

CODE MODIFICATION PROPOSAL No. 0122
"Restriction of invoice billing period to Price Control"
Version 2.0

Date: 06/11/2006

Proposed Implementation Date: 13/12/2006

Urgency: 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)

British Gas Trading (BGT) requests that this Modification Proposal be granted Urgent status by the Authority. The justification for Urgency is set out below.

This proposal addresses the same key issues as modification proposal 0117, which was granted Urgent status by the Authority on 2 October 2006. This was in recognition of that proposal's links to a specific date related event (the issuing of revised invoices resulting from the Farningham metering error), and the anticipated financial impacts upon Users. We believe that Urgency should be granted to this proposal in order that the Authority is able to consider the merits of this proposal in parallel with Modification Proposal 0117.

The proposer has concluded it necessary to raise this proposal at this time as a result of two specific, recent events in the life of Modification Proposal 0117. The first is the greater understanding across the industry of the intention and effects of Modification Proposal 0117 following the Distribution Workstream meeting on 26 October. This provided clarity that was not available to industry participants prior to that session. Secondly, and more particularly, following discussions at that meeting revisions were subsequently made to the original modification proposal 0117 by the proposer of that Modification. This was at a very late stage in the modification process, and in any event outside the five day window for the raising of any alternates provided for in the Modification Rules, therefore it is necessary to raise this as a new proposal.

Without Urgent status, the Authority will be able to consider only 0117 in advance of the specific date related event referred to in this proposal and therefore will not be in a position to consider this proposal as a more effective alternative. Without urgent status for this Proposal we believe that the Authority would be required to make a determination on existing proposals, which the proposer believes are sub-optimal.

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

Background

The background to this proposal is the now widely discussed Farningham LDZ offtake meter error. In summary, over a period spanning almost 6 years - 13 July 1999 to 30 June 2005 - the offtake meter in question under recorded the flow of gas from the NTS into the relevant LDZ, as a result of incorrect calibration which endured without correction. Initial calculations have established that the under-recording is about 2.4TWh, equating to a value of £25.6m. Whilst there is still some dispute around the actual figures, the application of this

correction would be borne by the Small Supply Point portfolio of shippers through Reconciliation by Difference (RbD).

This proposal

This modification proposal addresses the same key points as modification proposal 0117, that being to limit the period in respect of which a demand for payment can operate retrospectively. However, unlike 0117 which proposes that a period of 26 months be codified as the period for retrospection on an enduring basis, it will use as a backstop 1 April 2002, this being the beginning of the price control period in effect when the Farningham error was discovered. This approach recognises that each Price Control period is discrete and sums of allowed revenue within each Price Control are effectively agreed and closed out.

For the purposes of clarity, this fixed date of 1 April 2002 will remain within the UNC until varied by a further modification, and will therefore be the basis for resolution of the Farningham issue, and any other similar issues that come to light. We would anticipate that this date could be varied by a modification proposal originating from our proposed Review Proposal (see below). This proposal applies equally to credits and debits i.e. where parties have been over or under billed. The effect of this proposal is therefore that, should an error come to light which is recognised to have begun prior to that date, no correction will be taken by the Transporter to either collect or refund monies to the relevant Users for periods before 1 April 2002.

In raising this proposal, the proposer is seeking to add stability and certainty to the framework of industry transportation charging. It is widely recognised that stability and certainty are key considerations for all Users.

The proposer believes that this solution is a sensible, workable and equitable solution for all parties, and overcomes the weaknesses of any proposal that sets a fixed maximum period over which invoice adjustments can be made. One of these key weaknesses is the possibility that price controls will have to be re-opened.

This Modification Proposal would set a backstop to retrospective adjustments but we do not exclude the scope for more sophisticated reconciliation closure mechanisms. These could be reviewed and developed subsequent to our proposal, and subject to more detailed analysis and discussion. Therefore, in addition to this modification, the proposer also intends to raise a Review Proposal to initiate this work. The purpose of the established Review Group will be to consider whether the current arrangements for reconciliation in a wider context as well as those as advocated by this proposal, or any other arrangements, are appropriate and fit for purpose.

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 A11.1(a) – the efficient and economic operation of the pipeline system.

Compared to the current situation, this proposal increases the incentives on transporters to ensure that all relevant metering and invoicing processes are operating as intended, and as expected by Shippers, Suppliers and their customers. Primary legislation in the form of the Limitations Act 1980 recognises that vendors should be incentivised to render appropriate bills within an appropriate period. The proposer believes that, given the importance of the Transporter’s role in the industry including demand forecasting, system balancing etc, greater

incentives and a more stringent timescale than those under the Limitations Act, i.e. those proposed herein, should be brought to bear.

A11.1(b)(i) and (ii) - the coordinated, efficient and economic operation of (i) the combined pipe-line system and (ii) the pipe-line system of one or more other relevant gas transporters.

The incentives set out above will help to ensure that the System Operator has an accurate view of the system, particularly relevant when considering supply security, system balancing, or investment issues.

A11.1 (c) – the efficient discharge of the licensee’s obligations under their license in relation to security of supply.

As stated above.

A11.1 (d) – the securing of effective competition (i) between relevant shippers and (ii) between relevant suppliers.

Accurate information around volumes transported through the network is essential to the shipping function. If shippers have little confidence in the gas being metered and billed for, incentives on shippers to balance their positions, for example, is reduced. Accurate billing, including reconciliation, is key to ensuring that charges are applied fairly and equitably which underpins the aims of the competitive market.

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

The incentives brought about by the proposal, in particular accurate metering, will assist in the operation of the Total System. It is also reasonable to assume that where true flows and volumes are known as a result of accurate metering, supply security will be enhanced. No detriment to industry fragmentation has been identified.

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

i) implications for operation of the System:

System operation will be improved where based upon accurate flow data. Transporter business metrics should also improve with accuracy of invoicing and the resulting cash flow. By increasing the incentive to bill accurately it also limits Transporter liability to adjustments where errors fall into a previous price control period.

ii) development and capital cost and operating cost implications:

Transporters will be further incentivised to ensure that meters, in particular, are regularly checked to ensure correct calibration and function. This could potentially result in increased operating costs. However, this will bring operations into line with industry expectations. In the long term, incidences of costly and time consuming rebilling will be avoided.

iii) extent to which it is appropriate to recover the costs, and proposal for the most appropriate way to recover the costs:

The relatively small costs reasonably incurred referred to in (ii) above would be passed through to Users through transportation charges in the normal way.

iv) Analysis of the consequences (if any) this proposal would have on price regulation:

None, other than the pass through of relevant costs incurred through ensuring accuracy of equipment and operations.

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

This proposal will increase Transporters' exposure to under recovery where an error results in a debit that fall prior to 1 April 2002. However, this is avoided by instigation of processes to ensure accurate recording and charging. Conversely, Transporters would benefit where such an error results in a credit that is not passed through to Users. Therefore, transparency of processes is key to ensure symmetry.

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

None identified.

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

The implications on Users largely mirror those on Transporters. These being, a risk of not recovering over payments, but also a lack of exposure to demands for payments to rectify an historic Transporter failing.

The implications of implementing the Modification Proposal for Terminal Operators, Consumers, Connected System Operators, Suppliers, producers and, any Non Code Party

None identified.

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

None identified.

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

Advantages

A defined date limiting retrospective adjustments adds certainty and is simpler for all parties to operate in terms of invoice generation, invoice validation, query management and dispute resolution.

Provides strong incentive upon Transporters to implement and maintain accurate measuring, billing and invoicing systems and processes.

Reduces exposure, particularly of smaller players and new entrants, to unforeseen costs.

Protects and reinforces the integrity of the current regulated prices and price controls.

Prevents perverse incentives to defer resolution of known billing issues.

Disadvantages

Increases User exposure to losses where overpayments fall into the previous price control period i.e. prior to 1 April 2002.

The extent to which the implementation is required to enable each Transporter to facilitate compliance with safety or other legislation

Aligned with, and exceeds requirements of, Limitations Act 1980.

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

None identified.

Programme for works required as a consequence of implementing the Modification Proposal

None identified.

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

6 November – submitted to Joint Office

8 November - Ofgem decision on Urgency. 10 business day consultation suggested.

22 November – representations close out.

28 November – Final Mod Report submitted to Mod Panel.

Then EITHER

7 December – Proposal considered at specially convened Modification Panel (date of Transmission Workstream).

11 December - Ofgem decision expected

OR

21 December – Proposal considered at scheduled Modification Panel.

28 December (or following holiday moratorium) - Ofgem decision expected

Implications of implementing this Modification Proposal upon existing Code Standards of Service

None identified.

Code Concerned, sections and paragraphs

Transportation Principal Document:

UNC TPD Section S

Proposer's Representative

Chris Wright – British Gas Trading (BGT)

Proposer

Mike Young - British Gas Trading (BGT)

Signature

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