

UNC Workgroup 0688 Minutes
Recovery of Shipper Losses incurred in Supplier of Last Resort
events

Thursday 06 June 2019

at Radcliffe House, Blenheim Court, Warwick Road, Solihull

B91 2AA

Attendees

Rebecca Hailes (Chair)	(RHa)	Joint Office
Karen Visgarda (Secretary)	(KV)	Joint Office
Abu Sayeed	(ASa)	Ofgem
Adam Bates*	(AB)	South Hook Gas
Andrew Pearce	(AP)	BP
Anna Shrigley*	(AS)	Eni Trading & Shipping
Chris Wright	(CR)	Exxon Mobil
Daniel Hisgett	(DH)	National Grid NTS
David Cox*	(DC)	London Energy Consulting
Edd Fyfe	(EF)	SGN
Gareth Evans	(GE)	Waters Wye Associates
Graham Jack*	(GJ)	Centrica
Jeff Chandler*	(JF)	SSE
Jennifer Randall	(JR)	National Grid NTS
John Costa*	(JC)	EDF Energy
Julie Cox	(JC)	Energy UK
Kamila Nugumanova*	(KN)	ESB
Kamla Rhodes	(KR)	Conoco Phillips
Lea Slokar*	(LS)	Ofgem
Lee Millard	(LM)	Interconnector UK
Neville Henderson	(NH)	BBLC
Pavanjit Dhesi*	(PD)	Interconnector UK
Phil Hobbins	(PH)	National Grid NTS
Richard Fairholme*	(RF)	Uniper
Richard Miller*	(RM)	Ofgem
Ritchard Hewitt	(RH)	Hewitt Home and Energy Solutions
Shiv Singh*	(SS)	Cadent
Shiv Singh*	(SS)	Cadent
Sinead Obeng	(SO)	Gazprom
Steve Britton*	(SB)	Cornwall Insight
Steve Pownall	(SP)	Xoserve
Terry Burke*	(TB)	Equinor

**via teleconference*

Copies of all papers are available at: <https://www.gasgovernance.co.uk/0688/060619>

The Workgroup Report is due to be presented at the UNC Modification Panel by 19 September 2019.

1.0 Introduction and Status Review

1.1. Approval of Minutes (02 May 2019)

The minutes from the previous meeting were approved.

2.0 Review of Outstanding Actions

GE took the Workgroup through the information he had provided for his Action updates; as detailed in the table below:

<p>(Action 0502)</p> <p>Is there a mechanism to directly recover costs from the SoLR supplier after the SoLR direction has been made.</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>(Action 0505)</p> <p>Role of CDSP assessing the claim</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>(Action 0504)</p> <p>Administration costs</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>(new issue raised by National Grid NTS with Gareth Evans after the meeting 02 May 2019).</p> <p>Is the use of balancing neutrality compatible with EU legislation</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> <p>Our reading of Article 29 is that does not preclude the Customer Settlement Error Claims process and likewise does not preclude the</p>

proposed process for this change.

Action 0501: Workgroup (All) to confirm directly to Gareth Evans (GE) and to the Joint Office if Business Rule 1) is acceptable, from a logistics perspective.

Update: GE confirmed that he had not received any responses and so this action could now be closed. **Closed**

Action 0502: Waters Wye Associates (GE) to investigate if the SoLR *Supplier* should be liable for the costs of shipping after the SoLR event takes place

Update: GE took the Workgroup through the information he had provided for his Action updates (see above). Workgroup confirmed this action could now be closed. **Closed**

Action 0503: Xoserve (SP) to confirm from the CDSP point of view when the billing procedure commences for the new customer.

Update: SP requested this action be carried forward as discussions were still taking place. **Carried forward**

Action 0504: Waters Wye Associates (GE) to investigate the claims process, i.e; the cost of raising a claim, any administration fee and the associated timeline.

Update: GE took the Workgroup through the information he had provided for his Action updates (see above). Workgroup confirmed this action could now be closed. **Closed**

Action 0505: Xoserve (SP) to confirm that the contractual role of the CDSP will be sufficient to carry out the tasks that will be assigned to them.

