

## Good IStage 04: Final Modification Report

# 0338V:

## Remove the UNC requirement for a 'gas trader' User to hold a Gas Shipper Licence

Provision within the Uniform Network Code to allow for users who do not convey gas to become signatory to the UNC without holding a Gas Shipper Licence.



Panel did not recommend implementation



High Impact: N/A



Medium Impact: N/A



Low Impact:

Shipper Users, National Grid Transmission and the Authority

At what stage is this document in the process?

- 01 Modification
- 02 Workgroup Report
- 03 Draft Modification Report
- 04 Final Modification Report



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### Any questions?

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## About this document:

This document is a Final Modification Report, presented to the Panel on 19 April 2012.

The Authority will consider the Panel's Recommendation and decide whether or not this change should be made.

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# 1 Summary

## Is this a Self-Governance Modification?

The Modification Panel determined that this is not a self-governance modification.

## Why Change?

Some UNC activities do not involve the conveyance of gas and do not require a Shipper Licence to be held. However, parties that wish to accede to the UNC are required to hold a Shipper Licence, such that accession to the UNC may be the sole reason for holding a Licence. If Ofgem were to decline to issue Licences in these circumstances, some parties may be excluded from the GB gas market.

## Solution

This modification proposes to introduce a new type of User so as to distinguish between:

- Users involved in the conveyance of gas, or arranging for the conveyance of gas, under the terms of the UNC, and;
- Users not involved in the conveyance of gas, or arranging for the conveyance of gas under the terms of the UNC, but whose activities involve the activities directly related to, or resulting from, registration of Trade Nominations.

This modification recognises that both types of User should be able to accede to the UNC. This modification further proposes that it is the User's responsibility to ensure that it has the appropriate licence in place prior to undertaking the relevant activities described in the UNC.

## Impacts and Costs

The impacts and costs are expected to be marginal.

## Implementation

The Workgroup anticipated that implementation would have no material impact on processes and could be immediately following a direction to implement.

## The Case for Change

By marginally reducing the costs of entry and UNC compliance for some parties, implementation could facilitate the securing of effective competition. In addition, implementation will allow market entry if Ofgem were to refuse to issue a Shipper Licence to parties that require this solely to enable UNC accession. However, removal of the requirement to hold a licence would also be a reduction in regulatory oversight, which may have a deleterious impact on competition, and could be seen as counter to wider European proposals that may require all gas market participants to be licensed.



## What is the National Balancing Point?

This is the notional point on the total system that all gas is deemed to have flowed through on its way between all inputs and all outputs.

## 2 Why Change?

The UNC provides for three types of User – Restricted User, DNO User and Shipper User. Some Shipper Users do not undertake activities that require a Shipper Licence to be held, but hold a Shipper Licence in order to accede to the UNC. Holding a Shipper Licence solely for this purpose could be regarded as inappropriate and inconsistent with the Gas Act definition of the circumstances for which a Shipper Licence is required.

Ofgem has consulted on its approach to licensing and has indicated that Licences may not be issued in future if the applicant does not envisage undertaking the activities that require a Licence. This could exclude some parties from acceding to the UNC. Equally Ofgem may consider revoking Shipper Licences that are not being actively used for the purposes defined in the Gas Act, and this would mean some Users would no longer meet the conditions to remain a UNC User.

## 3 Solution



### Gas Traders Modification

This modification proposes to create a new class of user within the UNC. This new User role, termed a "Trader User" will allow parties to accede to the UNC for the purposes of engaging in non-physical market transactions only. This modification proposes that the admission process for Trader Users shall be similar to that for Shipper Users, but will differ in that it will not require the party to hold a Shipper licence.

For the avoidance of doubt this modification does not propose to allow parties to sign up to the UNC to engage in activities including the physical conveyance of gas without holding the relevant licence. Shipper and Transporter parties to the UNC will continue to hold responsibility for ensuring that they hold the appropriate licence to undertake their activities.

The current UNC defines "Shipper User", listed in the defined terms as defined at TPD B2.2.1(a), and "Users", listed in the defined terms as defined at B2.2.1(i). This modification proposes to add a new defined term, "Trader User", also defined in Section B2.2.1. The exact definition, and to which Sections of the UNC it applies, is very important to determine the correct applicability. This modification proposes that the definition of "User" within Section B of the General terms shall incorporate Trader User, and therefore existing references to "User" throughout the UNC shall refer to TUs by default. This modification further proposes that the UNC Sections will be clearly identified as applying to a TU or not by exception within those Sections. For example, Section B of the TPD describes 'Users' as entities that can book Capacity, and a TU party would not gain access to that Section, and a new paragraph within Section B would indicate this.

