

Draft Modification Report
Right of Set Off under Uniform Network Code
Modification Reference Number 0027

Version 1.0

This Draft Modification Report is made pursuant to Rule 8.9 of the Modification Rules and follows the format required under Rule 9.6.

1. The Modification Proposal

This is one of a number of Proposals 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.

This Proposal seeks to implement recommendations detailed within paragraph 3.49 of the conclusion document.

Under the UNC, Transporters may issue either credit or debit invoices to Users, payable by the Transporter or the User within terms specified in the UNC.

Historical evidence demonstrates that the net position is usually that a User owes the Transporter more than the Transporter owes to the User.

It would be beneficial to Transporters and Users in terms of administration burden if (in respect of Transportation services) a Transporter had the ability to offset amounts it was due to pay to the User against any invoice value that the User is due to pay the Transporter.

This right of set off would only be available where:

- the relevant Transporter was the same party in respect of both the credit and debit amounts, and
- the relevant User was the same party in respect of both the credit and debit amounts.

Currently UNC Section S3.3 does not permit offsets and therefore Transco proposes that the UNC be modified to permit the off set of User credit amounts against User debit amounts (in respect of Transportation services) as recommended within Ofgem's Consultation.

Where the Transporter elects to undertake such a set off, it is proposed that:

- the Transporter will issue a 'set off notice' to the User prior to the invoice due date of the earliest invoice within the set off 'group' of invoice items, except in instances where a User is in breach of Section S3.1.
- the 'set off notice' will specify the invoice items payable by the transporters which are being set off against the specified invoice items payable by the User.
- in the event that a User registers a valid invoice query (and consequently withholds the amount payable) in respect of an invoice within the set off 'group', the Transporter will undertake investigation as to whether the amount due to the User can be set off against an alternative amount due to the Transporter. If no such suitable invoice item is available, the Transporter will pay such amount to the User.

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 or industry fragmentation have been identified.

4. The implications for Transporters and each Transporter of implementing the Modification Proposal , including

a) implications for operation of the System:

No implications for operation of the system have been identified.

b) development and capital cost and operating cost implications:

The proposer has suggested that any costs would be minimal and outweighed by subsequent operational cost saving.

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

Initially no systems impacts were anticipated by either Transporters or Users.

Subsequently Users have identified that significant systems changes would be needed and that a minimum three month lead time (preferably six to nine) should be allowed if the right of set of is not elective for Users.

7. The implications of implementing the Modification Proposal for Users, including administrative and operational costs and level of contractual risk

Administratively, implementation of the Modification Proposal has the potential to reduce Shippers' costs if there are no systems implications. Provided it is elective for Users to choose to use this facility, costs would be expected to be reduced.

If use of the proposed facility is mandatory for Users, Users would anticipate increased costs.

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.
- Potentially reduces industry administration costs.

Disadvantages

- Would create significant system problems and costs for some Users if non-elective for Users.

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

Representations are now invited.

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 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

Changes would be required in respect of operational processes and procedures in the event that this Modification Proposal is implemented.

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

The Proposer suggests that a lead-time of one calendar month will be required for implementation of the Modification Proposal if so directed.

User attendees at the Workstream suggested that a lead time of six to nine months would be appropriate, but an absolute minimum three months notice should be given if set off is not elective for Users.

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. Recommendation regarding implementation of this Modification Proposal and the number of votes of the Modification Panel

18. Text

TPD SECTION S: INVOICING AND PAYMENT

Amend paragraph 3.3.1 to read as follows:

3.3.1 Without prejudice to paragraphs 3.8 and 4.2.2, amounts payable....

Add new paragraph 3.8 to read as follows:

3.8 Set off notice

3.8.1 Where a Transporter submits a notice ("**Set off Notice**") to a User in respect of a relevant Invoice Document the provisions of this paragraph 3.8 shall apply.

3.8.2 For the purposes of this paragraph 3.8 a "**relevant**" Invoice Document is an Invoice Document which:

- (a) has been submitted to the User;
- (b) comprises Invoice Amounts (including Invoice Amounts under any other relevant Invoice Document specified in the Set off Notice) which are payable both by and to a User; and
- (c) such Invoice Amounts are in respect of Transportation Charges.

3.8.3 A Set off Notice shall specify:

- (a) the identity of the User;
- (b) in respect of each relevant Invoice Document:

- (i) the unique number by which the Invoice Document is identified;
 - (ii) the date the Invoice Document was submitted to the User;
 - (iii) the Invoice Type;
 - (iv) the Invoice Due Date;
 - (v) in respect of each Invoice Item, the Invoice Amount;
- (c) by reference to each of the Invoice Amounts payable both by and to a User under each relevant Invoice Document, the net amount payable by or to the User (the "**net invoice amount**"); and
- (d) the Invoice Document (the "**specified**" Invoice Document) in respect of which the net invoice amount is to be treated as payable (which in the case of a Set off Notice in respect of a single Invoice Document shall be such Invoice Document).

3.8.4 Following the submission of a Set off Notice:

- (a) payment of the net invoice amount by the Transporter or (as the case may be) the User on or before the Invoice Due Date of the specified Invoice Document shall be treated for the purposes of this Section S as payment in full of all Invoice Amounts payable by or to the User under each relevant Invoice Document specified in the Set off Notice;
- (b) paragraphs 3.2, 3.4 and 3.7 shall apply in respect of each relevant Invoice Document;
- (c) the Transporter or (as the case may be) the User will remain liable for the payment of interest in accordance with paragraph 3.5 in respect of the late payment of any Invoice Amount under a relevant Invoice Document where payment was not made by the Invoice Due Date; and
- (d) in the event the net invoice amount is not paid on or before the Invoice Due Date of the specified Invoice Document paragraph 3.5 shall apply in respect of each Invoice Document specified in the Set off Notice.

3.8.5 Where a User has notified the Transporter of an Invoice Query (in accordance with paragraph 4.2) in respect of an Invoice Item under a relevant Invoice Document:

- (a) prior to the submission of a Set off Notice, the Transporter shall take account of the Invoice Amount which is the subject of the Invoice Query when determining the net invoice amount payable;
- (b) following the submission of a Set off Notice, the Transporter will:
 - (i) make payment of any such amount for which it is liable pursuant to this Section S in respect of the Invoice Query; or
 - (ii) submit a revised Set off Notice to take account of the Invoice Amount which is subject of the Invoice Query (and the first Set off Notice shall cease to have effect).

Subject Matter Expert sign off:

I confirm that I have prepared this modification report in accordance with the Modification Rules.

Signature:

Date :

Signed for and on behalf of Relevant Gas Transporters:

Tim Davis
Chief Executive Officer, Joint Office of Gas Transporters

Signature:

Date :