

Modification Report
Provision of the identity of the incoming supplier to incumbent Meter Asset
Managers and Meter Operators
Modification Reference Number 0664
Version 1.0

This Modification Report is made pursuant to Rule 7.3 of the Modification Rules and follows the format required under Rule 8.9.3.

1. The Modification Proposal

Section V5.1 of the Network Code Principal Document identifies Transco's obligations with regard to the disclosure of Protected Information. Transco is currently prevented from releasing such information without the consent of the Protected Party.

Modification of the Network Code is therefore required to establish terms which permit Transco to disclose the supplier identity to the relevant Meter Asset Manager/Meter Operator. These would be based on each User recognising that a request made by the registered MAM/MO (satisfying relevant safeguards) is authorised as a request by the MAM/MO being the User's agent.

2. Transco's Opinion

It is Transco's opinion that this Modification Proposal should be implemented.

Transco has been advised of a requirement for Meter Asset Managers ("MAMs") and Meter Operators ("MOs") to be able to obtain the identity of the gas supplier at a Supply Meter Point. MAMs/MOs have informed Transco that it is important for their business processes to identify this information at Supply Meter Points where they are the incumbent MAM/MO.

MAMs/MOs are not always informed by the outgoing gas supplier of the identity of the supplier for a Supply Meter Point as such information may not be known to the outgoing gas supplier. Given that the MAM/MO has no contractual relationship with the consumer they are also unable to obtain the gas supplier identity through that route. Without this information MAMs/MOs have expressed concern that they may be unable to contact and establish a contract for metering related services with a new gas supplier.

There are a number of reasons why Transco is not permitted to provide the identity of an incoming gas supplier to the incumbent MAM or MO:

1. Section 105 of the Utilities Act explains that where such information is obtained by Transco by virtue of Section 1 of the Gas Act and relates to the affairs of an individual, Transco must not disclose it except with the consent of that individual.
2. The supplier identity is classified as Protected Information as defined by Network Code Principal Document Section V5. Where the supplier identity has been provided by a User it becomes the Protected Information of that User.

The prohibition on disclosure of Protected Information, as set out within Section V5 of the Network Code and by Section 105 of the Utilities Act, does not apply where the disclosure is made :

- in compliance with the conditions of the Transco Licence - Network Code Section V5.5.2.(c)(ii).
- by a Licence holder and is required to be made by a condition of his licence. - Utilities Act Section 105(3)(c).

Transco's Standard Licence Condition 31 does provide for such disclosure under specific conditions which if met would release Transco from Network Code and Section 105 liabilities.

Section V 5.5.2 (a) of the Network Code permits disclosure of Protected Information to which the Protected Party has consented in writing. However, obtaining such consent in each and every case would be complicated and time consuming and therefore impractical.

Consequently, to enable the incoming suppliers identity to be issued to the incumbent MAM/MO Modification of the Network Code is required to permit disclosure in accordance with Standard Condition 31 para 2(d)(i). To ensure Condition 31 compliance it should be clarified that Transco would need to disclose supplier identifiers to MAM/MOs, each of which would request such data in its capacity acting on behalf of the relevant User. For the purposes of Network Code each User would be recognising that a request made by the registered MAM/MO (satisfying relevant safeguards) is authorised as a request by its agent. These measures avoid the need for individual authorisation in each case by a User.

Release of the supplier information would be managed through Transco's Request for Information (RFI) bureau by request. Users have expressed a desire for relevant safeguards to be established to prevent the inappropriate release of data. It has, for example, been cited that some MAMs/MOs are suppliers and could use this service as a way of obtaining marketing information.

A registration scheme for MAMs/MOs is therefore being developed by Transco. Passwords would be issued on request and Transco would have the ability to monitor the information requests and where it suspected that the information was being used inappropriately, could revoke access.

3. Extent to which the proposed modification would better facilitate the relevant objectives

The purpose of this Modification Proposal is to permit Transco to disclose the supplier identity recorded on its Supply Point Register by request to the relevant Meter Asset Manager. This measure is consistent with Transco's GT Licence 'Relevant Objectives' of facilitating the efficient discharge of Transco's obligations under its Licence and facilitating competition between relevant shippers and between relevant suppliers.

