

Modification proposal:	<b>Uniform Network Code (UNC): Removal of Anonymity from Annual Quantity Appeal and Amendment Reports (UNC 387)</b>		
Decision:	The Authority <sup>1</sup> has decided to reject this proposal		
Target audience:	The Joint Office, Parties to the UNC and other interested parties		
Date of publication:	23 February 2012	Implementation Date:	N/A

## Background to the modification proposal

The Annual Quantity (AQ) represents an estimate of the quantity of gas to be off-taken at a Supply Meter Point during the gas year<sup>2</sup>. AQs are used in a number of Uniform Network Code (UNC) processes, including settlement and the calculation of transportation charges.

The UNC requires Gas Transporters (GTs) and Shippers to engage every year in a process to review AQs at Supply Meter Points, referred to as the AQ Review Process. Under the AQ Review Process by 31 May of each year for Smaller Supply Points and by 30 June of each year for Larger Supply Points, GTs provide Shippers with a Provisional AQ for the Supply Meter Points in their portfolios<sup>3</sup>. From these respective dates up to 13 August, Shippers have the ability to review the AQ values. This is the AQ amendment period. The AQs are then confirmed by the GT by 14 September<sup>4</sup> and effective on 1 October (the start of the next gas year). This amendment period is distinct from the AQ appeals period, which runs from the moment the GT confirms the new AQ<sup>5</sup> until 31 July in the following calendar year. During this latter period, Shippers have the ability to challenge and amend the confirmed AQs.

Transco Network Code Modification 0624 (NCM624)<sup>6</sup> introduced certain controls to the AQ Review Process in response to concerns around the potential misuse of the process by shippers. This included requiring Shippers to apply a consistent methodology in reviewing AQs within their portfolio and not materially differentiate their treatment of Supply Meter Points where they seek to either increase or decrease the AQ. To further enhance the robustness of this process, modification UNC081 put in place an obligation on GTs to publish information covering the AQ amendment period<sup>7</sup>. As a result, xoserve publishes an annual report which provides Shipper performance data while maintaining the anonymity of the Shipper<sup>8</sup>. Extending reporting to cover the appeals period is currently the subject of another modification proposal – UNC 378<sup>9</sup>.

<sup>1</sup> The terms 'the Authority', 'Ofgem' and 'we' are used interchangeably in this document. Ofgem is the Office of the Gas and Electricity Markets Authority.

<sup>2</sup> The gas year is a twelve-month period commencing 1st October.

<sup>3</sup> In the GB gas market, Supply Meter Points may be classed as being part of the Smaller Supply Points market, where its AQ is below 73.2MWh, or of the Larger Supply Points market, if the AQ is above this threshold.

<sup>4</sup> The confirmed AQ will either be the same as the Provisional AQ or the AQ as amended by the Shipper.

<sup>5</sup> GTs confirm the new AQs within the period from 13 August to 14 September.

<sup>6</sup> Modification 0624 'Changes to the 2003 Annual Quantity (AQ) Amendment Process' was implemented on 12 April 2004. More information is available at <http://www.gasgovernance.co.uk/NCMP>

<sup>7</sup> UNC081: 'AQ Review Process- publication of information' was implemented on 1 October 2006. More information is available at <http://www.gasgovernance.co.uk/sites/default/files/UNC081D.pdf>.

<sup>8</sup> Data in these reports includes the effect of the AQ recalculation, the total number of amendments raised, the number of successful amendments and the numbers of speculative calculations. The report provides the data at varying levels of granularity, including at aggregate level, by end user category and Local Distribution Zone.

<sup>9</sup> UNC378: 'Greater Transparency over AQ Appeal Performance', available at <http://gasgovernance.co.uk/0378>. We are currently in the process of making a decision on this modification proposal.

