

URGENT Modification Report
Deferral of Maintenance Information Publication Obligation
Modification Reference Number 0522
Version 2.0

This Modification Report is made pursuant to Rule 9 of the Modification Rules and follows the format required under Rule 8.9.3.

Circumstances Making this Modification Proposal Urgent:

In accordance with Rule 9.1.2 Ofgem has agreed that this Modification Proposal should be treated as Urgent because Urgency is required since the Network Code requires publication by 31 January, and urgent procedures would be necessary to achieve a change in the contractual requirement before that date.

Procedures Followed:

Transco agreed with Ofgem (and has followed) the following procedures for this Proposal:

Issued to Ofgem for decision on urgency	14 January 2002
Proposal agreed as urgent	15 January 2002
Proposal issued for consultation	15 January 2002
Close out for representations	18 January 2002
Final report to Ofgem	23 January 2002
Ofgem decision expected	28 January 2002

1. The Modification Proposal

The purpose of this proposal is to defer the Network Code commitment upon Transco to publish information relating to the Maintenance Programme associated with the summer of 2002.

The NTS SO incentive framework to apply for the forthcoming summer has not been agreed, but Transco believes Ofgem's proposals are consistent with a view that the relevant objectives would be better served if Transco is incentivised to take decisions about network management in the light of market signals. This suggests that the Maintenance Plan should not be finalised until market signals about the value Users place on capacity at different times and locations has been revealed, and that care should be taken to ensure that information released to the market is not potentially misleading and hence distortionary.

Recent Workstream opinion supported the view that it may not be appropriate for Transco to continue to have to publish the Maintenance Programme, particularly in respect of the expected capability of specific entry points when affected by maintenance work.

Transco therefore believes that it is appropriate to defer the timescales associated with the Maintenance Programme obligations for this summer.

The proposed changes which would be introduced into the Transitional Section of the Network Code to delay obligations in respect of the Summer 2002 Maintenance Programme are:

Publication of draft maintenance programme	31st March
Annual Maintenance Meeting held by	30th April
Maintenance Programme published	1st May

This timetable is anticipated to allow sufficient time for the SO incentive arrangements to be defined and further consideration to be given to how the ongoing obligation, if any, to publish Maintenance Programme information should be structured.

2. Transco's Opinion

Implementation of this Modification Proposal would ensure that information is not released that might increase the risks of high constraint costs before the SO incentive arrangements to apply for the summer are established.

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

The proposal to give Transco discretion on the publication of maintenance information is to ensure the maintenance programme can be established in the light of market signals. This may therefore potentially reduce exposure of both Transco and the community to capacity buy back costs. Deferring the dates of publication will enable Transco to review the Ofgem SO Incentive Proposals and the exposure this may imply through releasing detailed maintenance information. The proposal would further economic and efficient operation of the system by mitigating exposure to high entry buy back costs which might otherwise arise if a Maintenance Programme is published before the forthcoming MSEC auctions. That exposure is on both Transco and Users who share the cost implications of capacity management arising from the entry capacity incentive process.

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

a) implications for the operation of the System:

Transco is not aware of any implications for the operation of the System.

b) development and capital cost and operating cost implications:

There is no cost associated with the implementation to facilitate this proposal.

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:

Not applicable

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

No consequences.

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

Delay in establishing the Maintenance Programme could reduce contractual risk in respect of capacity buy back costs.

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

No changes to Transco computer systems are needed for this Modification Proposal. Transco is not aware of any implications for computer systems of Users.

7. The implications of implementing the Modification Proposal for Users

It is envisaged that the SO incentive package to apply post -1st April 2002 will incorporate entry capacity incentives that will provide Transco with strong incentives to efficiently contract for capacity management reasons. The associated exposure will be shared with Users. A delay in publication of Maintenance Plans may potentially reduce Users exposure to buy back costs that may arise from fulfilling the maintenance requirements.

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

No implications are anticipated.

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 implications are anticipated.

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

Advantages

Lower buy back costs may be incurred for system maintenance.

Disadvantages

Transco considers that there are no disadvantages to this Modification Proposal.

