

## Stage 01: Proposal

# 0405:

## Bottom Stop SOQ Appeal Mechanism for 2011/12

What stage is this document in the process?

01

Proposal

02

Workgroup Report

03

Draft Modification Report

04

Final Modification Report

This is an urgent proposal to create a window, in early 2012, to allow Users to 'appeal' the Bottom Stop SOQ (BSSOQ) and SOQ of DN-connected Daily Metered (DM) sites. It will allow a User to reduce a site's BSSOQ and SOQ subject to the relevant transporter being satisfied that the appeal is made as a result of economic necessity on the part of the consumer and takes UNC Modification Proposal 0275 as a model and precedent.



The Proposer recommends that this modification be treated as urgent and should proceed as such under a timetable agreed with Ofgem.



High Impact:

Certain consumers



Medium Impact:



Low Impact:

Shipper Users and Transporters

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4 **Any questions?**

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## About this document:

This document is an Urgent Proposal to modify the UNC. As such it is recommended that the following process and timetable be followed:

	<u>Date</u>
Panel view on Urgency	17/11/11
Ofgem Decision on Urgency	17/11/11
Issue proposal for consultation	17/11/11
Deadline for representations	01/12/11
Final Modification Report published by Joint Office	02/12/11
Deadline for Modification Panel Recommendation	09/12/11
Recommended latest date for Ofgem decision	16/12/11
Proposed implementation date	16/12/11

Failure to agree urgency would preclude an 'appeal' during the current capacity reduction window given the time required for a nomination-offer-confirmation process and the likelihood of a more extended process for a non-urgent modification proposal (such a non-urgent proposal might require an extension of the capacity reduction window with associated systems implications and costs). This proposal is therefore explicitly linked to a date-related event (the capacity reduction period closes at the end of January 2012) and is one which if not implemented could have a significant impact on consumers.

# 1 Summary

## Is this a Self-Governance Modification

No. As the proposal is for an urgent change, the self-governance approach is not appropriate.

## Why Change?

The Proposer is concerned that the continuing adverse economic climate will mean that customers/ consumers may need some relief from current gas transportation arrangements. In particular, we are mindful that large DN-connected Daily Metered customers have limited ability under the UNC to amend their SOQs since reductions are constrained by a Bottom Stop SOQ (BSSOQ). Such a constraint may not allow customers to obtain an SOQ reduction that better reflects true capacity requirements at this time. During such a highly volatile economic situation as we face today, where the need to be flexible and adaptable could mean the difference between the survival or failure for a business, gas transporters should, where reasonable and practicable, seek remedies to help such customers through these difficult times. We are already aware of a customer who is in such a position.

The issue has already been highlighted through the implementation of UNC modification 0275. However, the effects of that modification were time limited in anticipation, we believe, of improved economic conditions by 2011. There was also an expectation that the DM capacity regime would be changed as a result of the output from UNC Review Group 0264 "Review of Industry Arrangements to Accommodate Reduced Demand at DM Supply Points". Such changes have yet to be made and, as far as we are aware, have been delayed due to the overall review of UNC processes that the Nexus Workgroup is looking at. Therefore, the possible benefits arising from UNC modification 0275 do not extend to the current capacity reduction window even though the economic conditions remain difficult and very uncertain.

This proposal therefore seeks to effectively extend the provisions of UNC modification 0275 to the current 2011/12 capacity reduction window to enable DN-connected Daily Metered customer sites to have their SOQs set to a meaningful level such that gas transportation costs more accurately reflect customers' intended usage of gas.

## Solution

The proposal is to extend the 'appeal' process, established via the implementation of UNC Modification 0275 for years 2009/10 and 2010/11, to the year 2011/12.



**UNC Modification 275 can be viewed here:**

[0275 \(Urgent\) - Reduction in DM LDZ Exit Capacity for Supply Points with Significant Changes in Usage](#)

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This would provide some 'transitional relief' to a DN-connected Daily Metered customer such that, on its behalf and subject to certain conditions, a User would be able to apply for a reduction to the customer's site's SOQ below the current BSSOQ level.

## **Impacts & Costs**

There were no changes to system functionality for Implementation of Modification Proposal 0275 as any BSSOQ reductions were dealt with manually by the Transporter Agency. The same will apply to this Modification Proposal so we do not envisage there being any material implementation or ongoing operational costs.

## **Implementation**

This proposal should be implemented immediately upon direction by Ofgem with a target date of 16/12/11.

## **The Case for Change**

In the view of the Proposer, this proposal for change will allow certain customers to more accurately reflect their gas usage requirements to DN transporters and thereby incur costs that are more appropriate to their actual needs. Without this there is a real possibility of significant, yet avoidable, business customer hardship and we have been already alerted to a real possibility of one large Daily Metered customer closing its business. Whilst, apart from a cash flow issue, there will be no adverse financial impact on the transporter, there will be financial implications for other customers as their transportation charges will likely rise as a result of customers ceasing to take gas. There will therefore be potential benefits to customers as a whole in implementing the proposed change if it means more customers contribute to transportation charges than would otherwise be the case. Since an 'appeal' will only be acceptable if the relevant transporter is satisfied that the customer can present a compelling case for a lower SOQ, the opportunities for a User/customer trying to artificially reduce an SOQ will be unlikely to arise.

## **Recommendations**

It is recommended that this proposal be treated as urgent and follow the timetable set out above.

## 2 Why Change?

The Proposer is concerned about the continued hardship among business customers due to the tough current economic conditions and has only very recently become aware of a large customer/ consumer whose business will become unviable unless it can adapt to new circumstances. In pursuance of this it is critical that gas transportation costs be allowed to more accurately reflect the reasonably expected and intended operating requirements of such customers. This ability to adapt is very restricted under the UNC rules since DN-connected Daily Metered sites might be prohibited from reducing their SOQs to meaningful levels, restricted as they are by Bottom Stop SOQs (BSSOQs) that could reflect actual gas usage requirements almost 2 years ago.

Already, a customer has presented a case to the Proposer that the resultant high transportation costs do not reflect its current and intended gas requirements and that this might consequently lead to the closure of its business. If this were to arise then transportation costs not recovered from such a customer would need to be recovered from the remaining customers.

This proposal therefore seeks to extend the provisions of UNC modification 0275 to allow an additional window within which relevant customers can 'appeal' their BSSOQs and SOQs. The economic conditions have not improved since modification 0275 was implemented and it is therefore appropriate for DN transporters to again offer more flexibility around transportation arrangements to meet the real needs of consumers.

In the Proposer's opinion, there will be benefits to all customers in allowing bona fide 'appeals' under this proposal if such appeals significantly reduce the likelihood of customers ceasing to take gas. This is consistent with the requirement on licensees' to efficiently discharge their obligations (Standard Special Condition A11.1 (c)). Additionally, enabling more cost-reflective charging of customers during a period of economic difficulty will facilitate competition between both shippers and suppliers, thus being consistent with Standard Licence Condition A11.1 (d) of the transporters' licence.

UNC modification 0275 provides a useful precedent here and the arguments advanced in pursuance of that proposal remain valid today.

The urgency of this proposal reflects the fact that the current capacity reduction window will soon close (31 January 2012) and any 'appeals', along with supporting documentation from customers, will need to be well underway by the end of 2011. There is also a very high probability of a serious commercial impact on at least one customer if this proposal does not proceed.

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### 3 Solution

The proposal is to extend the 'appeal' process, established via the implementation of UNC Modification 0275 for years 2009/10 and 2010/11, to the year 2011/12.

This would provide some 'transitional relief' to qualifying DN-connected Daily Metered customers such that, on their behalf and subject to certain conditions, Users would be able to apply for a reduction to their customers' sites' SOQs below the current BSSOQ levels. Specifically, a User would apply for a concurrent reduction of the BSSOQ and SOQ during the current capacity reduction window.

The 'certain conditions' referred to above are that:

1. An 'appeal' may only be effected during the period 1 October 2011 to 31 January 2012 and must be made via the current UNC rules for making SOQ reductions.
2. To be valid, an 'appeal' must seek to set the SOQ and BSSOQ to the same value and such value must be lower than the current BSSOQ value.
3. A User may also seek to change the SHQ value via the 'appeal' but the current UNC rules governing the relationship between SHQ and SOQ will still apply.
4. The 'appeal' will be accompanied by a signed letter from the customer that sets out its anticipated gas usage over the next 12 months and the reasons for the change in usage.
5. Only one 'appeal' will be permitted in respect of any site / supply point during the capacity reduction window.
6. For the avoidance of doubt, following a successful 'appeal' a Registered User may subsequently apply for an increased SOQ at the supply point using existing mechanisms.

## 4 Relevant Objectives

The Proposer believes that the modification will better facilitate the achievement of Relevant Objectives c, d (i) and d (ii) listed below.

### Proposer's view of the benefits 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 None
c) Efficient discharge of the licensee's obligations.	Yes
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.	Yes Yes None
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	None
g) Compliance with the Regulation and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators	None

In the view of the Proposer, and for the reasons explained in Section 2 above, implementation of this proposal will significantly reduce the likelihood of large customers facing unrealistically high transportation charges during a period of economic difficulty. In the event that large gas consumers go out of business there will be a requirement to recover allowable costs from other consumers that will have an adverse impact on competition on shipping and supply.



## 5 Impacts and Costs



### Consideration of Wider Industry Impacts

The Proposer has identified no impact upon wider industry developments. The proposal is for a time-limited change to the UNC rules.