The new definition in Section B of the General Terms will give a high-level definition of the UNC activities acceded to by being classified as a TU. However, the definitive detail of UNC paragraphs applicable to the TU role will be defined in each Section in a similar fashion to the paragraphs that currently define the applicability of DNO Users (see TPD B1.12 as an example of this).

The changes proposed to the UNC are detailed below and are listed by reference to each Section of the UNC.

### UNC Introduction

The UNC Introduction and defined terms lists are generalised and would be applicable to TUs admitted to the UNC.

### Transportation Principle Document Changes

Detail of the access to UNC Sections gained by admission to the TU role is given below:

TPD A: This Section defines systems classification, and as such applies to TUs in that it supports other Sections that TUs must have access to. As such it is proposed that this Section remains applicable to all parties to the UNC including TUs.

#### What is the TPD?

The TPD is the Transportation Principal Document.

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TPD B: It is proposed that TUs would not have access to this Section as Capacity booking lies outside of the activities that TUs would be admitted to, i.e. capacity booking is considered to be an activity that relates to "arranging for the conveyance of gas" and therefore requires the party to hold a Shipper licence.

TPD C: It is proposed that TUs would be relevant Users in regard to Section 5, Trade Nominations, while being exempted from access to the rest of Section C.A paragraph to define TU access shall be added at Section C 1 defining non-applicability of TUs to Section C 1, 2, 3 and 4.

TPD D: It is proposed that TUs shall be given admission to D2, Trading Arrangements. This modification proposes that TUs shall be able to post Non-physical Market Transactions as the Originating Participant and accept Non-physical Market Transactions as the Accepting Participant. This modification also proposes that TUs shall be able to accept Physical Market Transactions as the Accepting Participant only. It is proposed that a new paragraph be added to Annex D-1 to restrict "Trader Users" as an Originating Participant for the purposes of Non-Physical Transactions only.

TPD E: Daily Quantities, Imbalances and Reconciliation consider that Daily Imbalance is calculated between the UDQI and UDQO quantities, and then adjusted to take into account Trade Nominations (E 1.2.2). TUs, who can only make non-physical trades, would default to a value of 0 for each quantity, and as such, Section E1.1 is not relevant to TUs. However, they do incur imbalance under this Section of the UNC if they have not balanced their sell and buy Trade Nominations. Therefore, it is proposed that Section E 1.2 shall be applicable to TUs.

Similarly, there are several other Sections of E 1 that relate only to the conveyance of gas and therefore shall not apply to TUs. These are Sections 1.3 "Reconciliation", 1.4 "System Daily Quantities: Entry", 1.5 "System Daily Quantities: Exit from NTS/LDZ", 1.7 "Scottish Networks" and 1.8 "Close-out Rules".

Section E 1.10 "Energy Balancing on the NTS" shall apply to TUs were they to incur an imbalance as a result of Trade Nominations. This Modification proposes to add an extra paragraph to Section E1 to show TU applicability.

For the avoidance of doubt, this Modification will only change the above Sections to allow for the capture of imbalance on TUs as a result of their activities in relation to the UNC.

Sections E 2, 3 and 4 concern Input and Output quantities, and it is proposed that these Sections shall not apply to TUs as to do so would envisage such parties undertaking conveyance of gas.

Section E 5 captures the calculation of Imbalance including Trade Nominations and therefore it is proposed that it shall apply to TUs.

Sections E 6, 7 and 8 all concern reconciliations of Supply Points and therefore it is proposed that they shall not apply to TUs.

Section 9 concerns Class A Contingencies, including for the provision of information as described under E1.6, and so therefore it is proposed that it shall apply to TUs.

Section E 10 concerns Unallocated Gas, and therefore it is proposed that it shall not apply to TUs.

TPD F: System Clearing, Balancing Charges and Neutrality describe the charges arising from any User incurring an imbalance, and as such it is proposed that it shall apply to TUs. It is proposed that TUs shall also be applicable to Sections F 1.1 and 1.2, which define Balancing Charges and System Prices, but not Sections 1.3, 1.4 or 1.5.