4. The implications for Transco of implementing the Modification Proposal , including

a) implications for the operation of the System:

No implications for the operation of the system have been identified.

b) development and capital cost and operating cost implications:

No such implications have been identified.

c) extent to which it is appropriate for Transco to recover the costs, and proposal for the most appropriate way for Transco to recover the costs:

Minor administrative costs would be incurred by Transco as a consequence of implementing this Modification Proposal. Transco does not propose any additional cost recovery.

d) analysis of the consequences (if any) this proposal would have on price regulation:

No such consequences have been identified.

5. The consequence of implementing the Modification Proposal on the level of contractual risk to Transco under the Network Code as modified by the Modification Proposal

Implementation of this Modification Proposal would not increase the level of Transco's contractual risk.

6. The development implications and other implications for computer systems of Transco and related computer systems of Users

No changes would be required to Transco's UK-Link system to facilitate implementation of this Modification Proposal. Transco is not presently aware of any changes which would need to be made to Users systems.

7. The implications of implementing the Modification Proposal for Users

It is expected that minor changes to relevant Users' processes would be required to accommodate implementation of this Modification Proposal.

8. The implications of implementing the Modification Proposal for Terminal Operators, Consumers, Connected System Operators, Suppliers, producers and, any Non-Network Code Party

No such implications have been identified.

9. Consequences on the legislative and regulatory obligations and contractual relationships of Transco and each User and Non-Network Code Party of implementing the Modification Proposal

No such consequences have been identified.

10. Analysis of any advantages or disadvantages of implementation of the Modification Proposal

Advantages:

- Enables relevant MAMs/MOs to establish the identity of an incoming supplier at a Supply Meter Point for the purposes of establishing contact and enabling a metering contract with the new gas supplier to be negotiated.

Disadvantages:

No disadvantages have been identified.

11. Summary of the Representations (to the extent that the import of those representations are not reflected elsewhere in the Modification Report)

Eight representations were received with respect to this Modification Proposal. Five respondents indicate support for its implementation, two offer qualified support or support in principle and one respondent was opposed.

Scottish & Southern Energy (SSE) indicated its opposition to implementation and commented that it "*believe it to be unnecessary*". SSE stated "*With the introduction of Mod 0487, the old Supplier will always be informed of the new Supplier id on Transfer of Ownership, and will therefore be able to pass this information onto their MAM. The ONAGE file already provides for this information to be passed by the old Supplier to their MAM on de-appointment. In addition, we note that the passing of the new Supplier id on de-appointment is mandated in the Rainbow manual. We therefore feel that there is already a sufficiently robust process in place, which avoids any risk of marketing information getting into the wrong hands*". Transco's response is that the 'Rainbow' process does not exist at present and a key 'driver' for the Proposal is pre-RGMA Metering Separation problems that are increasing and of significance for MAMs. As indicated by BGT in its representation, Transco's view is that the measures identified within the Modification Proposal would act as a safeguard where other information flows have not imparted the relevant information.

Powergen noted that "*If the MAM always has the means to identify the supplier to a site then it should dramatically reduce the number of instances where the MAM has to send notifications direct to the Connections and Disconnections Store. The more notifications that are routed via the Supplier and, therefore, on standard RGMA flows, the better the process, in terms of timeliness, data quality and completeness*".

Transco concurs with the views of the above respondent.

British Gas Trading ("BGT") commented *"Although it would be preferable that the paths of communication were sufficient to ensure that Meter Asset Managers (MAM) and Meter Operators (MO) were aware when supply point transfers are undertaken, this modification facilitates their discovery of the new supplier where other channels may have failed. Without this Modification there is the potential for their assets to continue to be utilised without any contractual arrangement being in place"*.

Transco concurs with the views of the above respondent.

BGT noted that *"Transco are to establish a register of MAMs and MOs and have accepted a responsibility to ensure that such requests are from registered bodies and for bona fide purposes"*.

Transco would clarify that it will only hold a register of companies who wish to access information and not a complete register of all Meter Asset Managers and Meter Operators.