## **The modification proposal**

UNC387 was raised by British Gas (“the proposer”) in July 2011<sup>10</sup>. It seeks to require GTs to remove the anonymity from any future industry reports detailing Shipper performance in both the AQ appeals or amendments periods. It also seeks to require GTs to publish the last available set of such reports with anonymity removed.

First, the proposer argues that current industry reporting only offers partial anonymity, as some larger Shippers are easily identified in reports given that portfolio size is provided as an identifiable data item. As a result, in the proposer’s view, this affords different levels of protection to different Shippers. Removing anonymity in reports on the AQ appeal and amendment periods would therefore create a level playing field in terms of the information available to Shippers.

Second, the proposer argues that removing anonymity in the reports would deter Shippers from breaching the UNC rules on AQ amendments and appeals. The proposer considers that if a shipper is aware that the reports will be published identifying them and their performance to other Shippers, then that Shipper would also be aware that its performance can be scrutinised by their competitors. This therefore decreases the likelihood of the potential for misuse of the processes.

## **UNC Panel<sup>11</sup> recommendation**

At the Modification Panel meeting held on 19 January 2012, the Panel voted 8-2 against implementing UNC 387 and, accordingly, the Panel did not recommend implementation of this proposal. The views of the Panel are set out in full in the Final Modification Report (FMR).

## **The Authority’s decision**

The Authority has considered the issues raised by the modification proposal and the FMR dated 19 January 2012. 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 FMR.<sup>12</sup>

The Authority has concluded that implementation of the modification proposal would not better facilitate the achievement of the relevant objectives of the UNC<sup>13</sup>.

## **Reasons for the Authority’s decision**

We note that there were views in support of, and opposing, the proposal. Of the 13 representations received, 6 supported implementation, 1 was neutral, 1 provided

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<sup>10</sup> The issues raised by UNC387 were originally part of UNC modification proposal, UNC378, also raised by the proposer. However, the proposer split out these issues for separate consideration. Under UNC378, British Gas proposes to increase the amount of data provided in the existing reports produced by GTs and requires an equivalent report to be produced which covers Shipper performance during the AQ appeals period.

<sup>11</sup> The UNC Panel is established and constituted from time to time pursuant to and in accordance with the UNC Modification Rules.

<sup>12</sup> UNC modification proposals, modification reports and representations can be viewed on the Joint Office of Gas Transporters website at [www.gasgovernance.co.uk](http://www.gasgovernance.co.uk)

<sup>13</sup> As set out in Standard Special Condition A11(1) of the Gas Transporters Licence, see: <http://epr.ofgem.gov.uk/index.php?pk=folder590301>

comments, and 5 were not in support. The main arguments provided were against UNC Relevant Objectives (d) and (f). In our view, the proposal is neutral when assessed against Relevant Objectives (a), (b), (c) and (e), so these objectives are not considered further. Our view is that this proposal has not demonstrated that it better facilitates the Relevant Objectives as set out below.

***Relevant objective (d) 'securing of effective competition between relevant Shippers and between relevant suppliers'***

The proposer argues that removing anonymity from the relevant reports would allow Shippers to scrutinise the performance of their competitors. This increased transparency, it is argued, would act as a deterrent to Shippers who may seek to breach the UNC rules on AQ amendments and appeals. As a result, this modification could help ensure the fair allocation of costs, thereby facilitating effective competition between Shippers.

Some respondents to the modification consultation noted that the reports by themselves are not sufficient to conclude whether any party is misusing the AQ appeal and amendment processes. These respondents consider that there may be an undue adverse reputational impact and as a result the modification would be detrimental to competition.

We agree that the reports in isolation may not allow robust conclusions to be made about how the AQ processes are being used, given the range of potential explanatory factors for any observed patterns in the data. Accordingly, it is not clear that removing anonymity from the reports in the way proposed would deliver an overall improvement in the way that the industry currently scrutinises the performance of Shipper parties. Without any clear performance assurance framework, as is currently the case under the UNC, there would be a risk that no sufficiently robust conclusions, or even inappropriate conclusions, may be drawn in relation to the performance of an individual Shipper. The proposal could therefore have a detrimental impact on competition.

