

APPLICATION FOR CONSENT TO MODIFY THE CODE

“0308 – RG0252 Proposal 11: Appropriate use of the terms Surety and Security in
UNC TPD Section V”

Version 1.0

Reference: C040

Transporter Proposal

To remove anomalies in the legal text of TPD Section V3 which occurred as a result of the implementation of an out of date piece of text inserted into paragraph 3.4.5 by the implementation of modification 0306 “RG0252 Proposal 9: Administration of Shipper Credit Security Contact Details” prior to modification 0308.

Additionally, at the same time, a typographical error has also been identified within paragraph 3.1.7 as shown below.

The legal text provided in the attached appendix attempts to give the reader a clearer understanding of the various changes made to the text in question since modification 0300 in Code update 3.41 right through until modification 0308 in Code update 3.47.

Nature of Modification

It is proposed to amend paragraph 3.4.5 to ensure that the legal text is commensurate with the original intent of modification 0308, as follows:

UNIFORM NETWORK CODE – TRANSPORTATION PRINCIPAL DOCUMENT

Section V – General

3.4 Surety or Security under Code

“3.4.5 For the purposes of Code:

“**Deposit Deed**” shall mean an agreement that is Enforceable and in such form as provided to the User from time to time by the Transporter enabling the deposit of cash as security;

“**Enforceable**” shall mean the Transporter (acting reasonably) is satisfied that the instrument of security or surety is legally enforceable and in this respect, where surety is provided by a company registered outside of England and Wales, the Country of residence of such company must have a sovereign credit rating of ~~at least A awarded by Moody’s Investors Services or such equivalent rating by Standard and Poor’s Corporation~~ a Qualifying Company (where such ratings conflict, the lower of the ratings will be used) and the User shall at its own expense provides such legal opinion as the Transporter may reasonably require;

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“Letter of Credit” shall mean an unconditional irrevocable standby letter of credit in such form as provided to the User from time to time by the Transporter from such bank as the Transporter may approve, (provided that payment may be made at a United Kingdom branch of such issuing bank) with a long term debt rating of not less than ~~A provided by Moody’s Investors Services or such equivalent rating by Standard and Poor’s Corporation~~ that of a Qualifying Company (where such ratings conflict, the lower of the ratings will be used);

“Guarantee” shall mean an on demand irrevocable guarantee or performance bond provided by a Qualifying Company or a Parent Company that is Enforceable and in such form as provided to the User from time to time by the Transporter;

“Prepayment Agreement” shall mean an agreement between the Transporter and the User that is Enforceable and in such form as provided to the User from time to time by the Transporter with the purpose of enabling a User to make payments of amounts calculated on a monthly basis by the Transporter (using an accrual methodology set out therein) as representing the Transporter’s estimate of the amounts (other than in respect of Energy Balancing Charges) which will become due by the User to the Transporter in a charging month;

“Parent Company” shall mean:

- (i) in the case of a company registered in England and Wales a public or private company within the meaning of section 1(3) of the Companies Act 1985 with a long term debt rating of ~~at least BB- provided by Standard and Poor’s Corporation or equivalent rating by Moody’s Investors Services~~ no less than that in 3.1.3(a) (where such ratings conflict, the lower of the ratings will be used) that is either a shareholder of the User or any holding company of such shareholder (the expression holding company having the meaning assigned thereto by section 736, Companies Act 1985 as supplemented by Section 144(3) Companies Act 1989); or
- (ii) in the case of an entity registered outside of England and Wales, such equivalent entity to (i) above that is acceptable to the Transporter, acting reasonably;

“Qualifying Company” shall mean:

- (i) in the case of a company registered in England and Wales a public or private company within the meaning of section 1(3) of the Companies Act 1985 with a long term debt rating of at least A provided by ~~Moody’s Investors Services or equivalent rating by Standard and Poor’s Corporation~~ a Credit Rating Agency as defined in 3.1.1 (where such ratings conflict, the lower of the ratings will be used); or
- (ii) in the case of an entity registered outside of England and Wales, such equivalent entity to (i) above that is acceptable to the Transporter, acting reasonably;”

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To amend a typographical error in paragraph 3.1.7, as follows:

“3.1.7 Upon request from a User, the User may select any one of the specified agencies for the Transporter to use to allocate an Unsecured Credit Limit to the User as follows:

(a)

(b)

A scoreLimit:

Independent Assessment Score	Equivalent of the Independent Assessment Score to credit scores provided by the independent credit rating agencies for Independent Assessments			% of Transporter's Maximum Unsecured Credit Limit
	Dunn & Bradstreet/ N2 Check Comprehensive Report	Experian Bronze, Silver or Gold Report	Graydons Level 1, Level 2 or Level 3 Report	
10	5A1	95-100	1A	20
9	5A2/4A1	90-94	1B/2A	19
8	5A3/4A2/3A1	80-89	1C/2B/3A	18
7	4A3/3A2/2A1	70-79	2C/3B/4A	17
6	3A3/2A2/1A1	60-69	3C/4B/5A	16
5	2A3/1A2/A1	50-59	4C/5B/6A	15
4	1A3/A2/B1	40-49	5C/6B/7A	13 ^{1/3}
3	A3/B2/C1	30-39	6C/7B/8A	10
2	B3/C2/D1	20-29	8B	6 ^{2/3}
1	C3/D2/E1	10-19	8C	3 ^{1/3}
0	Below E1	Below 10	Below 8C	0

The Transporter will set the Users Unsecured Credit Limit no higher than the lower of the credit value recommended within the Independent Assessment and the value calculated by applying the Independent Assessment Score to the Transporter's ~~Transport's~~ Maximum Unsecured Credit Limit.”

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Transporter Application

This application contains the Transporters' proposal to modify the Uniform Network Code for which they now seek the consent of the Authority

Signed for and on behalf of Transporter.

Signature:

Tim Davis
Chief Executive Joint Office of Gas Transporters

Date:

as and Electricity Markets Authority Response:

In accordance with Standard Special Condition A11 'Network Code and the Uniform Network Code' of the Gas Transporters License, I hereby consent to the above modification to the Code.

Signed for and on Behalf of the Gas and Electricity Markets Authority.

Signature:



Date:

23 May 2011

Text changes during implementation of modification 0300 in Code update 3.43;
Text changes during implementation of modification 0306 in Code update 3.46, and
Text changes during implementation of modification 0308 in Code update 3.47.

UNIFORM NETWORK CODE – TRANSPORTATION PRINCIPAL DOCUMENT

Section V – General

2 USER ADMISSION

2.1 Admission requirements

2.1.1 In order to become a Shipper User in relation to a System a person (the "Applicant User") must:

- (a) satisfy or secure satisfaction of the requirements in paragraph 2.1.2; and
- (b) accede to the relevant Shipper Framework Agreement and thereby agree to be bound by the Code.

2.1.2 The requirements referred to in paragraph 2.1.1(a) are as follows:

- (a) the Applicant User shall have applied to the Transporter, in such form as the Transporters may from time to time prescribe, giving the following details:
 - (i) the name of the Applicant User;
 - (ii) the legal nature of the Applicant User, and where the Applicant User is not a company incorporated under the Companies Act 1985 (as amended), such further information concerning the constitution of the Applicant User as the Transporter may reasonably require;
 - (iii) the address and telephone and facsimile numbers of the Applicant User, and the individual for whose attention notice is to be marked, for the purposes of notice under GT Section B5.2.3 and B5.3.1;
 - (iv) where the Applicant User is not a company incorporated under the Companies Act 1985 (as amended), an address for service in accordance with paragraph GT Section B6.6.3;
- (b) either:
 - (i) a Shipper's Licence shall have been granted to the Applicant User which is in force and in respect of which no notice of revocation has been given, and the Applicant User shall have provided a copy of such licence to the Transporter; or
 - (ii) a Shipper's Licence shall be treated as having been granted to the Applicant User pursuant to a scheme made under paragraph 15 or 16 of Schedule 5 to the Gas Act 1995;
- (c) in relation to an LDZ of which National Grid is not the owner or operator, the Applicant User is, or will be, a Shipper User under National Grid's Network Code at the User Accession Date;
- (d) the Applicant User shall have secured compliance with those requirements of Section U which are required to be complied with before a User is able to send and receive UK Link Communications, including without limitation:

