

## Representation

### Draft Modification Report

#### 0513 Urgent - UK Link Programme (Project Nexus) - independent project assurance for Users

**Consultation close out date:** 03 September 2014  
**Respond to:** enquiries@gasgovernance.co.uk  
**Organisation:** TD Energy  
**Representative:** Tim Davis  
**Date of Representation:** 29 August 2014

#### Do you support or oppose implementation?

Oppose

#### Please summarise (in one paragraph) the key reason(s) for your support/opposition.

When urgent procedures are followed, the absence of an assessment process means that particular care should be taken to ensure:

- the case for change is clearly made; and
- the legal text fully reflects the modification that has been proposed.

Unfortunately neither of these are the case and hence the modification should not be implemented.

#### Are there any new or additional issues that you believe should be recorded in the Modification Report?

No.

#### Relevant Objectives:

*How would implementation of this modification impact the relevant objectives?*

The modification suggests that efficient implementation and administration of the Code would be facilitated by implementation, but fails to explain how this would be achieved. It is asserted that "Certainty over User readiness is essential to ensure effective and timely implementation" of the UK Link Programme, but the modification does not explain why this is essential; how implementation would deliver this essential certainty; nor how any certainty over readiness that

implementation of the modification may deliver would consequently facilitate efficient administration and implementation of the Code. The proposed modification (as set out in the legal text) provides for Shipper Users to provide data to and cooperate with an agency that may be appointed by the Authority in order to provide a report by 1

0513  
Representation

---

29 August 2014

---

Version 1.0

---

Page 1 of 3

---

© 2014 all rights reserved

December 2014. There is no requirement for a report to be produced nor for Shipper users to be ready for implementation of the UK Link Programme, especially subsequent to 1 December 2014 - which is when, it may be argued, they need to be fully prepared. As such, it is not clear how implementation of the proposed modification would improve readiness.

### Impacts and Costs:

*What analysis, development and ongoing costs would you face if this modification were implemented?*

None.

### Implementation:

*What lead-time would you wish to see prior to this modification being implemented, and why?*

None.

### Legal Text:

*Are you satisfied that the legal text will deliver the intent of the modification?*

No. Unfortunately, and contrary to the Legal Text Guidelines Document, a commentary explaining how the text was developed to deliver the intent of the modification has not been provided. This explanation may have helped to reconcile the text and the proposed modification. Comparing the Solution in the modification with the text reveals a number of anomalies:

“Modification of the UNC involving the introduction of transitional terms in respect of TPD Section U is required as follows:

1. Shipper Users to be mandated in the period to 1st December 2014 to co-operate with the agency appointed by Ofgem to validate their readiness for implementation of the UK-Link programme underpinning Project Nexus on 1st October 2015.”

*The legal text fails to provide any reference to 1st October 2015, but does refer to the Project Nexus Implementation Date. This does not appear to be a defined term in the UNC, and is not restricted to the date proposed in the modification.*

“2. The assignment report provided by the agency to the Authority will contain information provided directly by the Shipper User and will be on a non-anonymised basis.

a. The agency will also be required to provide a redacted version of the assignment report.

This report will be prepared so that all references to a Shipper User by name will be removed and any data that may result in the identity of any Shipper User being ascertained shall also be removed. This report will be provided to the Authority who, having approved such report shall provide this to the Transporters for publication by the Joint Office of Gas Transporters.”

*There is nothing in the legal text that reflects this part of the proposed modification.*

“3. For Shipper Users to use best endeavours to provide any data or relevant information as may be reasonably required by the

0513

Representation

29 August 2014

Version 1.0

Page 2 of 3

© 2014 all rights reserved

appointed agency to undertake its activities (noting that such data is provided on a wholly confidential basis).

a. The agency will hold all data and information provided to it by each Shipper User in confidence and will destroy all data and information received from each Shipper User within three months of the provision of the assignment report to the Authority.”

*These requirements relating to confidentiality, and the destruction of data and information, are not included in the legal text.*

“4. To provide for funding of the agency’s activities under User Pays arrangements.”

*The legal text refers to “a User Pays Charge in respect of such User Pays Service”. It is not clear which service this is referring to. The modification introduces an obligation to cooperate, not a requirement to carry out an assignment, which is suggested in the modification as creating a funding requirement. If Ofgem are commissioning an agency to carry out an assignment, an explanation of how this could be a UNC User Pays Service would be helpful. The ACS might provide some clarity, but no proposed ACS in respect of this modification has been provided.*

“5. The Gas Transporters and their Agency Xoserve (other than responding to any reasonable requests for information from the appointed agency) shall have no involvement in the appointment of the agency, or the work undertaken by the agency in the production of the assignment report.”

*Again, the legal text does not include any obligations to reflect this part of the proposal.*

**“UK-Link Programme ” is [#]. Note: use of term to be considered in context of transitional rules for Modifications 0432, 0434 and 0440 once developed.”**

*If completion of the legal text is to await development of transitional rules for Modifications 0432, 0434 and 0440, that would appear to preclude implementation in the timescale suggested for Modification 0513.*

### **Is there anything further you wish to be taken into account?**

*Please provide any additional comments, supporting analysis, or other information that that you believe should be taken into account or you wish to emphasise.*