

**URGENT Modification Report**  
**Cancellation of NBP Sale Trades in the event of a Termination of a User**  
**Modification Reference Number 0506**  
Version 1.0

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 it seeks to introduce a mechanism whereby, in the event that a User is terminated, all its sell trades at the NBP will be rendered null and void. Any counter party to such trade with a terminated User would be obliged to source gas matching that trade from another seller or purchase that gas from the system.

**Procedures Followed:**

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

Issued to Ofgem for decision on urgency	30 November 2001
Proposal agreed as urgent	30 November 2001
Proposal issued for consultation	30 November 2001
Close out for representations	03 December 2001 (17:00)
Final report to Ofgem	04 December 2001 (17:00)
Ofgem decision expected	05 December 2001 (17:00)

**1. The Modification Proposal**

BGT proposed that:

"In the event that a User is terminated all their sale trades at NBP will be rendered null and void. Any counter party to such trade with a terminated user will be obliged to source gas matching that trade from another seller or purchase that gas from the system".

**2. Transco's Opinion**

Trade Nominations are governed by rules in the Network Code, and must meet a number of conditions before acceptance. If these conditions are not met, a Trade Nomination will not be effective, and will be rejected by Transco.

Section C 6.2.1 states that a trade nomination will not only specify the identity of the User making a Disposing (or an Acquiring) Trade Nomination but also the identity of the User making the corresponding Trade Nomination. The Trade Nomination will therefore be rejected if the identity of either User is not specified.

In the event of Termination of a User, Section V 4.3.3 states that "where Transco gives Termination Notice to a Defaulting User, with effect from that date specified in the notice, the User will cease to be a User.....".

The above Network Code provisions, considered together, mean by definition that any Trade Nomination involving a User, who has ceased to be a User, will not be effective after the date specified in the Termination Notice, and will therefore be rejected. Consequently, any risk arising from rejection of Trade Nominations will be borne by the Users who have traded with the ceased User, and not by the community.

In light of the Network Code provisions outlined above, Transco believes that the current provisions adequately cater for the treatment of gas trades in the event of Termination of a User. Transco, therefore, does not recommend implementation of the Modification Proposal.

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

The Proposer did not indicate how the relevant objectives would be better facilitated by this Proposal.

**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 are envisaged.

**b) development and capital cost and operating cost implications:**

No implications for the development, capital or operating costs are envisaged.

**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:**

Transco does not anticipate that implementation of this Modification Proposal would create costs which it would seek to recover.

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

This Proposal would not have any consequential impact on price regulation.

**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**

Transco is not aware of any contractual risk to Transco under the Network Code.

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

No development work is necessary for computer systems of Transco.

Transco is not aware of any impact on Users' computer systems.

**7. The implications of implementing the Modification Proposal for Users**

No implications of implementing the Modification Proposal for Users are envisaged.

**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 of implementing the Modification Proposal for the above parties are envisaged.

**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 consequences on the legislative and regulatory obligations and contractual relationships of Transco and each User and Non-Network Code Party are envisaged as a result of implementing the Modification Proposal.

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

No advantages (or disadvantages) have been identified since Transco believes the existing provisions already deliver the intent of the Proposal.

No advantages (or disadvantages) have been identified since Transco believes the existing provisions already deliver the intent of the Proposal.

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

Representations were received from the following twelve parties:

BGT  
ExxonMobil  
Norsk Hydro  
BP  
Shell Gas Direct (SGD)  
TotalFinaElf (TFE)  
TXU  
Scottish Power  
Scottish and Southern Energy (SSE)  
Dynegy  
Powergen  
Statoil UK

Five respondents supported the Proposal in the current form. One respondent expressed qualified support and two respondents only supported the underlying principles of the Proposal. One respondent had no objection whilst another respondent questioned the purpose of the Proposal. Two respondents did not support the Proposal.

BGT, the Proposer, strongly supports the Proposal. BGT believes that the current Network Code rules do not guarantee that the cancellation of trades would always take place, and that the Proposal is not only reasonable for all parties involved in any trades but also protects the rest of

the community from risks that they have no ability to affect. BGT recommends immediate implementation of the Proposal and suggests an implementation date of 6 December 2001 (06:00), after Ofgem decision on 5 December 2001 (17:00).

ExxonMobil supports the Proposal to the extent that it allows Transco to ensure that any matched trades already on the system (in which the terminated User is either a 'seller' or a 'buyer') are voided from the date of User termination.

Norsk Hydro acknowledges that the community is exposed to the energy balancing costs when a User is terminated, and fully supports the Proposal.

BP has no objection to the Proposal.

SGD is supportive of the underlying principles which led to the Proposal but points out a few issues that need to be considered. SGD states that the sourcing of gas from 'elsewhere' should be qualified and that the counter-party should source gas from offshore fields. SGD believes that the proposal should apply to NBP trade 'buys' as well as NBP trade 'sells' as this would ensure that the oversupply resulting from terminated trade 'buys' were also addressed.