Scottish Power noted *"we believe that further clarification is required in the following areas. With regard to the release of supplier information by Transco through the RFI bureau, clarification is required of the nature of the safeguards that will be established to prevent the inappropriate release of data. In addition, there may be occasions where Transco believe that they are the current MAM/MO of the meter and this is proven not to be the case. Prompt verification and correction of this data is required to ensure that delays do not occur in the provision of such data to the necessary parties"*.

Transco's response is that as described elsewhere within this Modification Report, it intends to ensure that an effective procedure for data release is established which would include password based verification of the identity of the applicant. Transco also intends to undertake internal monitoring and reporting of MAM/MO enquiries to guard against abuse of the facility. Supplier data is provided to Transco by Registered Users or their agents and therefore Transco would issue this data only as recorded on its Sites & Meters database.

RWE Innogy stated *"We share the concerns expressed by Transco that this process could be open to abuse, and are of the opinion that the controls that should be put in place to prevent such abuse are agreed by all interested parties (for example at IMSIF or MCG) rather than being exclusively defined by"*.

Transco's response is that it will take account of Industry Metering Separation Implementation Forum ("IMSIF") and Metering Contract Group ("MCG") (supplier forum) comments but in the absence of knowledge of the proposed governance structure, Transco is unable to commit further at this stage.

RWE Innogy further commented *"We are also concerned by suggestions we have heard that the identity of the supplier may already be being disclosed to incumbent MAMs through Transco's RFI Bureau. Whilst it is currently possible*

under the Network Code for a User to appoint a User Agent to receive Code Communications on their behalf, the very fact Transco have felt it necessary to raise this modification proposal suggests that this does not extend to situations where the User is not the Registered User at a Supply Point. We would therefore ask Transco to comment in their Final Modification Report on the basis on which any disclosure of Supplier ID to incumbent MAMs is currently occurring, and if so what controls are in place to prevent abuse".

Transco's response is that currently where a MAM/MO is a registered agent of the User (i.e. a User agency agreement is in place), then that MAM/MO is permitted on request to receive the supplier identity for Supply Points registered to that User. Transco has a password scheme in place to ensure that information is only issued to bone fide applicants.

Total Gas & Power limited observed "*While we agree in principle that it is necessary to disclose information to the incoming Meter Asset Manager (MAM) or Meter Operator (MO) upon transfer of a site to a new supplier, this proposal does not satisfy the criteria. The proposal, in its present context, allows for information to be requested from the MAM or MO of the old supplier, who will not necessarily be the MAM or MO of the new supplier. As such, it is imperative that any such proposal must allow the new supplier's MAM or MO to obtain the required information in order to undertake its functions in an economic and efficient manner.*" Transco's response is that the Proposal as drafted permits disclosure to both 'old' and 'new' MAMs. For example the 'old' MAM may not be aware a new supplier is serving the site with separate arrangements for managing its meter assets. Implementation of this Modification Proposal will facilitate the outgoing MAM's ability to contact the relevant supplier and put in place alternative arrangements or transfer the asset to the new supplier MAM if they have a commercial arrangement in place for this to occur. This is a particular problem now but should reduce but not be eliminated post RGMA go-live.

Total Gas & Power also commented "*Further, Total believe that it is Transco's prerogative to ensure that the "relevant safeguards" mentioned in the modification are sufficiently robust in order to validate that the Metering Agent making the request is legitimate, and not misusing the service for other reasons apart from facilitating the transfer of supplier".*

Transco's response is that the text of this Modification Proposal provides that the identity of the supplier may be disclosed to any requesting bone fide MAM/MO. Transco believes that the procedures it would implement in support of this Modification Proposal are robust and provide adequate protection with respect to the legitimacy of the requesting MAM/MO.

12. The extent to which the implementation is required to enable Transco to facilitate compliance with safety or other legislation

Implementation of this Modification Proposal is not required to enable Transco to facilitate compliance with safety or other legislation.

13. The extent to which the implementation is required having regard to any proposed change in the methodology established under Standard Condition 4(5) or the statement furnished by Transco under Standard Condition 4(1) of the Licence

This Proposal is not required to facilitate any such change.