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- (i) the installation and connection of the UK Link User Equipment and the UK Link User Software either at:
 - (1) the Applicant User's premises; or
 - (2) where the Applicant User secures the services of a User Agent for the installation and connection of the UK Link User Equipment and Software, at the User Agent's premises, provided that where the User Agent ceases or is unable (for any reason) to provide such services, then the Applicant User shall, as soon as is reasonably practicable after such cessation, secure the installation and connection of the UK Link User Equipment and the UK Link User Software at the Applicant User's premises;
- (ii) the appointment of one or more Authorised Representatives;
- (e) the Applicant User shall have provided the emergency contact details required under Section Q2.2;
- (f) the Applicant User shall have obtained from the Transporters one or more copies of the Code and such other documents referred to in the Code or the Shipper Framework Agreement as the Transporters shall from time to time prescribe for the purposes of this paragraph (f);
- (g) the Applicant User shall have been assigned an initial Code Credit Limit in accordance with paragraph 3;
- (h) in relation to the NTS, the Applicant User shall have been assigned an initial Secured Credit Limit in accordance with Section X.
- (i) the Applicant User shall have provided the Transportation Charges contact details as required under Section 3.4.7;

- 2.1.3 An Applicant User may accede to a Shipper Framework Agreement before the requirements of paragraphs 2.1.2(d), (g) and (h) are satisfied.
- 2.1.4 Where in accordance with paragraph 2.1.3 an Applicant User has executed a Shipper Framework Agreement, the Applicant User and the Transporter shall be bound by this Section V and (but only for the purposes of enabling an Applicant User to satisfy the requirements in paragraph 2.1.2(d) Section U; and the Applicant User shall for such purposes only be treated as a User.
- 2.1.5 The activities performed in accordance with paragraph 2.1.2(d)(i) and the other activities performed in accordance with paragraph 2.1.2 to enable the Applicant User to accede to a Shipper Framework Agreement will be performed as a User Pays Service and the Applicant User shall pay (not in accordance with Section S) to National Grid NTS a User Pays Charge in respect of each such User Pays Service.

3.4 Security under Code

- 3.4.1 Any instrument of surety or security provided by a User pursuant to paragraph 3.4.6 (and whether or not entered into by the User) shall not be a part of the Code nor an Ancillary Agreement; and no provision of or modification of the Code, nor any inconsistency between the Code and any such instrument, and nothing done by the Transporter pursuant to the Code, shall prejudice or invalidate any such instrument.
- 3.4.2 Where a User has provided surety or security pursuant to paragraph 3.4.6 the User (or the person giving the surety) may request the Transporter to release all or any of such security or

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agree to a reduction in any maximum amount of such surety.

3.4.3 Following a request by a User under paragraph 3.4.2, the Transporter will as soon as reasonably practicable and, except where the User also requests a review (by an agency appointed by the Transporter for such purposes) and revision of its Code Credit Limit, in any event not more than 10 Business Days after such request, release security, or agree to a reduction in surety, to such extent or by such amount as will permit the condition in paragraph 3.4.4 to be satisfied.

3.4.4 The condition referred to in paragraph 3.4.3 is that the amount of the User's Value at Risk, at the date of such release or reduction is not more than 100% of the amount of the User's Code Credit Limit, determined in accordance with the Code on the basis of the release of security or reduction in surety (and taking account of any alternative surety or security provided by the User).