We also note the views of those supporting the proposal that some Shippers may be easily identifiable in reports on the AQ appeal and amendment processes given that portfolio size is given as a data item. This could therefore afford different levels of protection to different Shippers regarding their performance in these processes. While we recognise that certain Shippers may be more easily identified than others given their market share, we are not convinced that this is a strong argument for removing anonymity from all Shippers.

Finally, some respondents expressed concerns that the removal of anonymity in these reports could release commercially sensitive information. If correct this could, in our view, have a negative impact on competition. We consider that it would have been beneficial to have fully explored these concerns during the development stage, and before the FMR was submitted to Ofgem<sup>14</sup>. We note that these reports include some tables covering shipper data by geographic area, which could be viewed as commercial sensitive, including for smaller suppliers. It is not clear from the FMR that these issues have been given due consideration.

For the reasons set out above, we have concluded that removing anonymity would not facilitate the achievement of the relevant code objective.

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<sup>14</sup> In particular, we asked the workgroup to set out and discuss any potential commercially sensitive issues during the development stage of the modification. We note that some respondents chose to reserve their comments for their modification consultation response, so that the workgroup was not able to address such concerns.

**Relevant objective (f) 'the promotion of efficiency in the implementation and administration of the UNC'**

The proposer considers that providing greater transparency could incentivise Shippers not to misuse the AQ amendment and appeal processes, and thereby facilitate the efficient implementation and administration of the UNC. Some respondents disagreed with this view as they considered that there is no evidence that additional transparency will modify a party's behaviour to improve overall performance.

As noted above, we do not consider that the increase sought by the proposal to the information provided by the reports will by itself be sufficient to conclude whether any specific party is misusing the relevant AQ processes. Without any clear performance assurance process in place, including escalation criteria, there is a risk that no sufficiently robust conclusions, or even inappropriate conclusions, could be drawn in relation to the performance of a Shipper. For this reason, we have concluded that this modification would not better facilitate the efficient implementation and administration of the UNC.

**Further issues**

We note the lack of confidence which industry parties have in the robustness of the current UNC framework in relation to the AQ Review Process. We note that NCM624, when introducing the current controls around the AQ review process, considered that other changes were required to guarantee a satisfactory level of robustness and invited the industry to propose the necessary amendments. We also note that we reiterated this invitation in our decision letter for UNC292 and that recently a number of other modifications have been raised to deal with performance assurance-related issues, focusing on AQs and other areas of the UNC.<sup>15</sup>

We can see merit in a more strategic approach to address the root causes of these ongoing concerns rather than the symptoms. In line with the drive for greater industry self-governance<sup>16</sup>, we would encourage the industry to review the current UNC arrangements in order to put in place appropriate controls covering AQs and other areas of the UNC where there are potential material impacts on participants, for example on meter read submissions. Setting up a comprehensive performance assurance framework covering all relevant aspects of the UNC, including the AQ review process, may require a significant amount of resource and commitment from the industry. We would therefore encourage the industry, with the support of the Panel and the UNCC, to initiate discussions with the aim of establishing a specific workstream to provide focus and coherence in this area.

**Colin Sausman**  
**Partner, Smarter Markets**

Signed on behalf of the Authority and authorised for that purpose

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<sup>15</sup> See UNC292 'Proposed change to the AQ Review Amendment Tolerance for SSP sites', implemented on 15 April 2011, for more details on relevant previous modifications.

<sup>16</sup> See 'Code Governance Review – Final Proposals' for more details  
[http://www.ofgem.gov.uk/Licensing/IndCodes/CGR/Documents1/CGR\\_Finalproposals\\_310310.pdf](http://www.ofgem.gov.uk/Licensing/IndCodes/CGR/Documents1/CGR_Finalproposals_310310.pdf)