

Modification Report
RG0252 Proposal 11: Appropriate use of the terms Surety and Security in UNC TPD
Section V
Modification Reference Number 0308
Version 5.0

This Modification Report is made pursuant to Rule 9.3.1 of the Modification Rules and follows the format required under Rule 9.4.

1 The Modification Proposal

WWU raised Review Group 0252 “Review of Network Operator Credit Arrangements” in April 2009. This was convened to discuss the appropriateness of the existing credit management arrangements, taking into account the many credit related issues which had occurred since the publication of Ofgem’s “Best practice guidelines for gas and electricity network operator credit cover” (BPG) document.

This specific proposal better defines the terminology of security and surety so as to remove any ambiguity when credit issues are being considered.

The terms surety and security are used throughout TPD Section V, but are not always applied consistently. The table below illustrates what instrument of credit is surety or security. The necessary referencing has been incorporated into the revised legal text accompanying this modification proposal.

Instrument of credit	Form	Form
Letter of Credit	Surety	
Guarantee	Surety	
Deposit Deed		Security
Prepayment Agreement		Security

Suggested Text

Uniform Network Code – Transportation Principal Document Section V

3.1.3

(b) Subject to paragraph 3.1.3(c), where a Qualifying Company or Parent Company provides ~~security~~ surety in respect of a User in the form of a Guarantee (the “~~Security~~ Surety Provider”), then the Approved Credit Rating of such ~~Security~~ Surety Provider may be used in place of the User’s to calculate such User’s Unsecured Credit Limit in accordance with the table set out in paragraph 3.1.3(a).

(c) Where a ~~Security~~ Surety Provider provides ~~security~~ surety pursuant to paragraph 3.1.3(b) or paragraph 3.1.3(d) for more than one User, the aggregate ~~security~~ surety provided by the ~~Security~~ Surety Provider shall not exceed the maximum credit entitlement of the ~~Security~~ Surety Provider calculated in

accordance with the table set out in paragraph

3.1.3(a).

(d) A User may increase an Unsecured Credit Limit allocated pursuant to paragraph 3.1.3(a) or paragraph 3.1.4 by an incremental amount (the “Incremental Amount”) by providing surety security (in respect of the Incremental Amount) in the form of a Guarantee from a ~~Security~~ Surety Provider with an Approved Credit Rating subject to:

3.2.1 For the purposes of the Code:

(a) a **"Code Credit Limit"** is the sum of a User’s Unsecured Credit Limit and any security or surety provided by a User pursuant to paragraph 3.4, provided that such amount must be equal to or greater than the User’s Value at Risk;

3.2.10

(a) such amount as set out in the table below based upon the amount of additional surety or security demanded by the Transporter; and

Amount of additional <u>surety or</u> security required	Amount
Up to £999.99	£40
£1,000 to £9,999.99	£70
£10,000 or more	£100

(b) a daily charge equivalent to that percentage rate as is set out from time to time in the Late Payments of Commercial Debts (Interest) Act 1998 multiplied by the amount of additional surety or security demanded by the Transporter.

3.3.2 Without prejudice to paragraph V3.3.3, where a User fails to provide such additional surety or security as required in paragraph 3.3.1 (b) by the date specified in the notice pursuant to

3.3.1(b): until such time as the User’s Value at Risk is reduced to less than 100% of its Code Credit Limit; and

3.4 Surety or Security under Code

3.4.5 For the purposes of Code:

“**Deposit Deed**” shall mean an agreement that is Enforceable and in such form as provided to the User from time to time by the Transporter enabling the deposit of cash as ~~surety or security~~ or advance payments by a User;

“**Enforceable**” shall mean the Transporter (acting reasonably) is satisfied that the instrument of security or surety is legally enforceable and in this respect, where ~~security or surety~~ is provided by a company registered outside of England and Wales, the country of residence of such company must have a sovereign credit rating of at least A awarded by Moody’s Investors Services or such equivalent rating by Standard and Poor’s Corporation (where such ratings conflict, the lower of the two ratings will be used) and the User shall at its own

expense provides such legal opinion as the Transporter may reasonably require;

2 User Pays

a) Classification of the Proposal as User Pays or not and justification for classification

This Proposal is not classified as a User Pays Modification Proposal as it does not create or amend any User Pays services.

b) Identification of Users, proposed split of the recovery between Gas Transporters and Users for User Pays costs and justification

No User Pays charges applicable.

c) Proposed charge(s) for application of Users Pays charges to Shippers

No User Pays charges applicable to Shippers.

d) Proposed charge for inclusion in ACS – to be completed upon receipt of cost estimate from xoserve

No charges applicable for inclusion in ACS.

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

Standard Special Condition A11.1 (a): the efficient and economic operation of the pipe-line system to which this licence relates;

Implementation would not be expected to better facilitate this relevant objective.

Standard Special Condition A11.1 (b): so far as is consistent with sub-paragraph (a), the coordinated, efficient and economic operation of

(i) the combined pipe-line system, and/ or

(ii) the pipe-line system of one or more other relevant gas transporters;

Implementation would not be expected to better facilitate this relevant objective.