Section F 2 concerns Daily Imbalances, and therefore it is proposed that it shall be applicable to TUs.

Section F 3 concerns Scheduling Charges, and therefore it is proposed that it shall not be applicable to TUs as TUs cannot make Input Nominations, nor physically deliver gas to / offtake gas from to the System.

Section F 4 concerns Balancing Neutrality Charges, and therefore it is proposed that it shall not be applicable to TUs. Section 5 and 6 concern Reconciliation, and shall not be applicable to TUs.

TPD G, H, I, J: These Sections all concern either conveyance of gas (e.g. Section G, Supply Points), or Transporter only activities (Section H, Demand Estimation and Forecasting). It is proposed that these Sections shall therefore be defined as not being applicable to TUs.

TPD K: This Section concerns mostly Transporter activities, and any interactions therein with Users require the conveyance of gas. Therefore, it is proposed that TUs shall not gain access to this Section upon admission to the UNC. For the avoidance of doubt, it is proposed that TUs shall not be entitled to trade gas whilst it is within a storage facility, at Entry / Exit points, etc. and therefore shall not be party to storage type Trades for purposes of Operating Margins.

TPD L, M, N and O: These Sections concern Transporter activities and Metering, and therefore it is proposed that TUs shall not gain access to them upon admission the UNC.

TPD Q, Emergencies: This Modification proposes that Trader Users shall not be exempted from the emergency rules as any imbalance position they have built up in relation to a gas day will potentially contribute to the emergency. As with Section D this modification proposes to add paragraphs to ensure that TUs shall not act in a manner that jeopardises the safe and efficient operation of the system.

Section 1, General, concerns the identification of an emergency and the requirement for Users to cooperate with the NEC. This Modification proposes that TUs shall apply under the definition of Users in this Section (notwithstanding paragraphs 1.6, 1.7, and 1.8 to which it is proposed that TUs shall not apply). It is also proposed that Paragraph 1.10.1(c) shall apply to TUs, whereas 1.10.1(a) and (b) shall not.

However, since TUs would not hold a Shipper Licence, they would have no licence conditions providing an obligation to cooperate with those parties managing the emergency. To ensure that TUs act in a manner conducive to avoiding or, in the event, the successful management of a Gas Supply Emergency, this modification proposes to add new paragraphs in Section Q 1.10.2. The new paragraph shall replicate Shipper User's licence obligations to



#### **What is the NEC?**

NEC stands for Network Emergency Coordinator, defined at TPD Section Q 1.1.1(c)



#### **What is the IX?**

IX stands for Information Exchange, and is the electronic system that all Shipper Users are required to install to access the UK-link suite of systems.

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cooperate (with those managing an emergency) for TUs, worded much as per the Shipper Licence Standard Condition 5 (2), but altered to reflect "Trader User" in place of "licensee".

Section 2, Emergency Preparedness; it is proposed that this Section shall be applicable to TUs, excepting that certain paragraphs relate only to Supply Points, and so Sections 2.1.2 (but not Section 2.1.1), 2.3, 2.4 and 2.5 shall not apply.

Section 3, Occurrence of a Gas Supply Emergency, concerns the activities undertaken during the emergency. The current text concerns the SO asking for physical actions to balance the system, and as such it is proposed that these activities shall not apply to TUs. However, this modification envisages that TUs shall have actions that the SO may require of them which can contribute to resolving an emergency. Therefore it is proposed that Section 3.1 shall apply to TUs.

Sections 3.2, 3.3, 3.4 and 3.5 concern the types of Emergency and all concern physical throughput actions, and so it is proposed that TUs will not be applicable to these sections.

Section 3.6, Return to normal operation; it is proposed that this Section shall apply to TUs.

Section 4, Consequences of Emergency; it is proposed that this Section shall apply to TUs.

Section 5, Safety Monitor and Firm Gas Monitor; it is proposed that this Section shall not apply to TUs.

Section 6, Emergency Curtailment, applies only to Supply Points, and so therefore it is proposed that this Section shall not apply to TUs.

Section 7, Storage Curtailment; it is proposed that this section shall not apply to TUs.

Section 8, Class A Contingencies; it is proposed that this Section shall apply to TUs.

TPD Section R concerns the conveyance of gas (Storage) and therefore it is proposed that this Section shall not be applicable to TUs.

