

Modification Report
URGENT Modification Reference Number 0359

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

1. Circumstances Making this Modification Proposal Urgent:

In accordance with Rule 9.1.2 Ofgem agreed that this Modification Proposal should be treated as Urgent because the measures described in the proposal affect the operation of the regime from 1 October 1999. The transition arrangements affect the ability of Users to post bids and offers for daily processes prior to 1 October 1999.

2. Procedures Followed:

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

Proposal circulated 17/9/99
Representations closed out 21/9/99
Report to Ofgem 22/9/99
Ofgem decision expected 23/9/99

3. The Modification Proposal:

The arrangements described within modification 0314 allow for the sharing of 80% of the revenue from the sale of Daily (firm) System Entry Capacity (DSEC), Interruptible System Entry Capacity (ISEC) and any Negative Overrun charges at an ASEP between holders of MSEC at that ASEP. However, at some ASEPs, such as LNG storage sites, there is no MSEC and therefore no scope for sharing revenues in this manner. A situation may also arise where MSEC is made available at an ASEP but there are no registered holders. It is proposed that in such circumstances revenues are shared between holders of MSEC at all ASEPs.

The second part of this proposal is a transitional measure relating to Transco capacity auction systems. Under the arrangements for post 1 October 1999, Shippers will be able to place bids for Daily System Entry Capacity, Interruptible System Entry Capacity and offers for Capacity Surrender (buy back) up to seven days before the gas day. However, systems that have been built specifically for this task will not be available until 30 September 1999. It is therefore proposed that in respect of 1 October to 6 October 1999 Shippers will only be able to place bids for DSEC, ISEC and offers for Capacity Surrender from 30 September onwards.

4. Transco's opinion:

Transco believes that this proposal describes the most appropriate mechanism to share revenues from daily services where there are no holders of MSEC. The sharing of such revenues with all registered holders of MSEC will further encourage Users to acquire this type of service.

Transco wishes to ensure that all Users who intend to participate in the daily capacity auction processes are made aware that the earliest time that bids or offers for such services may be placed is 30 September.

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

The implementation of this proposal will ensure that the revenues that accrue at ASEPs where there are no holders of MSEC will be passed to all registered holders of MSEC. This will encourage competition through incentivising Users to acquire MSEC.

6. **The implications for Transco of implementing the Modification Proposal, including:**

a) **implications for the operation of the System:**

None

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

No additional development required: system build contemplated revenue share in accordance with this proposal as a reasonable means for distribution.

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:**

Not applicable

7. **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:**

This modification proposal clarifies the treatment of Entry Capacity revenues in the event that there are no Monthly System Entry Capacity holders at an ASEP. The clarification of the intention of the original proposal (0314) reduces the risk that any party may dispute the operation of the capacity neutrality mechanism.

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

No further development is believed to be required.

9. **The implications of implementing the Modification Proposal for Users:**

Users holding MSEC will benefit from any revenues arising from the sale of daily services at ASEPs where no MSEC has been sold.

Users will be unable to place bids or offers for daily capacity services under the revised gas trading regime earlier than 30 September.

10. The implications of implementing the Modification Proposal for Terminal Operators, Consumers, Connected System Operators, Storage Operators suppliers, producers and, any Non-Network Code Party:

Transco is not aware of any implications.

11. 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.

12. Analysis of any advantages or disadvantages of the implementation of the Modification Proposal:

Advantages :

Clarifies how revenues will be treated through the neutrality mechanism.

Clarifies situation regarding systems availability.

Disadvantages :

Users may not place bids/offers before 30 September for new regime services.

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

Transco received seven representations to this proposal. Respondents were; Aquilla Energy (AE), BGT, BP Gas, Gas Light and Coke Company (GLC), Eastern Power and Energy Trading (EPETL), Scottish and Southern Energy (SSE) and Yorkshire Energy (YE). The representations are considered under the following headings;

- 1) ASEP neutrality mechanism
- 2) Access to daily service systems

ASEP Neutrality Mechanism

There were five respondents that did not support the proposal. AE strongly objects to the proposal arguing that it distorts competition in the within day market. GLC and YE also do not support, YE arguing that it conflicts with its own proposal 0358. BP and SSE do not support the proposal as drafted and offer alternative mechanisms to share revenues arising from daily services. SSE suggests that the revenues should be shared according to a shipper's financial commitment through the Monthly System Entry Capacity auction process rather than their registered capacity holding. BP suggests that Transco should receive all revenues from the sale of daily (firm) capacity sales but should share revenues from interruptible services and overrun charges with the holders of those (daily) firm capacity services.

BGT supports the proposal but argues that it originates from Transco's inability to offer MSEC at all entry points.

