

Stage 04: Final Modification Report

0456 (Urgent):

Revision to the treatment of Allocation of Unidentified Gas for the 2013/14 AUG Year

At what stage is this document in the process?



This is a modification to give effect to the new consumption based AUG Methodology and associated AUG Table for part of the 2013/14 formula year.



Panel did not recommend that Modification 0456 be implemented



High Impact: Certain Consumers, Shipper Users



Medium Impact:



Low Impact:

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About this document:

This Final Modification Report will be presented to the Panel on 20 June 2013.

The Authority will consider the Panel's recommendation and decide whether or not this change should be made.



Any questions?

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1 Summary

Is this a Self-Governance Modification?

Ofgem agreed that urgent procedures should be followed, without self-governance.

Why Change?

The existing 2013/14 AUGS which included the RbD bias AUG Methodology is widely considered as being no longer fit for purpose, yielding an inaccurate output that perpetuates a long standing cross-subsidy from the predominantly domestic SSP sector to the predominantly commercial LSP sector. Without change to the UNC, this methodology and its resulting AUG Table will continue to be in place until 31 March 2014.

Detailed work has been undertaken by both the AUGS and industry participants since May 2012 to develop a new consumption based methodology. This work represents a major step forward towards achieving a more robust and accurate allocation of unidentified gas within the industry. The consumption based method of Unidentified Gas calculation has been proven to be statistically more accurate and negates previous concerns regarding the Reconciliation by Difference Bias method.

The AUGS submitted the first draft of the 2013 AUG Statement for the 2014/15 AUG Year, based upon a methodology that takes greater account of available data on consumption and theft than its previous RbD-based methodology.

This modification proposal seeks the preparation of an AUG Table, based upon the AUG Methodology detailed within the draft AUG Statement issued on 1st May 2013, and the implementation of this AUG Table (once approved by the Committee) on 1st October 2013.

Given that the industry has seen significant pressures on household incomes and, given the impact of recent energy prices, any opportunity to allocate costs associated with unidentified gas, more accurately and equitably across market sectors should be realised at the earliest opportunity.

It is also relevant to consider the impact that this allocation of costs will have on smaller domestic suppliers with greater pressures to manage their costs base, within more sensitive margins.

Solution

This modification proposal proposes the following:

- a) The AUGS shall submit the AUG Methodology, published within the draft AUG Statement as published by the AUGS on 1st May 2013, to the Committee in readiness for approval by 12 July 2013.¹
- b) The Committee shall approve the proposed AUG Methodology under a), in the form presented by the AUGS, unless they unanimously agree changes to any part of the document. Any changes directed by The Committee in this fashion will be implemented by the AUGS immediately.
- c) Upon approval of this Methodology by the Committee, the AUGS shall prepare and submit a final AUG Table, utilising the approved AUG Methodology detailed in a) and b), to the Committee in readiness for approval by 25 July 2013.²
- d) A meeting of the Committee will be organised for the adoption of the final AUG Table submitted by the AUGS under c), for approval by 25 July 2013.
- e) The Committee shall adopt the final AUG Table, unless by unanimous resolution the Committee determines that the AUG Table is not an accurate reflection of the AUG Methodology and revises the submitted AUG Table accordingly to reflect the AUG Methodology before adopting this revised AUG Table.
- f) Subject to the Committee's decision the Committee shall publish the AUG Table or revised AUG Table immediately after approval (not later than 1st August 2013).
- g) The AUG Table published shall be implemented on and take effect from 1st October 2013 and continue to apply until the commencement of the following 2014/15 AUG Year.

For clarity, this modification proposal does not seek to suspend or amend the ongoing process to deliver the 2014/15 AUGS and subsequent AUG Table, which will be progressed during 2013 for implementation on 1st April 2014.

¹ Based upon Chairman's guidelines we would expect the Methodology to be submitted by 4 July 2013

² Based upon Chairman's guidelines we would expect the final AUG Table to be submitted by the AUGS by 16 July 2013

Further, it is assumed that the data utilised by the AUGÉ to prepare the final AUG Table as detailed in c) above, will be the most appropriate data held by the AUGÉ, as deemed by the AUGÉ, at the time of production.

Relevant Objectives

The proposer is of the view that this proposal meets the following Relevant Objective.

- 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.

The proposer considers that the aims and objectives of this proposal promote effective and efficient competition between parties, and allow for an ongoing equitable distribution of unidentified gas charges between sectors. Further, the proposal will improve transparency and accuracy in the allocation of RbD gas to the contributing sector.

In the view of the Proposer, and for the reasons explained within this modification proposal, implementation of this proposal will prevent consumers connected to Smaller Supply Points from being exposed to a further six months of inaccurately apportioned unidentified gas costs.

Whilst the proposer is not aware of the actual total volume of unidentified gas, we understand that it is estimated at being in the region of 10TWh. For each month that passes and that the current inaccurate allocation of unidentified gas continues, a monthly proportion of the ~10TWh will be value of the impact to parties and consumers.

Should the proposal not be approved, a significant cross subsidy will continue to prevail across the SSP and LSP sectors, for the last six months of the AUG Year 2013/14, which in addition to having a significant commercial impact upon parties and consumers, will also have an adverse impact on competition in shipping and supply. This is a particular issue for smaller SSP shippers whose exposure to any inaccurate allocation could have significant commercial consequences.

Implementation

An implementation date of 1st July 2013 is proposed.

2 Why Change?

Without change, an inequitable allocation of unidentified gas costs and a significant cross subsidy will continue to prevail across the SSP and LSP sectors, for the last six months of the AUG Year 2013/14, which will have a significant commercial impact upon both shippers and consumers, and particularly smaller domestic shippers.

As per Transportation Principal Document (TPD) Section E10 of the Uniform Network Code, the Allocation of Unidentified Gas Expert (AUGE) is responsible, for each AUG Year, for preparing an AUG Methodology and an AUG Table.

The AUG Year is defined within the UNC as the twelve month period commencing 1 April each year and ending on 31 March of the following year.

Within the 'Guidelines for the Appointment of an Allocation of Unidentified Gas Expert and the provision of the Allocation of Unidentified Gas Statement' paragraph 7.1.6, the AUGÉ is required to publish the proposed Allocation of Unidentified Gas Statement (AUGS), for the next AUG Year, by 1st August, with approval of the final document expected to take place on or around 1st September.

Once approved the AUGÉ is required to produce the indicative Unidentified Gas volumes for inclusion in the AUG Table by 1st October and to provide final Unidentified Gas volumes by 1st January.

Since 2011, the AUGÉ has been developing a revised methodology, that was expected to be ready during 2012 for implementation for the 2013/14 AUG Year, that would take greater account of available data on consumption and theft than its previous RbD-

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based methodology. For clarity, within this modification this is referred to as ‘the consumption based methodology’.

The initial draft version of the consumption based methodology was initially consulted upon during the period 1st May 2012 to 15th June 2012. A revised version of this methodology was published on 17th December 2012 and was subject to an extended consultation period between 3rd January 2013 and 1st March 2013.

