

Draft Modification Report
Termination of User who seeks or becomes subject to the appointment of an
administrator, liquidator, conservator, trustee or similar official for it or for all or
substantially all of its assets.
Modification Reference Number 0525
Version 1.0

This Draft Modification Report is made pursuant to Rule 8.9 of the Modification Rules and follows the format required under Rule 8.9.3.

1. The Modification Proposal

It is proposed that the discretionary powers afforded to Transco relating to the issue of a Termination Notice should be replaced with a mandatory obligation where a User seeks or becomes subject to the appointment of a receiver, administrator, liquidator, conservator, trustee or similar official, unless a written commitment is provided that is satisfactory to the EBCC, Transco will be obliged, unless directed otherwise by the EBCC, to issue a termination notice to a User within two business days of Transco being notified of such appointment. The written commitment represents an assurance from the receiver, administrator, conservator, trustee, liquidator or similar official that it will pay Transco all the Energy Balancing debt accrued from the date of appointment.

2. Transco's Opinion

In respect of energy balancing, Transco is essentially neutral and acts in the interests of Users as a whole under the Energy Balancing Credit Rules, but recognises that this Modification Proposal may be considered likely to introduce additional benefits to Users, in the event of such appointment if the affected User is to be viable as a going concern.

The recent implementation of Modification 0475 was an initial step towards protecting the community from increasing debt exposure once a Receiver is appointed by introducing the requirement for the Receiver to provide adequate assurances to Transco in respect of all Energy Balancing debt accruing from and including the date of appointment. This present proposal widens the scope of Modification 0475 to include assurances from an "administrator, conservator, trustee, liquidator or similar official" in addition to a receiver, requiring that they should also provide adequate assurance that they will pay all monies due relating to Energy Balancing debts accruing since and including the date of their appointment.

In widening the scope of Modification 475 the proposer has specified the circumstances in which Transco's discretion to issue a Termination Notice should be removed, there are however two circumstances (i.e. the appointment of a conservator or trustee) that are not currently included within the scope of Section V 4.3. Transco is currently unclear what the full impact of this aspect of the Proposal and its implications in respect of the Network Code might be.

Transco agrees that the Energy Balancing Credit Committee (EBCC) would be the appropriate body to review the written assurances provided by such party in order to ensure compliance with the Energy Balancing Credit Rules.

Transco now seeks to understand the views of Users in respect of these issues.

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

The proposer has highlighted the fact that the community will continue to be burdened with risks associated with a User being unable to fulfil its obligations regarding the payment of Energy Balancing Debt, stating "... the smearing of these uncontrolled costs may seriously jeopardise an individual Users ability to operate in the UK Gas Market". This potential debt burden could be viewed as a form of subsidy, it could further be considered that such subsidies are symptoms of inefficient or uneconomic operation, therefore the implementation of this Modification Proposal could be deemed as enhancing efficient and economic operation of the system.

Additionally as implementation may reduce the risk of exposure to financial loss for all Users by reducing the potential debt burden via the balancing neutrality mechanism it could further be viewed that implementation of this Modification would facilitate the securing of effective competition between relevant shippers and suppliers reducing the potential debt burden that may act as a barrier to entry.

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

a) implications for the operation of the System:

Operation of the system could be affected if the likelihood of issuing of a Termination Notice to a User were to increase. Under current arrangements, it may even be possible that isolation of certain individual supply points may result. Until such time that discussions surrounding the appointment of SOLR are finalised Transco is unable to measure any such impact.

b) development and capital cost and operating cost implications:

Transco is not aware of any capital cost and operating cost implications as a result of implementation of this modification.

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 believe it is appropriate to put in place any cost recovery measures as a result of implementation of the Modification.

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

Transco is unaware of any such 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

The level of Transco's contractual risk could be expected to reduce as implementation of this Modification would remove Transco's discretion to issue a Termination Notice in the circumstances identified

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

Transco is not aware of any implications for the development of Transco or User's computer systems

7. The implications of implementing the Modification Proposal for Users

Implementation of this Modification Proposal could be expected to have favourable implications as it is intended to reduce the risk of financial exposure on Users through the balancing neutrality mechanism

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

In the circumstances outlined within this Modification Proposal there is potentially an effect on a number of parties, including suppliers and consumers. Implementation of this Modification Proposal, linked with robust SOLR provisions, should limit the period of uncertainty for these parties and with it any ongoing debt exposure. Implementation could therefore be considered to be of benefit to Non-Network Code Parties.

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

Transco is not aware of any consequences on the legislative, regulatory obligation or contractual relationships of Transco, Users or Non-Network Code Party as a consequence of implementing this Modification Proposal

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

Advantages of implementing this Modification Proposal;

- May increase the leverage which Transco has on the receiver, administrator, liquidator, conservator, trustee or similar official to provide a commitment to cover ongoing debts
- May reduce the exposure of Users as a whole to costs arising through balancing neutrality as a result of non-recovery of energy balancing debt
- May strengthen the role of the EBCC in assessing whether satisfactory ongoing debt commitments have been made.

Disadvantages of implementing this Modification Proposal are that it would:

- May increase the likelihood of serving a Notice of Termination. However, if more time than the two business days specified in this Modification Proposal were allowed users exposure may continue to increase.
- May increase the likelihood of a Notice of Termination being issued and no SOLR being appointed therefore, unsecured debts might continue to accrue for an indefinite period.

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

Transco now invites representations in respect of this Modification

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

Transco is not aware of any such requirement

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

Transco is not aware of any such requirement

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

Transco is not aware of any works required to facilitate the implementation of this Modification Proposal. Changes proposed would be in the area of operational controls for the Credit & Risk Management functions within Transco. Such changes would be discussed and agreed with members of the EBCC.

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

If the decision was taken to implement this Modification Proposal, Transco believes that the implementation date should be agreed following the EBCC's satisfactory conclusion of discussions on changes required to the Energy Balancing Credit Rules and or the Network Code Supplement. This would allow all relevant changes to take effect simultaneously.

16. Recommendation concerning the implementation of the Modification Proposal

In view of the recent implementation of Modification Proposals 0474(Revision to Indebtedness cash - Call Trigger) and 0475 (Termination of User in Receivership) having a similar scope Transco is not presently minded to oppose implementation of this Modification Proposal.

17. Text

Representations are now sought in respect of this Draft Report and prior to Transco finalising the Report

Signed for and on behalf of Transco.

Signature:

Steve R Phillips
Director of Shipper Services

Date: