



Transco, Shippers and other  
interested parties

Our Ref: Net/Cod/Mod/730  
Direct Dial: 020 7901 7355  
Email: [nick.simpson@ofgem.gov.uk](mailto:nick.simpson@ofgem.gov.uk)

23 March 2005

Dear Colleague,

**Modification proposal 730: 'Extending established Network Code governance arrangements to relevant Transco documents'**

Ofgem<sup>1</sup> has carefully considered the issues raised in Modification proposal 730, 'Extending established Network Code governance arrangements to relevant Transco documents' and has decided to direct Transco to implement the modification, as we believe that it will better facilitate the achievement of the relevant objectives of Transco's Network Code. Ofgem also considers that this decision is consistent with its wider statutory duties. In this letter we explain the background to the modification proposal and outline the reasons for making our decision.

**Background to the proposal**

There are currently a number of procedural documents which set out how both Transco and users are required to implement certain Network Code obligations, though those documents are not themselves subject to joint ownership or governance. These documents are generally referred to in the Network Code, though they are managed by Transco outwith the ordinary Network Code process, with change control being largely at the discretion of Transco.

Shippers have also expressed concern at the availability of these documents.

**The proposal**

This modification proposal intends to incorporate certain procedural documents within the governance of the Network Code. Although the proposer states that this list is not exhaustive, those covered by this particular proposal are as follows:

- Network Code operations reporting manual;
- LDZ shrinkage adjustments methodology;
- Invoice query estimation methodology;

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<sup>1</sup> Ofgem is the office of the Gas and Electricity Markets Authority. The terms 'Ofgem' and the 'Authority' are used interchangeably in this letter.

- Standards of Service query management operational guidelines;
- Guidelines for the treatment of shared supply meter points;
- Operational rules governing the supply of invoice charges via the ad-hoc process.

The proposal envisages that any new procedural document established by Transco setting out the detailed matters for the implementation of Network Code obligations will also be covered by this proposal.

### **Respondents' views**

Transco received five representations to its consultation, four of which supported the modification proposal, with the fifth offering qualified support.

Several respondents stated that the proposal would improve the visibility of both the documents themselves and the process by which they are to be amended. It was suggested that making these documents available on an easy to access website would facilitate new entry and ensure that incumbent shippers are working to the up-to-date procedures, thereby reducing the potential for error. The proponent and one other respondent considered that this improved transparency would further facilitate the relevant objectives by ensuring the efficient and economic operation by Transco of its pipeline system.

Two respondents stated that in their opinion the modification proposal did not seek to extend the scope of the Network Code Committee (NCC), as suggested by Transco, but merely ensured that that committee was not circumvented. One commented that Transco should not have free reign to manage these processes as it sees fit.

Two respondents commented on Transco's concerns with respect for the potential for deadlock to develop. Both respondents suggested that parties would be free to propose Network Code modification proposals to resolve and/or expedite the matter, with one stating that this may be preferable to simply referring the matter to the Authority.

The respondent offering qualified support was concerned that the proposal could inhibit the flexibility that is sometimes required in a rapidly changing business environment. They also felt that reviewing the documents by the relevant sub-committee and workstreams has worked satisfactorily and that the NCC would rely upon such groups for guidance. The respondent also expressed a preference that the workstream or sub-committee vote upon any change rather than rely upon a consensus, as currently.

### **Transco's view**

Transco does not recommend implementation of this modification proposal, and as such did not initially provide legal text as part of its Final Modification Report (FMR). Appropriate legal text was subsequently provided as part of the revised FMR on 15 March 2005.

Transco considers that the key issue is whether a more formal approval process for the modification of procedural documents would further the Network Code relevant objectives, particularly in comparison with the current situation where consultation on procedures is both assured and flexible and typically involves the relevant workstream. Transco is particularly concerned that the *Operational rules governing the supply of invoice charges via the ad-hoc*

process should continue to be excluded from Network Code governance, though it recognizes the need to consult with shippers.

Transco states that it has no objections, in principle, to placing the procedures listed in the proposal on its web-site. Transco also states its intent to fully consult with the relevant workstreams whenever it intends to amend any of these procedures and take into account any suggestions from the Network Code Committee on how such consultation might best be conducted.

### **Ofgem's view**

To the extent these documents can place further obligations upon Network Code parties, with respect to the manner in which they discharge their obligations as set out in Network Code Ofgem considers it appropriate that they be subject to robust governance, which includes a formalized consultation process. Ofgem also welcomes the fact that changes to these procedural documents will be subject to the approval of Network Code parties themselves, in the guise of the NCC, rather than requiring the consent of Ofgem. This is appropriate given the technical operational nature of these documents and is also consistent with Ofgem's desire to adopt more light handed regulation.

