not consider are acting as an inappropriate barrier to entry to the wholesale gas market. As a result, we would retain confidence that all UNC Users would be subject to the same set of rules.

Are there any new or additional issues that you believe should be recorded in the Modification Report?

No.

Relevant Objectives:

How would implementation of this modification impact the relevant objectives?

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We do not find it credible that this proposal will enhance competition. If anything, we believe that Trader Users would face just as much complexity in understanding what parts of the UNC apply, as currently. Moreover, the UNC may appear *more* fragmented and disjointed to such Users, if this Mod were to be implemented. We agree with the DMR assessment against the relevant objectives in terms of reducing regulatory oversight, thereby worsening competition. We also agree that this Mod is likely to reduce efficiency in the implementation and administration of the UNC, for the reasons set out in the DMR.

Impacts and Costs:

What analysis, development and ongoing costs would you face if this modification were implemented?

For existing UNC Shippers, such as E.ON UK, there should be no immediate implementation costs. However, we note that this proposal is a "User-Pays" proposal. We believe any implementation costs should therefore be aimed only at those Users utilising the service (e.g. on a cost-per-use basis) and *not* socialised amongst all other UNC Users.

Implementation:

What lead-time would you wish to see prior to this modification being implemented, and why?

We do not support implementation.

Legal Text:

Are you satisfied that the legal text will deliver the intent of the modification?

No. The legal text is very detailed and complex and as a result, we cannot be sure that it correctly identifies every possible part of the UNC which could or could not apply to a "Trader User". Therefore, we are unable to have complete confidence that the legal text will deliver a robust solution, without unintended consequences.

Further, we believe one section of proposed legal text, outlined below, may cause confusion to both "Trader Users" and existing UNC parties:

"4.9 A Trading Participant who is a Trader User:

(a) may post and accept a Market Offer to enter into a Non-physical Market Transaction;

(b) may not post but may accept a Market Offer to enter into a Physical Market Transaction."

This section requires further explanation by the proposer, as many parties will not understand why a non-physical User can apparently enter into a physical market transaction.

Is there anything further you wish to be taken into account?

Please provide any additional comments, supporting analysis, or other information that that you believe should be taken into account or you wish to emphasise.

The Panel and Ofgem ought to be mindful of responses received to Ofgem's "Trader User" consultation, which closed recently. The level of industry support (or lack of) for this proposal is an important consideration, overall, since similar issues and arguments will have been raised there.