The results of the latest consultation have subsequently been reviewed by the AUGE and a further, revised version of the consumption based methodology was published on 1st May 2013. As the AUG process has subsequently moved into the 2014/15 AUG Year process period, this recent version has been marked as a first draft of the 2014/15 AUG Statement, whereas it is actually a third iteration of the extensively consulted upon consumption based methodology developed during 2012.

The latest version of the consumption based methodology published on 1st May 2013, is the product of over eighteen months worth of development work, analysis and consultation. The supporting rationale is therefore well understood by industry parties and has been the subject of multiple consultation periods.

The consumption based methodology has been previously, commonly socialised and is in a condition where it is already well understood by all code parties, and has been confirmed by the AUGE as being more robust and statistically more accurate than the current RbD bias AUG Methodology.

Our analysis of the most recent version of the consumption based methodology, when compared against the version previously published on 17th December 2012 shows that this version is fundamentally based upon the same principles as laid out in the previous December 2012 version, with total unidentified gas being calculated using consumption data, calculable contributions then subtracted leaving a balancing number that is still allocated by throughput.

Given the extensive level of consultation already undertaken of previous iterations of the consumption based methodology, the proposer does not believe that further consultation is necessary to enable a more accurate AUG Table to be implemented on 1 October 2013.

Whilst further consultation will continue to take place in accordance with the Guidelines for the preparation of the 2014/15 AUGS, this should be treated as a separate activity.

An appendix has been added to the proposal, providing a high level overview of the key AUG process milestones (as per the AUGE Guidelines), along with an overview of activities already undertaken during 2012 and 2013, prior to the publication of the ‘1st Draft AUG Statement for 2014/15’ on 1st May 2013.

Within Ofgem’s decision letter on Modification Proposal 0442 a number of points were raised, which this proposal seeks to address.

Improved Accuracy versus Certainty

Ofgem wrote that: ‘In considering whether a revision should be made to both the AUG methodology and the AUG table outside of the anticipated timescales, a balance must be struck between the improved accuracy that may result from that revision and the increased uncertainty and sufficient notice for shippers to react appropriately to their allocation of cost, for instance by factoring them into their tariffs or planning to absorb them.’

This modification proposes a minimum two month lead time between, the date that the final AUG Table is published and the date from which the published final AUG Table will be implemented and become effective.

This proposed lead time aligns with previous iterations of the AUG process. For example, for the 2013/14 AUG year, a final table was published on 1 February 2013, for implementation on 1 April 2013. Further, for the 2012/13 AUG Year, clarification of the final AUG Table to be used from 1 April 2012, was not published until 13 March 2012.

A two month lead time has historically provided suppliers with sufficient time to implement values associated with the publication of a new AUG Table and provides consistency with section 9.3(b) of the AUGE Guidelines which requires publication of the final AUG Table by 1 February, along with an estimate of the rates to be levied, in readiness for implementation on 1 April.

The proposed implementation date within this proposal of 1 October 2013, preceded by the publication of the final AUG Table by 1 August 2013, provides consistency with both the guidelines and historic practice and affords suppliers with ample opportunity to reflect any cost changes within their contractual arrangements or plan for absorbing.

We note that the 1 October 2013 aligns with the start of the official Gas Year and that this date is also a recognised start date for new contractual arrangements with many LSP consumers.

The proposer remains concerned that non-implementation of this proposal could perversely result in the industry not introducing, at the earliest possible opportunity, a knowingly more robust and statistically accurate AUG Methodology and subsequent AUG Table, which would provide a fairer and more representative split of unidentified gas costs between the SSP and LSP sectors and remove the existing cross-subsidy.

The overall scale of unidentified gas across the industry is significant. Whilst the proposer is not aware of the actual total volume of unidentified gas, we understand that it is estimated in the region of 10TWh. Whilst the overall financial value is not precisely known by the proposer, the amount of unidentified gas is so significant in size, that any opportunity to more accurately allocate unidentified gas in a more fair and equitable manner should be taken at the earliest opportunity.

The AUGE should be able to provide Ofgem with a more accurate view of their current view of the total size of unidentified gas and the market sector impacts of implementing an AUG Table, based upon the latest, published version of the AUG Methodology. Allowing Ofgem to obtain clarity of the financial materiality of this issue as required.

Distributional Effects

Ofgem wrote: *'In order to be more confident that the benefits of bringing forward the effective date of the revised methodology would offset the increased uncertainty and risk, we would also want to see more information from shippers on the extent to which, and when, this change would be reflected in tariffs'*.

Whilst this is not an issue that can or should be addressed under the auspices of the Uniform Network Code, it is self-evident that lower underlying costs for domestic customers, combined with competitive pressure on price can only have a positive impact. Shippers will be able to discuss these matters individually directly with Ofgem, providing Ofgem with the information they seek in this regard.

It is evident to the proposer that the latest version of the AUG Methodology represents a major step forward towards a more robust and accurate allocation of unidentified gas within the industry. The consumption based method of unidentified gas calculation has been proven to be statistically more accurate and negates previous concerns regarding the RbD bias AUG Methodology. In addition, the sector theft allocation contained within the current AUG Methodology has since been shown to be highly inaccurate, which has a significant overall effect. The new consumption based AUG Methodology addresses this issue.

It is further evident to the proposer that the RbD bias AUG Methodology, which was subsequently rolled forward and utilised again for the 2013/14 AUG Year, has been proven to be no longer fit for purpose and continues to yield an inaccurate output – an outcome which the proposer believes is wholly inappropriate and unacceptable.

The effect of not rectifying this issue at the earliest opportunity perpetuates this very long standing cross-subsidy from the mostly domestic SSP sector to the mostly commercial LSP sector. The Allocation of Unidentified Gas process has played a critical role in addressing an historic deficiency and it is the view of the proposer that it would be perverse for the industry not to implement a more robust, statistically more accurate and fairer methodology as soon as possible.

Given that the industry has seen significant pressures on household incomes with the impact of recent energy prices and the current challenging economic climate, the proposer believes it prudent that any opportunity to more correctly and equitably allocate costs should be realised at the earliest opportunity.

The proposer considers that it is also pertinent to consider the impact that this allocation of costs will have on smaller domestic suppliers with greater pressures to manage their costs base, within more sensitive margins.

3 Solution

This modification proposal proposes the following:

- a) The AUGE shall submit the AUG Methodology, published within the draft AUG Statement as published by the AUGE on 1st May 2013, to the Committee in readiness for approval by 12 July 2013.³
- b) The Committee shall approve the proposed AUG Methodology under a), in the form presented by the AUGE, unless they unanimously agree changes to any part of the document. Any changes directed by The Committee in this fashion will be implemented by the AUGE immediately.

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³ Based upon Chairman's guidelines we would expect the Methodology to be submitted by 4 July 2013

- c) Upon approval of this Methodology by the Committee, the AUGE shall prepare and submit a final AUG Table, utilising the approved AUG Methodology detailed in a) and b), to the Committee in readiness for approval by 25 July 2013.⁴
- d) A meeting of the Committee will be organised for the adoption of the final AUG Table submitted by the AUGE under c), for approval by 25 July 2013.
- e) The Committee shall adopt the final AUG Table, unless by unanimous resolution the Committee determines that the AUG Table is not an accurate reflection of the AUG Methodology and revises the submitted AUG Table accordingly to reflect the AUG Methodology before adopting this revised AUG Table.
- f) Subject to the Committee's decision the Committee shall publish the AUG Table or revised AUG Table immediately after approval (not later than 1st August 2013).
- g) The AUG Table published shall be implemented on and take effect from 1st October 2013 and continue to apply until the commencement of the following 2014/15 AUG Year.