Update: GE took the Workgroup through the information he had provided for his Action updates (see above). SP and Workgroup confirmed this action could now be closed. **Closed**

Action 0506: Ofgem (LS) to confirm how the Supplier of Last Resort (SoLR) process works including timescales and internal considerations where possible for Ofgem to present at the next meeting

Update: Richard Miller (RM) explained in brief the SoLR process as detailed below:

- Ofgem enters into a dialogue with the Supplier in relation to financial stability and the likelihood of failure.
- Supplier may go into administration
- Ofgem revokes the licence if the Supplier fails.
- Ofgem co-ordinates the communications and may launch competition process to find a SoLR.
- Ofgem liaises with Xoserve to obtain appropriate information related to the SoLR and with the DNs as appropriate.
- Where a competition used, Ofgem accepts and co-ordinates the bids from interested Suppliers – accepting high-level at this initial stage.
 - Bid includes: Tariffs, Approach to cost of SoLR, Levy claims, Ability to provide gas, Approach to on-boarding
 - Ofgem issues Suppliers with that information on Business Day 1.
 - In most instances on the next Business Day 2, Suppliers provide their bids
 - In most instances on the next Business Day 3, the competition commences and the decision is made on the appropriate SoLR.

- The SoLR is then issued with a direction to be the SoLR to take effect with 24 hours.
- SoLR commences the onboarding of customers

Gareth Evans (GE) asked if Ofgem were thinking of fundamentally changing this existing process, as if that was the case, it would have an impact of the context and content of the Modification. RM said that a Supplier Licence review was presently being undertaken and that discussions were taking place about moving customers around and splitting the portfolios, together with exploring cost recovery. RM said an update could potentially be forthcoming in the early Autumn on this topic. It was agreed this action could then be closed. **Closed.**

Steve Pownall (SP) said that discussions were taking place internally within Xoserve about this Modification in relation to the SoLR appointment date and the Supplier cease date. He said if Ofgem were able to back date the Supplier appointment date to the same day as the cease date then this would reduce the financial risks. RM agreed to discuss this area in more depth internally.

New Action 0601: Ofgem (RM) to clarify if they can back date the SoLR appointment date and the Supplier cease date to the same day.

3.0 Consideration of Amended Modification

Gareth Evans (GE) explained he was proposing the Modification on behalf of Contract Natural Gas and then he proceeded to overview the draft amended Modification noting where the changes had been made. GE made reference to the amendments within the Business Rules section, including only recovery of energy related costs, not transportation and he said the claims assessor role had been moved from the CDSP to the Transporters. He explained this had been done to be consistent with *Modification 0429 - Customer Settlement Error Claims Process*. He did not highlight any validation or transparency process regarding this area.

GE also made note that he appreciated that Faster Switching, UIG Gas cost and Supplier Licencing also needed to be included within the Modification and that he would address these areas accordingly.

New Action 0602: Contract Natural Gas (GE) to investigate what reporting and measures could improve transparency and include an aggregate into the process.

Steve Pownall (SP) indicated that dependent on National Grid's legal advice in relation to EU compliance, the Workgroup might need to consider further 0688 solution(s), Phil Hobbins concurred with this view. GE said that his proposal was follow a similar process as defined in Modification 0429, where the Shipper losses associated with reconciliation and settlement were recovered through neutrality.

A general discussion took place and the consensus was that Modification 0429 was implemented before the BAL Code entered force, and if this was the case, then there may now be a non-compliant situation in the UNC Code, which would need to be addressed. PH agreed to investigate this matter.

New Action 0603: National Grid NTS (PH) to determine whether Modifications 0429 and 0688 are non-compliant with the EU BAL Code and if so, what is the proposed solution for Modification 0429.

Anna Shrigley (AS) also shared concerns about the socialising of the costs for the loss of a Supplier Licence, as there was no prevention mechanism or monitoring process of the individual suppliers. She said that it would not be appropriate for other parties to shoulder the

burden for a lack of commercially appropriate behaviour. GE said that the Modification had been amended and had removed the aspect regarding the margin. RHa suggested that the DSC Change Management Committee could also assess the Modification from a monitoring and Business Rules perspective. GE agreed to re-consider the maximum length of time for the SoLR period.

New Action 0604: Contract Natural Gas (GE) to consider the maximum length of time for the SoLR period.