TPD Section S concerns Invoicing and Payment. TUs are able to incur Daily Imbalance Charges as described in Section E, and as such it is proposed that all of Section S shall be applicable to TUs.

TPD U: UK-Link: This Section has recently been modified (Mod 259) to remove the requirement for Shippers to install and maintain the IX. Therefore, it is proposed that TUs shall gain admission to this Section and be considered under the definition of "User" therein, and may or may not choose to have IX equipment installed.

TPD V, General: This Section describes both the admission rules (Section V2) and the Termination rules (Section V4), and as such it is proposed that these Sections will apply to TUs.



It is proposed that Section 2.6 shall have additional paragraphs to detail the UNC Sections to which Trader Users are acceded to.

Section V 1 concerns Ancillary Agreements relating to Entry and Exit points, and it is proposed that this Section shall not apply to TUs.

Section V 2, User Admission: The current Network Code Framework Agreement and Accession Agreement do not specifically require an acceding party to the Code to hold a Gas Shipper Licence, and therefore Trader Users can sign up to the code using the existing documents, thereby meeting the requirement in V 2.1.1(b). This modification proposes that Section 2.1.1 shall be modified to read such that a person may become a Trader User in relation to the Total System as well as the existing clause allowing a person to become a Shipper User in relation to a System.

Trader Users shall be applicable to Section V 2 in general, excepting that paragraphs 2.1.2(b), 2.1.2(c), 2.1.2(g) and 2.1.2(i) shall be modified to indicate applicability to Shipper User only. This Modification does not preclude Trader Users from undertaking trading roles on other systems outside of the UNC.

This Modification proposes that any TU wishing to become party to the UNC as a Shipper User must demonstrate to the Transporters that they can meet the criteria for admission as a Shipper User in accordance with existing rules in this Section V 2.1, following which the existing Trader User will gain the additional responsibilities and rights applicable to Shipper Users. For the avoidance of doubt the User retains its Trader User status at all times until the admission date as a Shipper User, and any and all existing Trade Nominations effected into will be retained following admission as a Shipper User.

Similarly, this Modification proposes that any Shipper User wishing to become party to the UNC as a Trader User must demonstrate to the Transporters that they have met the criteria required to cease Shipper User activities in accordance with existing rules in Section V 4.2 "Voluntary Discontinuance". For the avoidance of doubt the User retains its Shipper User status at all times until the admission date as a Trader User, and any and all existing Trade Nominations effected into will be retained following admission as a Trader User.

It is proposed that Section V 3 shall not apply to TUs. For the avoidance of doubt, this modification proposes that Trader Users shall not have a Code Credit Limit and will not be liable to provide security accordingly.

It is proposed that Section V 4 shall also apply to TUs. Paragraph V 4.3.1(f) (Termination due to revocation of Shipper Licence) applies solely to Shipper Users having had a licence granted, and TUs, by definition, will therefore not be relevant to this clause.

Section V5 is data protection, and therefore it is proposed that this Section shall apply to TUs.

Section V6 is User Agents, and therefore it is proposed that this Section shall apply to TUs.

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Section V7 is Transporter as user and therefore it is proposed that this Section shall not apply to TUs.

Section V8 is Liabilities, and therefore it is proposed that this Section shall apply to TUs.

Section V9 is Neutrality audit for NTS and so therefore it is proposed that this Section shall apply to TUs, excepting paragraphs 9.5, 9.6 and 9.7, which this Modification proposes shall not apply to TUs.

Section V10 is Compensation in the event of non delivery of gas, and so therefore it is proposed that this Section shall not apply to TUs. However, this Modification proposes a housekeeping change to V 10.1.1(g) which should correctly be numbered 10.1.2

Section V11, General, paragraphs 11.1 and 11.2 contain nothing of relevance to TUs and therefore it is proposed that this Section shall not apply. However, it is proposed that a paragraph shall be added at V 11.3 to ensure that TUs shall not act in a manner that jeopardises, or at the time could be envisaged at some future point to potentially jeopardise, the safe and efficient operation of the pipeline system. This shall follow a similar form to the existing text of the Shipper Licence Standard Conditions 3, paragraph 2. This is included in Section V alongside the Admission requirements for clarity for new applicants.