For clarity, this modification proposal does not seek to suspend or amend the ongoing process to deliver the 2014/15 AUGS and subsequent AUG Table, which will be progressed during 2013 for implementation on 1st April 2014.

Further, it is assumed that the data utilised by the AUGE to prepare the final AUG Table as detailed in c) above, will be the most appropriate data held by the AUGE, as deemed by the AUGE, at the time of production.

User Pays
Classification of the modification as User Pays, or not, and the justification for such classification.
Changes to Xoserve's system for calculating AUG costs are expected to be necessary to implement either modification, and hence the Modification would fall within the definition of User Pays and be classified as such. This small change is estimated to cost less than £50k.
Identification of Users of the service, the proposed split of the recovery between Gas Transporters and Users for User Pays costs and the justification for such view.
Shippers would be users of the service and bear 100% of the cost because there is no benefit for Transporters.
Proposed charge(s) for application of User Pays charges to Shippers.
It is proposed that the costs associated with implementation should be added to other AUGE costs and be billed as part of that sum, as already provided for in the Agency Charging Statement.
Proposed charge for inclusion in the Agency Charging Statement (ACS) – to be completed upon receipt of a cost estimate from Xoserve.
Xoserve's estimated implementation cost is in the low category, and would be expected to be under £50k.

⁴ Based upon Chairman's guidelines we would expect the final AUG Table to be submitted by the AUG by 16 July 2013

4 Relevant Objectives

Impact of the modification on the Relevant Objectives :	
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.	Impacted
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

The proposer considers that the aims and objectives of this proposal promote effective and efficient competition between parties, and allow for an ongoing equitable distribution of unidentified gas charges between sectors. Further, the proposal will improve transparency and accuracy in the allocation of RbD gas to the contributing sector.

In the view of the Proposer, and for the reasons explained within this modification proposal, implementation of this proposal will prevent consumers connected to Smaller Supply Points from being exposed to a further six months of inaccurately apportioned unidentified gas costs.

Whilst the proposer is not aware of the actual total volume of unidentified gas, we understand that it is estimated at being in the region of 10TWh. For each month that passes and that the current inaccurate allocation of unidentified gas continues, a monthly proportion of the ~10TWh will be value of the impact to parties and consumers.

Should the proposal not be approved, a significant cross subsidy will continue to prevail across the SSP and LSP sectors, for the last six months of the AUG Year 2013/14, which in addition to having a significant commercial impact upon parties and consumers, will also have an adverse impact on competition in shipping and supply. This is a particular issue for smaller SSP shippers whose exposure to any inaccurate allocation could have significant commercial consequences.

Relevant objective d) Securing of effective competition

Consultation responses exhibit disparate views as regarding the impact on this relevant objective.

Negative impacts were noted by a number of respondents (WINGAS, Gazprom, Corona, DONG, GDF SUEZ, Total), with detrimental effects on competition through:

- introduction of unacceptable levels of risk for Industrial and commercial suppliers and customers brought about by unanticipated changes to AUG charges, with changes to the AUG table introduced outside the agreed

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timetable.

- providing a disproportionate benefit/unfair advantage to domestic suppliers who would benefit from windfall gains (they would not be exposed to the same levels of risk and uncertainty in the I&C sectors of their businesses).
- the short notice period (ie proposed charges from 01 October 2013) which would not allow Shippers sufficient time to implement the requisite changes to customer contracts, thereby placing certain Shippers at a substantial commercial disadvantage to their competitors.
- the addition of a significant risk premium for Shippers to cover for potential future adjustments, and consequent increased prices for customers, if the principle of adjusting the AUG table mid-process is accepted.

WINGAS believes that 0456 would undermine the independence and integrity of the AUGE, and that any findings made through the established and agreed AUGE process would similarly be undermined. This would generate risk and uncertainty in the market and impede competition. WINGAS also noted that this modification is detrimental to its competitiveness purely by it being raised, as it has to incorporate the potential risk it represents in its pricing strategies.

GDF Suez believes that this modification would be detrimental to competition given the likely disproportionate benefit to domestic suppliers. This may either result in a windfall benefit or may be used to cross subsidise activity in the non-domestic sector to the detriment of non-domestic only suppliers.

DONG observed that the modification would have a negative impact, arguing that its implementation would result in an unacceptable adverse financial impact on Shippers. It would entail a large increase of unidentified gas costs allocation to certain Shippers/Suppliers and the short notice period (i.e. proposed implementation by 01 October 2013) would not allow Shippers sufficient time to implement the requisite changes to customer contracts to fairly absorb an acceptable proportion of the increased costs allocation. Such a result would place certain Shippers at a substantial commercial disadvantage to their competitors. In addition, the inaccurate data-set proposed to be used by the AUGE would result in significant inaccuracies in calculating the volumes of UG attributable to industry parties, and this would unacceptably expose certain Shippers to the risk of incurring excessive and unreasonable costs.

Gazprom believed that the proposal has a detrimental effect on competition as it introduces an unreasonable level of risk on suppliers and non domestic consumers affected by any changes to the AUG table introduced outside the agreed timetable.

Corona stated that unwarranted mid-year adjustments to the process would undermine the certainty and credibility of the process and result in windfall profits and losses between shippers. This modification will therefore, like UNC Modification 0442A, have a negative impact on competition. If implemented, this modification will have serious impacts on Corona's business, as it will be necessary to adjust all of its contracts to take into account the revised Unidentified Gas costs. It will also undermine Corona's current contract prices being offered in the market which will jeopardise its competitiveness. In addition if the principle of adjusting the AUGE table mid-process is accepted, then a significant risk premium will need to be added to Corona's prices to cover for potential future adjustments.

Other respondents (British Gas, E.ON, RWE, Winchester Gas, SSE, EDF, ScottishPower) noted positive impacts:

- Removal of a cross subsidy from the LSP market and facilitation of a more equitable distribution of unidentified gas charges between market sectors.
- Appropriate and more accurate targeting of costs in a timely manner, and demonstration of active assessment of domestic allocations/charges to ensure fairness across all sectors (Shippers and customers).

British Gas is mindful that the issue that this modification seeks to address has a particularly detrimental impact upon smaller SSP suppliers, whose exposure to any inaccurate allocation of unidentified gas volumes will continue to have significant commercial consequences, and cited recently raised Modification 0451 as being a clear example of how small supplier exposure to inaccurate RbD over allocations can be unsustainable and potentially damaging.

Winchester Gas favours the implementation of any improvement in the allocation of unidentified gas, observing that currently the SSP market is being over allocated. It pointed out that as a small shipper the allocation of unidentified gas can add considerable costs to its business.

E.ON believes that implementation would remove a clear cross subsidy from the LSP

market to the benefit of small supply points at the earliest opportunity. It was of the view that an identified cross subsidy should be capable of being corrected at the earliest opportunity, particularly when it disadvantages the smaller supply points that have no choice but to absorb the costs and do not have the opportunity to pass through the costs as part of a supply chain. E.ON observed that there is considerable public pressure to ensure that domestic customer prices are fair and reasonable and energy companies are regularly subjected to robust challenges both by the media and by the regulator if it is believed that smaller customers are picking up costs that their sector doesn't create.