Standard Special Condition A11.1 (c): so far as is consistent with sub-paragraphs (a) and (b), the efficient discharge of the licensee's obligations under this licence;

Implementation would not be expected to better facilitate this relevant objective.

Standard Special Condition A11.1 (d): so far as is consistent with sub-paragraphs (a) to (c) the securing of effective competition:

(i) between relevant shippers;

(ii) between relevant suppliers; and/or

(iii)between DN operators (who have entered into transportation arrangements with other relevant gas transporters) and relevant shippers;

Implementation would not be expected to better facilitate this relevant objective.

Standard Special Condition A11.1 (e): so far as is consistent with subparagraphs (a) to (d), the provision of reasonable economic incentives for relevant suppliers to secure that the domestic customer supply security standards... are satisfied as respects the availability of gas to their domestic customers;

Implementation would not be expected to better facilitate this relevant objective.

Standard Special Condition A11.1 (f): so far as is consistent with subparagraphs (a) to (e), the promotion of efficiency in the implementation and administration of the network code and/or the uniform network code;

Implementation would further the GT Licence 'Code relevant objective' of promoting efficiency in the implementation and administration of the network code and/or the uniform network code. The consistency of (correct) terminology being applied through this proposal will remove ambiguity when different credit instruments are being utilised.

4 The implications of implementing the Modification Proposal on security of supply, operation of the Total System and industry fragmentation

No implications on security of supply, operation of the Total System or industry fragmentation have been identified.

5 The implications for Transporters and each Transporter of implementing the Modification Proposal, including:

a) Implications for operation of the System:

There are no implications for operation of the System.

b) Development and capital cost and operating cost implications:

There are no cost implications.

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

Not applicable.

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

Not applicable.

6 The consequence of implementing the Modification Proposal on the level of

contractual risk of each Transporter under the Code as modified by the Modification Proposal

The contractual risk of each Transporter is unaltered.

- 7 The high level indication of the areas of the UK Link System likely to be affected, together with the development implications and other implications for the UK Link Systems and related computer systems of each Transporter and Users**

No implications have been identified.

- 8 The implications of implementing the Modification Proposal for Users, including administrative and operational costs and level of contractual risk**

Administrative and operational implications (including impact upon manual processes and procedures)

No implications have been identified.

Development and capital cost and operating cost implications

To be advised by Users.

Consequence for the level of contractual risk of Users

The level of risk is unaltered by this proposal.

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

No implications have been identified.

- 10 Consequences on the legislative and regulatory obligations and contractual relationships of each Transporter and each User and Non Code Party of implementing the Modification Proposal**

No consequences have been identified.

- 11 Analysis of any advantages or disadvantages of implementation of the Modification Proposal**

Advantages

Provides consistent and appropriate terminology within Section V3 and V4 of the UNC in respect of security and/or surety.

Disadvantages

No disadvantages have been identified.

12 Summary of representations received (to the extent that the import of those representations are not reflected elsewhere in the Modification Report)

Organisation	Response
BGT	Supports
E.ON UK	Supports
First:utility	Supports
National Grid Distribution	Qualified Support
National Grid NTS	Qualified Support
Northern Gas Networks	Supports
RWE Npower	Comments Offered
Scotia Gas Networks	Supports
ScottishPower	Supports
SSE	Comments Offered
Wales & West Utilities	Supports

In summary, of the 11 representations received, 7 support implementation, 2 offered qualified support and 2 offered comments on the proposal.

Both National Grid Distribution and National Grid NTS suggests that for clarity Surety and Security is added as a defined term for the purposes of Section V of Code - this would prevent any potential inconsistencies with the context of Surety and Security in the different Sections of Code.

RWE npower asks whether there are any similar references to Security and Surety outside Section V, which may also require amending for consistency. Further clarification around this point would be appreciated.

13 The extent to which the implementation is required to enable each Transporter to facilitate compliance with safety or other legislation

Implementation is not required to enable each Transporter to facilitate compliance with safety or other legislation.

14 The extent to which the implementation is required having regard to any proposed change in the methodology established under paragraph 5 of Condition A4 or the statement furnished by each Transporter under

paragraph 1 of Condition 4 of the Transporter's Licence

Implementation is not required having regard to any proposed change in the methodology established under paragraph 5 of Condition A4 or the statement furnished by each Transporter under paragraph 1 of Condition 4 of the Transporter's Licence.

15 Programme for works required as a consequence of implementing the Modification Proposal

No programme of works would be required as a consequence of implementing the Modification Proposal.

16 Proposed implementation timetable (including timetable for any necessary information systems changes and detailing any potentially retrospective impacts)

It is suggested that this Proposal be implemented on 1st October 2010 to coincide with the implementation of the other credit proposals being considered in this timeframe. Should this date not be achievable, then implementation could take place immediately following an Authority direction

17 Implications of implementing this Modification Proposal upon existing Code Standards of Service

No implications of implementing this Modification Proposal upon existing Code Standards of Service have been identified.

