

Modification proposal:	Uniform Network Code (UNC) 220: "Invoicing Arrangements for Late Payments" (UNC220)		
Decision:	The Authority ¹ directs that this proposal be made ²		
Target audience:	The Joint Office, Parties to the UNC and other interested parties		
Date of publication:	14 January 2009	Implementation Date:	To be confirmed by the Joint Office

Background to the modification proposal

The UNC (Section S) allows for the raising of an Interest Invoice where either a Transporter or User party has made a payment of an invoice after its due date ('late payment') and, as a result, interest has accrued on the unpaid amount between the invoice due date and the late payment date. Only the Transporter is permitted to raise an Interest Invoice, regardless of whether it is due interest from, or is due to pay interest to, a User. This situation may result in either Transporters only raising Interest Invoices when they are due to be paid interest after a late payment and not when they are required to pay interest, or in Transporters not raising Interest Invoices in a timely way.

The modification proposal

The modification proposal seeks to oblige Transporters to raise Interest Invoices in a timely manner whether they are due a payment of interest from, or are due to pay interest to, a User. The proposer (E.ON UK) considers that there is a lack of clarity in the UNC about when Transporters ought to raise Interest Invoices which may lead to inappropriate behaviour by them in the raising and payment of those Invoices.

The proposal seeks to amend Section S to set a time limit by which Transporters must raise Interest Invoices, namely, no more than 35 days after the date of a late payment. This backstop time limit would apply to all Interest Invoices, whether they are credits or debits to Users. The proposal would only apply to Gas Transportation Invoices and not to Energy Balancing Invoices. The proposal does not seek to amend the Invoice Due Date for Interest Invoices as specified in Section S 3.1.2.

The proposer considers that UNC 220 will better facilitate relevant objective (f) of the Gas Transporters Licence (promoting efficiency in the implementation and administration of the network code and/or the UNC).

UNC Panel³ recommendation

At the Modification Panel meeting held on 20 November 2008, of the eight Voting Members present capable of casting up to ten votes, all ten votes were cast in favour of approval of this proposal. The Panel therefore unanimously recommends approval and implementation of the proposal.

¹ The terms 'the Authority', 'Ofgem' and 'we' are used interchangeably in this document. Ofgem is the Office of the Gas and Electricity Markets Authority.

² This document is notice of the reasons for this decision as required by section 38A of the Gas Act 1986.

³ The UNC Panel is established and constituted from time to time pursuant to and in accordance with the UNC Modification Rules

The Authority's decision

The Authority has considered the issues raised by the modification proposal and the Final Modification Report (FMR) with legal text dated 5 December 2008. The Authority has considered and taken into account the responses to the Joint Office's consultation on the modification proposal which are attached to the FMR⁴. The Authority has concluded that:

1. implementation of the modification proposal will better facilitate the achievement of the relevant objectives of the UNC⁵; and
2. directing that the modification to be made is consistent with the Authority's principal objective and statutory duties⁶.

Reasons for the Authority's decision

Whilst noting the views expressed by some respondents against more than one of the UNC relevant objectives, we believe that this proposal better facilitates relevant objective (f) compared to the existing baseline.

Relevant objective (f) – promotion of efficiency in the implementation and administration of the network code and/or the uniform network code

We agree with the proposer and most respondents that approval and implementation of the proposal will better facilitate this relevant objective. As Transporters are the only parties able, under the UNC, to raise Interest Invoices, the creation of a clear obligation on them to produce Interest Invoices in a timely manner is in line with encouraging appropriate invoicing behaviour and will facilitate the promotion of efficiency in the implementation and administration of the UNC.

The setting of a backstop time period after the date of a late payment in which Interest Invoices must be raised will ensure that both Transporters and Users are able to better manage their cashflows. Users will be able to make timely payment of any outstanding interest to Transporters. Similarly, Transporters who owe interest to Users will be obliged to raise invoices which they may not otherwise have raised and to make timely payment of outstanding sums to them. Improvements to the management of cashflows within known specified time periods should assist all market participants to increase the efficiency, and reduce the overall costs, of operating the trading arrangements.

There is no indication in responses that the obligation to raise Interest Invoices in a timely manner will adversely affect the operations of, or involve additional costs for, Transporters. Therefore, the proposal can be implemented immediately and efficiently.

Other relevant objectives

We note that one respondent considers that the proposal also better facilitates relevant objective (c), the efficient discharge of the licensee's obligations under its licence, by ensuring that costs are targeted at appropriate parties. An obligation to raise Interest

⁴ UNC modification proposals, modification reports and representations can be viewed on the Joint Office of Gas Transporters website at www.gasgovernance.com

⁵ As set out in Standard Special Condition A11(1) of the Gas Transporters Licence, see: http://epr.ofgem.gov.uk/document_fetch.php?documentid=6547

⁶The Authority's statutory duties are wider than matters which the Panel must take into consideration and are detailed mainly in the Gas Act 1986.

Invoices in a timely manner will ensure that Transporters adopt more appropriate invoicing behaviour and should assist in increasing the clarity and efficiency of their invoicing arrangements rather than necessarily ensuring that costs are targeted appropriately. We therefore regard the link to facilitating this relevant objective to be marginal at best.

Other issues

We note the views of one respondent that the original draft version of the proposal had intended to allow Users to offset any credit Interest Invoice amounts (amounts due to them from Transporters) which were not raised within the proposed time limit against the next appropriate debit invoice. However, this element of the proposal has now been removed. The view of the respondent was that this potentially leaves Users with no effective remedy if a Transporter fails to observe the proposed obligation.

We consider that the proposal that is now recommended will provide a sufficient incentive on Transporters to adopt appropriate invoicing behaviour and issue Interest Invoices in a timely manner. A failure to do so would be a breach of the UNC. Should the obligation not prove to provide a strong incentive on Transporters, it is open to UNC parties to raise further modifications to address any perceived deficiency in the code arrangements.

We acknowledge the concern of another respondent that the backstop time limit of 35 days in which a Transporter would need to raise an Interest Invoice could affect those Transporters who operate a monthly payment processing arrangement in terms of when data about the Invoice is to be provided. However, it does not appear that this issue is insurmountable but rather one related to effective management of payment processing.

Decision notice

In accordance with Standard Special Condition A11 of the Gas Transporters Licence, the Authority, hereby directs that modification proposal *UNC 220: "Invoicing Arrangements for Late Payments"* be made.



Maxine Frerk

Director Governance, Consumer & Social Affairs

Signed on behalf of the Authority and authorised for that purpose