

Modification Report
Removal of Failure Notices in respect of Energy Balancing Credit
Modification Reference Number 0102
Version 2.0

This Modification Report is made pursuant to Rule 7.3 of the Modification Rules and follows the format required under Rule 9.6.

1. The Modification Proposal

The Proposal was as follows:-

“Following the Termination of two Users during the winter of 2005/6 the Energy Balancing Credit Committee (EBCC) carried out a review of events to identify potential areas where controls could be further tightened in pursuit of minimising the community’s exposure to financial loss as a result of Energy Balancing Credit Risk.

This Proposal aims to reduce the lapse time period between the issuing of failure notices and convening of EBCC meetings, to determine whether or not to issue Termination Notice to defaulting Users by removing the requirement to issue such failure notices.

The scope of this proposal includes notices in respect of the following areas:

Failure to Pay Cash Call Notice (X2.9.1), Failure to Supply Further Security Notice (X2.10.9) and Failure to Pay Energy Balancing Invoices (X3.2.)

Uniform Network Code currently sets out the following timescales:

Failure to Pay Cash Call Notice

Where National Grid NTS submits a Cash Call notice and the User does not successfully appeal such notice the User is obliged to make payment in full of the Cash Call amount on the Business day following the Day on which the Cash Call was made. Where payment is not made Uniform Network Code (UNC) Section X 2.9.1 states that "National Grid NTS shall be entitled to, and as soon as reasonably practicable after the Business Day will, submit to the User a notice substantially in the form set out in the Energy Balancing Credit Rules, notifying the User that National Grid NTS may give Termination Notice to the User if the User does not pay the amount of the Cash Call in full by the Business Day following such notice".

Failure to Supply Further Security Notice

Where National Grid NTS submits a Further Security Request and the User has not demonstrated that it is inappropriate to provide further, additional or revised Security and where on the 8th Business Day following such request has not been satisfied the UNC Section X 2.10.9 states that “National Grid NTS shall submit to the User a Failure to Supply Further Security Notice in a form set out in the Energy Balancing Credit Rules. Without prejudice to paragraph 1.2.5. National Grid NTS shall notify the Energy Balancing Credit Committee that such notice has been issued.”

UNC provides a further period of 7 Business days before National Grid NTS shall be entitled to issue a Termination Notice to the defaulting User and be obliged to convene a meeting of the EBCC to determine if such notice should be issued.

Failure to Pay Energy Balancing Invoice

Where a User fails to pay the net amount of an Energy Balancing Invoice in full on the due date UNC section X3.2.1 states “ National Grid NTS shall be entitled to, and as soon as reasonably practicable after the Invoice Due Date will, submit to the User a notice, substantially in the form set out in the Energy Balancing Credit Rules, notifying the User that National Grid NTS will give Termination Notice to the User if the User does not pay the outstanding amount of the Net Invoice Amount in full by the 5th Business Day after the date of such notice.”

Following members detailed review of the circumstances and events leading to and subsequent to Termination Notices being issued to Reepham Limited and Utilita Gas Shipping Ltd in December 2005 and January 2006 respectively, the EBCC members believe that the lapse periods in respect of such notices outlined above represent an unnecessary and avoidable potential financial exposure to the community and as such this proposal aspires to remove these lapse periods providing National Grid NTS more rapid escalation to EBCC to determine issue of Termination Notices to Defaulting Users in an attempt to curtail the communities exposure to avoidable financial loss.”

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

Standard Special Condition A.11.1 (a) “*the economic and efficient operation of the pipe-line system to which this licence relates;*”

The Proposer stated that following “review by the EBCC of Section X of the Uniform Network Code and the EBCR, EBCC believes that the measures identified within this Modification Proposal” would facilitate achievement of this objective by ensuring that robust procedures and best practice measures are in place to minimise the impact on the industry of User failure.

BGT, Corona, EDF, NG NTS, SGN, and SSE all agreed that implementation would facilitate the achievement of this objective.

Standard Special Condition A.11.1 (d) “*the securing of effective competition:... (i) between relevant shippers...*”

Corona, NG NTS and NG UKD suggested that achievement of this objective would be facilitated by implementation of the Proposal. NG UKD considered this would be achieved because implementation would provide “*incentive for the right behaviour and thus reduce industry risk*”. In more detail Corona stated implementation would limit “*exposure to Users. The level of exposure to each individual User is determined by subsequent smearing formulae which do not necessarily reflect the impact of the default on the User, particularly as the level of exposure cannot be directly managed by the individual User.*”

Standard Special Condition A.11.1 (f) “*the promotion of efficiency in the implementation and administration of...the uniform network code.*”

The Proposer referred to the EBCC belief that “making revision to the rules governing the management of Energy Balancing Credit Management, the level of risk faced by Users could be reduced. The revisions proposed demonstrate continued development of the objectives of the EBCR, namely to ‘develop and maintain a Framework for limiting the risk

of financial loss to the shipper community resulting from the operation of the Energy Balancing regime”, Therefore the EBCC believed that implementation of this Proposal would be consistent with the achievement of this objective.

