

Modification Report
RG0252 Proposal 12: Timeframes for establishing and extending Guarantees and
Letters of Credit
Modification Reference Number 0309
Version 3.0

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 further clarifies the timeframes around establishing and maintaining Guarantees and Letters of Credit (LOC). Both are different types of surety, however their worth in terms of credit protection differs as their end dates near.

A Guarantee can reasonably be deemed valid for the purposes of surety up until the date of its expiry, whereas a LOC should only be deemed valid in terms of the level of surety until 30 days prior to its expiry, to allow time to present any claim prior to its expiry.

A Guarantee can be called upon at any point for any invoice amounts/invoices incurred up to the expiry date of the Guarantee. For example, if the Guarantee expires on 31st October 2010, it can be utilised to recover unpaid invoice amounts due or raised prior to 31st October 2010 (albeit having no value in terms of surety from 1st November 2010 onwards)

A LOC can only be presented (by the Transporter) within the timeframe of the LOC. For example if the LOC expires on 31st October 2010, it has zero worth from 1st November 2010 both in terms of surety and leverage to recover unpaid invoiced amounts.

GUARANTEE	LOC
Assuming Guarantee end dated 31 st October, credit limit (based on this Guarantee) will be set to zero if Guarantee not extended or replaced by 30 th September with document effective 1 st November (or earlier).	Assuming LOC end dated 31 st October, credit limit will be set to zero if LOC not extended or replaced by 30 th September (or earlier)

Suggested Text

3.2.4

(a) A User's Code Credit Limit may from time to time be reviewed and revised, in accordance with the Code, save where either paragraph 3.2.5 or 3.2.6 applies, in the case of ~~a(i)~~, ~~b(ii)~~, ~~d(iv)~~ and ~~e(v)~~ on notice of not less than 30 Days, or in the case of ~~e(iii)~~ below on notice of not less than 2 Business Days following the Business Day on which a notice is issued in accordance with 3.2.9, (or in any such case, such lesser period agreed by the User) to the User:

- ~~a(i)~~ At intervals of approximately 12 months
- ~~b(ii)~~ At the User's request (but subject to 3.2);
- ~~e(iii)~~ Where any published or Specially Commissioned Rating of the User or any person providing surety for the User is revised downwards
- ~~d(iv)~~ Where any instrument of surety or security expires or is determined
- ~~e(v)~~ At the Transporter's request where the Transporter has reasonable grounds to believe that the effect of the review will be to reduce the User's Code Credit Limit

(b) A Letter of Credit is deemed zero value for User's Code Credit Limit purposes 30 days prior to the date of its expiry.

(c) A Guarantee is deemed zero value for User's Code Credit Limit purposes 30 days before expiry unless either extended or replaced by security or surety effective from no later than the day after the expiry date of the existing guarantee.

3.2.8 The Transporter will not be obliged to agree to any request of the User under paragraph

3.2.4~~(b)~~ (ii) unless the User agrees to reimburse to the Transporter the reasonable costs and fees payable by the Transporter to any third party in accordance with the Code in connection with such request.

3.2.9 Where a User's Code Credit Limit has been revised downwards in accordance with paragraph 3.2.4~~(e)~~ (iii) above, the Transporter will notify the User accordingly on the next.

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;

Secures effective competition between shippers by reducing the risk of Transporters being 'timed out' for claiming on certain surety credit forms, which could lead to bad debt being passed through to Users via transportation charges.

Standard Special Condition A11.1 (e): so far as is consistent with sub-paragraphs (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;

Efficiency is gained by more clearly defining the timeframes within which shippers may opt to use the surety available to them to maintain their Code Credit Limits with Transporters.

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 reduced by this proposal as it better articulates the timeframes by which credit limits can be assigned and maintained with shippers.

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)

Users may need to ensure their timeframes for re establishing LOC and Guarantees are consistent with the timeframes outlined in the proposal, but as this is consistent with previous regimes for Guarantees and LOC's under previous Code Credit Rules, it is not expected to be a material issue.

Development and capital cost and operating cost implications

To be advised by Users.

Consequence for the level of contractual risk of Users

The Contractual risk of Users is improved by this proposal, as it provides greater clarity for the timeframes which will protect the required credit limits of Users, and better ensures they maintain the credit limits they require with transporters.

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 clarity and certainty for all Users on timeframes for re-establishing lines of credit using these two forms of surety.
- reduces likelihood of Transporters being timed out when claiming against surety, therefore protecting Users from potential User bad debt being charged via Transportation charges.

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	Supports
National Grid NTS	Supports
Northern Gas Networks	Supports
RWE Npower	Not in Support
Scotia Gas Networks	Supports
ScottishPower	Supports
SSE	Supports
Wales & West Utilities	Supports

In summary, of the 11 representations received, 10 support implementation and 1 opposed implementation of the proposal.

First Utility considers implementation will reduce the contractual risk of Users by clarifying the timeframes within which credit limits can be assigned and maintained with Shippers. It also reduces the likelihood of Transporters being timed out when claiming against Guarantees and Letters of Credit thus protecting Users from bad debt being reallocated to other Users via Transportation charges.

RWE npower consider it would seem inappropriate to unconditionally deem that a form of cover has zero value when it has not expired. Given that a Letter of Credit can be called upon at any point for amounts owing within the timeframe of the Letter of Credit, RWE npower believe the Transporter has sufficient opportunity to obtain funds owing. Thus by insisting that a User's Letter of Credit is deemed to have zero value 30 days prior to expiry may mean that Users could incur additional costs of obtaining cover for the 30 day overlap period when the existing cover they have in place is sufficient.

RWE npower considers the issue with Letters of Credit is that some banks can still charge for a Letter of Credit even if the start date is in the future as it can be deemed that you have taken up additional lines with them. RWE npower therefore do not agree with the Proposers wording for Letters of Credit as it would seem unfair to expect Users to pay for a facility they are not yet utilising. Thus RWE npower believe that as long as the Code Credit Limit has been agreed between the User and Transporter one month prior to expiry of any form of Surety or Security that this should be sufficient.

ScottishPower considers the Proposal reflects current best practice and should ensure that there should be continuity in cover with no break in provision between applicable dates, thus limiting any potential exposure to bad debt.

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 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 ten supported and one opposed implementation of the proposal. 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 0309 seeks to deem the value of Guarantees (in the absence of a replacement) and Letters of Credit to be zero from 30 days before their expiry date. This would provide additional protection from default in this period and so facilitate effective competition. However, implementation would increase the cost of providing surety and these additional costs may not exceed the benefits, such that competition may not be facilitated.

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

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For and on behalf of the Relevant Gas Transporters:

Tim Davis
Chief Executive, Joint Office of Gas Transporters