

MODIFICATION REFERENCE NO. UNC 044

NOTICE OF EXCLUSION

Pursuant to the power conferred on it by Article 12 of the Electricity and Gas Appeals (Designation and Exclusion) Order 2005 (the "**Order**"), the Gas and Electricity Markets Authority has excluded its decision (the "**Decision**") dated [15 September 2005] to consent to Modification Proposal UNC 044 ("Revised Emergency Cash-out & Curtailment Arrangements"), a copy of which is attached hereto, from the right of appeal conferred by s. 173 of the Energy Act 2004.

The delay caused by the holding of an appeal against the Decision is likely to have a material adverse effect on the availability of gas for meeting the reasonable demands of consumers in Great Britain for the following reasons:

- (a) As outlined in the Decision, Ofgem considers that the modification proposal provides enhanced incentives to avoid and alleviate a gas deficit emergency.
- (b) Ofgem considers that it is important for these incentives to be in place as soon as possible ahead of the coming winter in order to help avoid gas deficit emergency scenarios arising in Q4 2005 and also the potential worsening of any gas deficit emergency which may arise in Q1 2006 caused by the absence of these incentives for the initial part of the winter.
- (c) An appeal would delay the implementation of modification proposal 044 potentially until mid-December 2005. Ofgem considers, for the reasons outlined above, that any delay in the implementation of modification proposal 044 and the associated enhanced incentives to avoid and alleviate a gas deficit emergency caused by holding an appeal could increase the potential for a gas deficit emergency. Therefore, the delay in implementing modification proposal 044 caused by holding an appeal is likely to have a material adverse effect on the implementation of measures

necessary to enhance security of supply and thus on the availability of gas for meeting the reasonable demands of consumers in Great Britain.

- (d) Ofgem also notes that, given the importance of gas as a fuel source in the generation of electricity, a gas deficit such as may arise for the reasons outlined above may also have a material adverse effect on the availability of electricity for meeting the reasonable demands of consumers in Great Britain.

In accordance with Article 13 of the Order this Notice has been published on Ofgem's website at www.ofgem.gov.uk and has been sent to the following recipients:

- (a) The Joint Office;
- (b) Relevant Gas Transporters; and
- (c) Other interested parties.

A handwritten signature in black ink, appearing to read 'N. Simpson', written over a horizontal line.

Nick Simpson

Duly authorised on behalf of the Authority

16 September 2005