Access to Daily Service Systems

There were three representations that commented on this aspect of the proposal. BGT and EPETL did not support the proposal and argued that Transco should implement full contingency procedures for the period that shippers are not able to submit bids up to seven days in advance. SSE supports the proposal but asks for clarification on the availability of new systems.

Transco Response:

Transco believes that this modification is necessary to clarify the way in which revenues are shared. The representations focused on the non-availability of MSEC at ASEPs and arguments against the proposal were based on this issue. However, this proposal would still be relevant even if MSEC had been made available at all ASEPs.

A situation may still arise where there are no registered holders of MSEC at an ASEP as Users may have chosen not to purchase it. In the absence of this proposal there is a lack of clarity on how revenues from daily services should be shared. If there are no holders of MSEC at an ASEP then the revenue sharing as agreed under modification 0314 cannot operate and in default Transco would retain all revenues. Transco has proposed this modification in order to share such revenues with Users of the System.

Transco believes that sharing revenues on the basis of registered capacity holdings of MSEC provides a transparent mechanism. The suggestion that sharing should be based on a shipper's financial commitment through the MSEC auctions may deliver a mechanism that exposes each shipper's commercial position that may be used by others to gain unfair commercial advantage.

This proposal sought to clarify the availability of systems to support the daily processes that will be implemented on 1 October. Transco is not in breach of Code provisions through non-availability of systems prior to 1 October as this is the date that the new regime is to be implemented. This proposal specifically allows that such bid and offers that facilitate the introduction of the new regime may be submitted on the day before the new regime comes into effect.

The commissioning of new systems to support the revised trading arrangements has been compressed into a very tight time scale through the necessity to amend functionality to meet the provisions that were agreed on 1 September. However, despite the fact that systems will not be available before 30 September, Transco does not consider that any Users will be disadvantaged as experience of the MSEC auctions has shown that Users are able to submit multiple bids, for a number of ASEPs, for a number of occasions in the future during a single day.

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

Not applicable

15. **The extent to which the implementation is required having regard to any proposed change in the methodology established under Standard Condition 3(5) of the statement; furnished by Transco under Standard Condition 3(1) of the Licence:**

Not applicable.

16. **Programme of works required as a consequence of implementing the Modification Proposal:**

A programme of works is not required

17. **Proposed implementation timetable (inc timetable for any necessary information systems changes):**

30 September System available for posting of bids and offers for 1 October onwards
1 October New regime implemented under modification 0314

18. **Recommendation concerning implementation of the Modification Proposal:**

Transco recommend implementation of this proposal.

19. **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.

20. **Transco's Proposal:**

This Modification Report contains Transco's proposal to modify the Network Code and Transco now seeks direction from the Director General in accordance with this report.

21. **Text:**

Attached
Section B 2.11.5
Transition Document Part II 8.1 - B2

Signed for and on behalf of Transco.

Signature:

Tim Davis
Manager, Network Code

Date:

Director General of Gas Supply Response:

In accordance with Condition 7 (10) (b) of the Standard Conditions of Public Gas Transporters' Licences dated 21st February 1996 I hereby direct Transco that the above proposal (as contained in Modification Report Reference **0359**, version **1.0** dated **22/09/99**) be made as a modification to the Network Code.

Signed for and on behalf of the Director General of Gas Supply.

Signature:

Director of Transportation Regulation

Date:

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

Restrictive Trade Practices Act - Suspense Clause

For the purposes of the Restrictive Trade Practices Act 1976, this document forms part of the Agreement relating to the Network Code which has been exempted from the Act pursuant to the provisions of the Restrictive Trade Practices (Gas Conveyance and Storage) Order 1996. Additional information inserted into the document since the previous version constitutes a variation of the Agreement and as such, this document must contain the following suspense clause.

1.Suspense Clause:

1.1 Any provision contained in this Agreement or in any arrangement of which this Agreement forms part by virtue of which this Agreement or such arrangement is subject to registration under the Restrictive Trade Practices Act 1976 shall not come into effect:

(i) if a copy of the Agreement is not provided to the Director General of Gas Supply (the "Director") 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 Director 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 paragraph 2(3) of the Schedule to The Restrictive Trade Practices (Gas Conveyance and Storage) Order 1996.

provided that if the Director does not so approve the Agreement then Clause 1.2 shall apply.

1.2 Any provision contained in this Agreement or in any arrangement of which this Agreement forms part by virtue of which this Agreement or such arrangement is subject to registration under the Restrictive Trade Practices Act 1976 shall not come into effect until the day following the date on which particulars of this Agreement and of any such arrangement have been furnished to the Office of Fair Trading under Section 24 of the Act (or on such later date as may be provided for in relation to any such provision) and the parties hereto agree to furnish such particulars within three months of the date of this Agreement.