BGT, Corona, and NG UKD all agreed that implementation would facilitate the achievement of this objective.

3. The implications of implementing the Modification Proposal on security of supply, operation of the Total System and industry fragmentation

The implementation of this Proposal should not have any effect on security of supply, operation of the Total System, or industry fragmentation.

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:

SGN did not “*envisage major costs as a result of implementing this proposal as changes are only procedural*”. No other respondent identified any development, capital cost or operating cost implications.

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 on price regulation have been identified.

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 consequences have been identified.

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 implications have been identified.

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

BGT supported the Proposal and recognised that a balance needs to be struck “*providing Users, especially smaller organisations with limited resources, adequate opportunity and notice to correct their credit position. Against this must be weighed the financial risk to the remainder of the community of allowing a failing shipper to continue to incur costs, which in the event of business failure will be smeared across remaining Users.*” BGT went on to assert that the risk of business failures was historically higher now and the value of the risk

can also be significant. BGT believed that the benefits of implementation far outweighed any potential downside.

EDF believed that *“impacted Shippers will have sufficient time to respond to ... invoice notices, whilst providing additional confidence to the market that Energy Balancing Risks will be reduced.”* Additionally EDF noted that implementation of the Proposal would *“provide an additional incentive to Shippers to respond to the Invoice Notices when they are issued.”*

NG UKD also believed that *“the defaulting User has ample opportunity to resolve its imbalance without the need for the additional time afforded by the ‘failure notices’.”*

Corona suggested the Proposal *“would permit more proactive and immediate management of financial exposures by the community via the EBCC.”* Corona considered that non-implementation would *“continue to expose the community to unnecessary risks of escalating debt as a result of the current anomaly enshrined within the UNC. This level of risk is objectionable on the basis that it arises as a result of the timetable established in the UNC, rather than any operational or commercial considerations. It is incumbent upon Users to limit risks to the community which cannot be directly managed by any individual Party.”*

Exxon in support of the Proposal expressed the view that *“the lapse periods following a Users failure to pay an Energy Balancing Invoice represent an unnecessary and avoidable financial exposure to the shipping community. As such we support the removal of such lapse periods enabling a quicker escalation route for NG NTS to issue a Termination Notice to a failed User.”* Similar views were expressed by RWE, NG NTS, SGN, SSE, STUK, TGP and NG UKD.

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 have been identified.

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

Advantages

- Minimises the community’s exposure to financial loss as a result of Energy Balancing Credit Risk.
- Permits the Industry, via the EBCC, to play a more proactive and immediate role in managing risk
- Is consistent with the objective of permitted the EBCC to best manage community risk.

Disadvantages

- Minor inconvenience for shippers who wait for a notice before addressing their credit position.

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

Representations have been received from the following 11 organisations:

Organisation	Abbreviation	Position
British Gas Trading	BGT	Support
Corona Energy	Corona	Support
EDF Energy	EDF	Support
ExxonMobil Gas Marketing Europe	Exxon	Support
National Grid Distribution	NG UKD	Support
National Grid Transmission	NG NTS	Support
RWE npower	RWE	Support
Scotia Gas Networks	SGN	Support
Scottish & Southern Energy	SSE	Support
Statoil (U.K.)	STUK	Support
Total Gas and Power	TGP	Support

Thus, all eleven respondents supported implementation.

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 for works other than procedural change would be required as a consequence of implementing the Modification Proposal.

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

SGN agreed, *“implementation is feasible within the timescales specified within the proposal.”* This was that implementation could be immediate on receipt of direction from Ofgem..

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

At the Modification Panel meeting held on 19 October 2006, of the 10 Voting Members present, capable of casting 10 votes, 10 votes were cast in favour of implementing this Modification Proposal. Therefore the Panel recommend implementation of this Proposal.

18. Transporter's Proposal

This Modification Report contains the Transporter's proposal to modify the Code and the Transporter now seeks direction from the Gas & Electricity Markets Authority in accordance with this report.

