

Modification proposal:	<b>Uniform Network Code (UNC) 551: Protecting consumers who are disaggregated under Modification 0428 from Ratchet charges for Winter 2015/16 (UNC551)</b>		
Decision:	The Authority <sup>1</sup> has decided to reject this modification <sup>2</sup>		
Target audience:	UNC Panel, Parties to the UNC and other interested parties		
Date of publication:	21 March 2016	Implementation date:	n/a

## Background

The UNC arrangements require a shipper to nominate a Daily Supply Point Offtake Quantity (SOQ) when it takes ownership of a supply point. Should the User Daily Quantity Off-Take of a Daily Metered (DM) supply point exceed its SOQ during the Winter Period (October to May) a commercial penalty charge equal to twice its annual capacity charge is applied to that shipper. The UNC refers to these charges as Supply Point Ratchet Charges (Ratchet charges) and result in the DM SOQ automatically increasing to the new higher level.

Ratchet charges provide incentives to:

- deter parties from setting their SOQ below what they use during the winter when demand is at its highest
- ensure that the network operator has made sufficient capacity available to those sites to meet demand in peak flow conditions.

In July 2013, we approved UNC428.<sup>3</sup> This prohibits the creation of any new multi-meter supply points (MMSPs)<sup>4</sup> and requires shippers to disaggregate any existing MMSPs and reconfirm them as single meter supply points (SMSPs). UNC428 proposed that the disaggregation “would have to be completed 3 months prior to the ‘go-live’ of Project Nexus”. While UNC428 did not fix this ‘go-live’ date, it said it expected the date to be in Q4 2015 and referenced this date as the absolute deadline for completion of the work.

In February 2014, we approved UNC432<sup>5</sup>. This stipulated the Project Nexus implementation date as 1 October 2015.<sup>6</sup> In May 2015, we published a letter on the expected delay to the Project Nexus implementation date. We said we did not consider this had any direct bearing on the scheduled disaggregation of supply points, and that sites which had not been disaggregated should be reconfirmed as individual meter points by 1 October 2015.<sup>7</sup>

<sup>1</sup> References to the “Authority”, “Ofgem”, “we” and “our” are used interchangeably in this document. The Authority refers to GEMA, the Gas and Electricity Markets Authority. The Office of Gas and Electricity Markets (Ofgem) supports GEMA in its day to day work. This decision is made by or on behalf of GEMA.

<sup>2</sup> This document is notice of the reasons for this decision as required by section 38A of the Gas Act 1986

<sup>3</sup> UNC428 Single meter supply points <https://www.ofgem.gov.uk/publications-and-updates/uniform-network-code-unc-428428a-single-meter-supply-points>

<sup>4</sup> A Multi-meter supply point is a meter supply point site that has several individual meter points downstream.

<sup>5</sup> UNC432 Project Nexus – Gas Demand Estimation, Allocation, Settlement and Reconciliation reform <https://www.ofgem.gov.uk/publications-and-updates/uniform-network-code-unc-432-project-nexus-gas-demand-estimation-allocation-settlement-and-reconciliation-reform>

<sup>6</sup> The Project Nexus Implementation Date was subsequently modified by UNC548 to be 1 October 2016 or such other date as may be determined by the Authority.

<sup>7</sup> [http://www.gasgovernance.co.uk/sites/default/files/OFGEM%20Open%20letter%20-%20disaggregation%20of%20multi-meter%20supply%20points\\_1.pdf](http://www.gasgovernance.co.uk/sites/default/files/OFGEM%20Open%20letter%20-%20disaggregation%20of%20multi-meter%20supply%20points_1.pdf)

UNC551 asserts that UNC428 introduced a “step change” in market arrangements. The proposer, Gazprom, states that despite their reasonable endeavours, neither shippers nor consumers have been able to determine the correct capacity data for each disaggregated meter and hence will be at greater risk of incurring Ratchet charges for winter 2015/16.

### **The modification proposal**

UNC551 seeks to provide transitional protection, a “soft landing”, to SMSPs created as a result of the implementation of UNC428, by exempting them from Ratchet charges for winter 2015/16. Gazprom considers that in allowing parties more time to better understand site characteristics and actual capacity requirements, UNC551 would facilitate UNC relevant objective (d) better.<sup>8</sup>

### **UNC Panel<sup>9</sup> recommendation**

At the UNC Panel meeting on 19 November 2015, a majority of the UNC Panel considered that UNC551 facilitated the UNC objectives better and the Panel therefore recommended its approval. On 18 December 2015, we directed that the Final Modification Report (FMR) be revised and resubmitted to us as:

- it did not include any reasons to support the proposed retrospective implementation date; and
- we were concerned that UNC551 could discriminate against customers who were disaggregated between the decision date for UNC428 of 25 July 2013 and the proposed UNC551 date of 1 October 2015.<sup>10</sup>

At its meeting on 18 February 2016 a majority of the Panel again voted to recommend implementation of UNC551 and resubmitted the revised FMR to us for decision.<sup>11</sup> The Panel considered UNC551 would facilitate relevant objective (d) better. It agreed that implementation would have a positive impact on competition between shippers because the additional opportunity to determine accurate site data would lead to more-accurate transportation charges.

