





| UNC Workgroup Report | | At what stage is this document in the process? |
|---|---|---|
| <h1>UNC 0688:</h1> <h2>Recovery of Shipper Losses incurred in Supplier of Last Resort events</h2> | | <div style="display: flex; flex-direction: column; gap: 5px;"> <div style="border: 1px solid #ccc; padding: 2px; display: inline-block;">01 Modification</div> <div style="border: 1px solid #ccc; padding: 2px; display: inline-block;">02 Workgroup Report</div> <div style="border: 1px solid #ccc; padding: 2px; display: inline-block;">03 Draft Modification Report</div> <div style="border: 1px solid #ccc; padding: 2px; display: inline-block;">04 Final Modification Report</div> </div> |
| <p>Purpose of Modification:</p> <p>A change is proposed to allow Shippers that have incurred unrecoverable costs from shipping for sites where the Supplier is subject to a Supplier of Last Resort event, to recover such costs via Balancing Neutrality Charges.</p> | | |
|  | <p>The Workgroup recommends that this modification should be:</p> <ul style="list-style-type: none"> subject to self-governance | |
| | <p>The Panel will consider this Workgroup Report on 19 September 2019. The Panel will consider the recommendations and determine the appropriate next steps.</p> | |
|  | <p>High Impact: None</p> | |
|  | <p>Medium Impact: Shippers</p> | |
|  | <p>Low Impact: None</p> | |

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| Contents | | | | | | | | | | | | | |
|--|----------------------------------|------------------------------------|-------------|-------------------------------------|----------------|---|----------------|--|-------------------|---|-------------------|-----------------------------|-------------------|
| 1 | Summary 3 | | | | | | | | | | | | |
| 2 | Governance 3 | | | | | | | | | | | | |
| 3 | Why Change? 4 | | | | | | | | | | | | |
| 4 | Code Specific Matters 4 | | | | | | | | | | | | |
| 5 | Solution 4 | | | | | | | | | | | | |
| 6 | Impacts & Other Considerations 5 | | | | | | | | | | | | |
| 7 | Relevant Objectives 9 | | | | | | | | | | | | |
| 8 | Implementation 10 | | | | | | | | | | | | |
| 9 | Legal Text 10 | | | | | | | | | | | | |
| 10 | Recommendations 10 | | | | | | | | | | | | |
| Timetable | | | | | | | | | | | | | |
| <p>The Proposer recommends the following timetable:</p> <table border="1"> <tr> <td>Initial consideration by Workgroup</td> <td>02 May 2019</td> </tr> <tr> <td>Workgroup Report presented to Panel</td> <td>15 August 2019</td> </tr> <tr> <td>Draft Modification Report issued for consultation</td> <td>15 August 2019</td> </tr> <tr> <td>Consultation Close-out for representations</td> <td>06 September 2019</td> </tr> <tr> <td>Final Modification Report available for Panel</td> <td>09 September 2019</td> </tr> <tr> <td>Modification Panel decision</td> <td>19 September 2019</td> </tr> </table> | | Initial consideration by Workgroup | 02 May 2019 | Workgroup Report presented to Panel | 15 August 2019 | Draft Modification Report issued for consultation | 15 August 2019 | Consultation Close-out for representations | 06 September 2019 | Final Modification Report available for Panel | 09 September 2019 | Modification Panel decision | 19 September 2019 |
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| Modification Panel decision | 19 September 2019 | | | | | | | | | | | | |

Any questions?

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1 Summary

What

Currently, when a Supplier is in financial failure, Ofgem will carry out various checks and look to appoint a Supplier of Last Resort (SoLR), who will be assigned the affected customers. The SoLR Supplier is able under the Supplier licence to claim for the costs it has incurred from taking on these customers, including the outstanding domestic customer credit balances.

In the period between the SoLR direction and the relevant Supply Meter Points transferring to the new Supplier under SoLR, the Shipper registered for the Supply Meter Points is still liable for all the costs of supplying them, including, but not limited to, the gas, transportation and settlement costs. There is currently no avenue of protection through legislation and the Shipper has no control over the timescales involved in the process. Shippers must comply with any relevant directions given to them by Ofgem to facilitate the SoLR supplying gas or to make arrangements to convey gas to the premises regardless of the fact that the costs being incurred are unlikely to be recovered.

Why

This position is leading to increased pressures on Shippers which could ultimately have a negative impact on the gas market as a whole. If this situation is not rectified it is likely that:

- Shippers will be unwilling/unable to offer shipping services to Suppliers;
- less new Suppliers will be able to enter the market; and
- there will be less competition for end consumers.

In addition to the above, this situation is putting existing Shippers in an untenable position and could ultimately lead to Shipper failure. If this were to be the case, there is currently no statutory or licence provision to appoint a "Shipper of Last Resort" regardless of whether or not the Supplier remains solvent. The potential consequences of an event such as this would have significant ramifications for the whole of the industry.

How

In the absence of any relevant license process for recovering costs as a Shipper, it is proposed that Shippers are able to claim any costs incurred as part of a SoLR event via Balancing Neutrality Charges. Shippers will be able to claim the wholesale gas and Unidentified Gas costs for the period between the Supplier going into administration/having its licence revoked and the transfer of the customers to the appointed Supplier in the agreed timescales.

2 Governance

Justification for Self-Governance

The UNC panel determined that this Modification proposal be sent to the Authority for direction.

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3 Why Change?

When a gas or electricity Supplier has its licence revoked (primarily due to going into administration), Ofgem is required to reallocate those customers to another licence holder. This is termed the Supplier of Last Resort (SoLR) process. The powers to do so sit in the Gas Act 1986 and Electricity Act 1989 (as amended). A SoLR Supplier can claim the additional costs for the supply of the customer over and above what it expects to recover. This can include domestic customer credit balances outstanding. Once the amounts have been agreed, Ofgem then directs the gas transporters to pay the SoLR Supplier and then recover the same amount from the industry via transportation charges.

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By contrast, there is currently no process for the costs that a Shipper would incur during a SoLR event to be recovered. The registered Shipper of the supply points of the now defunct Supplier is unable to switch the customers away until the SoLR process is completed. So in a situation where the Shipper is different to the Supplier, Shippers are left carrying the financial burden of supplying the sites until the sites have been switched to the SoLR Shipper (the timescale of which can vary owing to the circumstances of the event) and have no realistic means of recovering the costs. By contrast the SoLR supplier is able to start charging the new customers for their energy use from the SoLR transfer.

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Realistically it is not practical for a Shipper to protect itself from these costs via normal routes for dealing with a counterparty, which is through credit cover or margin. Shippers cannot simply abandon customers of Suppliers who are struggling; any form of credit cover would have to be excessive to cover for the period of time in which a Supplier fails to pay its bills as it goes into default and then additional costs when the Supplier's customers are being transferred. In addition, during a SoLR event, the Supplier is invariably in administration and so it is debatable as to whether credit cover lodged by the Supplier with its Shipper can be used to cover shipping to the defunct Supplier's customers which have been transferred by Ofgem to another Supplier.

Under the current arrangements therefore the Shipper does not have any control over the costs being incurred during the SoLR event, the time period they will be incurred for and are very likely to recover costs if a Supplier fails. This increases the risk of Shipper failure and discourages Shippers from engaging with smaller Suppliers.

There is a general acceptance that the ultimate costs of a Supplier failure is borne by the industry to facilitate competition. To not restrict competition in shipping services for smaller Suppliers there seems to be a need to develop a similar process for Shippers for the limited period between a Supplier ceasing operations and the customers being reassigned.

4 Code Specific Matters

Reference Documents

None identified.

5 Solution

Shippers will be able to claim costs from the industry in the event they are exposed to unrecoverable costs from a Supplier of Last Resort Event. Any claim will be limited to those unavoidable systems costs that a Shipper of a defunct Supplier incurs between the Supplier going out of business and the defunct Supplier's customers being transferred.

Business Rules

1. Shippers may submit a claim for the UNC-related costs incurred during a SoLR event, termed an "SoLR Shipper Cost Claim". A SoLR Shipper Cost Claim will be for the costs incurred by a Shipper for shipping gas to Supply Meter Points registered to a Supplier ("default Supplier") for the period after the SoLR direction takes effect, up to the transfer of the Supply Meter Points to another Supplier. ("SoLR Period").
2. The SoLR Period is the whole number of Gas Days between the date that the SoLR direction takes effect and the day in which the sites are transferred. For the avoidance of doubt both the Gas Day in which the SoLR direction takes effect and the Gas Day the SoLR customers transfer will be included in the SoLR Period.
3. The SoLR period may differ for Supply Meter Points if the Supply Meter Points for the defaulting supplier transfer on different Gas Days.
4. A SoLR Shipper Claim may only be for the Supply Meter Points (including NTS Supply Meter Points and IGT Meter Points) that have been transferred from the default Supplier to another Supplier as part of the SoLR process.
5. An SoLR cost claim may comprise the following cost components incurred during the SoLR Period for each Supply Meter Point transferred in the SoLR process.
 - a. Wholesale Gas Costs
 - b. Unidentified Gas costs.
6. Wholesale Gas Costs shall be calculated as the following:
 - a. Sum of NDM Supply Meter Point Demand (calculated in accordance with UNC TPD H2.2) for all Class 3 and Class 4 Supply Points for the SoLR Period, multiplied by the mean average of the System Average Price for the SoLR Period
 - b. Sum of daily offtakes for Class 1 & Class 2 Supply Points (excluding any NTS sites) for the SoLR Period, multiplied by the mean average of the System Average Price for the SoLR Period.
7. Unidentified Gas Costs shall be calculated as the proportion of Unidentified Gas allocated to the Shipper from the Supply Meter Points registered to the SoLR Supplier during the SoLR period, multiplied by the mean average of the System Average Price for the applicable period
8. No SoLR Shipper Cost Claim may be made with a materiality less than £50,000.
9. Any SoLR Shipper Cost Claim that will have a total materiality of more than £1,000,000 shall be treated as a claim for £1,000,000
10. A SoLR Shipper Cost Claim must be submitted within 12 months of an SoLR event occurring.
11. The SoLR Shipper Cost Claim will be submitted to the CDSP and contain the following:
 - a. details in relation to the nature and duration of the SoLR Shipper Cost Claim, including copies of the invoices between the Transporters and the Shipper and the Supplier (such information to be applicable to the claim, for example at Supply Meter Point level).
 - b. the relevant system files and supporting information (to include workings and methodology).
 - c. the materiality of the claim in terms of volume of gas, including details of the methodology used to calculate such materiality.

- d. the exact financial impact of the adjustment including energy (by reference to the monthly average of the System Average Prices) for the period of the claim.
 - e. the dates in respect of which the claim will apply
 - f. a warranty that no previous claims which are the same in nature and/or are in relation to the same dates as the claim being made by the Shipper have been made;
12. The CDSP shall notify the relevant Transporter of the claim and the information referred to in BR 11, and the Transporters shall consider the claim and communicate to the CDSP (who shall notify the Shipper) its approval or rejection of such within 90 days of receipt of the claim, during which time the Transporters and the CDSP shall be entitled to raise queries in relation to the claim and/or to request further information from the Shipper.
13. The Transporters shall be entitled to reject the claim if it is considered that the information provided by the User is so clearly erroneous on its face that it would be unconscionable for the claim to be accepted, in which case the Transporters shall reject the claim and inform the CDSP (who shall notify the Shipper) of the rejection together with the Transporter's reason(s) for such rejection;
14. ???
15. Once approved by the CDSP the SoLR Shipper Cost Claim will be included as an Aggregate System Payment which is then included in neutrality balancing charges.

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Worked Example

To give an indication on costs, the following example is provided on the likely cost:

Daily cost for 100,000 gas customers would be the following:

Wholesale Costs

Average consumption per customer per day (Assume Typical Domestic Consumption Value for medium use customer 13,500 kWh) $13,500/365 = 37$ KWh/day.

Total consumption for 100,000 = 3.7GWh

Cost (@2p/kWh) = £74,000/day

Unidentified Gas Costs

Assume UIG 4% of total portfolio then cost is $£74,000 * 0.04 = £3,000$ /day

Total cost is therefore approximately £77,000 for 100,000 customers/day.

6 Impacts & Other Considerations

All parts of this section must be completed; showing "None" where the Workgroup believes this is so.

Does this modification impact a Significant Code Review (SCR) or other significant industry change projects, if so, how?

None.

Consumer Impacts

According to the Proposer, this Modification will ensure that small new-entrant Suppliers will be able to supply customers, sourcing gas at wholesale prices. This will ensure competition can continue at current levels to the benefit of customers.

Workgroup on the whole agreed/did not agree with the Proposer...

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The Workgroup must provide an assessment of the impacts on all consumer groups that may be affected. If 'none', please also explain.

Insert text here

| Consumer Impact Assessment <i>(Workgroup assessment of proposer initial view or subsequent information)</i> | |
|---|--|
| Criteria | Extent of Impact |
| Which Consumer groups are affected? | <p>Please consider each group and delete if not applicable.</p> <ul style="list-style-type: none"> • Domestic Consumers • Small non-domestic Consumers • Large non-domestic Consumers • Very Large Consumers |
| What costs or benefits will pass through to them? | <p>Please explain what costs will ultimately flow through to each Consumer group. If no costs pass through to Consumers, please explain why. Use the General Market Assumptions approved by Panel to express as 'cost per consumer'.</p> <p>Insert text here</p> |
| When will these costs/benefits impact upon consumers? | <p>Unless this is 'immediately on implementation', please explain any deferred impact.</p> <p>Insert text here</p> |
| Are there any other Consumer Impacts? | <p>Prompts:</p> <p>Are there any impacts on switching?</p> <p>Is the provision of information affected?</p> <p>Are Product Classes affected?</p> <p>Insert text here</p> |
| General Market Assumptions as at December 2016 (to underpin the Costs analysis) | |
| Number of Domestic consumers | 21 million |
| Number of non-domestic consumers <73,200 kWh/annum | 500,000 |
| Number of consumers between 73,200 and 732,000 kWh/annum | 250,000 |
| Number of very large consumers >732,000 kWh/annum | 26,000 |