Section X, Energy Balancing Credit: as described above for Section E, it is possible for a User Trader, to be in an imbalance position at end of day. Therefore, it is proposed that Section X shall apply to TUs.

Section Y concerns the Gas Transportation Charging Methodology and therefore it is proposed that this Section shall not apply to TUs.

Section Z is NG Storage, and it is proposed that this Section shall not apply to TUs, which shall not be able to inject and withdraw from storage, as this would constitute conveyance of gas.

## Transition Document

Parts I and IIA of the Transition Document are the general Sections, which apply to all Users, and it is proposed that these Sections shall therefore include TUs. Section IIB applies to Transporters only, and so shall not apply to TUs.

Section IIC, which details the specific transition arrangements, contains Paragraphs that all refer to activities involving the conveyance of gas, and therefore it is proposed that TUs shall not apply to this Section.

Section IID: Flexibility Bidding. It is proposed that TUs shall be excluded as the definitions at IID: 2.1.1 (a) and (b) clearly define the bid as being made to deliver extra commodity, or off-take extra commodity, either of which is conveying gas. It is proposed that Trader Users shall not apply to this Section.

Section III concerns the Offtake Arrangements Document, therefore it is proposed that TUs shall not apply (see below).

## Modification Rules

Section 1 of the Modification Rules is the introduction, and therefore it is proposed that TUs shall be included within the definition to "User" here, and that Trader Users shall accede to the Modification Rules.

Therefore Section 2.1, the defined terms, which currently defines both Relevant Shipper and User, shall be modified to include Trader Users.

Section 3, The Modification Panel, concerns the constitution of the Panel and makes provision for the inclusion of User representatives. It is proposed that TUs shall be applicable under the definition of "User" for this Section.

Sections 4 and 5 concern rules for Panel membership and the Panel meetings, therefore it is proposed that both Sections shall be applicable to TUs.

Section 6 describes, amongst other things, the relevant persons and representatives, and it is proposed that this Section shall be updated to include Trader Users.

All other Sections of the Modification Rules (7 through 12) are general to the Rules, and therefore it is proposed that these sections shall be applicable to TUs upon admission.

## General Terms

Section A of the General Terms concerns Dispute Resolution. It is proposed that this Section shall be relevant to TUs upon admission, and therefore the definition of "Users" here (A1.1.2) shall include TUs.

Section B, General; it is proposed that this Section shall be applicable to TUs, but shall include some changes as follows:

References in paragraph 1 to Shippers Framework Agreement shall apply to TUs as described above under TPD Section V.

Paragraph 2.2.1, definitions of Users, add "Trader User". This shall note both the positive definition of a party to code for the purpose of non-physical market transactions and the limitation on non-conveyance of gas through the Total System.

Paragraph 2.3.3, References to a Party, shall include TUs as potential parties.

TUs shall be appended at 2.4.1 (Effect of Code and liabilities) to include TUs. Also, append TUs to 2.4.4 to include TUs alongside Shippers.

Paragraph 4, UNC Committee; TUs to be included in "Users" definition.

Paragraph 5, Notices and Communications, include TUs as potential parties.

Paragraph 6, General, references parties and Users, TUs shall be relevant to both.

Section 4: C, Interpretation, is generalised and it is proposed that TUs shall be applicable.

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## Offtake Arrangements Document

The OAD is only relevant to Transporters and not Users by definition, and therefore this Modification proposes no changes to the OAD.

## Other Documents

We recognise that changes are likely to be required to the User Pays Guidance Document, v2.0, as a result of this proposed UNC Modification.

As the User Pays Guidance (UPG) document is not a UNC document the relevant changes to the former are not detailed in this proposal, but it is the proposer's intent to discuss the potential for changes to the UPG document should the authority direct implementation of this UNC Modification Proposal.

Any subsequent changes found to be necessary will be developed in coordination with all Transporters and we would also welcome any Shipper views. The resulting changes to the UPG document would be presented as a revised version to the UNC Modification Panel for approval.

Changes to the UPG document will only be proposed following implementation the UNC Modification Proposal.

