

Workgroup 0876S Minutes
Updates to the Annual Quantity (AQ) amendment process
Thursday 22 August 2024
via Microsoft Teams

Attendees		
Kate Elleman (Chair)	(KE)	Joint Office
Nikita Bagga (Secretary)	(NB)	Joint Office
Paul McKie (Observer)	(PM)	Joint Office
Andy Clasper	(AC)	Cadent Gas
Andy Knowles	(AK)	Utilitia Energy
Catriona Ballard	(CB)	Brookgreen Supply
Charlotte Gilbert	(CG)	BU-UK
David Mitchell	(DMi)	Southern Gas Networks
David Morley	(DMo)	OVO Energy
Edward Allard	(EA)	Cadent Gas
Elisa Panciu	(EP)	Corona Energy
Fiona Cottam	(FC)	CDSP
John Harris	(JH)	CDSP
Josie Lewis	(JL)	CDSP
Kathryn Adeseye	(KA)	CDSP
Kevin Clarke	(KC)	Utilitia Energy
Lauren Jauss	(LJ)	RWE
Lee Greenwood	(LG)	Centrica
Matthew Atkinson	(MA)	Gazprom Energy
Marina Papatoma	(MP)	Wales & West Utilities
Mark Jones	(MJ)	SSE
Michelle Niits	(MI)	Correla
Nicky Kingham	(NK)	Correla
Oorlagh Chapman	(OC)	Centrica
Steve Mulinganie	(SM)	SEFE Energy Limited
Susan Helders	(SH)	Northern Gas Networks
Tracey Saunders	(TS)	Northern Gas Networks
Tino Timire	(TT)	Joint Office
<p><i>The Workgroup Report is due to be presented at the UNC Modification Panel by 21 November 2024.</i></p> <p><i>This Workgroup meeting will be considered quorate provided at least two Transporter and two Shipper User representatives are present.</i></p> <p><i>Please note these minutes do not replicate detailed content provided within the presentation slides, therefore it is recommended that the published presentation material is reviewed in conjunction with these minutes. Copies of papers are available at: https://www.gasgovernance.co.uk/0876/220824.</i></p>		

1. Introduction and Status Review

Kate Elleman (KE) welcomed all parties to the meeting.

1.1 Approval of Minutes (25 July 2024)

The previous minutes were approved.

1.2 Approval of Late Papers

No late papers to approve.

1.3 Review of Outstanding Actions

0701: SM to take the Modification to PAC to provide an update on the remit and the approach agreed upon by the Workgroup to focus on Debit Adjustment for this Modification.

Update: This has now been actioned, it was agreed to close this action.

Closed.

0702: The Workgroup to review the AQ amendment process slides before the 22 August 2024 meeting and provide any comments and feedback concerning amendments to Business Rule 4.

Update: The Joint Office, Steve Mulinganie (SM) and Josie Lewis (JL) all confirmed that no further updates had been received, it was agreed to close this action.

Closed.

2. Amended Modification

The Workgroup considered the amended Modification.

JL highlighted that the first change was in relation to the first part of the Solution. This was initially a “for the avoidance of doubt” but has subsequently been changed to a new Business Rule. The numbering convention on all Business Rules have been updated to reflect the addition.

Tracey Saunders (TS) highlighted from a Legal Text position, that the Lawyers had considered the text prior to the addition of the new Business Rule. TS provided an overview of the wording in the previous Code condition in relation to Eligible Causes which states that the “*Change must have occurred*”, therefore the physical work must have taken place. JL highlighted that this is what the drafting of the Business Rules is intending to capture and the intention is to not go against what is already drafted in the Code.

SM suggested adding an “avoidance of doubt” as opposed to Business Rule 1 as the wording in the Code negates the need for this Business Rule.

