

OFGEM DECISION LETTER No. 0548
"Removal of Section Z and related Changes to the Network Code"
Version 1.0

Direct Dial: 020 7901 7074

24 January 2003

Shippers, Transco and Other Interested Parties

Our Ref: Net/Cod/Mod/548

Dear Colleague,

Modification Proposal 548 – “Removal of Section Z and related changes to the Network Code”

Ofgem has considered the issues raised in Modification Proposal 548 - “*Removal of Section Z and related changes to the Network Code*” - and has decided not to direct Transco to implement the modification. In this letter, we explain the background to the modification proposal, the nature of the proposal and give our reasons for making this decision.

Background

Transco notified Ofgem in April 2002 of its intention to transfer the LNG facilities to a non-regulated company within the Lattice Group and to convert the Isle of Grain facility into an import terminal. The full details of this proposal can be found in “*Transco's proposal to transfer its Liquefied Natural Gas facilities to a non-regulated Lattice Group company. A consultation document*” Ofgem, August 2002.

Transco had intended to complete this separation in time for the LNG storage year 2003/04. To do this would require changes to its network code to enable a subsequently non-regulated LNG business to make LNG services available on the on the basis of a Storage Contract and not the network code.

Ofgem recently issued a short update regarding Transco’s LNG separation proposal (Ofgem’s note dated 13 December 2002). Our conclusion was that the transfer of the facilities was unlikely in the timescale indicated by Transco. LNG services for 2003/04 would therefore continue to be made available on the basis of the network code. However, Transco had already raised a proposal to make the changes to its network code as outlined above.

The modification proposal

Modification Proposal 548 proposes the deletion of Section Z of the network code. This section contains the terms and conditions for access to the LNG storage services offered by Transco LNG to Transco and other Users.

The proposal also refers to amendments to Sections B, K, P, R, U and V of the network code as these contain miscellaneous references to Transco's use of LNG services.

Respondents' views

Six responses to this modification proposal were received. Five were against the proposal, with one in favour.

The comments against the modification proposal concentrated on its timing and interaction with Ofgem's consultation exercise regarding Transco's LNG separation proposal. Additionally, concerns were expressed over the fact that the proposed change in the LNG contractual and governance arrangements would come mid-way through the LNG storage year after Users had already made their bookings.

It was suggested that it was inappropriate to consider the removal of Section Z and to make the other minor changes prior to the conclusion of Ofgem's consultation exercise. Only at this point would the likely subsequent regulatory environment would be known with any great clarity. Moreover, it was also suggested that it was more appropriate to wait until the end of the 2002/03 LNG storage year at the earliest before making any change to the LNG access arrangements. One respondent was in favour of the modification *per se* but nevertheless also indicated its concern regarding the principle of a modification appearing to pre-empt the conclusion of an Ofgem consultation.

Transco's Response

Transco commented that a Planning and Security (including Storage) Workstream meeting had linked this modification proposal with Ofgem's consultation document, and had requested responses within fifteen working days of the document's publication. The fact that the consultation process had yet to be concluded did not detract from the requirement to make changes to the network code (on the assumption that the separation went ahead).

Transco also commented that postponing the implementation date of the modification until the beginning of the next LNG storage year would have no discernable benefit for LNG Users, as Transco LNG did not intend to amend the main terms of its services for this LNG storage year. The reason that Transco had specified an implementation date of October 1 was because at the time of raising the modification proposal, this was the latest target date for the LNG separation proposal; Transco had tried to accommodate the view that a storage services contract should come into force at the same time. If the target date for separation were to change, Transco comments that it would support a further change to the implementation date of this modification.

Ofgem's view

Ofgem is mindful of respondents' concerns that this modification appears to prejudge the exact result of Ofgem's consultation process, and that it also proposes changes to LNG storage terms mid-way through the LNG storage year. These are legitimate concerns and if we were minded to approve this modification, Ofgem would seek to address these issues.

However, to approve this modification at this time would run contrary to the views expressed by Ofgem in our recent update regarding Transco's LNG separation proposal and LNG services continuing to be made available via network code terms for the 2003 / 04 LNG storage year.

With that in mind, it would be inconsistent to approve any modification proposal that removed the LNG governance arrangements from the network code until such time as Transco's LNG separation proposal is effected.

Ofgem's decision

Against this background, Ofgem has decided not to direct Transco to implement this modification. We do not believe that it better facilitates the relevant objectives in Standard Condition 9 of Transco's GT licence.

If you have any queries in relation to the issues raised in this letter, please feel free to contact me on the number indicated above.

Yours sincerely,

Amrik Bal
Gas Trading Arrangements