Ofgem does not consider that anything in this modification proposal will preclude amendments to the procedural documents from being referred to a relevant workstream for discussion. Indeed Ofgem would expect the Network Code Committee to rely upon such workstreams making recommendations upon which to make its decisions. This is already the practice for matters such as systems implementation plans which may be referred the NCC by the UK Link committee for approval<sup>2</sup>.

Ofgem notes Transco's particular concern with respect to the *Operational rules governing the supply of invoice charges via the ad-hoc process*, though there was little in the FMR to support its rationale for these procedures to be dealt with in an exceptional manner. Ofgem would agree with Transco's view that a streamlined process is required for operational rules, but does not consider that any part of this proposal, including the requirement for approval to be obtained from the NCC, precludes streamlined procedures being adopted and followed. To the extent that any procedure of the NCC is not already provided for under Section V 10 of the Network Code, paragraph 10.2.2 provides that the NCC may itself decide upon the procedures to be adopted by it. Ofgem would therefore expect that procedures can be foreshortened where circumstances dictate, in the same way as the modification rules themselves can be. Ofgem also anticipates that the NCC will develop procedures which ensure deadlock can be avoided and/or overcome.

On 20 January 2005<sup>1</sup> the Authority granted its conditional consent to the potential sale of four of Transco's Distribution Networks (DNs). One such condition to the Authority's consent requires satisfactory industry code arrangements and to this end Ofgem has recently launched its

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<sup>1</sup> Network Code, Section U 8.4.5

<sup>2</sup> National Grid Transco – Sale of gas distribution networks: Authority decision – Transco plc applications to dispose of four gas distribution networks *Decision document February 2005 21/05*

consultation<sup>4</sup> on, amongst other things, the Uniform Network Code (UNC) as developed by Transco.

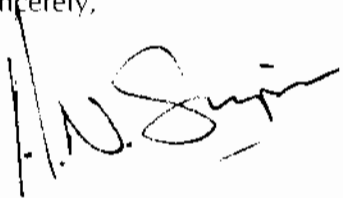
Ofgem considers that this proposal is reflective, in part, of shipper concerns that have been expressed in relation to DN Sales. During industry discussions at Development and Implementation Steering Group (DISG) and SPA Working Group meetings<sup>5</sup>, shippers identified areas of activity where they were dependent on services provided or co-ordinated by Transco but that were outside of formal Network Code governance. Arrangements based on custom and practices have developed over time, which are acknowledged as having being broadly satisfactory to all parties. However, the prospect of multi-ownership of DNs has brought into question whether changes could be made to the delivery or specification these services without the consent of shippers; the view was therefore developed within SPA Working Group that more formal governance arrangements were required.

### **Ofgem's decision**

For the reasons outlined above, Ofgem has decided to direct Transco to implement this modification as it considers that it would better facilitate the achievement of the relevant objectives of the Transco network code, as outlined under amended standard condition 9 of its GT licence and is consistent with the statutory duties of the Authority. In particular, Ofgem considers that the incorporation of these named documents under the governance of the Network Code will assist transparency and accountability. It also has the means of providing efficient consultation. These factors will contribute both to the efficient and economic operation by Transco of its pipeline system and increase the certainty and confidence of all Network Code parties, thereby facilitating competition between shippers and suppliers. Without prejudice to the outcome of the aforementioned consultation, Ofgem also considers that implementation of this proposal would further the relevant objectives of the proposed UNC.

If you have any further questions regarding this letter please do not hesitate to contact me on the above number or Jon Dixon on 020 7901 7354.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'N. Simpson', written over a horizontal line.

**Nick Simpson**  
**Director, Modifications**

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<sup>4</sup> Ofgem open letter: Gas distribution network sales – consultation on network code arrangements; 4 March 2005.

<sup>5</sup> See [www.ofgem.gov.uk/ofgem/work/index.jsp?section=/areasofwork/gasdistributionnetworksale](http://www.ofgem.gov.uk/ofgem/work/index.jsp?section=/areasofwork/gasdistributionnetworksale)

Signed for and on behalf of Transco.

Signature:

**Richard Court**  
**Commercial Frameworks Manager**  
**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 **0730**, version **2.0** dated **15/03/2005**) 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 **2.0**.

Signature:

**Process Manager - Network Code**  
**Transco**

Date: