

Representation - Draft Modification Report UNC 0743S

Revisions to User Termination Provisions

Responses invited by: **5pm on 11 February 2021**

To: enquiries@gasgovernance.co.uk

Please note submission of your representation confirms your consent for publication/circulation.

Representative:	Phil Lucas
Organisation:	National Grid NTS
Date of Representation:	11 th February 2021
Support or oppose implementation?	Support
Relevant Objective:	f) Positive

Reason for support/opposition: Please summarise (in one paragraph) the key reason(s)

As the proposer, National Grid NTS supports the implementation of this Modification Proposal. The enactment of the Corporate Insolvency and Governance Act 2020 in June 2020 has added provisions to the Insolvency Act 1986 which introduce limitations on the ability of the providers of services to cease contracts for the provision of such services where the service recipient is in a 'relevant insolvency procedure'. This has implications for Gas Transporters (as the providers of gas transportation services under the UNC) in the application of the Termination provisions in TPD V4.3, and more specifically the ability to issue a Termination Notice.

Implementation of the proposed changes will ensure the UNC appropriately caveats a Transporter's ability to issue a Termination Notice which will eliminate any potential conflict with the new legislation which would, in any event, prevail if these changes were not made. On this basis, removal of this potential conflict would promote efficiency in the implementation of the Code consistent with relevant objective (f).

Self-Governance Statement:

As set out in our Proposal, we are of the opinion that application of Self-Governance procedures is appropriate as the changes proposed are unlikely to have a material effect on competition in the shipping, transportation or supply of gas conveyed through pipes or any commercial activities connected with the shipping, transportation or supply of gas conveyed through pipes.

The nature of the change is to align the UNC to current 'live' legislation. Where there is at conflict between the two, the provisions of the legislation prevail. On this basis there is no consequential change to the actions Transporters are able, or not able, to take in respect of the Termination provision post implementation (as Transporters *already* have

to comply with the legislation) however the UNC will be *in alignment* with this new legislation

Implementation:

We do not require a lead time for implementation of this Proposal hence implementation is sought as soon as practicable. Regardless of the timing of implementation, from 25th June 2020 the entitlement for a Transporter to issue a Termination Notice is subject to the new provisions incorporated into the Insolvency Act 1986 due to the prevalence of the provisions of primary legislation where they are in conflict with the terms of contracts.

Impacts and Costs:

National Grid will not incur any specific additional costs as a consequence of the implementation of this Proposal.

Legal Text:

We are satisfied that the legal text delivers the intent of the solution identified in this Proposal.

Are there any errors or omissions in this Modification Report that you think should be taken into account?

We have not identified any such error or omissions.

Please provide below any additional analysis or information to support your representation

N/A