SP said he would investigate similar related areas from the Xoserve systems angle.

New Action 0605: Xoserve (SP) to investigate how far back can the transfer of meter points of the SoLR be back dated to?

New Action 0606: Xoserve (SP) to investigate what has the time frame been for the recent 9 SoLR events, and what information on costs, transfer time and indicators of materiality could be identified, together with an explanation of the batch process.

New Action 0607: All Transporters to review all areas of the Modification.

4.0 Development of Workgroup Report

Some draft updates were made to the report which will be reviewed alongside further updates at the next meeting.

5.0 Next Steps

Rebecca Hailes (RHa) confirmed next steps for the July meeting were as detailed below:

- RHa to request a 1 month extension at the June Panel
- Review of Amended Modification
- Development of the Workgroup Report

6.0 Any Other Business

None.

7.0 Diary Planning

Further details of planned meetings are available at: <https://www.gasgovernance.co.uk/events-calendar/month>

Workgroup meetings will take place as follows:

Time / Date	Venue	Workgroup Programme
10:30 Thursday 04 July 2019	Elaxon, 350 Euston Road, London NW1 3AW	Detail planned agenda items. <ul style="list-style-type: none"> • Amended Modification • Consideration of Business Rules • Review of Impacts and Costs • Review of Relevant Objectives • Consideration of Wider Industry Impacts • Consideration of Legal Text

		<ul style="list-style-type: none"> Development of Workgroup Report
--	--	---

Action Table (as at 06 June 2019)

Action Ref	Meeting Date	Minute Ref	Action	Owner	Status Update
0501	02/05/2019	2.4	Workgroup (All) to confirm directly to Gareth Evans (GE) and to the Joint Office if Business Rule 1) is acceptable, from a logistics perspective.	Workgroup (ALL)	Closed
0502	02/05/2019	2.4	Waters Wye Associates (GE) to investigate if the SoLR <i>Supplier</i> should be liable for the costs of shipping after the SoLR event takes place	Waters Wye Associates (GE)	Closed
0503	02/05/2019	2.4	Xoserve (SP) to confirm from the CDSP point of view when the billing procedure commences for the new customer.	Xoserve (SP)	Carried forward
0504	02/05/2019	2.4	Waters Wye Associates (GE) to investigate the claims process, i.e; the cost of raising a claim, any administration fee and the associated timeline.	Waters Wye Associates (GE) to	Closed
0505	02/05/2019	2.4	Xoserve (SP) to confirm that the contractual role of the CDSP will be sufficient to carry out the tasks that will be assigned to them.	Xoserve (SP)	Closed
0506	02/05/2019	2.4	Ofgem (LS) to confirm how the Supplier of Last Resort (SoLR) process works including timescales (and internal considerations where possible) for Ofgem to present at the next meeting	Ofgem (LS)	Closed
0601	06/06/19	2.0	Ofgem (RM) to clarify if they can back date the SoLR appointment date and the Supplier cease date to the same day.	Ofgem (RM)	Pending
0602	06/06/19	3.0	Contract Natural Gas (GE) to investigate what reporting and measures could improve transparency and include an aggregate into the process.	Contract Natural Gas (GE)	Pending
0603	06/06/19	3.0	National Grid NTS (PH) to determine whether Modifications 0429 and 0688 are non-compliant with the EU BAL Code and if so, what is the proposed solution for Modification 0429.	National Grid NTS (PH)	Pending

Action Table (as at 06 June 2019)

Action Ref	Meeting Date	Minute Ref	Action	Owner	Status Update
0604	06/06/19	3.0	Contract Natural Gas (GE) to consider the maximum length of time for the SoLR period.	Contract Natural Gas (GE)	Pending
0605	06/06/19	3.0	Xoserve (SP) to investigate how far back can the transfer of meter points of the SoLR be back dated to?	Xoserve (SP)	Pending
0606	06/06/19	3.0	Xoserve (SP) to investigate what has the time frame been for the recent 9 SoLR events, and what information on costs, transfer time and indicators of materiality could be identified, together with an explanation of the batch process.	Xoserve (SP)	Pending
0607	06/06/19	3.0	All Transporters to review all areas of the Modification.	ALL	Pending