3.4.5 For the purposes of Code:

"Bi-lateral Insurance" shall mean an policy of insurance (that is unconditional in order to attain 100% of its face value) for the benefit of the Transporter, provided by a Qualifying Company and in such form as is acceptable to the Transporter;

"Deposit Deed" shall mean an agreement that is Enforceable and in such form as provided to the User from time to time by the Transporter enabling the deposit of cash as ~~surety or security or advance payments by a User~~;

"Enforceable" shall mean the Transporter (acting reasonably) is satisfied that the instrument of security ~~or surety~~ is legally enforceable and in this respect, where ~~security surety~~ is provided by a company registered outside of England and Wales, the ~~country~~ Country of residence of such company must have a sovereign credit rating of at least A awarded by Moody's Investors Services or such equivalent rating by Standard and Poor's Corporation ~~a Qualifying Company at least A awarded by Moody's Investors Services or such equivalent rating by Standard and Poor's Corporation~~ (where such ratings conflict, the lower of the ~~two~~ ratings will be used) and the User shall at its own expense provides such legal opinion as the Transporter may reasonably require;

"Letter of Credit" shall mean an unconditional irrevocable standby letter of credit in such form as provided to the User from time to time by the Transporter from such bank as the Transporter may approve, (provided that payment may be made at a United Kingdom branch of such issuing bank) with a long term debt rating of not less than A provided by Moody's Investors Services or such equivalent rating by Standard and Poor's Corporation ~~that of a Qualifying Company A provided by Moody's Investors Services or such equivalent rating by Standard and Poor's Corporation~~ (where such ratings conflict, the lower of the ~~two~~ ratings will be used);

"Guarantee" shall mean an on demand irrevocable guarantee or performance bond provided by a Qualifying Company or a Parent Company that is Enforceable and in such form as provided to the User from time to time by the Transporter;

"Prepayment Agreement" shall mean an agreement between the Transporter and the User that is Enforceable and in such form as provided to the User from time to time by the Transporter with the purpose of enabling a User to make payments of amounts calculated on a monthly basis by the Transporter (using an accrual methodology set out therein) as representing the Transporter's estimate of the amounts (other than in respect of Energy Balancing Charges) which will become due by the User to the Transporter in a charging month;

"Parent Company" shall mean:

- (i) in the case of a company registered in England and Wales a public or private company within

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the meaning of section 1(3) of the Companies Act 1985 with a long term debt rating of at least BB- provided by Standard and Poor's Corporation or equivalent rating by Moody's Investors Services no less than that in 3.1.3(a)~~at least BB provided by Standard and Poor's Corporation or equivalent rating by Moody's Investors Services~~ (where such ratings conflict, the lower of the ~~two~~ ratings will be used) that is either a shareholder of the User or any holding company of such shareholder (the expression holding company having the meaning assigned thereto by section 736, Companies Act 1985 as supplemented by Section 144(3) Companies Act 1989); or

- (i) in the case of an entity registered outside of England and Wales, such equivalent entity to (i) above that is acceptable to the Transporter, acting reasonably;

"Qualifying Company" shall mean:

- (i) in the case of a company registered in England and Wales a public or private company within the meaning of section 1(3) of the Companies Act 1985 with a long term debt rating of at least A provided by Moody's Investors Services or equivalent rating by Standard and Poor's Corporation a Credit Rating Agency as defined in 3.1.1~~Moody's Investors Services or equivalent rating by Standard and Poor's Corporation~~ (where such ratings conflict, the lower of the ~~two~~ ratings will be used); or
- (ii) in the case of an entity registered outside of England and Wales, such equivalent entity to (i) above that is acceptable to the Transporter, acting reasonably;

3.4.6 A User may extend its exposure beyond its Unsecured Credit Limit by providing surety or security in one or more of the forms set out below:

- (a) Bi-lateral insurance; and/or
- (b) Letter of Credit; and/or
- (c) Guarantee; and/or
- (d) Deposit Deed; and/or
- (e) Prepayment Agreement;

provided that where an instrument of surety or security is conditional, the Transporter may agree with the User a value below 100% of its full face value. Where the value of the instrument of surety or security cannot be agreed between the User and the Transporter, the User may refer such dispute to Expert Determination in accordance with GT Section A, paragraph 2.

3.4.7 Each User shall provide to the Transporter:

- (a) a single telephone number, a single address and a single facsimile number by means of which the Transporter may contact a representative of the User for any purpose pursuant to Transportation Charges in connection with Section V3 and/or V4; and
- (b) the name(s) or title(s) of the User's representatives who may be contacted at such numbers and address; and
- (c) such User shall inform the Transporter where there are any amendments to the details provided pursuant to this section V3.4.7.

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