

Action Responses for Workgroup 0688 06 June 2019

From Gareth Evans, Waters Wye Associates

for Lian Tooley Contract Natural Gas Limited (proposer of Modification 0688)

<p>Is there a mechanism to directly recover costs from the SoLR supplier after the SoLR direction has been made. (Action 0502)</p>	<p>The SoLR direction does not create a contract of any sort, whether between the original and incoming shippers or otherwise. There is no specific exclusion regarding liabilities in the code, so it is conceivable that a contract might come into effect through conduct but this would require a very detailed factual analysis. It is also conceivable that other common law or equitable remedies (eg. remedies for "unjust enrichment") might be available. In both cases these positions would almost certainly require enforcement through the courts. It would therefore require a change to the UNC to impose these costs onto the new Shipper.</p> <p>Looking more widely at the market implications of any such change, the SoLR process does not mandate any costs onto the SoLR supplier for taking on the customer- they have the ability to recover any costs that are incurred from the SoLR process from the rest of the industry. If the shipping costs after the SoLR direction are mandated to the SoLR shipper then they could not be taken into account in any Ofgem decision to assign the defaulting customers to the supplier (and their associated shipper). This could leave the SoLR supplier unable to recover those costs and so would act as a disincentive to participate. We are keen not to add additional barriers to the SoLR process and so have decided to keep the socialisation principle.</p>
<p>Role of CDSP assessing the claim (Action 0505)</p>	<p>Queries were raised at the last meeting regarding the CDSP assessing the amounts. The UNC process for Customer Settlement Error Claims does place the responsibility for verification on the Transporters. We have therefore aligned with that process.</p>
<p>Administration costs (Action 0504)</p>	<p>The majority of activities under the UNC contract do not attract a transactional cost. In line with the precedent set by UNC mod 0429 which does not charge a transactional fee, we will not be proposing a transactional cost at this stage. The £50,000 claim threshold will prevent trivial claims and the admin costs will not exceed that.</p>
<p>Is the use of balancing neutrality compatible with EU legislation (new issue raised by National Grid NTS with Gareth Evans after the</p>	<p>The Change Proposal has been modified to remove transportation charges, so any claim is only for energy related costs. There is currently a mechanism where a specific shipper may claim though neutrality on the basis of an offline adjustment of supply-related costs - UNC TPD F4.4.2.(i) brought in by UNC modification 0429. Ofgem did indicate in its decision letter for that change that relevant objective (g), which relates to EU changes was not impacted. It should be noted that the Customer Settlement Error Claims process does include transportation charges.</p>

meeting 02 May
2019).

Our reading of Article 29 is that does not preclude the Customer Settlement Error Claims process and likewise does not preclude the proposed process for this change.