

**CODE MODIFICATION PROPOSAL No. 0028**  
"Third Party Undertakings"  
Version 1.0

**Date:** 09/06/2005

**Proposed Implementation Date:** 01/10/2005

**Urgency:** Non-Urgent

**Proposer's preferred route through modification procedures and if applicable, justification for Urgency**

(see the criteria at [http://www.ofgem.gov.uk/temp/ofgem/cache/cmsattach/2752\\_Urgency\\_Criteria.pdf](http://www.ofgem.gov.uk/temp/ofgem/cache/cmsattach/2752_Urgency_Criteria.pdf))

This Modification Proposal has been developed within the Uniform Network Code (UNC) Distribution Workstream. General consensus on its objectives was forthcoming. 'Proceed to consultation' is therefore requested.

**Nature and Purpose of Proposal (including consequence of non implementation)**

Following the appointment of an Administrator to a User, Transco undertook a review of the credit provisions within Transco's Network Code. Following purchase of that User's business by a third party, the third party offered an undertaking to pay debts accrued by the User to which the Administrator had been appointed, however, the Network Code did not permit this.

Section V4.3.1(e) of the Uniform Network Code (UNC) outlines the provisions for Transporters to issue a User Termination Notice where a User default occurs due to the appointment of a receiver, administrator, trustee-in bankruptcy or foreign insolvency practitioner. UNC Section V4.3.3(c) also states that the appointed party (Insolvency Practitioner) must provide adequate assurances to the Transporter to pay all Transportation Debt. Such assurance should be provided within two business days of the appointment.

In the event that the appointed party does not provide adequate assurance, it is likely that the Energy Balancing Credit Committee (EBCC) or indeed Transporters would issue a Termination Notice. It is, however recognised that there may be occasions where an immediate Termination may not be the best course of action for the industry as a whole and, as such, it may be mutually advantageous for an insolvent User to continue to be party to the Uniform Network Code.

Transco considers that it is appropriate in the event of insolvency to allow an unrelated third party to provide adequate assurance to a transporter in respect of the ongoing debt provided that such party can meet the provisions of the UNC in respect of the provision of security.

Following earlier consultation with the EBCC, Transco believes that it is not necessary to amend the UNC from an Energy Balancing perspective to allow the acceptance of suitable third party undertakings. Transco believes that UNC Section X4.2.2 permits the Transporter to "*take such action as the EBCC recommends*". Transco has agreed with the EBCC that it would amend its internal procedures to facilitate the active seeking of third party assurances to run in parallel with the pursuance of assurances from the insolvency practitioner. It is anticipated that this would ensure that contractually, the onus remains with the Insolvency Practitioner to provide the assurances required. However, should such an assurance not be received it would be possible for an emergency EBCC meeting to have a fully informed discussion about any alternative assurances.

The above Energy arrangement does not cover Transportation security, ongoing provisions and therefore a change to UNC Section V4.3.1 is proposed.

**Basis upon which the Proposer considers that it will better facilitate the achievement of the Relevant Objectives, specified in Standard Special Condition A11.1 & 2 of the Gas Transporters Licence**

Transco believes that the measures identified within this Modification Proposal further the GT Licence 'code relevant objective' of facilitating the efficient and economic operation by the licensee of its pipe-line system by ensuring that robust procedures and best practice measures are in place to minimise the impact on the industry of User failure.

**Any further information (Optional), likely impact on systems, processes or procedures, Proposer's view on implementation timescales and suggested text**

Minimal changes would be required in respect of operational processes and procedures and therefore this Modification could be implemented with immediate effect if appropriate direction is received from the Authority.

**Code Concerned, sections and paragraphs**

Uniform Network Code Sections V4.3.1(e) & V4.3.3(c)

**Proposer's Representative**

Chris Warner (National Grid Transco - UKD)

**Proposer**

Declan McLaughlin (National Grid Transco - UKD)

**Signature**

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