The Lawyers considered the Business Rules in line with the definition of Consumer Plant which has been defined as “*in respect of any Supply Meter point, the plant and/or equipment in which gas offtaken from the Total System at that point is to be used (including any plant of equipment in which gas is compressed or otherwise treated before being consumed).*”

SM queried why the Modification had been raised in the event that the definition provided by TS is true. There appears to be 2 elements relating to this Modification; one relating to the clawback option and one relating to the ambiguity. Where there is no argument regarding ambiguity, the party who undertook the activity would be considered as being in breach of the Code and the Modification is therefore not required. TS highlighted that the Modification seeks to clarify what can happen in the event that the activity is defined.

The Workgroup discussed the element of ambiguity and clarifying the evidence required to justify the inclusion of the Business Rules in relation to Warranty and Retaining Evidence.

Kathryn Adeseye (KA) explained that what was previously Business Rule 1 is now Business Rule 2(a) and this is what needs to be removed due to already being defined in Code and in light of the discussions. The additional points highlighted in the Solution still remain relevant as they provided clarity in terms of the Market Sector Code and Warranting. The second point is in relation to reversing the use of the Eligible Clause which is not being disputed by the Workgroup.

TS highlighted that it may be possible for Business Rule 2(b) to remain as it relates to the Market Sector Code and discussed the Registered User having to ascertain evidence. TS

proposed having an offline meeting to discuss the present drafting of the Legal Text.

KA highlighted that the definition of Consumer Plant does not appear to include reference to Industrial Sites. JL and KA will therefore need to consider the particular criteria which Workgroup participants have specifically requested to be put in place for the Eligible Cause.

The Workgroup discussed the narrative to justify the Business Rules.

KE discussed the discussions at the Performance Assurance Committee (PAC) that triggered the requirement of this Modification. Section G 2.3.21 is either being ignored by Industry and AQ Requests are being raised or there is ambiguity in the definition and Industry are raising believing it is the right thing to do. In relation to back-dating, KE highlighted that were evidence is provided to prove it was not an Eligible Cause, the Change can be reversed. In the event that there is ambiguity, this can be utilised when drafting the Legal Text.

TS highlighted that in the event Business Rule 2(a) is to remain, it is suggested by the Lawyers to use text with square bracketing.

SM highlighted that making conditional on the sole purpose appears to be problematic. For the purpose of the Code it may be relevant but it is not necessary to be considered for the sole purpose. The Workgroup then considered whether this Business Rule is retained or stricken out. Whichever option is chosen will need to be addressed adequately in the Legal Text.

KE drew attention to the timeline, highlighting that the Legal Text needs to be produced to a standard that Workgroup are comfortable with and amendments to the version control need to be made. JL highlighted that the footer on the document will also need to be updated.

JL advised that Business Rule 5 and onwards relates to the reversal of the AQ. Business Rule 5 confirms the process and intention of the reversal process. At the last workgroup meeting the increase to the AQ which resulted in a credit was discussed and SM took this proposal to PAC. A discussion took place around the potential misuse of AQ reason codes and therefore, whether this Modification should be Authority Direction. Business Rule 5(b) has therefore been updated to call out the "debit" and clarify that only AQ misuse instances will be considered, the instances of increase have not been addressed. This is to address potential gaming.

Edward Allard (EA) highlighted the previous discussion on Modification 0868 and queried the ability of parties to appeal and whether this needs to be stated explicitly within Modification 0876. JL advised that this is dealt with through PAC. There are specific criteria in place restricting the use of the reason codes. Modification 0876 stemmed from Reason Code 2. The intention of the CDSP is to utilise PAC who will provide direction and investigation to confirm whether there has been misuse. KA queried the use of PAC, highlighting that it was her understanding that PAC is not individually assessing the reversal and that this would be built into the validation process. This is something that needs to be clarified.

EA queried who the party is that determines whether or not misuse has taken place and what the process is. The Workgroup discussed the dispute process and that there is a right to be determined in a Court of Law. The process should be tightened to avoid any grey areas. TS added that where something is not covered in the Code, this would not be covered by the dispute process. The Lawyers interpreted the position as a determination from PAC and that it needs to be clarified who is making the decision, whether this is the CDSP or PAC. Currently, this appears to be interpreted as being PAC but it is unsure whether PAC would require a self-process and whether there would be an appeal window before making the decision.