## 4 Relevant Objectives

Impact of the modification on the <b>Relevant Objectives:</b>	
Relevant Objective	Identified impact
a) Efficient and economic operation of the pipe-line system.	
b) Coordinated, efficient and economic operation of (i) the combined pipe-line system, and/ or (ii) the pipe-line system of one or more other relevant gas transporters.	
c) Efficient discharge of the licensee's obligations.	
d) Securing of effective competition: (i) between relevant shippers; (ii) between relevant suppliers; and/or (iii) between DN operators (who have entered into transportation arrangements with other relevant gas transporters) and relevant shippers.	Impacted – see below
e) Provision of reasonable economic incentives for relevant suppliers to secure that the domestic customer supply security standards... are satisfied as respects the availability of gas to their domestic customers.	
f) Promotion of efficiency in the implementation and administration of the Code	Negative – see below
g) compliance with the Regulation and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators	

### Securing of Effective Competition

By allowing parties that do not hold a Shipper Licence to accede to the UNC, a barrier to entry is removed and hence additional parties may participate in the market. This would be consistent with facilitating effective competition. In addition, compliance costs could be reduced for Trader Users since the sections of the UNC that they have to comply with would be pre-defined and mean that they do not need to consider the whole UNC and identify the areas with which they need to comply. This would also be expected to offer a marginal benefit to competition.

Removing the requirement to hold a Shipper Licence would remove a level of regulatory oversight from one section of the market. The reduced oversight may mean that appropriate checks and sanctions cannot be applied in as timely a manner, thereby increasing market risk for all participants. This could be expected to adversely impact the securing of effective competition.

Removing the requirement to hold a Shipper Licence to raise UNC modifications may encourage some consumers and their representatives to accede to the UNC as Trader Users. This would allow these parties to raise modifications that they believe would help to secure effective competition.

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SSE did not agree that that this modification would enhance competition. They believe that the added complexity; potential for unforeseen consequences; potential discrimination and skewed competitive advantage from cashout and compensation risk arising from the Significant Code Review would distort competition.

## **Promotion of efficiency in the implementation and administration of the Code**

Enabling a wider range of parties to propose changes to the UNC may not be consistent with efficiency in the administration of the UNC since parties may raise modifications that have no direct impact on themselves but impact the contractual relationship and obligations of other parties.

European developments envisage the establishment of Europe wide passports that market participants would be required to hold. This could introduce a requirement for all to be licensed. Removing the requirement to hold a licence at this time when a similar requirement could be implemented shortly is inconsistent with efficient implementation and administration of the Code.

## 5 Impacts and Costs

### Consideration of Wider Industry Impacts

The removal of the requirement to hold a Licence could be regarded as inconsistent with European developments to introduce more consistency, with all trading parties being required to be licensed.

### Costs

Indicative industry costs – User Pays	
Classification of the modification as User Pays or not and justification for classification	
Accession is a User Pays service. Being a change to a User Pays Service, this is a User Pays modification. Change of status to/from Shipper User from/to Trader User would be a new service.	
Identification of Users, proposed split of the recovery between Gas Transporters and Users for User Pays costs and justification	
All costs will be met by the acceding User, or the User that wishes to change status.	
Proposed charge(s) for application of Users Pays charges to Shippers	
The charges for the current User Admissions process are administered on a transactional basis. This modification does not propose to change this existing arrangement. This modification introduces the ability to go through an additional admission process where an existing User can change from Shipper to Trader status, or vice versa, then this will be via a new process of re-admission. The charges for this additional process will be administered on a transactional basis in a similar manner to the existing process.	
Proposed charge for inclusion in ACS – to be completed upon receipt of cost estimate from Xoserve	
Following the provision of a Rough Order of Magnitude analysis by Xoserve the transactional charge for the re-admission process is estimated to be £0 at this time.	

### Impacts

Impact on Transporters' Systems and Process	
Transporters' System/Process	Potential impact
UK Link	None
Operational Processes	A new process would be required to manage changes in User status.
User Pays implications	A User Pays service would be modified and a new one created.

#### Impact on Users

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**Where can I find details of the UNC Standards of Service?**

In the Revised FMR for Transco's Network Code Modification

**0565 Transco Proposal for Revision of Network Code Standards of Service** at the following location:

<http://www.gasgovernance.co.uk/sites/default/files/0565.zip>

Impact on Users	
Area of Users' business	Potential impact
Administrative and operational	Users wishing to change status would incur administrative costs.
Development, capital and operating costs	None
Contractual risks	None
Legislative, regulatory and contractual obligations and relationships	Shipper Users that become Trader Users may no longer hold a Shipper Licence and their regulatory obligations would therefore be reduced.