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

Transco received a total of 10 representations to this proposal: -

British Gas Trading (BGT)
Chevron UK Ltd
Shell Gas Direct
TotalFinaElf Gas & Power Limited (TFEG&P)
Dynergy
Agip (UK) Ltd
Powergen UK Plc
BP Gas
Statoil (UK) Ltd
London Electric

Seven respondents supported the Proposals in the current form.

Three respondents did not support the Proposal.

System Operator Incentive

London Electric agrees that Transco should delay the obligation to publish maintenance plans until the SO incentives are implemented. London Electric comments that it would not make much sense if Transco had to make firm maintenance arrangements when Transco's incentives are still not clear.

Dynergy believes it prudent for Transco to delay publication of the maintenance schedule for summer 2002 until the SO proposals have been accepted, balancing principles agreed and Option / Forward Contracts are available to manage constraint risk. Dynergy support the proposal on the basis that the modification is temporary in nature and as such requiring a change to the Transitional Document of Code. Transco's suggestion to raise a separate modification proposal will allow more consideration to be given to the information released by Transco pertaining to the Summer Maintenance Programme. It is Dynergy's initial view that making changes to section L could set a dangerous precedent, set against the Information Exchange Programme being developed in the RGTA Workstream.

Powergen agrees that the temporary deferral of the publication of maintenance information from January to May 2002 is appropriate at this time.

Summer 2002 Capacity Auctions

TotalFinaElf Gas and Power Limited supports the Transco proposal and agrees that the publication prior to the resolution of the SO proposals could potentially create misleading information and distortionary signals that would adversely impact upon the next MSEC auction.

Statoil (UK) Ltd supports the proposal and that publication of maintenance plans should be deferred until after the next capacity auctions have taken place.

BGT does not support the proposal, as it does not believe that the Maintenance Plan is solely driven by the price discoveries for capacity. The scheduling of maintenance must involve other parties such as Terminal Operators and Customers in order to minimise the impact on the network in advance. It adds that the publication of the Maintenance Programme will have a major effect upon the process of the capacity auctions, particularly for the summer months. The proposal to withhold this information will increase uncertainty and cause Users to include a premium in their bidding to allow for this uncertainty across the whole period. BGT believes that the auction process should reflect the value of the product, reflecting the potential of maintenance or other known constraints, and therefore the maintenance plan should be published prior to the auctions for summer capacity.

BGT also commented that the Modification Proposal claims that there has been support for this delay at the Workstream meetings and BGT, as regular attendees, was not aware of support being expressed.

BGT stated its concern that a modification of this nature is raised such a short time prior to the next auction process. BGT continues comment that the gas industry does seem to have a predilection for tinkering with processes just prior to their execution. This uncertainty will inevitably raise concerns and in turn prices.

London Electric agrees that a delay would ensure that Users did not take any speculative views in the next round of auctions which could skew capacity prices for the summer months.

Agip (UK) Ltd considers it appropriate that Transco defers the publication and takes decisions regarding the maintenance planning in light of the market signals it receives from the capacity allocation process.

Chevron UK Ltd does not support the proposal, as the Maintenance Programme information is a factor in determining shippers' MSEC acquisition strategies. Chevron UK Ltd believes that the Summer 2002 Maintenance Plans should be well advanced and that it would be difficult to believe that changes may be made to the plans at such a late stage in the season. Chevron UK Ltd believes that there must be a core programme which would occur under almost any circumstances and another discretionary programme which

might depend on the final SO incentive framework. Chevron believes that a maintenance programme should be published no later than the invitation to purchase MSEC so that shippers can consider these plans when formulating their bidding strategies. Furthermore Chevron suggests that maintenance programme information be made more useful by including an assessment of the impact of major works. For example rather than just showing work lasting a number of weeks over a period, the maintenance information should show what impact this work might have in terms of a particular terminal's ability to flow gas.

BP Gas Ltd offers disappointed support for the modification. Whilst recognising that Transco would be in a better position to make a decision (as incentivised by the SO incentive framework), on the value of the maintenance following completion of the next round of auctions, BP Gas Ltd is concerned about the effects of the delay on customer maintenance at exit points.