Andy Knowles (AK) highlighted that rules could be set out to assist with the appeal process. PAC would need to set out how and when an investigation into misuse would start. AK queried whether the process would involve investigating every instance of use of the Code or just considering abnormal patterns. A further consideration for the Modification is to understand what would trigger an investigation. AK was not suggesting how PAC should discharge their responsibility, but that information needs to be available to PAC to understand the trigger for investigations. All parties will need to retain evidence to make available upon request.

JL highlighted that through Workgroup discussions it has been made clear that the CDSP will not be making decisions as to what constitutes misuse. The CDSP can provide information through abnormal changes but the directive will not stem from the CDSP.

SM highlighted the contract between the parties, advising that the contract becomes pointless if no one takes ownership and there is a lack of structural governance. This posed as an interesting legal question. It was highlighted amongst the Workgroup that facilitating information to PAC will be useful in relation to the clawback element of this Modification. How the process is governed is a further consideration for this Modification.

John Harris (JH) explained that Reason Code 3 is built into the validation process. Previously, there was a check for any affiliation and in the event this was noted, Shippers were requested to cancel the correction. Every cancelled correction is now automated. SM highlighted that there does not appear to be subjectivity in the Business Rules.

KE put forward the suggestion of amending the Business Rules to clarify when a breach has been made to go through the dispute process. KE further suggested the addition of validation rules into the system so that when changes are made, evidence needs to have been provided.

SM highlighted the ability to appeal within the determination process due to the consequences of the decision. Due to the degree of subjectivity, the party can declare their own misuse of the Code so there is no ambiguity and a clawback would be appropriate. SM queried whether this is a matter to be addressed within the Business Rules or something to be addressed within the PAC process.

The Workgroup discussed the use of a PAR report and the option of utilising the performance assurance techniques (PATs) e.g. conducting an audit or a site visit where misuse had been identified. SM highlighted that this may be possible due to the wide vires available but will need to be cautious about treating parties fairly. A random audit may therefore be more appropriate.

JH discussed that one of the key validations for AQ correction reasons is supporting information which is mandatory to be filled in. Where a physical change occurs on site, the purpose of the supporting information field allows for an outline of the physical change to be provided. This could therefore be used as the validation to determine whether the correction can be challenged.

Lee Greenwood (LG) queried whether the clawback is to be applied across all AQ correction codes.

AK confirmed he is happy to revert to PAC and provide an update at the next Distribution Workgroup in September 2024.

In light of the discussions and upcoming annual leave for attendees of the Workgroup, it was agreed to seek an extension.

New Action 0801: JO to request a Workgroup extension at the September 2024 Panel meeting.

New Action 0802: CDSP, the Proposer and TS to conduct an offline meeting to discuss the Legal Text and Business Rules.

3. Review of Business Rules

This item was deferred until September 2024.

4. Development of Workgroup Report

This item was deferred until September 2024.

5. Next Steps

- To request an extension;
- Update the version control of the Modification for further publication;
- Consider the Legal Text; and
- Consider the Workgroup Report.

6. Any Other Business

None.

Diary Planning

0876 meetings are listed at: <https://www.gasgovernance.co.uk/0876>

All other Joint Office events are available via: www.gasgovernance.co.uk/events-calendar/month

0876 Workgroup Action Table						
Action Ref	Meeting Date	Minute Ref	Action	Reporting Month	Owner	Status Update
0701	25/07/24	2.0	SM to take the Modification to PAC to provide an update on the remit and the approach agreed upon by the Workgroup to focus on Debit Adjustment for this Modification.	August 2024	SEFE (SM)	Closed
0702	25/07/24	2.0	The Workgroup to review the AQ amendment process slides before the 22 August 2024 meeting and provide any comments and feedback concerning amendments to Business Rule 4.	August 2024	Workgroup	Closed
0801	22/08/24	2.0	JO to request a Workgroup extension at the September 2024 Panel meeting.	September 2024	JO	Pending
0802	22/08/24	2.0	CDSP, the Proposer and TS to conduct an offline meeting to discuss the Legal Text and Business Rules.	September 2024	CDSP, the Proposer and TS	Pending