TFE supports the Proposal. TFE believes that urgent changes are needed in order to avoid potentially significant smeared imbalance costs arising from the continued supply to a terminated User's portfolio, being borne by the community. It also supports the view that it should be the counter-parties to all NBP sales trades, and not the shipping community, who should be responsible for sourcing alternative gas from the system (or other sellers) and bear the energy balancing costs associated with all such trades.

TXU supports the Proposal in principle but is unclear as to whether a modification to the Code is necessary. It points out that, under the Code, if a User is terminated then Transco should withdraw all existing trade nominations made by the terminated User as all their rights have been removed. TXU states that, if Transco already has the ability to remove all trade nominations of a terminated User, then this modification does not need to be implemented.

Scottish Power supports the Proposal as it would like to see additional protection, particularly for small shippers, that all trades (buys and sells) should be null and void. It believes that anyone who chooses to increase the energy balancing indebtedness smear on the community should be "investigated and punished by Ofgem", although a change to the Code is more desirable. Scottish Power believes that sourcing of gas should not be qualified, and that shippers should be able to source gas from any source.

SSE does not support the Proposal as it believes that asymmetric treatment of buy and sell trades could create significant instability in the market. It refers to the present difficulties experienced by Enron as a possible reason for raising the proposal but believes that, if implemented, it would have no impact in the immediate circumstances. SSE expresses concerns that the Proposal was granted urgent status even though there was no immediate benefit, with the consequential effect that the industry has not been afforded sufficient time to consider the wider implications of the proposal, should a similar event arise in the future. It highlights the need for robust credit arrangements to cover potential energy imbalances which it considers to be inadequate and unacceptable. SSE states that the present credit arrangements expose the entire industry to what are essentially bilateral contracts, and calls for a review of the

credit arrangements under the Code (and indeed the BSC in electricity). It is disappointed that Ofgem's paper on credit arrangements, which was to be published in February and March this year, has still not been published. SSE believes that these issues need to be considered as part of a wider review, rather than via piecemeal Network Code modifications which have no direct bearing on the current situation.

Dynegy questions the purpose of the Proposal as it believes that the current provisions in the Network Code are adequate and changes are unnecessary. It states that, under Section C 6.4.2, Transco terminated all matched NBP trade nominations on the basis that Enron ceased to be a User under the Code. Dynegy believes that, if Transco interprets the Code in this manner, then additional provisions to nullify NBP trades would be unnecessary, as the community is already protected from additional smeared charges caused by the termination of the User. Dynegy questions why Transco did not communicate the terminated trades to the industry. It would welcome clarification on Transco's interpretation of the Code as it believes this could be critical in determining the validity of the Proposal.

Powergen supports the Proposal as it affords both Transco and the shipping community better protection. It states that, when a Termination Notice is issued to a User, the Network Code does not clearly define what happens to the matching buys and sells left on the system. It also states that Transco's obligations to remove trade sells are unclear and although the counter-parties to these trades are likely to remove them, buy trades could remain. Powergen also highlights Transco's exposure resulting from large quantities of gas outputs whilst no gas is input, and believes that the proposal would have a favourable impact on Transco's exposure.

Statoil does not support the Proposal as cancellations of terminated User's sell trades, without cancelling the buy trades, would increase the User's imbalance, thus creating even greater exposure to the community. It sees NBP trades as an accounting point and as such considers it to be inappropriate to nullify only one side of the trades. Although Statoil is concerned about the current situation involving Enron and is supportive of exploring ways to minimise the community's exposure, it feels that the Proposal has come too late to have any significant impact. Statoil suggests that these issues should be further considered in the relevant Workstreams, with a view to developing an alternative proposal in the short to medium future.

#### Transco's Opinion:

Transco recognises the potential impact of termination of a User on NBP trades and the consequential potential impact on energy imbalances. Transco agrees with the views of the majority of the respondents that any risk resulting from bilateral trades involving a terminated User should not be borne by the wider community.

Transco agrees with Dynegy and TXU that the Network Code provisions already in place adequately address the objectives of the Proposal. These provisions require that a Trade Nomination involving a User, who has ceased to be a User, will not be effective after the date specified in the Termination Notice, and will therefore be rejected. Consequently, any risk arising from rejection of Trade Nominations will be borne by the Users who have traded with the terminated User, and not by the community.

Transco also agrees with SSE, Statoil, and other respondents that a wider industry debate on the issues surrounding termination of Users could be helpful. Such a debate would provide an

opportunity to clarify the current Network Code provisions regarding NBP Trade Nominations and credit arrangements, as well as a wider review of the issues associated with User termination.

Transco is therefore of the view that implementation of this Proposal is unnecessary.

**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 established under Standard Condition 4(5) of the statement, furnished by Transco under Standard Condition 4(1) of the Licence.

**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)**

Transco does not recommend implementation and therefore no timetable is proposed.

**16. Recommendation concerning the implementation of the Modification Proposal**

Transco does not recommend implementation of the 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 not to modify the Network Code and Transco now seeks agreement from the Gas & Electricity Markets Authority in accordance with this report.

**19. Text**

No legal text is provided because Transco does not recommend implementation of the Proposal.

Signed for and on behalf of Transco.

Signature:

**Tim Davis**  
**Manager, Network Code**

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 **0506**, version **1.0** dated **04/12/2001**) 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.