14. Programme of works required as a consequence of implementing the Modification Proposal

Transco would need to introduce a procedure within its 'Request for Information' bureau to ensure the identity of requesting MAMs/MOs is verified prior to the issuing of relevant data. It is planned that this would be based on a password system.

15. Proposed implementation timetable (including timetable for any necessary information systems changes)

This Modification Proposal could be implemented with immediate effect.

16. Recommendation concerning the implementation of the Modification Proposal

Transco recommends that this Modification Proposal be implemented.

17. Restrictive Trade Practices Act

If implemented this proposal will constitute an amendment to the Network Code. Accordingly the proposal is subject to the Suspense Clause set out in the attached Annex.

18. Transco's Proposal

This Modification Report contains Transco's proposal to modify the Network Code and Transco now seeks direction from the Gas & Electricity Markets Authority in accordance with this report.

19. Text

Section V paragraph 5

Insert new paragraph 5.11 to read:

“5.11 Disclosure of Supplier Identity

5.11.1 Where in respect of any Supply Point Transco is requested by a Registered Metering Applicant to disclose to such Registered Metering Applicant the identity of a supplier then the Registered User of such Supply Point agrees that any such request will be regarded as made on behalf of such Registered User and accordingly Transco is authorised by such Registered User to disclose such supplier identity to the Registered Metering Applicant in accordance with such request.

5.11.2

For the purposes of paragraph 5.11.1, “**Registered Metering Applicant**” is any person who has been registered to request and receive supplier identity from Transco pursuant to an appropriate registration scheme administered by Transco.

Signed for and on behalf of Transco.

Signature:

Sharon McLaughlin
Customer Services Manager

Support Services

Date:

Gas and Electricity Markets Authority Response:

In accordance with Condition 9 of the Standard Conditions of the Gas Transporters' Licences dated 21st February 1996 I hereby direct Transco that the above proposal (as contained in Modification Report Reference **0664**, version **1.0** dated **27/01/2004**) be made as a modification to the Network Code.

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

Signature:

The Network Code is hereby modified with effect from, in accordance with the proposal as set out in this Modification Report, version **1.0**.

Signature:

Process Manager - Network Code
Transco

Date:

Annex

1. Any provision contained in this Agreement or in any arrangement of which this Agreement forms part by virtue of which The Restrictive Trade Practices Act 1976 ("the RTPA"), had it not been repealed, would apply to this Agreement or such arrangement shall not come into effect:
 - (i) if a copy of the Agreement is not provided to the Gas and Electricity Markets Authority ("the Authority") within 28 days of the date on which the Agreement is made; or
 - (ii) if, within 28 days of the provision of the copy, the Authority gives notice in writing, to the party providing it, that he does not approve the Agreement because it does not satisfy the criterion specified in paragraphs 1(6) or 2(3) of the Schedule to The Restrictive Trade Practices (Gas Conveyance and Storage) Order 1996 ("the Order") as appropriate

provided that if the Authority does not so approve the Agreement then Clause 3 shall apply.
2. If the Authority does so approve this Agreement in accordance with the terms of the Order (whether such approval is actual or deemed by effluxion of time) any provision contained in this Agreement or in any arrangement of which this Agreement forms part by virtue of which the RTPA, had it not been repealed, would apply this Agreement or such arrangement shall come into full force and effect on the date of such approval.
3. If the Authority does not approve this Agreement in accordance with the terms of the Order the parties agree to use their best endeavours to discuss with Ofgem any provision (or provisions) contained in this Agreement by virtue of which the RTPA, had it not been repealed, would apply to this Agreement or any arrangement of which this Agreement forms part with a view to modifying such provision (or provisions) as may be necessary to ensure that the Authority would not exercise his right to give notice pursuant to paragraph 1(5)(d)(ii) or 2(2)(b)(ii) of the Order in respect of the Agreement as amended. Such modification having been made, the parties shall provide a copy of the Agreement as modified to the Authority pursuant to Clause 1(i) above for approval in accordance with the terms of the Order.
4. For the purposes of this Clause, "Agreement" includes a variation of or an amendment to an agreement to which any provision of paragraphs 1(1) to (4) in the Schedule to the Order applies.