RWE believes this modification fulfills the relevant objective of securing effective competition by removing a cross subsidy between market sectors that is inherently wrong. RWE believes that the established improved methodology for ensuring accurate allocation of unidentified gas should be implemented as soon as is practicable and this solution addresses the concerns that have been raised. In its view it is inequitable and anti-competitive to continue to allocate costs using the inferior methodology.

SSE agrees that implementation would positively impact competition as removal of the cross subsidy would help benefit competition in the SSP market sector as costs would be targeted more accurately.

ScottishPower considers that the objective of this modification is to promote effective and efficient competition between parties and to facilitate a more equitable distribution of unidentified gas charges between market sectors. Implementation of this modification will prevent consumers connected to SSPs from being further exposed to another period of inappropriate unidentified gas costs.

ScottishPower believes in these tough economic times that it is essential that any known and demonstrated cross subsidy from the mainly domestic SSP market to the mainly LSP non-domestic market is addressed at the earliest opportunity. Competition between Shippers and their Suppliers is affected by the cross-subsidy of costs. The AUGE has rightly been appointed as an independent body to develop a Methodology which seeks to identify the level of unidentified gas and address this cross-subsidy by estimating and assigning the volume of energy attributed to the LSP and SSP market sectors. It is therefore appropriate that the AUG Methodology deemed as being the most accurate is implemented at the earliest opportunity.

Relevant objective f) Promotion of efficiency in the implementation and administration of the Code.

Negative impacts on this relevant objective were identified by some respondents.

GDF SUEZ commented that a mid-year change would be inefficient for code administration as it would upset a recently established protocol, which was implemented under Modification 0229.

DONG argued a negative impact on the basis that the proposed modification undermines the legitimate expectation of code parties that the UNC should be administered in an efficient, consistent and reliable manner.

Additionally, a number of parties commented on the negative effect that the raising of this modification (and decisions made relating to its progression) had had on their perspectives and perception of the UNC process - see Section 7, below.

5 Implementation

An implementation date of 1st July 2013 is proposed. 1st October 2013 is the date at which the new AUG Table takes effect. This implies that the new AUG Table must be published by 1st August 2013 to ensure that an appropriate notice period of change can be provided.

The consumption based methodology of identifying and reallocating unidentified gas has been shown by the AUG E to be a far more accurate method. SSE is of the opinion that this modification should be implemented in the timescales indicated within it so that gas is allocated on as accurate a basis as is possible in the non daily metered market as soon as is practicable.

A number of respondents opposed implementation and therefore made no comments on the appropriateness of the proposed date.

Total stated it would like the timescales associated with the agreed existing AUG E guidelines to apply.

WINGAS does not endorse changes to the AUG E allocations outside of the normal timeframe set out during the AUG E's implementation.

6 Legal Text

Text

UNIFORM NETWORK CODE – TRANSITION DOCUMENT PART IIC – TRANSITIONAL RULES

Delete existing section headed "Transition Document TPD Section E10" and replace as follows:

13. Transition Document TPD Section E10

13.1. It is acknowledged that the steps (including appointment of AUG Expert, establishing AUG Methodology and establishing AUG Table) first required under TPD Sections E10.2 and E10.4 will not be completed by 1 April 2011.

13.2. Therefore, for each twelve month period commencing on 01 April 2011 up to but not including 1 April next following the first occasion on which the Committee establishes and adopts an AUG Table as provided in TPD Section E10.4.3(g), TPD Section E10.4.4(a) shall not apply and there shall be deemed to be an AUG Table for the purposes of TPD Section E10.5 in which:

- (a) there is only one Unidentified Gas Source;
- (b) for that Unidentified Gas Source, the Unidentified Gas Quantity is:
 - (i) for Larger DM SPCs, zero;
 - (ii) for Larger NDM SPCs, defined (in relation to a Reconciliation Billing Period) as follows:
$$UGC_{SPC} = \text{£}2,750,000 / (TDSAP_m * 12);$$
 - (iii) for Smaller SPCs, defined as the negative of the amount in (b)(ii) above;

and TPD Section E10.5 shall be given effect accordingly.

13.3. For the purposes of TPD Section 10:

- (a) In addition and separate to the establishment and adoption of a deemed AUG Table as set out in paragraph 13.2 above, for the avoidance of doubt, the first AUG Table to be adopted and published by the Committee as provided in TPD Section E10.4.3(h) shall apply (notwithstanding TPD Section E10.5.4) for the purposes of TPD Section E10.5 in relation to:
 - (i) the AUG Year commencing 01 April next following the adoption of such AUG Table, and
 - (ii) each prior AUG Year commencing with the first AUG Year;
- (b) as soon as reasonably practicable following the adoption of such AUG Table, the net aggregate amount of the User Unidentified Gas Amounts for each User and for all Reconciliation Billing Periods in each prior AUG Year (as referred to in paragraph (a)(ii) above) shall be paid (by or to the User, as provided in TPD Section E10.5.3), and shall be invoiced and payable in accordance with TPD Section S, as a single net aggregate payment, in satisfaction of TPD Section E10.5.3, (in addition to any payment made pursuant to any such deemed AUG Table as provided for in paragraph 13.2 above) without interest in respect of the period prior to the due date of the relevant invoice.

13.4 In respect of the AUG Year commencing on 1 April 2013, the following provisions of paragraphs 13.5 to 13.11 (inclusive) shall apply.

13.5 For the purposes of this paragraph 13 the:

- (a) “AUG Year 2013/14 Part A” means the period commencing on 1 April 2013 up to and including 30 September 2013;
- (b) “AUG Year 2013/14 Part B” means the period commencing on 1 October 2013 up to and including 31 March 2014;
- (c) “AUG Methodology (2013/14 Part B)” is the methodology published on 1 May 2013 by the AUG Expert within the draft AUG Statement for the AUG Year commencing 1 April 2014; and
- (d) “AUG Table (2013/14 Part B)” is the AUG Table established for AUG Year 2013/14 Part B pursuant to paragraph 13.7(j).

13.6 In respect of the AUG Year commencing on 1 April 2013, the provisions of TPD Section E10.4.4(a) shall not apply.

13.7 Notwithstanding that the AUG Methodology and AUG Table for the AUG Year commencing on 1 April 2013 have already been published in accordance with TPD Section E10.4, in respect of the AUG Year commencing on 1 April 2013 the following provisions shall apply:

- (a) the AUG Expert shall submit the AUG Methodology (2013/14 Part B) to the Committee as soon as reasonably practicable but in any case by no later than 4 July 2013;
- (b) by no later than 12 July 2013 the Committee shall approve the proposed AUG Methodology (2013/14 Part B) , in the form presented by the AUG Expert, unless they unanimously agree changes to any part of the document. Any changes directed by the Committee in this fashion will be implemented by the AUG Expert immediately;
- (c) the AUG Expert shall implement the AUG Methodology (2013/14 Part B) where it is approved by the Committee in accordance with paragraph 13.7(b) and prepare the proposed AUG Table (2013/14 Part B) using the AUG Methodology (2013/14 Part B) and the most appropriate data available to it, as deemed by the AUG Expert at the time of its production.