Cross Code Impacts

None. Though any claim is likely to include IGT Meter Supply Points as this will be dealt with at a wholesale level, there will be no requirement to reflect the requirements in the IGT UNC.

EU Code Impacts

None.

Central Systems Impacts

None as the amount will simply be an additional amount recovered via neutrality. The CDSP will be required to manually validate SoLR Shipper Cost Claims

Workgroup assessment here

The Workgroup must provide an assessment of the impacts on central systems (inc. Gemini and UK Link) that may be affected; this will be supported by further input from the Central Data Services Provider (Xoserve) later in the process. If 'none', please also explain.

Insert text here

Workgroup Impact Assessment *(Joint Office to complete)*

Possible direct recovery mechanism

Workgroup requested the Proposer to investigate whether there was any mechanism to directly recover costs from the SoLR supplier after the SoLR direction has been made (Action 0502).

The Proposer's response is given here:

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 (e.g. 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.

*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. **The Proposer is keen not to add additional barriers to the SoLR process and so has decided to keep the socialisation principle.***

Role of the CDSP

Workgroup requested the Proposer to clarify the role of the CDSP assessing the claim which was initially the route suggested by the Proposer (Action xxx). Subsequently the Proposer has noted The UNC process for Customer Settlement Error Claims which does place the responsibility for verification on the Transporters. The Proposer has therefore aligned with that process and in Business rule 12 it is stated that the relevant Transport shall assess the claim. **The role of the CDSP in this is therefore simply...**

Administration costs for the proposed process

Workgroup requested the Proposer to clarify Administration costs associated with the suggested new process.

The Proposer's response is given here:

The majority of activities under the UNC contract do not attract a transactional cost. In line with the precedent set by UNC Modification 0429¹ which does not charge a transactional fee, it is not proposed

¹ UNC Modification 0429 entitled "Customer Settlement Error Claims Process" can be found here: <http://www.gasgovernance.co.uk/0429>

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Deleted: **EU Code Impacts**

The Workgroup is to identify and assess any other impacted EU energy code

Insert text here

Central Systems Impacts

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to have a transactional cost at this stage. The £50,000 claim threshold ('claim collar' see business rule 8) will prevent trivial claims and the administration costs will not exceed that.

Compatibility with EU legislation

Workgroup noted that there had been a request from National Grid for the Proposer to clarify whether the use of balancing neutrality is compatible with EU legislation².

The Modification Proposal 0688 has been modified (see v2.0) 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 Modification that relevant objective (g), which relates to EU legislation changes was not impacted. It should be noted that the Customer Settlement Error Claims process does include transportation charges.

The Proposer's 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 Modification.

FURTHER WORKGROUP OBSERVATIONS/DISCUSSIONS/ANALYSIS etc....

Rough Order of Magnitude (ROM) Assessment *(Cost estimate from CDSP)*

Cost estimate from CDSP where the Modification relates to a change to a CDSP Service Document

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OR

Rough Order of Magnitude (ROM) Assessment *(Workgroup assessment of costs)*

| | |
|-------------------------|------------------|
| Cost estimate from CDSP | Insert text here |
| Insert Subheading here | Insert text here |

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7 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 <ul style="list-style-type: none">(i) the combined pipe-line system, and/ or(ii) the pipe-line system of one or more other relevant gas transporters. | None |

² Relevant EU legislation link:

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|--|----------|
| 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. | Positive |
| 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's views are as follows:

The industry currently underwrites the costs of Suppliers going out of business via the SoLR process in order to promote competition in the gas and electricity retail markets. This Modification simply extends that principle to Shippers. By providing the same protection to Shippers this will further competition in the same manner as the SoLR process does for Suppliers.

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Workgroup agreed/disagreed noting ...

8 Implementation

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No implementation timescales are proposed, but the Proposer suggests that considering the current negative impact this issue represents to the market, this modification should be implemented as soon as possible.

9 Legal Text

To be provided.

10 Recommendations

Workgroup's Recommendation to Panel

The Workgroup asks Panel to agree that:

- This Modification should proceed to consultation.

OR

- This proposal requires further assessment and should be returned to Workgroup.