### **Our decision**

We have considered the issues raised by the modification proposal and the revised FMR. We have considered and taken into account the responses to the industry consultation on the modification proposal, which are attached to the revised FMR.<sup>12</sup> We have concluded that implementation of the modification proposal will not facilitate the achievement of the relevant objectives of the UNC better,<sup>13</sup> and that, in any event, the retrospective aspect of the proposal is not justified.

---

<sup>8</sup> UNC 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’.

<sup>9</sup> The UNC Panel is established and constituted from time to time pursuant to and in accordance with the UNC Modification Rules.

<sup>10</sup> <http://www.gasgovernance.co.uk/sites/default/files/Ofgem%20Sendback%20letter%20UNC551.pdf>

<sup>11</sup> UNC modification proposals, modification reports and representations can be viewed on the Joint Office of Gas Transporters website at [www.gasgovernance.co.uk](http://www.gasgovernance.co.uk)

<sup>12</sup> <http://www.gasgovernance.co.uk/sites/default/files/Final%20Modification%20Report%200551%20v4.0.pdf>

<sup>13</sup> As set out in Standard Special Condition A11(1) of the Gas Transporters Licence, see:

<http://epr.ofgem.gov.uk/Pages/EPRInformation.aspx?doc=http%3a%2f%2fepr.ofgem.gov.uk%2fEPRFiles%2fStandard+Special+Condition+PART+A+-+Consolidated+-+Current+Version.pdf>

## **Reasons for our decision**

We consider that the proposal could have a potential negative impact on relevant objective (b). We do not agree with the proposer and Workgroup's view that the modification proposal will facilitate relevant objective (d) better. We consider that it is neutral or has no impact on the other objectives. We do not consider that the retrospective aspect of the modification is justified.

### ***Relevant objective (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.***

The proposer and Workgroup considered the modification proposal to have no impact upon relevant objective (b). However, in our view the modification proposal could have a negative effect on this relevant objective. Exempting shippers from Ratchet charges would not incentivise shippers to set their SOQ to their use when demand is at its highest and could result in network operators not making sufficient capacity available to meet demand in peak flow conditions. This could result in the inefficient operation of the pipe-line system of one or more other relevant gas transporters.

### ***Relevant objective (d) the securing of effective competition between relevant shippers and suppliers***

The proposer and the Workgroup consider that the modification proposal would allow shippers the additional opportunity to determine accurate site data. This would lead to more accurate transportation charges, thereby furthering effective competition between shippers.

We do not agree that exempting shippers from Ratchet charges for winter 2015/16 will result in more accurate transportation charges. Ratchet charges incentivise shippers to make accurate determinations of capacity requirements which result in more accurate transportation charges. We therefore do not agree that the proposal furthers effective competition between shippers.

We also do not agree that there is sufficient justification to provide additional time to determine accurate site data. The industry has had over two years to disaggregate MMSPs and to determine accurate data following our decision on UNC428. We consider that this has given shippers more than adequate opportunity to determine accurate site data. In our view, the modification proposal would only benefit those shippers who have not used this time to determine and nominate the correct disaggregated capacities. We are not convinced that extending the same protection, from Ratchet charges enjoyed by those shippers who have followed the process of disaggregating their sites and determining correct capacity within the deadline, to those shippers who have not, would facilitate the securing of effective competition between shippers.

### **Retrospectivity**

UNC551 proposes that there should be exemption to charges that would apply from 1 October 2015. This means that the modification has retrospective effect, in the sense that it applies to charges on dates falling before the potential implementation of this modification (and before its submission to us for decision).

We have previously published guidance on code modification urgency criteria. This also considers retrospective adjustments.<sup>14</sup> We wish to avoid retrospective modifications as they can undermine market confidence. It is a general principle that rules ought not to change the character of past transactions, completed on the basis of the then existing rules. However, despite the general principle against retrospective rule changes, we believe that there may occasionally be exceptions which could give rise to the need for a modification that would have retrospective effect.

Gazprom considers that a criterion we cite in our guidance justifies a retrospective adjustment in this case as “the modification is being made as a result of a situation where the fault/error giving rise to additional costs/losses is directly attributable to central arrangements”.

Gazprom believes that central arrangements introduced by UNC428 did not provide customers with a ‘soft landing’. This would have aided their understanding of the process and identified the implications of any error in their calculations used to set out their site requirements therefore allowing protection for those customers while they gained a better understanding of the requirements. We do not agree that there is any fault or error in the central arrangements. Customers and shippers have had both the adequate opportunity and time to determine and nominate the correct disaggregated capacities and therefore we do not agree that retrospective implementation is appropriate.

### **Decision notice**

In accordance with Standard Special Condition A11 of the Gas Transporters Licence, the Authority has decided that modification proposal UNC551: ‘Protecting consumers who are disaggregated under Modification 0428 from Ratchet charges for Winter 2015/16’ should not be made.

**Andy Burgess**

**Associate partner, Energy Systems Integration**

Signed on behalf of the Authority and authorised for that purpose

---

<sup>14</sup> <https://www.ofgem.gov.uk/publications-and-updates/ofgem-guidance-code-modification-urgency-criteria-0>