- (d) the AUG Expert shall submit the proposed AUG Table (2013/14 Part B) to the Committee as soon as reasonably practicable and in any case by no later than 16 July 2013;
- (e) a meeting of the Committee shall be convened to consider the adoption of the proposed AUG Table (2013/14 Part B) as soon as reasonably practicable and in any case by no later than 25 July 2013;
- (f) the Committee shall adopt the proposed AUG Table (2013/14 Part B) by no later than 25 July 2013, unless by unanimous resolution the Committee determines that the proposed AUG Table (2013/14 Part B) is not an accurate reflection of the final AUG Methodology (2013/14 Part B) and amends the proposed AUG Table (2013/14 Part B) accordingly to reflect the final AUG Methodology (2013/14 Part B) before adopting the revised AUG Table (2013/14 Part B);
- (g) the Committee shall publish the proposed AUG Table (2013/14 Part B) or the revised AUG Table (2013/14 Part B) immediately after the same is approved by the Committee and such publication shall be by no later than 1 August 2013;
- (h) the published AUG Table (2013/14 Part B) shall be implemented on and take effect from 1 October 2013 and shall continue to apply until the expiry of the AUG Year 2013/14 Part B; and
- (i) the AUG Methodology and AUG Table in respect of the AUG Year commencing on 1 April 2013 that were previously published by the Committee pursuant to TPD Sections E104.3(e) and (i) shall cease to apply with effect from the expiry of the AUG Year 2013/14 Part A.

13.8 The AUG Methodology (2013/14 Part B) and the AUG Table (2013/14 Part B) shall be binding for the purposes of the Code.

13.9 The functions of the Transporters under paragraph 13.7 are User Pays Services and all amounts payable to the AUG Expert and any other costs, expenses and liabilities incurred under the AUG Expert Contract in respect of such functions are recoverable User Pays Charges.

13.10 To the extent that any of the provisions set out in paragraph 13.7 conflict with or are otherwise inconsistent with the Allocation of Unidentified Gas Document the provisions of paragraph 13.7 shall take precedence.

13.11 TPD Section 10.5.2 shall not apply during the AUG Year 2013/14 Part B and accordingly for the purposes of TPD Section E paragraph 10, during such period, for each User and Reconciliation Billing Period:

- (a) the "User Unidentified Gas Quantity" (UUGQ) is the amount in kWh calculated as follows:

$$\underline{UUGQ = \sum_{SPC} (\sum_{UGS} UGQ_{SPC} * USAAQP_{SPC}) / 12}$$

where

\sum_{SPC} is the sum over SPC Classes

\sum_{UGS} is the sum over Unidentified Gas Sources set out in the AUG Table (2013/14 Part B)

and where for each Unidentified Gas Source and SPC Class

UGQ_{SPC} is the Unidentified Gas Quantity set out in the AUG Table (2013/14 Part B)

and where for each SPC Class

$USAAQP_{SPC}$ is User SPC Aggregate AQ Proportion

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(b) the "User Unidentified Gas Amount" (UUGA) is the amount calculated as follows:

$$\text{UUGA} = \text{UUGQ} * \text{TDSAP}$$

where

TDSAP is the arithmetic average of the values of System Average Price for each of the Days in the Reconciliation Billing Period.

7 Consultation Responses

Representations were received from the following parties:

Company/Organisation Name	Support Implementation or not?
British Gas	Support
Corona Energy	Not in support
DONG Energy	Not in support
EDF Energy	Support
E.ON	Support
Gazprom	Not in Support
GDF SUEZ	Not in support
RWE npower	Support
ScottishPower	Support
SSE	Support
Total Gas & Power	Not in support
Winchester Gas	Support
WINGAS	Not in support

Of the 13 representations received, 7 supported implementation and 6 were not in support.

Summary Comments

A number of respondents (DONG Energy, WINGAS, GDF Suez, Gazprom) were of the opinion that this modification would:

- fundamentally undermine industry certainty and the legitimate expectations of Shippers/Suppliers that the established AUG procedures should be adhered to;
- undermine the authority and independence of the AUG by subjecting its processes to urgent modification procedures. Should this modification proceed and be implemented there were concerns that it would create a precedent for further unwarranted and unnecessary modifications adjusting the AUG process.
- have a severe financial impact on a number of Shippers' businesses given the inadequate notice period for Shippers to react appropriately to the re-allocation of costs.
- would have an unreasonable and detrimental impact on businesses in the UK, whereas the impact on individual domestic consumers would be very small.

Some respondents believe that there are insufficient grounds to argue that there would be a 'significant commercial impact' upon parties or consumers if the current AUG Methodology and Table are retained until the end of the 2013/2014 AUG Year. However, if implemented there would be a significant commercial and financial impact felt by Shippers/Suppliers, a number of whom believed they would have insufficient time to put administrative and contractual measures in place to appropriately reallocate costs. However other Shippers considered they would have sufficient time to accommodate any changes required. It was pointed out that a small supplier is much more exposed than larger businesses to the impacts of the uncertainty that would be introduced by this modification, and will find it more difficult to adjust to the mid-year changes it will create. The impact of this modification, should it be implemented, could be critical to a small supplier's business.

GDF SUEZ referred to the principles adopted under Modification 0229 which included setting charges only once per year, starting April which aligns with the setting of network charges and other policy costs and is generally recognised as a price setting

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point for suppliers. Setting levies once per year was preferable and allows for greater transparency to customers as within-year changes tend to arouse suspicion and additional queries. It is bad process to disturb this established protocol, especially so soon after it has been agreed.

GDF SUEZ remained unconvinced of any benefit to consumers, pointing out that Ofgem had shared its concerns when considering the very similar Modifications 0442 and 0442A. It was highly likely that the cost to consumers would be increased overall as a result of a within year intervention and there could be a significant windfall benefit to domestic gas suppliers. It was difficult to ascertain how any potential savings (assuming a reduced attribution to SSPs) will be passed through to domestic customers given that the magnitude of cost re-distribution will be small on an individual basis - around £1.50 per gas meter and 75 pence per dual fuel account. It is uneconomic to make tariff changes of such a small magnitude. At the same time it is likely that the effect of changes to the allocation for the non-domestic segment will be felt immediately, particularly where such charges are levied on a pass-through basis. Hence consumers overall will be disadvantaged.

WINGAS too fails to see where Modification 0456 accommodates the issues that Ofgem raised when rejecting Modifications 0442 and 0442A. It also noted that Ofgem recommended in its response that the UNCC conduct a lessons learned exercise to avoid further inaccuracy in future AUG tables, and is unaware of any such undertaking to date. Reference was made (both by WINGAS and other Shippers) to a report on the works undertaken by the AUG by Phidex, which highlighted a number of vulnerabilities in the data and process – as yet WINGAS is not satisfied that these errors have been accounted for in the process and, as such, a new AUG table at this point would be premature and would only create inaccurate results.

This view was echoed by Corona. Having raised some serious concerns regarding the AUG's calculations it considers that the position is now somewhat worse in that Corona has little confidence that the AUG's figures are accurate. If Modification 0442 was rejected then it must be correct to reject Modification 0456 given that the position is no further forward and indeed has taken several steps back.

