

## Stage 04: Final Modification Report

# 0446S:

## Correction to termination date in TPD Section X4

At what stage is this document in the process?

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

This modification seeks to amend TPD Section X4.1 to reflect correct termination date as used elsewhere in the UNC, e.g. X2.10.10.



Panel determined that Modification 0446S be implemented



High Impact: None



Medium Impact: Shippers



Low Impact: None

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## About this document:

This Final Modification Report will be presented to the Panel on 21 March 2013.

The Panel will consider the views presented and decide whether or not this self-governance change should be made.



**Any questions?**

Contact:

**Code Administrator**



**enquiries@gasgovernance.co.uk**



**0121 623 2115**

Proposer:

**Beverley Viney**



**Beverley.viney@nationalgrid.com**



**01926 653547**

Systems Provider:

**Xoserve**



**[commercial.enquiries@xoserve.com](mailto:commercial.enquiries@xoserve.com)**

# 1 Summary

## Is this a Self-Governance Modification?

The Modification Panel determined that this is a self-governance modification.

## Why Change?

UNC TPD Section X4.1 is currently drafted in a manner, which is arguably inconsistent with UNC provisions on Termination, Section V (4.3.3) and with Section X as a whole. As a result, the gas shipper community is potentially exposed to risk from an insolvent User for an additional day before Termination can become effective. It is the Proposer's view that this reference appears to have been overlooked when modification 0234 "To Correct Drafting Inconsistencies between Sections X and V of the UNC in Respect of User Default and Termination" was raised and implemented in 2008/09.

At the same time it has also come to our attention that the reference in X4.3 to X4.2.1 is incorrect and should be X4.2, and for clarity we believe this should be amended as part of this modification.

## Solution

This modification proposes that the reference in Section X4.1 to termination timescales of "Day following the date set out in the Termination Notice" is amended to "date (which may be any date on or after the date on which the Termination Notice is given) specified in the Termination Notice." This is consistent with X2.9.3, X2.10.10 and X3.2.2 and therefore will be consistent with Section V and the remainder of Section X provisions on Termination.

It is also proposed that the incorrect reference in X4.3 to X4.2.1 is changed to X4.2.

## Relevant Objectives

**Relevant Objective D: Securing of effective competition:** - facilitates improvements in cost allocation with regard to termination in UNC and reduces gas community risk to socialised bad debt.

**Relevant Objective F: Promotion of efficiency in the implementation and administration of the Code** - by avoiding ambiguity it will facilitate efficient implementation and administration of the UNC rules with regards to termination.

## Implementation

As Self-Governance procedures are proposed, implementation could be sixteen business days after a Panel decision to implement (subject to no Appeal being raised).

## 2 Why Change?

### TPD Section X4

In April 2008 Lehman Brothers Commodity Service Inc failed. In the wake of that failure the Energy Balancing Credit Committee (EBCC) and Xoserve, as the Transporter Agency, undertook a review of the Termination provisions in TPD UNC which identified inconsistencies in the drafting of Section V and Section X. The provisions identified had the material effect of extending the time before a defaulting User was terminated by one day, which was potentially inconsistent with the requirements of Section V4.3.3 UNC. This was resolved via the implementation of Modification Proposal 0234 in January 2009.

Section X4 appears to have been overlooked during the 2008 review and has therefore remained drafted in a manner which is potentially inconsistent with UNC as a whole. As a result insolvent Users, for whom an Insolvency Practitioner has not provided an undertaking, are in a position to continue trading for up to one additional day. This permits the User to continue accruing Energy Balancing debt against which they may default, effectively increasing the gas community's potential exposure to socialised bad debt.

By amending Section X, in the manner described in this proposal, this delay will be removed and risk of exposure for the community limited, and will therefore be consistent with Section V and the rest of Section X.

It has also come to our attention that the reference in X4.3 to X4.2.1 is incorrect and should instead read X4.2, for clarity we also propose that this is amended as part of this modification.

## 3 Solution

### TPD Section X4

This modification proposes that the reference in Section X4.1 to termination timescales as “Day following the date set out in the Termination Notice” is amended to “date (which may be any date on or after the date on which the Termination Notice is given) specified in the Termination Notice.”.

This is consistent with X2.9.3, X2.10.10 and X3.2.2 and therefore will be consistent with Section V and the remainder of Section X provisions on Termination.

It is also proposed that the incorrect reference in X4.3 to X4.2.1 is changed to X4.2.

User Pays
Classification of the modification as User Pays, or not, and the justification for such classification.
No system change is required for this modification to be approved and therefore there will be no User Pays costs.
Identification of Users of the service, the proposed split of the recovery between Gas Transporters and Users for User Pays costs and the justification for such view.
None
Proposed charge(s) for application of User Pays charges to Shippers.
None
Proposed charge for inclusion in the Agency Charging Statement (ACS) – to be completed upon receipt of a cost estimate from Xoserve.
None

## 4 Relevant Objectives

Impact of the modification on the **Relevant Objectives:**

Relevant Objective	Identified impact
a) Efficient and economic operation of the pipe-line system.	None
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.	None
c) Efficient discharge of the licensee's obligations.	None
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.	Positive
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.	None
f) Promotion of efficiency in the implementation and administration of the Code.	Positive
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.	None

### Relevant Objective D: Securing of effective competition

Facilitates improvements in cost allocation with regard to termination in UNC and reduces gas community risk to socialised bad debt.

### Relevant Objective F: Promotion of efficiency in the implementation and administration of the Code

By avoiding ambiguity, it will facilitate efficient implementation and administration of the UNC rules with regards to termination.

## 5 Implementation

It is anticipated that this modification will have no material impact on processes at no additional cost.

The Energy Balancing Credit Committee supports this modification.

As self-governance procedures are proposed, implementation could be 16 business days after a Modification Panel decision to implement.

## 6 Legal Text

The following Text has been prepared by National Grid NTS at the request of the Modification Panel

### Text

#### X 4.1

Subject to paragraph 4.2, where Section V4.3.4 applies, National Grid NTS shall, as soon as reasonably practicable, 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 set out in the Termination Notice date (which may be any date on or after the date on which the Termination Notice is given) specified in the Termination Notice.

#### X 4.3

Subject to paragraph 1.3, National Grid NTS shall be entitled to take such action as the Energy Balancing Credit Committee recommends pursuant to the meeting referred to in paragraph 4.2.1 as soon as reasonably practicable.

## 7 Consultation Responses

Representations were received from the following parties:

<b>Company/Organisation Name</b>	<b>Support Implementation or not?</b>
National Grid NTS	Support

The Proposer responded to confirm their support.

## 8 Panel Discussions

The Panel Chair summarised that this modification seeks to reduce potential Shipper exposure in the event of Shipper default. The EBCC (Energy Balancing Credit Committee) periodically considers whether UNC changes are desirable, and Modification 0234 was an example of this. Modification 0446 corrects a reference that was missed by 0234 in order to reduce potential exposure to energy balancing costs for an additional day in the event of Termination.

Members recognised that implementation could reduce the level of energy balancing costs incurred by a terminated User, and so reduce the level of bad debts passed to other Users. Implementation could therefore facilitate more appropriate cost allocations and reduce the level of risk faced by Users, and hence facilitate the securing of effective competition.

Members also recognised that the UNC contains a potential inconsistency following implementation of Modification 0234. Implementation of Modification 0446S would remove any ambiguity regarding when energy balancing costs can be incurred, and this removal would be consistent with facilitating efficient implementation and administration of the UNC.

Members then voted unanimously that Modification 0446S be implemented.



## 9 Recommendation

### Panel Recommendation

Having considered the Modification Report, the Panel determined:

- that proposed self-governance Modification 0446S should be made.