### Costs

According to the Transporter contact, there were no changes to system functionality for implementation of Modification Proposal 0275 as any BSSOQ reductions were dealt with manually by the Transporter Agency. The same will apply to this Modification Proposal so we do not envisage there being any material implementation or ongoing operational costs.

#### Indicative industry costs – User Pays

None identified.

### Impacts

#### Impact on Transporters' Systems and Process

Transporters' System/Process	Potential impact
UK Link	No system changes are proposed as manual processes can be utilised.
Operational Processes	No impact anticipated.
User Pays implications	None identified.

#### Impact on Users

Area of Users' business	Potential impact
Administrative and operational	Minimal administrative; e.g. gathering and consideration of customer evidence in support of an 'appeal'.
Development, capital and operating costs	None identified.
Contractual risks	No impact.
Legislative, regulatory and contractual obligations and relationships	The pass-through of cost savings to the benefit of customers would involve the shipper and supplier.



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**Where can I find details of the UNC Standards of Service?**

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In the Revised FMR for Transco's Network Code Modification

**0565 Transco Proposal for Revision of Network Code Standards of Service** at the

following location:

[www.gasgovernance.co.uk/sites/default/files/0565.zip](http://www.gasgovernance.co.uk/sites/default/files/0565.zip)

Impact on Transporters	
Area of Transporters' business	Potential impact
System operation	None
Development, capital and operating costs	Some additional small administrative costs are anticipated.
Recovery of costs	Some transportation charge re-balancing might be required at a future date.
Price regulation	None
Contractual risks	It is not envisaged that the proposal will result in any change to the level of contractual risk to Transporters.
Legislative, regulatory and contractual obligations and relationships	None
Standards of service	None

Impact on Code Administration	
Area of Code Administration	Potential impact
Modification Rules	None
UNC Committees	None
General administration	None

Impact on Code	
Code section	Potential impact
Transition Rules (TDIIC)	Amendment to paragraph 1.9 of TPD Section G: Supply Points to allow for an additional 'appeal' window.

Impact on UNC Related Documents and Other Referenced Documents	
Related Document	Potential impact
Network Entry Agreement (TPD I1.3)	None

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Impact on UNC Related Documents and Other Referenced Documents	
Network Exit Agreement (Including Connected System Exit Points) (TPD J1.5.4)	None
Storage Connection Agreement (TPD R1.3.1)	None
UK Link Manual (TPD U1.4)	None
Network Code Operations Reporting Manual (TPD V12)	None
Network Code Validation Rules (TPD V12)	None
ECQ Methodology (TPD V12)	None
Measurement Error Notification Guidelines (TPD V12)	None
Energy Balancing Credit Rules (TPD X2.1)	None
Uniform Network Code Standards of Service (Various)	None

Impact on Core Industry Documents and other documents	
Document	Potential impact
Safety Case or other document under Gas Safety (Management) Regulations	None
Gas Transporter Licence	None

Other Impacts	
Item impacted	Potential impact
Security of Supply	None
Operation of the Total System	None
Industry fragmentation	None
Terminal operators, consumers, connected system operators, suppliers, producers and other non code parties	Highly likely to be of business critical importance to some large Daily Metered customers.

## 6 Implementation

Implementation should be made by 16/12/11 or as soon as possible following a direction to implement from Ofgem.

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## 7 The Case for Change

In addition to that identified the above, the Proposer has identified the following:

### **Advantages**

As described above.

### **Disadvantages**

None identified.

## 8 Legal Text

The following legal text has been provided by Wales & West Utilities:

*UNC Transition Document: Part IIC Transition Rules* (changed marked)

*Amend paragraph 1.9 as follows:*

### **1.9 TPD Section G: Supply Points**

#### 1.9.1 TPD Section G5.2

Until 0600 on 1 October ~~2011~~2012 but not thereafter, for the purposes of TPD Section G5.2:

- (a) Notwithstanding TPD Section G5.2.1, in relation to an LDZ DM Supply Point Component, a Registered User may apply at any time, in accordance with this paragraph 1.9, to reduce the Registered DM Supply Point Capacity held to an amount below the Bottom-Stop Supply Point Capacity (the "**Capacity Reduction Application**").
- (b) The Registered DM Supply Point Capacity may only be reduced using a Capacity Reduction Application to take effect once within the Capacity Reduction Period for the Gas Year commencing 1 October 2009, ~~and once for the Capacity Reduction Period for the Gas Year commencing 1 October 2010~~ and once for the Capacity Reduction Period for the Gas Year commencing 1 October 2011.

*No changes have been proposed to paragraph 1.9.2 as it deals with Interruptible supply points only (all sites Firm since 1 October 2011).*

## 9 Recommendation

The Proposer invites Ofgem to agree that Urgent procedures should apply.

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