Corona also made similar observations to those of GDF SUEZ. Ofgem's statement regarding UNC Modification 0442A "that these proposals may potentially result in a windfall gain (or loss) for shippers" highlights a key point Corona made in the original consultation response; the certainty of the AUG process as it is currently laid out is relied upon by Shippers in setting prices. Linked to this Corona was not aware of any information being provided to the industry to address the concern expressed by Ofgem in its original decision that it needed "to see more information from shippers on the extent to which, and when, this change would be reflected in tariffs". Corona evinced its concerns that these fundamental issues have not been addressed. Bringing forward the implementation date by six months (UNC Modification 0456) or eight months (UNC Modification 0442A) from that currently agreed upon will result in windfall gains and losses depending on a party's position in the market. It also highlights a second key point Corona made in the original consultation response, ie the certainty of the AUG process as it is currently laid out is relied upon by Shippers in setting prices. Deviation from this timeline is damaging to the market, creates cross-subsidies and would fatally undermine the credibility of the AUG process.

Gazprom and Total pointed out that the proposed methodology under development by the AUG has yet to be adopted and the consultation has yet to close. Any further action may be premature.

Total observed that this modification prejudices the outcome of the AUG's new methodology, hurries the process at the expense of consultation, analysis, data quality, data accuracy and ultimately would provide a questionable outcome that would have little credibility and undermine confidence to the market. The process and timescales set out in the original AUG guidelines were purposely set in line with existing industry charging principles (e.g. setting of Transportation charges) ie charges are set once a year to be applied from April. This certainty of forward pricing, aside from being good customer practice, reduces additional risk premium and therefore cost to consumers.

A number of respondents noted that the revised AUG methodology is still under industry consultation and development. The suitability of the methodology remains under question and there are known issues within the industry relating to the poor quality of underlying data. Forcing premature publication introduces an unacceptable degree of risk and error. These respondents raised concerns that the credibility of the AUG and AUG process should not be called into question through the modification process. The AUG should be left to follow the agreed guidelines and be given the time that it said it required to provide the industry with a robust methodology and accurate calculation of the unallocated gas amount and split between market sectors. The AUG has indicated that it (and the industry) requires until November to publish the first AUG table, for the table to then be consulted upon and for the values to apply from April 2014. Introducing a modification that forces the AUG to prematurely conclude the publication of the revised table under the new methodology at short timescales not only prevents due consultation and input from industry stakeholders but it also introduces unacceptable error.

A number of other parties (E.ON, SCP, RWE, EDF, SSE) were of the opinion that this

modification would ensure that the AUG Table, produced as a result of the consumption based methodology, is implemented on 01 October 2013 and as a result will reduce the cross-subsidy of unidentified gas costs between the SSP and LSP markets at the earliest possible time. Since the introduction of RbD, SSP Shippers/Suppliers and their customers have faced unprecedented levels of uncertainty and unpredictability in relation to the value of charges resulting from the RbD allocation mechanism. The AUG has, through its detailed analysis of consumption data, concluded that LSP Shippers are contributing a much higher value than previously calculated, to the overall value of unidentified gas under the RbD bias methodology. Domestic customers should not therefore continue to cross-subsidise the LSP market sector where evidence clearly demonstrates that unidentified gas costs are attributable to that market sector. It will also create better cost targeting, which should lead to improved competition amongst Shippers and Suppliers.

SSE believed that the provision of a far more accurate reallocation of unidentified energy 6 months earlier will, overall, benefit domestic customers; given the current very high level of energy prices compared to those historically, it would not be fair that domestic customers were continuing to subsidise larger industrial and commercial customers. As SSE is active in both markets any change in the allocation brought about by this modification will be reflected in the LSP pricing structure, and SSE feels that, given the timescales of this modification, Shippers operating in the LSP sector have sufficient notice to price in any increased premium. SSE noted that as the AUG figures are effective from April each year, there would always be a disconnect between LSP contracts offered at different times of the year, and sometimes for more than one year. Contracts span multiple AUG statements and are often agreed prior to AUG figures being published for the following April. Therefore the AUG risk is something that has to be factored into LSP contracts as a matter of course.

SSE considered that any reallocation of costs as a result of this modification to the LSP sector will not result in a 'windfall' to SSP Shippers as the benefits will feed into decisions made about prices in the future, which are made up of a number of very complex factors. SSE are seeing increasing amounts of customers being classed as 'fuel poor' and believed that implementation of this modification will help reduce this number as overall costs will be removed from the SSP sector, where energy costs are continuing to come under pressure and domestic suppliers are striving to keep tariffs as low as is sustainably possible.

British Gas noted that the small delay in the delivery of the last year's process prevented the third iteration of the consumption based methodology from being ready for implementation on 01 April 2013. Given the significance of the changes made from the incumbent methodology, specifically in terms of its improved accuracy, it believed that it was wholly inappropriate that the results of this revised approach should be delayed for a whole year, because of a small process delay. The ongoing 2014/15 AUG Year process will continue in accordance with UNC rules and deliver a further revised methodology and associated AUG Table for implementation on 1 April 2014. British Gas anticipated that this methodology would not be significantly different from the methodology that Modification 0456 seeks to implement on 01 October 2013. It could therefore be argued that should 0456 be implemented, Shippers will actually have an earlier than normal view of what the likely changes will be forthcoming from 01 April 2014. This will enable all Shippers and Suppliers to undertake better and more informed forecasting of costs for any contracts being prepared which span across the 2014/15 AUG Year period, and will assist in reducing any uncertainty associated with future unallocated gas volumes in the short to mid-term, benefitting competition in the market and, ultimately, consumers.

British Gas pointed out that the volume of LSP customers that would be affected by the impacts of modification 0456 was dwarfed by the significantly larger volume (many millions) of SSP customers that are currently adversely impacted by the existing arrangements. Contracts provided to LSP customers are both fixed and flexible in their nature and will enable the pass through of costs to be easily undertaken in many cases. The volatility of many factors and the risks associated with offering fixed price contracts are fully understood by all Suppliers before they enter into such contracts. Given the longevity of any fixed priced contract, it must already include some assumptions, made by the Supplier, as to how future AUG Methodologies may impact the fixed price offered. British Gas observed that the concept and subsequent existence of the AUG process has been around now for a number of years, enabling all LSP suppliers sufficient opportunity to structure appropriate, contractual arrangements with their customers, and address issues which may require contracts to be 're-opened' or address future changes to AUG Methodologies.

Additional Issues identified in Responses

Process Perspective - Views on the raising of the Modification and its Urgent Status

The similarity to Modification 0442A was commented on by some respondents, the only difference discerned being the requirement for the UNCC to publish the finalised table on the 01 August 2013, rather than by 01 June 2013. The previous modifications 0442/0442A were rejected and as nothing fundamental has changed it was believed that proposing to implement the AUG table proposed for 2014/15 in October 2013 rather than August 2013 will have the same negative impacts on the market, as noted in these parties' responses to Modification 0442/0442A.

Some respondents were concerned that given the previous decisions on Modification 0442(A), the act of raising this modification creates risk and price uncertainty for commercial suppliers and consumers and is detrimental to competition in the market.

