

Workstream Report

**Application of Charges consistent with Late Payment of Commercial Debts
(Interest) Act 1998**

Modification Reference Number 0026

Version 1.0

This Workstream Report is presented for the UNC Modification Panel's consideration. The consensus of attendees at the Distribution Workstream is that, while views may differ regarding the merits of the Modification Proposal, it is sufficiently developed to proceed to consultation.

1. The Modification Proposal

This Proposal is one of five which seek to implement recommendations identified within Ofgem's conclusion document "Best Practice Guidelines for Gas and Electricity Network Operator Credit Cover" 58/05. This concluded the high-level principles that should be applied and further work required in respect of credit cover arrangements for transportation arrangements.

This Proposal seeks to implement elements of recommendations detailed within paragraphs 3.53 to 3.57 of the conclusion document.

UNC Section S3.1 details the invoice payment terms to which Users are obliged to adhere. UNC Section S3.5 makes provision for Transporters to charge interest where any amount payable under an Invoice is not paid on or before the Invoice Due Date. The "Applicable Interest Rate" at which interest will be applied if payment is not made in accordance with UNC Sections S3.1 and S3.5 is detailed within UNC Section S3.6. At present this "Applicable Interest Rate" is the base rate of Barclays Bank plc plus three percentage rates per annum.

Ofgem's document "Best Practice Guidelines for Gas and Electricity Network Operator Credit Cover" 58/05 paper identifies that a User be penalised if it fails to pay in accordance with the UNC. The application of interest for late payment is intended to be a deterrent and the Consultation concludes that the existing rate of interest as defined in UNC Section S3.6 is not at a sufficient level to be an effective deterrent to all Users. This is because it may be more economic for Users to incur an interest charge from the Transporter than to loan funds from a bank or other financial body and pay the invoice on its payment due date.

It is proposed that the 'Applicable Interest Rate' be amended to reflect the rate contained within the Application of the Late Payment of Commercial Debts (Interest) Act 1998 being at a rate equal to the Bank of England base rate plus eight percentage points per annum. Transco believes that this would act as an incentive to ensure that payments are made in accordance with prevailing contracts. This rate is calculated by adding 8 percentage points to the reference rate, which is the Bank of England base rate on 30 June and 31 December each year. This rate is applicable for the following six-month periods i.e. 1 July to 31 December and 1 January to 30 June respectively.

It is also proposed that the Transporter will charge a fee to cover the additional administration that late payment incurs. The Late Payment of Commercial Debts (Interest) act 1998 permits a creditor to recover compensation

as follows:

Size of the late paid debt	Value of Compensation that can be claimed
Up to £999.99	£40
£1,000 to £9,999.99	£70
£10,000 or more	£100

- 2. Extent to which implementation of the proposed modification would better facilitate the relevant objectives**

Implementing consistent credit processes which move towards recognised best practice would help ensure that there is no inappropriate discrimination, and no inappropriate barrier to entry, thereby facilitating the securing of effective competition between Relevant Shippers.
- 3. The implications of implementing the Modification Proposal on security of supply, operation of the Total System and industry fragmentation**

No such implications on security of supply or operation of the Total System have been identified. Incorporating the existing Credit Rules within the UNC may help to reduce the prospect of industry fragmentation.
- 4. The implications for Transporters and each Transporter of implementing the Modification Proposal , including**
 - a) implications for operation of the System:**

No such implications have been identified.
 - b) development and capital cost and operating cost implications:**

The proposer has suggested that any costs would be minimal.
 - c) extent to which it is appropriate to recover the costs, and proposal for the most appropriate way to recover the costs:**

No cost recovery mechanism is proposed.
 - d) analysis of the consequences (if any) this proposal would have on price regulation:**

No such consequences are anticipated.
- 5. 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**

No such consequence is anticipated..
- 6. 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 systems impacts are anticipated by either Transporters or Users.]
- 7. The implications of implementing the Modification Proposal for Users, including administrative and operational costs and level of contractual risk**

The incentive for prompt payment may increase costs for some Users and would thereby potentially increase Users' level of contractual risk.

- 8. The implications of implementing the Modification Proposal for Terminal Operators, Consumers, Connected System Operators, Suppliers, producers and, any Non Code Party**
No such implications have been identified.

- 9. 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 such consequences are anticipated.

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

Advantages

- Increased alignment of the UNC with best practice as identified in Ofgem's conclusions document
- Ensures credit cover continues to be sought on a non-discriminatory basis
- Ensures there continue to be no inappropriate barriers to entry as a result of credit requirements

Disadvantages

- May create inconsistency between the UNC and each set of Credit Rules
- Potentially increases some Users' costs through application of penal interest rate

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

The report reflects issues raised at Workstream meetings. No written representations have been received.

Some Users' queried why 8% above Base Rate was proposed when this is identified as a maximum in the *Late Payment of Commercial Debts (Interest) Act 1998* when suitable contractual remedies are not available. The present 3% above base rate was suggested as being sufficient, and any higher rate should not apply to all Shippers but could reflect the criteria set out within the Act. The Transporters emphasised that this had been tested and persistent late payment had been experienced, suggesting that 3% was not a sufficient incentive.

- 12. 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.

- 13. 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.

14. 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.

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

Changes would be required in respect of operational processes and procedures were this Modification proposal to be implemented. The Proposer suggests that a lead-time of one calendar month will be required for implementation of the Modification Proposal if so directed.

16. 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.

17. Workstream recommendation regarding implementation of this Modification Proposal

The consensus of attendees at the Distribution Workstream meeting on 23 June 2005 was that implementation of this Modification Proposal may be expected to facilitate achievement of the Relevant Objectives. However, Shipper's felt it would have been more efficient and a better use of resources to see a wider Modification Proposal encompassing Ofgem's recommendations in full and bringing the whole of the existing Credit Rules within the UNC – thereby facilitating the Relevant Objectives further than through implementation of this Modification Proposal.

Attendees believed that, were this Proposal to be implemented, increased facilitation of the Relevant Objectives would be achieved if implementation were coincident with that of Modification Proposals 0023, 0024, and 0025 (and any subsequent related Proposals in this area) which also reflect Ofgem's conclusion document, since this would mean that only one change to the existing Credit Rules would be needed, and any related systems changes associated with the various Proposals could be implemented in a coordinated and efficient manner. This would also apply to Modification Proposal 0027 if the proposed right of set off was elective for Shippers.

18. Text

No legal text has been developed by the Proposer or within the Workstream, either with respect to modifying the Uniform Network Code or each Transporter's Credit Rules