19. Text

UNIFORM NETWORK CODE - TRANSPORTATION PRINCIPAL DOCUMENT

SECTION X - ENERGY BALANCING CREDIT MANAGEMENT

Amend paragraph 2.9 to read as follows:

“2.9 Failure to pay Cash Call

- 2.9.1 Where a User has not paid the whole of a Cash Call by the Business Day following the Day on which the Cash Call was made, and irrespective of the amount of the User's Outstanding Relevant Balancing Indebtedness as at any Day after the calculation of the Cash Call, National Grid NTS shall be entitled to, ~~and as soon as reasonably practicable after such Business Day will, submit to the User a notice substantially in the form set out the Energy Balancing Credit Rules, notifying the User that National Grid NTS may give Termination Notice to the User if the User does not pay the amount of the Cash Call in full by the Business Day following the date of such notice.~~ and after such Business Day subject to paragraph 2.9.7 may give Termination Notice (for the purposes of Section V4.3.3) to the User to the effect that the User shall cease to be a User with effect from the Day following the date of the Termination Notice.
- 2.9.2 ~~Where National Grid NTS has given notice to a User under paragraph 2.9.1,~~ Where a User has not paid the whole of a Cash Call by the Business Day following the Day on which the Cash Call was made, and until the Cash Call is paid in full, National Grid NTS will not pay, and (irrespective of the Invoice Due Date) shall be entitled to withhold payment pursuant to any Energy Balancing Invoice in respect of, any amounts payable to the User in respect of Energy Balancing Charges, (and no interest shall accrue and be payable on any such amounts from the Invoice Due Date until the day on which the payment is made) and National Grid NTS shall instead pay the relevant amounts into the User's Cash Call Account.
- 2.9.3 ~~Where National Grid NTS has given notice to a User under paragraph 2.9.1 and the User has not paid the amount referred to in the notice in full after one Business Day following the date of such notice, National Grid NTS shall be entitled to and after such Business Day subject to paragraph 2.9.7 may give Termination Notice (for the purposes of Section V4.3.3) to the User to the effect that the User shall cease to be a User with effect from the Day following the date of the Termination Notice.~~ Not used.
- 2.9.4 National Grid NTS will send a copy of any notice given under paragraph 2.9.1 ~~or 2.9.3~~ to the Authority and without prejudice to paragraph 1.2.5, shall notify the Energy Balancing Credit Committee that such notice has been issued.
- 2.9.5 For the avoidance of doubt, National Grid NTS will not realise and apply any Security in respect of any Cash Call (the basis on which a Security realised and applied being set out in paragraph 3.2.4(b)).

- 2.9.6 Where National Grid NTS has given a Trading Participant a Termination Notice pursuant to this paragraph 2.9 it shall promptly inform the Trading System Operator.
- 2.9.7 Before National Grid NTS shall take the action envisaged by paragraph 2.9.31, National Grid NTS shall convene a meeting of the Energy Balancing Credit Committee as soon as reasonably practicable on or after one Business Day following the ~~date of the notice given to the User pursuant to paragraph 2.9.1~~ Day on which the Cash Call was made and shall consult with the Energy Balancing Credit Committee to determine whether National Grid NTS should be obliged to issue the Termination Notice, pursuant to paragraph 2.9.31, or whether National Grid NTS should defer taking such step.”

Amend paragraph 2.10.9 to read as follows:

- “2.10.9 Where a User has not provided the further, additional or revised Security in accordance with the Further Security Request by 12:00 hours on the 8th Business Day (the “Further Security Failure Day”) following:
- (a) the date the Further Security Request was submitted; or
 - (b) where the User has given a notification under paragraph 2.10.4, the date the revised Further Security Request was submitted or the date the User was notified that the Further Security Request remains valid pursuant to paragraph 2.10.5,

~~National Grid NTS shall submit to the User a Failure to Supply Further Security Notice in a form set out in the Energy Balancing Credit Rules. Without prejudice to paragraph 1.2.5, National Grid NTS shall notify the Energy Balancing Credit Committee that such a notice has been issued.~~ the provisions of paragraph 2.10.10 shall apply.”

Amend paragraph 2.10.10 to read as follows:

- “2.10.10 Subject to paragraph 2.10.12, where ~~the User has not provided the further, additional or revised Security in accordance with the Further Security Request by 12:00 hours on the 7th Business Day following the date the Failure to Supply Further Security Notice was submitted and irrespective of the User's Outstanding Relevant Code Indebtedness as at any Day after the submission of the Further Security Request,~~ this paragraph applies and irrespective of the User's Outstanding Relevant Code Indebtedness as at any Day after the submission of the Further Security Request, National Grid NTS shall be entitled to, and as soon as reasonably practicable thereafter may, give Termination Notice to the User (for the purposes of Section V4.3.3) to the effect that the User shall cease to be a User with effect from the Day following the date of the Termination Notice and National Grid NTS shall send a copy of any notice given under this paragraph 2.10.10 to the Authority.”