Some respondents also questioned the granting of 'Urgent' status to this modification given its similarity to Modification 0442, and pointed out the scale of any commercial impact was in fact unknown. It was not clear why Ofgem had granted this modification urgent status (against a unanimous panel vote for non-urgency) having declined urgency of the almost identical Modification 0442 and then subsequently rejecting that modification. Total observed that this modification is effectively the same modification as rejected Modification 0442 and therefore the same reasons predicated for that rejection would also apply to this modification (relating to the inability of the AUG to meet timescales, accuracy being compromised, process, inability of shippers to react to their allocation of cost base and windfall profit to large domestic suppliers).

British Gas referred to the principle that only modifications that are considered to better facilitate the relevant objectives are made; refinements to arrangements are possible based on many factors, and there is no presumption in favour of the status quo. In its view, Modification 0456 does not in any way undermine the authority or independence of the AUG; it seeks to implement the output of over 18 months' worth of work by the AUG. British Gas believed that the purpose of the AUG, in summary, was to implement the most robust available AUG methodology and figures in the timeliest manner. Modification 0456 therefore strengthens the AUG's position in achieving these objectives, rather than requiring the AUG artificially to withhold a much better solution for a whole year, for the sake of missing a previously communicated deadline by just a few days. British Gas believed this modification is necessary in order to correct a weakness, which with experience, was now known to exist within Modification 0229 and the associated Guidelines, and is a legitimate use of the UNC modification process.

Process Perspective - Ofgem's contribution to uncertainties, and indirect consequences

Some respondents drew attention to the effect and consequences of certain actions and decisions that contributed to the degree of uncertainty perceived by the wider market (Shippers and customers).

Corona pointed out that the uncertainty produced by this prolonged process was causing it numerous difficulties. Given that Ofgem had previously rejected Modification 0442A Corona find it hard to accept that Ofgem will approve Modification 0456. If Ofgem was to change its mind it will be contributing to the issues relating to uncertainty. Uncertainty will then lead to questions about the credibility of the AUG process, the modification process and ultimately Ofgem's role as the decision maker on modifications.

Corona went on to observe that if Modification 0456 is approved it will raise the question as to which other modifications, previously approved or not approved, should be re-raised by a party who is not content with that previous decision. The modification process needs to be allowed to do its work, but not at any cost. It would be highly problematic and create a lot of confusion if modifications were simply re-raised every time a party does not like the outcome.

One of the fundamental concerns Corona had surrounds the ongoing resources it has had to put in place to deal with Modifications 0442, 0442A and 0456. Both external and internal teams must be kept informed about these modifications. This disrupts Corona's business and incurs costs. Furthermore, Corona would prefer to direct its resources to operating its business and addressing any number of the other regulatory issues that it currently faces. If implemented, UNC Modification 0456 will incur significant costs to Corona Energy's 'bottom line' irrespective of whether it absorbs the AUG costs or passes them through to customers. Corona also considers this modification will have a detrimental impact on its business and jeopardise its competitiveness.

Industry Business Expectations

DONG Energy expressed strong views (echoed by GDF SUEZ), that it, together with other industry parties, had a legitimate expectation that the established AUG procedures, as set out in the UNC and the AUGÉ Guidelines, and developed with the industry, should be adhered to.

On a business and operational level, the industry has been working on the assumption that the established AUGÉ timetable must be followed for the remainder of the current AUG Year, and has placed a legitimate reliance on the underlying regulation that supports the AUGÉ process. It would be entirely contrary to maintaining industry certainty and ensuring the efficient implementation of the UNC if implementation of this modification was to be permitted, notwithstanding the adverse financial and commercial impact that the modification would have on DONG Energy and its customers.

Accuracy of usage in the SSP market

Winchester Gas commented that while it supported the use of SSP consumption to calculate the unidentified gas, it did have a concern over the accuracy of some of the usage in the SSP market due to the lack of read validation done by the GTs compared to those supplies within the LSP market.

Financial impact on consumers

As noted by a number of respondents, the short timeframe proposed for implementation of the modification would result in a severe financial impact on Shippers/Suppliers since this provides insufficient time to implement appropriate administrative and contractual measures to appropriately reallocate costs. It is also envisaged that, to the extent that a Shipper is able to reallocate increased UG costs to its customers, this would result in an unsatisfactory financial impact on their customers who will not have anticipated or budgeted for such cost increases prior to 01 April 2014. Assuming the view that substantial inaccuracies currently exist within the dataset proposed to be used by the AUGÉ under the proposed new AUG Methodology, then such inaccuracies pose a real risk that Shippers (and their customers) would be exposed to disproportionately high costs in respect of UG.

Gazprom pointed out ongoing industry concerns in relation to volatility and short notice changes to charges, and highlighting the potential negative impact of cost transfer into a slowly recovering non domestic sector, in which consumers are struggling to manage budgets and cash flow. Introducing such a late notice change, which cannot be quantified even at this stage, will require suppliers to reopen risk premiums with consumers.

Corona offered anecdotal evidence that a number of customers have questioned it about these charges and how or if it intends to pass them on. Understandably customers are concerned about future costs, but more importantly what work the industry is undertaking to mitigate these future costs.

Other respondents did not believe the timeframe posed difficulties for their administrative processes.

RWE was of the view that implementation would clearly have a positive impact on domestic customers and believed that this should be a key driver for deciding the way forward in this case. It pointed out that any costs that are incorrectly allocated to and picked up by the domestic sector will negatively impact domestic suppliers' costs to serve and will therefore contribute to the future level of pricing for such customers. This is clearly inequitable given that the AUGÉ has established that some of these costs are in fact attributable to the LSP sector (and this is not in dispute).

RWE do not consider this to be a "windfall" for Shippers/Suppliers, it will impact the future pricing of domestic customers significantly. Pricing structures and methodologies for LSP and SSP sectors are significantly different and therefore cannot subsidise each other. Any benefit for domestic customers will feed into the domestic customer price calculation. The current Industry cross subsidy or misallocation of costs is in RWE's opinion unfair and unjustifiable.

RWE feel the reduction in SSP cost allocation is accurate, appropriate and reduces the burden on the domestic market sector with inherent social issues such as fuel poverty and the pressure of recent price rises. As a responsible supplier it believes these costs should be allocated accurately and in a fair manner to benefit the domestic consumer.

Governance Arrangements relating to Modifications concerning the AUG process

ScottishPower reiterated its concerns (first outlined in its response to Modifications 0442 and 0442A) that Transporters have voting rights on matters relating to the AUGÉ when there is no consequence or material impact to them. In comparison with other governance arrangements this is unusual. For example within the MRA, on matters only affecting Suppliers, DNOs will record an abstention from voting by declaring "no interest" or will cast a neutral vote.

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Gas Transporters failed to submit a response to the draft Modification Report (DMR) prepared for Modifications 0442 and 0442A. At the Modification Panel meeting held to discuss the Modification Report, Transporters did not state any opinion or comment on whether either modification should be implemented or not. However as voting rules state that any participating Modification Panel member is deemed to have an exercisable vote, when voting took place on whether implementation of either of these Modifications should be recommended or not, the fact that Transporters were present and participating within the Modification Panel meeting, resulted in their exercisable votes being considered and counted within the overall outcome. However if all Transporters had withdrawn from the meeting when the actual voting was taking place, the meeting would be deemed to be non-quorate.

