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Identification and Apportionment of Costs of Unidentified Gas

Ref: 143/09

Dear Nigel,

Please find RWE Npower's responses to the questions contained within the Impact Assessment below.

Section 3 – Impacts on Consumers

Question 1: "Do you agree with Ofgem's assessment of the likely impact of the Modification Proposals on charges made to consumers?"

The view of Npower is that, although the benefits to consumers may be relatively small from a financial point of view, they are nonetheless benefits. We also disagree with Ofgem's view that the Modification Proposals fail to provide specific incentives for Shippers to reduce the level of Unidentified Gas. Under the current arrangements, Shippers with portfolios solely in the LSP sector have no incentive to reduce Unidentified Gas levels as the costs for these are borne by Shippers with customer portfolios in the SSP sector. Implementation of any of the suite of Modifications currently considered by Ofgem will introduce an incentive as well as ensuring that the sector where such costs originate bears responsibility for them.

Question 2: "Do you consider that the proposed governance arrangements under UNC229 offer adequate protection to the interests of consumers in their present form?"

We do not believe that the governance arrangements relating to UNC229 will disadvantage consumers. Our concerns relating to this are instead over the fact that the proposed contract between the AUGÉ and the Transporters will indemnify the Transporters from any liability while passing this on to Shippers, who are not a party to the contract.

Question 3: "Do you anticipate any further impact upon consumers in addition to those considered in this chapter?"

Our view is that specific targeting of costs to the areas from which they originate can only benefit consumers. Whilst we fully support the principle of cost reflective charging,

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we have reservations about Ofgem's proposed approach as the balance between risk and reward in light of the proposed contractual arrangements would be inappropriate.

Section 4 – Impacts on Competition

Question 1: "Do you agree with our assessment that any of these Modification Proposals will have an effect upon incentives for Shippers to reduce the quantity of Unidentified Gas offtaken at LDZs?"

We believe that the LSP sector assuming liability for the cost of its Unidentified Gas will act as an incentive upon Shippers wholly or primarily engaged in that sector to reduce the quantity of Unidentified Gas offtaken at sites which they supply. At present there is no incentive to do so as these costs are borne by Shippers whose portfolios are wholly or primarily within the SSP sector, i.e. domestic.

Question 2: "Do you agree with our assessment of the likely distributional impact of these Modification Proposals?"

We agree that changes to the overall level of charges to the LSP and SSP sectors may impact on new entry to the LSP sector. However, it could be equally validly argued that the current arrangements, whereby all Unidentified Gas costs are borne by the SSP sector, act as a barrier to entry into that market. Making both sectors liable for the costs of Unidentified Gas will create a level playing field rather than disadvantaging new entrants into the SSP market by continuing the cross subsidy of non domestic customers by domestic customers.

Question 3: "Do you believe that the potential benefits of the Modification Proposals justify the additional costs which may be imposed on customers?"

We believe that the additional marginal cost to the LSP sector is justified in order to deliver a corresponding reduction of costs to the primarily domestic SSP sector, particularly as this arrangement would merely be reflective of where the costs originate rather than the current arrangements which are not.

Question 4: "Do you agree that applying a variable RbD charge upon LSP Shippers would potentially entail a negative impact upon competition? Do you feel that this potential impact justifies the imposition of a fixed rather than variable charge on LSP Shippers?"

We understand that the application of a variable RbD charge to Shippers with a primarily or exclusively LSP portfolio would present a new risk to these parties which might have an effect on competition given that customers in this sector are generally on fixed price pass through contracts. It is for this reason that we supported UNC194A and UNC228A in preference to UNC 194 and UNC228 in our responses to these Modifications as we feel that a fixed although annually reviewable contribution to Unidentified Gas might be more appropriate for the LSP sector in light of concerns over this risk.

Question 5: "Should any third party authority created under the terms of UNC229 be tasked to review incentives for investigation theft upon individual Shippers?"

We are uncertain as to how incentives could be designed for individual Shippers. In addition this is something which would potentially require constant review as Shippers entered or left the market and we are not certain that the cost of this would be appropriate in relation to the benefits that it might deliver. We think it more useful that Unidentified Gas costs are spread across the whole industry (SSP and LSP)

with general incentives for all, the main incentive being each Shipper's contribution to these costs in proportion to their share of each sector.

Section 5 – Impacts on Sustainable Development

Question 1: "Do you agree with Ofgem's assessment that any impact on sustainable development as a result of these Modification Proposals is likely to be marginal?"

We agree with this view.

Question 2: "Do you agree with Ofgem's assessment of the relative impact on sustainable development of each of the Modification Proposals?"

We reiterate our view that any impact on sustainable development is likely to be marginal.

Question 3: "Do you consider that there are any further impacts on sustainable development that are likely to result from the Modification Proposals?"

We are not aware of any.

Section 6 – Impacts on Health and Safety

Question 1: "Do you anticipate any impact on health and safety as a result of these Modification Proposals? If so, what?"

We do not anticipate any health and safety impact as a result of the implementation of any of the Proposed Modifications.

Section 7 – Risks and Unintended Consequences

Question 1: "Do you agree that implementation of UNC229 would leave parties with adequate recourse to query decisions made by the AUGE?"

We believe that the powers given to the UNC Committee in the Proposed Modification provide adequate recourse to query any decisions made by the AUGE.

Question 2: "If not, how should any additional governance be implemented?"

Please see answer to Section 7 Question 1 above.

Question 3: "Are there any additional risks which may be placed upon industry parties by implementation of the Modification Proposals within scope of this Impact Assessment which we have not identified in this document?"

We are not aware of any beyond those already raised.

Question 4: “How could the Governance Arrangements for appointment of an AUGE be structured to minimise impact upon Shipper parties? Should GTs be indemnified from any risks from holding this contract, and if so how might this be implemented in practice?”

As stated in our response to UNC229, we have serious concerns about carrying potentially unlimited liability in relation to the proposed contract between the GTs and the AUGE while having no direct control over this contract.

We believe that a suitable solution might be that all Shippers affected by RbD authorise the Joint Office to contract with the AUGE on their behalf. This would then make the AUGE in effect contracted to the relevant Shippers. The GTs, as revenue neutral parties, would not be required to take part in the contractual arrangements, but would agree to provide the AUGE with any information that it reasonably requires in order to carry out its duties.

Section 8 – Other Impacts

Question 1: “Do you agree with Ofgem’s assessment that the benefits of appointing an independent third party to assess Unidentified Gas would accrue to the industry?”

An independent third party would potentially be well placed to determine the actual size of the Unidentified Gas problem, which has long been a topic of debate within the industry. We are in favour of such an arrangement although this approval would be dependent upon the creation of contractual arrangements between the AUGE and the industry which address our concerns stated in both our response to UNC 229 and our answer to Section 7 Question 4 above.

However, we are concerned as to the length of time that UNC229, if implemented, may take to come into effect and agree that the process should be carried out as quickly as possible in order to ensure that the current inequitable Unidentified Gas arrangements do not continue for any longer than is necessary.

Section 9 – Post Implementation Review

Question 1: “Do you believe that a post implementation review will be necessary for the Modification Proposals which Ofgem is minded to implement?”

Given the extent to which implementation of these Modification Proposals will change the nature of RbD, we believe that a post implementation review would be appropriate so that impacts and benefits can be thoroughly assessed.

If you wish to discuss any points raised in this response further, please do not hesitate to contact me.

Yours sincerely,

Chris Hill

Industry Codes Analyst