Amend paragraph 2.10.12 to read as follows:

- “2.10.12 Before National Grid NTS shall take the action envisaged by paragraph 2.10.10, National Grid NTS shall convene a meeting of the Energy Balancing Credit

Committee as soon as reasonably practicable ~~on or after the 7th Business Day following the date the Failure to Supply Further Security Notice was submitted~~ after the Further Security Failure Day and shall consult with the Energy Balancing Credit Committee to determine whether National Grid NTS should be obliged to issue the Termination Notice, pursuant to paragraph 2.10.10, or whether National Grid NTS should defer taking such step.”

Amend paragraph 3.2 to read as follows:

“3.2 Failure to make payment

3.2.1 Where a User does not pay the Net Invoice Amount under an Energy Balancing Invoice in full on the Invoice Due Date, notwithstanding Section V4.3.1(a) National Grid NTS shall be entitled to, and, subject to paragraph 3.2.5, as soon as reasonably practicable after ~~the such~~ Invoice Due Date ~~will, submit to the User a notice, substantially in the form set out in the Energy Balancing Credit Rules, notifying the User that National Grid NTS will give Termination Notice to the User if the User does not pay the outstanding amount of the Net Invoice Amount in full by the 5th Business Day after the date of such notice.~~may, give Termination Notice (for the purposes of Section V4.3.3) to the User to the effect that the User shall cease to be a User with effect from the Day following the date of the Termination Notice.

3.2.2 ~~Where National Grid NTS has given notice to a User under paragraph 3.2.1 and the User has not paid the outstanding amount of the Net Invoice Amount in full by the 5th Business Day following the date of such notice, National Grid NTS shall be entitled to and, subject to paragraph 3.2.5, as soon as reasonably practicable after such 5th Business Day may, give Termination Notice (for the purposes of Section V4.3.3) to the User to the effect that the User shall cease to be a User with effect from the Day following the date of the Termination Notice.~~Not used.

3.2.3 National Grid NTS will send a copy of any notice given under paragraph 3.2.1 ~~or 3.2.2~~ to the Authority and without prejudice to paragraph 1.2.5, will notify the Energy Balancing Credit Committee that such a notice has been issued.

3.2.4 Where:

- (a) ~~National Grid NTS has given notice to a User under paragraph 3.2.1~~a User has not paid the Net Invoice Amount under an Energy Balancing Invoice in full on the Invoice Due Date, and until the Net Invoice Amount under the relevant Energy Balancing Invoice is paid in full; or
- (b) a User is a Defaulting User

National Grid NTS will not pay and (irrespective of the Invoice Due Date) shall be entitled to withhold payment pursuant to any Energy Balancing Invoice in respect of, any amounts payable to the User in respect of Energy Balancing Charges ("**relevant amounts**") (and no interest shall accrue and be payable on any such amounts from the Invoice Due Date until the day on which the payment is made) and National Grid NTS shall instead pay the relevant amounts into the User's Cash Call Account.

- 3.2.5 Before National Grid NTS shall take the action envisaged by paragraph 3.2.2~~1~~, National Grid NTS shall convene a meeting of the Energy Balancing Credit Committee as soon as reasonably practicable on or after the ~~5th Business Day following the date of the notice given to the User pursuant to paragraph 3.2.1~~ relevant Invoice Due Date and shall consult with the Energy Balancing Credit Committee to determine whether National Grid NTS should be obliged to issue the Termination Notice pursuant to paragraph 3.2.2~~1~~, or whether National Grid NTS should defer taking such step.”

Amend paragraph 3.3 to read as follows:

“3.3 Securities

- 3.3.1 National Grid NTS may make or take any step to enforce and realise any Security at any time after ~~National Grid NTS has given notice to the User under paragraph 3.2.1~~ the Invoice Due Date at which any part of the Net Invoice Amount under any Energy Balancing Invoice remains outstanding.
- 3.3.2 It shall not be a condition to National Grid NTS's giving Termination Notice under paragraph 3.2.2~~1~~ that National Grid NTS shall first have taken any steps to enforce or realise any Security.”

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, Joint Office of Gas Transporters

Signature:

Date :