This change to the voting rules was introduced as a result of a self-governance Modification i.e. 0384S. ScottishPower does not believe that this practice is acceptable as the outcome of Panel voting may have an impact on an individual party's right of appeal under the Energy Act. ScottishPower believes that the constitution and voting rights of the UNC and UNCC require to be reviewed urgently so that no one party or group of parties should be able to apply undue influence, whether it be intended or not, over proceedings and decisions being made.

8 Panel Discussions

The Panel Chair summarised that Modification 0456 requires the AUGE to propose an AUG Table based on the methodology which the AUGE issued on 1 May 2013. These values would supersede those in the existing AUG Table with effect from 01 October 2013.

Panel Members' views were diametrically opposed regarding whether or not implementation would be expected to facilitate achievement of the relevant objectives. Those in favour of implementation argued that the AUGE has identified a superior methodology, and is consulting on the basis that this methodology should be used. Since this is the AUGE's best view of the appropriate allocation of costs, and since the envisaged change is likely to lead to a material change in cost allocations, it was argued that delaying implementation would unnecessarily ossify inappropriate cost allocations. This would therefore continue a cross subsidy between the LSP and SSP sectors, which, having been identified, should be corrected as soon as practically possible. Accurate cost allocations underpin effective competition and hence implementation would facilitate the achieving of effective competition by ensuring that costs are allocated to the responsible party earlier than would otherwise be the case.

Members in favour of implementation also argued that implementation would facilitate efficient administration and implementation of the UNC since it would be inefficient to delay the introduction of a methodology change that the AUGE recommends.

Members opposed to implementation argued that there is an established process that supports the AUGE in reaching independent conclusions on appropriate allocations each year, including consultation, industry input and clear notice periods. This provides parties with expectations about the process that will be followed; confidence that the AUGE will have an opportunity to hear and consider feedback before reaching conclusions; and notice of allocations that can then be reflected in the terms offered to customers. They suggest that the importance of the confidence this provides is explicitly recognised in the UNC, which provides that "the AUG Methodology and AUG Table established for an AUG Year for the purposes of paragraph 10.4.1 shall be those adopted by the UNCC under paragraph 10.4.3, and shall not be subject to modification in relation to such AUG Year".

By overwriting the established process, those opposed to implementation argue that the modification would undermine the AUGE process and the independence of the AUGE (as a result their decisions being challenged through the modification process rather than through the agreed process), and thereby generate risk and uncertainty in the market. Increasing risk and uncertainty is detrimental to the development of effective competition, and hence implementation would negatively impact the relevant objective the securing of effective competition. In addition, overwriting established processes and notice periods would be inconsistent with the efficient administration and implementation of the UNC.

Panel Members then voted and, with 2 votes cast in favour, did not determine to recommend implementation of Modification 0456.

9 Recommendation

Panel Recommendation

Having considered the Modification Report, the Panel recommends:

- that proposed Modification 0456 should not be made.

10 Appendix 1

Overview of the key AUG process milestones, along with an overview of activities already undertaken during 2012 and 2013, which lead to the publication of the '1st Draft AUG Statement for 2014/15' on 1st May 2013.

As demonstrated below, the '1st Draft AUG Statement for 2014/15' has already been extensively consulted upon, notably more than is indicated within the AUGE Guidelines. The AUGE has considered all submissions made within the consultation periods and have amended the latest version as they deem appropriate, in their role as the independent expert.

- The AUGE must provide a Draft AUGS for presentation and publication by the 1st May each year

(AUGE Guidelines 7.1.1)

- The document entitled '1st Draft AUG Statement for 2014/15' which was published on 1st May 2013 by the AUGE, is actually a third iteration of the extensively consulted upon consumption based methodology developed during 2012.

- Once published, any responses must be received within 42 days, with responses provided by the GTs to the AUGE by 15th June

(AUGE Guidelines 7.1.3)

- The initial version of the most recently published AUGS, was originally published on 30th April 2012. The initial consultation period ran from 1st May 2012 to 15th June 2012.

- The AUGE will consider any submissions made, and will provide feedback for discussion at a meeting which is to be held on or around the 1st July

(AUGE Guidelines 7.1.4)

- UNCC (AUGE) meetings took place on 22nd May 2012 and 17th September 2012.
- Further UNCC (AUGE) meetings took place on 6th February 2013 and 15th May 2013.

- The AUGE will review the AUGS in light of any comments (received under 7.1.3) and will adjust the AUGS where it believes appropriate

(AUGE Guidelines 7.1.5)

- Comments were received by the AUGE from industry parties for the initial consultation period (1st May 2012 to 15th June 2012). These comments were subsequently processed by the AUG, which lead to the 2nd Draft AUGS being issued on 17th December 2012.

- The proposed AUGS document will be published by the 1st August

(AUGE Guidelines 7.1.6)

- The 2nd Draft AUGS was published on 17th December 2012. This AUGS was subject to a further period of consultation which ran from 3rd January 2013 to 1st March 2013. During the consultation period, a UNCC (AUGE) meeting took place on 6th February 2013.
- The AUGE's response to queries arising from 2nd Draft AUGS consultation (3rd January 2013 to 1st March 2013), was published on 12th March 2013. A review of the consultation responses received by the AUGE, were subsequently processed by the AUG resulting in the publication of the '1st Draft AUG Statement for 2014/15' on 1st May 2013.

- Code parties may provide responses to The Committee on the proposed AUGS (as published under 7.1.6) no later than 5 Business Days prior to the next Committee meeting

(AUGE Guidelines 7.1.7)

- As the 'proposed AUGS document' was not 'published by 1st August' (as per AUGE Guideline 7.1.6), this step of the process was not utilised last year. However, comments were provided by industry parties during both of the consultation periods which occurred.
- Once the proposed AUGS documents have been published, a meeting of The Committee and the AUGE will be organised for approval of the final document, on or around the 1st September. The Committee shall approve the proposed AUGS, in the form presented by the AUGE, unless they unanimously agree changes to any part of the document. Any changes directed by The Committee in this fashion will be implemented by the AUGE immediately.

(AUGE Guidelines 7.1.8)

- Approval of the final document did not take place on or around the '1st September', as the 2nd Draft AUGS was not published until 17th December 2012. Ultimately, as the full AUG process was unable to be completed in time to adopt a revised AUGS for the 2013/14 AUG Year, the previous years methodology was agreed to be 'rolled over'.
- Once approved by The Committee, the AUGE will produce the indicative Unidentified Gas volumes in a format consistent with the UNC requirements, and send them to the GTs for inclusion in the AUG Table for the AUG Year by 1st October

(AUGE Guidelines 7.1.9)

- This step did not occur as there was no proposed AUGS for approval, so the previous years volumes were rolled over.
- The AUGE will provide the final Unidentified Gas volumes and rates to the GTs by the 1st January

(AUGE Guidelines 7.1.10)

- The AUGE published the final AUGS table of volumes and rates on 1st February 2013, the volumes were the 'rolled over' figures from the previous year.