18 Recommendation regarding implementation of this Modification Proposal and the number of votes of the Modification Panel

At the Modification Panel meeting held on 19 August 2010, the Panel determined UNANIMOUSLY to recommend implementation of the Proposal.

The Panel Chair noted that eleven responses had been received, of which seven supported implementation of the proposal, two offered qualified support and two offered comments. He suggested that clear and effective credit requirements within the UNC provide protection and reassurance for all parties, helping to prevent bad debt escalating to inappropriate levels. Requiring credit provision also provides an appropriate barrier to entry. Hence including appropriate credit arrangements within the UNC is consistent with facilitating effective competition between Shippers. Consequently reviewing and improving the arrangements where appropriate is also consistent with facilitating effective competition.

The Panel Chair summarised that Proposal 0308 seeks to better define the terminology of security and surety so as to remove any ambiguity when credit issues are being considered. The removal of ambiguity would be expected to remove uncertainty and hence facilitate effective competition and efficient administration of the UNC.

Members supported this summary.

19 Transporter's Proposal

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

20 Text

**UNIFORM NETWORK CODE
TRANSPORTATION PRINCIPAL DOCUMENT
SECTION V - GENERAL**

3.1.3

(b) Subject to paragraph 3.1.3(c), where a Qualifying Company or Parent Company provides ~~security~~ surety in respect of a User in the form of a Guarantee (the "~~Security~~ Surety Provider"), then the Approved Credit Rating of such ~~Security~~ Surety Provider may be used in place of the User's to calculate such User's Unsecured Credit Limit in accordance with the table set out in paragraph 3.1.3(a).

(c) Where a ~~Security~~ Surety Provider provides ~~security~~ surety pursuant to paragraph 3.1.3(b) or paragraph 3.1.3(d) for more than one User, the aggregate ~~security~~ surety provided by the ~~Security~~ Surety Provider shall not exceed the maximum credit entitlement of the ~~Security~~ Surety Provider calculated in accordance with the table set out in paragraph 3.1.3(a).

(d) A User may increase an Unsecured Credit Limit allocated pursuant to paragraph 3.1.3(a) or paragraph 3.1.4 by an incremental amount (the "Incremental Amount") by providing ~~security~~ surety (in respect of the Incremental Amount) in the form of a Guarantee from a ~~Security~~ Surety Provider with an Approved Credit Rating subject to:

- (i) such Approved Credit Rating being sufficient to cover the Incremental Amount as calculated in accordance with the table set out in paragraph 3.1.3(a); and
- (ii) paragraph 3.1.3(c); and
- (iii) in the opinion of the Transporter, such ~~Security~~ surety

Surety Provider's ability to bear risk not being exceeded.

3.2.1 For the purposes of the Code:

- (a) a "**Code Credit Limit**" is the sum of a User's Unsecured Credit Limit and any security or surety provided by a User pursuant to paragraph 3.4, provided that such amount must be equal to or greater than the User's Value at Risk;

3.2.10 Where the Transporter requires the User to provide additional surety or security, the notice given in accordance with 3.2.9 shall require that such User shall provide to the Transporter, by no later than 17.00 on the second Business Day following the date of such notice, additional surety or security in a form acceptable to the Transporter for an amount notified by the Transporter, such that when applied it will result in the Value at Risk of the User not exceeding 100% of the Users Code Credit Limit. Subject to paragraph 3.2.11 below, where a User has not provided such additional surety or security by such second Business Day then with effect from the next Business Day following such second Business Day the following shall be payable by the User:

- (a) such amount as set out in the table below based upon the amount of additional surety or security demanded by the Transporter; and

Amount of additional <u>surety</u> or <u>security</u> required	Amount
Up to £999.99	£40
£1,000 to £9,999.99	£70
£10,000 or more	£100

- (b) a daily charge equivalent to that percentage rate as is set out from time to time in the Late Payments of Commercial Debts (Interest) Act 1998 multiplied by the amount of additional surety or security demanded by the Transporter.

- 3.3.2 Without prejudice to paragraph V3.3.3, where a User fails to provide such additional surety or security as required in paragraph 3.3.1(b) by the date specified in the notice pursuant to 3.3.1(b):

3.4 Surety or Security under Code

- 3.4.5 For the purposes of Code:

“Deposit Deed” shall mean an agreement that is Enforceable and in such form as provided to the User from time to time by the Transporter enabling the deposit of cash as ~~surety or security or advance payments by a User~~;

“Enforceable” shall mean the Transporter (acting reasonably) is satisfied that the instrument of security or surety is legally enforceable and in this respect, where ~~security~~ surety is provided by a company registered outside of England and Wales, the Country of residence of such company must have a sovereign credit rating of a Qualifying Company (where such ratings conflict, the lower of the ratings will be used) and the User shall at its own expense provides such legal opinion as the Transporter may reasonably require;

For and on behalf of the Relevant Gas Transporters:

Tim Davis
Chief Executive, Joint Office of Gas Transporters