Impact on Transporters	
Area of Transporters' business	Potential impact
System operation	No material impact.
Development, capital and operating costs	No material costs
Recovery of costs	All costs would be recovered on a User Pays basis.
Price regulation	None
Contractual risks	None
Legislative, regulatory and contractual obligations and relationships	None
Standards of service	None

Impact on Code Administration	
Area of Code Administration	Potential impact
Modification Rules	None
UNC Committees	None
General administration	None

Impact on Code	
Code section	Potential impact
All Sections	As described in Section 3 of this document.

**Impact on UNC Related Documents and Other Referenced Documents**



Impact on UNC Related Documents and Other Referenced Documents	
Related Document	Potential impact
Network Entry Agreement (TPD I1.3)	None
Network Exit Agreement (Including Connected System Exit Points) (TPD J1.5.4)	None
Storage Connection Agreement (TPD R1.3.1)	None
UK Link Manual (TPD U1.4)	None
Network Code Operations Reporting Manual (TPD V12)	None; examination of the current NCORM highlights that whereas the current document refers to Shippers the UNC states that the NCORM is relevant to all Users, and therefore applies to Trader Users by default.
Network Code Validation Rules (TPD V12)	None
ECQ Methodology (TPD V12)	None
Measurement Error Notification Guidelines (TPD V12)	None
Energy Balancing Credit Rules (TPD X2.1)	None
Uniform Network Code Standards of Service (Various)	None

Impact on Core Industry Documents and other documents	
Document	Potential impact
Safety Case or other document under Gas Safety (Management) Regulations	None
Gas Transporter Licence	None

Other Impacts	
Item impacted	Potential impact
Security of Supply	Minor – introduction of UNC rather than Licence obligation to cooperate may be seen as weakening the obligation, and could create confusion as the UNC obligation does not apply to Shippers.
Operation of the Total System	None

Industry fragmentation	British Gas Trading raised concerns with their representation regarding fragmentation.
Terminal operators, consumers, connected system operators, suppliers, producers and other non code parties	Non-UNC parties would be able to accede to the UNC without obtaining a Shipper licence, and would be able to raise UNC modifications.

## 6 Implementation

Workgroup discussions anticipated that implementation would have no material impact on processes.

The Workgroup have not provided a timescale for implementation of this modification (as referred to in 6.2.1 of the Modification Rules) as it is not required for the purposes of enabling the Authority or any persons, including but not limited to Users, Transporters, Third Party Participants and Non Code Parties to be aware of the potential benefits or constraints associated with such timing.

## 7 The Case for Change

Nothing in addition to that identified above.

## 8 Legal Text

National Grid NTS has provided legal text that has been published alongside this Report.

E.ON UK could not be sure, due to the complexities of this modification, if the legal text correctly identifies every possible part of the UNC that could or could not apply to a "Trader User". They also highlight an area of concern that may cause confusion in paragraph 4.9

SSE noted that section TPD D states "TUs shall be able to accept Physical Market Transactions as the Accepting Participant only." They do not understand how a non physical User can use the physical market and would like further clarification how this will function in practice.

## 9 Consultation Responses

Representations were received from the following parties:

Respondent	
Company/Organisation Name	Support Implementation or not?
British Gas Trading	Not in Support
Centrica Storage Ltd	Comments
E.ON UK	Not in Support
National Grid NTS	Support
Northern Gas Networks	Not in Support
Scottish Power	Not in Support
Scotia Gas Networks	Not in Support
SSE	Not in Support
Wales & West Utilities	Comments

Of the nine representations received one supported implementation, two provided comments and six were not in support.

### Summary Comments

A number of parties were concerned about the appropriateness of allowing parties without a licence access to the UNC including the right to make modifications to the whole of the code.

British Gas believed that this modification introduces a number of potential impacts, which could be deleterious and in balance could outweigh the benefits. They believed allowing certain UNC activities without the need for a shipper licence removes Ofgem's ability to require parties to provide information about their activities and risks damaging transparency around those activities. They were concerned about fragmentation of obligations relating to emergency arrangements and uncertainty in an emergency. They believed the approach taken to restructuring of the UNC to identify the sections, which do and do not apply may be unnecessarily complex and even discriminatory. They also believed the approach could signal the onset of different compliance incentives, where a UNC breach may be considered less serious, or less likely to result in penalties, than a shipper licence breach.

Centrica Storage were concerned that the total non-applicability of UNC TPD section R to Trader Users may be interpreted as the prevention to such Users from accessing any type of storage service, including non-physical ones.

E.ON UK believed that this modification risks exposing both existing and future UNC signatories and Ofgem to additional risks and unintended consequences. They are concerned that carving up the UNC to suit particular Users is a dangerous precedent which may result, for example in legitimate penalties or sanctions being unable to be enforced on "Trader Users".

Northern Gas Networks disagreed on principle with non-licence parties acceding to the code.

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Scotia Gas Networks highlighted that, even with traders included as parties within the UNC, without a licence there will be nothing in place to deter breaches of the code without the 10% turnover penalty within the licence, which could increase risk for market participants.

Scottish Power were also concerned at the reduced level of regulatory oversight that this modification would bring and the potential for consequential compliance issues. They were not confident about obligations remaining robust and the potential for unintended consequences.

SSE believed all Users should be subject to the same set of UNC rules to avoid unnecessary complexity, unforeseen consequences and potential discrimination. They expressed concern that in the context of the Significant Code Review "Trader Users" may be able to avoid the increased cashout penalties which other licenced shipper Users would be exposed to. This will result in an uncompetitive trading advantage due to the greater costs of risk mitigation required by licensed shippers. They also note that the GSMR precludes those that do not convey gas, thus a further sanction to ensure responsible action would be avoided.

Wales & West Utilities expressed concern about the two tier compliance regime and were unsure if the modification correctly balances the efforts to facilitate competition between certain User categories, and the knock on effect of operating the administration and implementation of the UNC which would need to accommodate this new type of Code signatory.

## 10 Panel Discussion

The Panel Chair summarised that the UNC requires any acceding party to hold a Gas Shipper licence. This modification seeks to remove this restriction and allow any party to accede to the UNC. Further, the modification creates a new category of user – a trader user – and identifies the UNC sections that do or do not apply to this category of user.

Members noted that some UNC users may not undertake any activities that would require them to hold a Shipper licence, and consequently that accession to the UNC is the only reason why a Shipper licence is held by these parties. Members also noted that Ofgem has recognised this issue and consulted on the possibility that a Shipper licence should only be issued to parties that intend to undertake activities which require a Shipper licence to be held. Allowing parties that do not hold a Shipper Licence to accede to the UNC would therefore remove a barrier to entry, which would be consistent with facilitating effective competition. In addition, Members noted that compliance costs could be reduced for Trader Users since the sections of the UNC that they have to comply with would be pre-defined and mean that they do not need to consider the whole UNC and identify the areas with which they need to comply. This would also be expected to offer a marginal benefit to competition.

While acknowledging the potential competition benefits, Members noted that no evidence had been presented to indicate that this is a significant barrier at present – with no indication that any party has decided not to enter the market in light of the need to hold a Shipper licence. As such, Members felt it hard to conclude that removing the requirement would facilitate the securing of effective competition. However, if Ofgem were not to issue Shipper licences to non-shipping parties, such as traders, in future, Members recognised that this would create a significant barrier to entry that would not arise if the modification were implemented.

Members also noted that implementation created the potential for a detrimental impact on competition because removing the requirement to hold a Shipper Licence would remove a level of regulatory oversight from one section of the market. The reduced oversight may mean that some regulatory checks and sanctions cannot be applied, thereby increasing market risk for all participants.

Members noted that European developments envisage the establishment of Europe wide passports that market participants would be required to hold. This could introduce a requirement for all to be licensed. Removing the requirement to hold a licence at this time when a similar requirement could be implemented shortly may be regarded as inconsistent with efficient implementation and administration of the Code as well as with compliance with the Regulation and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators.

Some Members felt that the modification is unnecessarily complex, creating fragmentation and making it more difficult than necessary to be clear with any confidence which obligations apply to a particular party. This is detrimental to efficient implementation and administration of the Code. However, one Member emphasised that the modification had been structured in this way in order to be as clear as possible regarding the specific obligations that apply to each category User.

Members then voted and with one vote in favour and eight against implementation, did not determine to recommend implementation.

## 11 Recommendations

### Panel Recommendation

Having considered Modification Report 0338V, the Panel recommends:

- that proposed Modification 0338V should not be made.