

Modification Report
Shipper Responsibilities in the Event of the Appointment of a Supplier of Last
Resort
Modification Reference Number 0524
Version 1.0

This 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

Under Ofgem's arrangements to appoint a SOLR, only Suppliers with appropriate shipping arrangements are eligible for appointment. It is proposed that all responsibility for energy balancing and transportation will transfer to the User shipping for the appointed Supplier with effect from the date of their appointment as a SOLR. From this date the User will incur energy balancing and transportation charges in respect of the portfolio of the failed Supplier. However, in this situation the new User may not have access to the details of the portfolio until the transfer of all supply points is completed.

In order to manage this interim position, between the date of appointment as SOLR and the completion of the portfolio transfer, it is proposed that Transco will act as agent for the terminated portfolio on behalf of the new User, which will be responsible for securing gas to supply the portfolio by trading gas at the NBP with the terminated account. Quantities will be determined from estimates of DM load and the NDM allocation, as revised each day, and will be provided by Transco to the new User on a best endeavours basis whereby Transco will not be responsible for any difference between actual consumption and the estimate provided.

When the formal transfer of the portfolio has taken place, Transco will recover any imbalance costs incurred during the interim period from the new User. Any reconciliation amounts applying to the portfolio from the appointment date will accrue to the new User.

2. Transco's Opinion

In respect of energy balancing, Transco recognises the benefits that this Modification Proposal would introduce in reducing the potential debt burden to Users through the energy balancing neutrality mechanism.

In respect of transportation costs, Transco welcomes the opportunity this Modification Proposal would introduce to more accurately apportion charges.

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

By reducing the risk of exposure to financial loss for all Users, and thereby reducing the potential debt burden via the balancing neutrality mechanism, this Modification Proposal could be viewed as facilitating the securing of effective competition between relevant shippers and between relevant suppliers, since a potential debt burden 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:

Transco is not aware of any implications for the operation of the system that would result from implementation of this Modification Proposal.

b) development and capital cost and operating cost implications:

There would be a small increase in operating cost due to the use of off-line processes to appropriately manage the portfolio and recover relevant charges, during the interim period, which would result from the implementation of this Modification Proposal.

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 appropriate to have any special cost recovery measures in place.

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

Transco is not aware of any such consequences that would result from implementation of this Modification Proposal.

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

As implementation of this Modification Proposal would facilitate Transco's recovery of appropriate transportation charges from the date of appointment of a SOLR it is anticipated that the level of contractual risk could be expected to reduce.

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

No system impact is anticipated as a result of implementation of this Modification Proposal for either Transco or Users.

7. The implications of implementing the Modification Proposal for Users

The implementation of this Modification Proposal is intended to reduce the credit risk on Users via the energy balancing neutrality smearing mechanism and is therefore of potential benefit to Users as a whole.

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

No direct impact as a result of the implementation of this Modification proposal is anticipated.

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 unaware of any change in legislative, regulatory obligations or contractual relationships of Transco, Users or any Non-Network Code Party as a consequence of the implementation of this Modification Proposal.

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

Advantages of implementing this Modification Proposal:

Facilitates more effective management of energy balancing and transportation credit risk resulting in the reduction of both Transco's and all Users' potential exposure to financial loss.

Disadvantages of implementing this Modification Proposal:

Increased administrative workload for Transco due to off-line processes and procedures.

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

Seven representations have been received, all of which are supportive of implementing the Modification Proposal.

Statoil U.K, and Scottish & Southern Energy point out that the legal drafting does not reflect how Transco will act as agent for the terminated portfolio.

British Gas Trading states that if the arrangements to trade gas at the NBP are not to be included in the legal text "there is a need for some sort of procedural document, perhaps as an integral part of the appointment of SOLR process, to add clarity to the obligations of both Transco and the SOLR".

Similarly, Innogy's support is conditional on "the establishment, testing, validation and documentation of the processes and procedures necessary to support the off-line information transfer required prior to full portfolio migration"

Transco believes that the operational procedure for NBP Trades, as developed last Autumn within the Termination Group, robustly demonstrates both Transco and the new User responsibilities and their sequencing. Transco does not believe it is necessary to incorporate these procedures within the Network Code as they already exist as contingency arrangements outside of the Code and no new systems are required.

Futhermore, Ofgem is expected to undertake an end to end test of the SOLR appointment process which should help to provide the reassurance Users are seeking..

Scottish & Southern Energy also considers "that the Network Code needs to refer to the provisions that would ensue where more than one SOLR is appointed in respect of a supplier failure."

Transco does not believe it is necessary to incorporate any additional legal text within the Network Code to cover the eventuality of more than one SOLR being appointed as the procedures would remain the same. Agreement would need to be made regarding the NDM split of the portfolio, which could be based on the AQ for input purposes. This could involve significant additional administration effort by all parties. However, the underlying process remains the same.

The remaining three respondents (TotalFinaElf Gas & Power, Powergen and BP Gas Marketing) fully support implementation of this Modification Proposal. They agree the proposal will reduce Users' and Transco's exposure to financial loss, BP highlighting that it "improves transparency and cost reflectivity by clearly targetting balancing costs".

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

Transco is unaware 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 unaware of any such requirement.

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

Transco is unaware of any works required to implement this Modification Proposal. Changes identified relate to operational controls within Transco's System Operation and Credit Risk Management functions. Transco can facilitate these changes with immediate effect.

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

If the decision was taken to implement this Modification Proposal, it could take effect immediately following direction from the Authority.

16. Recommendation concerning the implementation of the Modification Proposal

Given the general level of support expressed by the respondents, in addition to the support of Energy Balancing Credit Committee members for implementation of this Modification Proposal resulting from its consistent objective of protecting Users as a whole from the risk of financial loss, Transco recommends implementation of this 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 to modify the Network Code and Transco now seeks direction from the Gas & Electricity Markets Authority in accordance with this report.

19. Text

SECTION G - RE-NUMBER PARAGRAPH 2.1.7 AS 2.1.9 AND INSERT NEW PARAGRAPHS G2.1.7 TO 2.1.8 AS FOLLOWS

"2.1.7 Where Transco has given a Termination Notice (under Section V4) to a User and the Director subsequently appoints a Supplier of Last Resort in respect of a Terminated Supply Meter Point, then notwithstanding any other provision of Code, the Last Resort User shall be deemed to be the Registered User of the Terminated Supply Meter Point, thereby accepting the benefit of the rights and the burden of obligations under Code, the Framework Agreement and any relevant Ancillary Agreement, in respect of the Terminated Supply Meter Point, with effect from and including the date of the appointment of the Supplier of Last Resort.

2.1.8 For the purposes of paragraph 2.1.7:

(a) where a User has been given a Termination Notice by Transco (under Section V4), all Supply Meter Points in respect of which the Discontinuing User was the Registered User immediately prior to the User Discontinuance Date shall be known as "**the Terminated Supply Meter Points**";

(b) a "**Supplier of Last Resort**" is a supplier whom by virtue of Standard Condition 29 of the Supplier's Licence has been appointed by the Director to supply gas in accordance with that condition in respect of any or all of the Terminated Supply Meter Points;

(c) "**the Last Resort User**" is a User who is the first User, following the appointment of the Supplier of Last Resort, to [apply to] become the Registered User of a Terminated Supply Meter Point. "

Signed for and on behalf of Transco.

Signature:

Tim Davis
Head of Regulation NT&T

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 **0524**, version **1.0** dated **27/02/2002**) 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 appropriateprovided 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.