Incomplete Information Provision

Shell Gas Direct does not agree that the proposal is appropriate at this time and argues that it may be appropriate once a Long Term Allocation method is established. Shell Gas Direct comments that some information is already in the public domain and that information is available in the Ten Year Statement. Not publishing the Maintenance Programme information raises the possibility of there being incomplete information in the market to the advantage of some participants. Shell Gas Direct considers that this could be discriminatory and as such would not further facilitate securing competition between shippers. Shell Gas Direct also comments on the parallel discussions relating to the Information Release Project and that principles need to be established about the extent to which transparency is necessary for competition and efficiency.

BGT comments that some Users would be aware of elements of the Maintenance Programme through their upstream affiliates, which would place them at an advantage over other Users and which introduces a further distortion into the process. BGT also stated that Transco has all the relevant information at its disposal to anticipate the effect of their Maintenance Programme on capacity prices. By applying this analysis Transco can manage the scheduling of the Maintenance Programme at the optimum time for all parties. This would enable management and mitigation of Transco's own risk, and this Modification Proposal would pass all the costs of managing Transco's risk to Users.

Transco Response

Transco welcomes the high level of support for this proposal. It believes that it is important that the regime is structured such that the incentivised party (Transco) can respond to the incentive. That appears to be the intent of the System Operator incentive proposals that are presently being discussed. Transco (and Users) must be afforded an opportunity to understand the incentive arrangements and then to respond appropriately. With respect to refining its Maintenance Programme to fit with incentive arrangements in summer 2002, Transco believes that it is necessary to delay publication beyond the

MSEC Auctions of February 2002. Users will be purchasing financial rights to bring gas onto the system or to trade such capacity entitlements, whether it be to other Users or Transco. Transco should then be able to develop the Maintenance Programme in the light of MSEC Auction results.

The ongoing discussions relating to Transco's next price control have unfortunately created uncertainty and a need for a late Modification Proposal in this area. Transco agrees that it is not an ideal situation but can only observe that changes to the Network Code are necessarily dependent upon progress in the Periodic Review discussions.

Transco recognises that some Users may have a view that asymmetric information may distort the market. However Transco would point out that some provisional information about the Summer Maintenance Programme was published on the Transco Web site on 29 June 2001. Transco does not believe that it would be appropriate to have obligations to put any further information about the Maintenance Programme into either the User or public domains at this stage.

Transco therefore proposes implementation of this proposal, which will delay obligations in respect of the Maintenance Programme until after the incentive structure to apply for the future is clearer.

Transco recognises that the publication of Maintenance Programme information raises complicated issues about information release and its interaction with incentives. It is likely that this will need to be considered within a consultation about a subsequent Network Code Modification Proposal.

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

Implementation 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

Implementation is not required as a consequence of any proposed change in the methodology.

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

No modifications are required to the UK Link Systems and therefore no programme of work would be required as a result of implementing the Modification Proposal.

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

Implementation of this Modification Proposal is required by the 28th January 2002.

16. Recommendation concerning the implementation of the Modification Proposal

Transco recommends implementation of this Modification Proposal.

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

Transition Document Part II

Section 8.9 Section L Maintenance and Operational Planning.

Delete current paragraph 8.9.1. and insert new paragraph 8.9.1.

“8.9.1. L.1.5.(a) In relation to the Gas Year 2001/2 the April Maintenance Programme shall be as follows:

- (i) by 31st March Transco will publish a draft of the Maintenance Programme in accordance with paragraph 3.3.1.(i).;
- (ii) by 30th April Transco will hold the Annual Maintenance Meeting(s) in accordance with paragraph 3.3.1.(ii).;
- (iii) by 1st May Transco will publish the Maintenance Programme in accordance with paragraph 3.1.

Signed for and on behalf of Transco.

Signature:

Tim Davis
Head of Regulation NT&T

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 **0522**, version **2.0** dated **23/01/2002**) 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 **2.0**.

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 appropriateprovided 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.