

Modification Report
Application of Neutrality Charges to Storage Operators
Modification Reference Number 0387
Version 3.0

This Modification Report is made pursuant to Rule 7.3 of the Modification Rules and follows the format required under Rule 8.9.3.

1. The Modification Proposal

This Modification Proposal is required to ensure the consistent application of Balancing Neutrality, Top-up Neutrality and Reconciliation Neutrality (Neutrality Charges) to all Users of Transco's System.

Under the terms of the Network Code, Storage Operators which are Users and not Trading Participants, i.e. do not trade on the OCM, do not incur Balancing Neutrality Charges. In addition, Storage Operators that are also Users do not incur Reconciliation or Top-up Neutrality Charges when acting for Storage Management Purposes. This Modification Proposal if implemented would apply Neutrality charges to Storage Operators that are Users irrespective of whether they are a Trading Participant on the OCM or whether they are acting for Storage Management Purposes.

2. Transco's Opinion

It is Transco's opinion that it may be viewed as discriminatory to continue to allow Storage Operators, that are also Users, the discretion to avoid Neutrality charges by undertaking not to trade on the OCM or because they are acting for Storage Management Purposes. All other Users of Transco's System incur Balancing Neutrality Charges irrespective of whether they trade on the OCM or not. Users that are not Storage Operators cannot avoid Reconciliation or Top-up Neutrality Charges. Consequently, existing Network Code provisions may confer a commercial benefit to Storage Operators which is not available to other Users of Transco's System.

Transco believes the existing Network Code provisions which exempt Storage Operators that are Users from Neutrality charges are an anomaly creating inconsistency in the treatment of Users of Transco's System.

Transco proposes to modify its Network Code such that where a Storage Operator is also a User, as defined in the Network Code, it would be subject to the same Neutrality charges as any other User irrespective of whether it is a Trading Participant or is acting for Storage Management Purposes.

3. Extent to which the proposed modification would better facilitate the relevant objectives

Currently, Storage Operators which are Users but not Trading Participants may enjoy a commercial benefit not open to other Users of Transco's System. Implementation of this Modification Proposal would help to facilitate Transco's 'relevant objective' under Standard Condition 7 (1)(b) through the consistent application of Neutrality charges to all Users of Transco's System thus promoting the non-discriminatory treatment of Users as required by Standard Condition 11.

4. The implications for Transco of implementing the Modification Proposal, including

a) implications for the operation of the System:

Transco is not aware of any implications for the operation of the System which would arise from the implementation of this Modification Proposal.

b) development and capital cost and operating cost implications:

Transco has not identified any development, capital or operating cost implications which would arise from implementation of this Modification Proposal.

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

There are no costs that would arise from the implementation of this Modification Proposal that Transco would seek to recover.

d) analysis of the consequences (if any) this proposal would have on price regulation:

This Modification Proposal would have no impact on price regulation if implemented.

5. The consequence of implementing the Modification Proposal on the level of contractual risk to Transco under the Network Code as modified by the Modification Proposal

The implementation of this Modification Proposal would not alter the current level of contractual risk to Transco under the Network Code.

6. The development implications and other implications for computer systems of Transco and related computer systems of Users

Transco is not aware of any development implications for Transco's computer systems or the related computer systems of Users which would arise from the implementation of this Modification Proposal.

7. The implications of implementing the Modification Proposal for Users

Implementation of this Modification Proposal would introduce consistency regarding the treatment of and commercial exposure faced by Users as a result of using Transco's System.

If implemented the Modification Proposal would result in increased Neutrality charges for Users which are Storage Operators but not Trading Participants or when acting for Storage Management Purposes. Neutrality charges for all other Users may be reduced.

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

Storage Operators that are not Users will not be exposed to any increase in costs.

9. Consequences on the legislative and regulatory obligations and contractual relationships of Transco and each User and Non-Network Code Party of implementing the Modification Proposal

There are no consequences on the legislative or regulatory obligations or contractual relationships of Transco and each User and Non-Network Code Party which would result from the implementation of this Modification Proposal.

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

Advantages:

Storage Operators that are also Users will be treated in a manner consistent with any other User of Transco's System.

Disadvantages:

Users that are Storage Operators will incur Neutrality charges even if they choose not to trade on the OCM or act only for Storage Management Purposes.

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

Representations were received from Total Gas Marketing Limited, Scottish Power and British Gas Trading. All supported the Modification Proposal on the basis that the existing Network Code provisions which exempt Storage Operators that are also Users from Neutrality Charges are discriminatory and inconsistent with the treatment of other Users of Transco's System.

British Gas Trading (BGT), whilst fully supporting the Modification Proposal and recognising that it is not strictly a Network Code issue, raised a concern regarding BG Storage Ltd and Transco LNG Storage. British Gas Trading believes that Modification Proposal 0387 should not be seen as authorising either BG Storage Ltd or Transco LNG Storage to trade on the OCM in breach of any separate undertaking or understanding by virtue of this Modification Proposal.

BGT seeks: "...assurances that BG Storage Limited and also any organisation providing shipping services to them will remain bound by the Undertakings given last year by BG Storage to Ofgas and by the limitations described in the Future Operations of BG Storage paper in respect of shipping activities and also in respect of trading, procurement and disposal of gas, storage capacity and transportation capacity. We would be grateful for a formal public statement from BG Storage Ltd. to the above effect. These assurances should also be provided by Transco LNG Storage as the other provider of services covered by the previous undertakings."

Transco recognises the concerns of BGT, but as BGT says, the undertakings referred to are not a Network Code issue. Transco believes this Modification Proposal does not impact on any previous undertaking given by BG Storage Limited not to trade on the OCM. This Modification Proposal seeks merely to remove the option for Storage Operators that are also Users to avoid Neutrality Charges by opting not to trade on the OCM. This Modification Proposal would neither enforce nor relinquish any undertakings given by Storage Operators.

On 14 December 1999 BG Storage was demerged from the former BG Plc. BG Storage Limited is now an independent Storage Operator. It may be viewed as anti-competitive to discriminate between BG Storage Limited and any other Storage Operator by imposing restrictions on it trading on the OCM where no such restriction would apply to other Storage Operators. Transco believes this remains an issue and should be resolved by Ofgem.

12. The extent to which the implementation is required to enable Transco to facilitate compliance with safety or other legislation

Implementation of this Modification Proposal is not required to enable Transco 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 Standard Condition 3(5) or the statement furnished by Transco under Standard Condition 3(1) of the Licence

The implementation of this Modification Proposal is not required as a result of any proposed change in the methodology established under Standard Condition 3(5).

14. Programme of works required as a consequence of implementing the Modification Proposal

There will be no programme of works required as a consequence of implementing this Modification Proposal.

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

On 1 May 2000, the 'flag' on AT-Link which exists against those Storage Operators that are Users and are currently excluded from Neutrality charges will be removed. This will allow Neutrality charges for May onwards to be calculated so as to reflect the changes sought by this Modification Proposal.

16. Recommendation concerning the implementation of the Modification Proposal

Transco recommends this Modification Proposal be implemented on 1 May 2000 at 06:00 hours.

17. Restrictive Trade Practices Act

If implemented this proposal will constitute an amendment to the Network Code. Accordingly the proposal is subject to the Suspense Clause set out in the attached Annex.

If implemented this Modification Proposal will constitute an amendment to the Network Code. Accordingly the Modification Proposal is subject to the Suspense Clause set out in the attached Annex.

18. Transco's Proposal

This Modification Report contains Transco's proposal to modify the Network Code and Transco now seeks direction from the Director General in accordance with this report.

This Final Modification Report contains Transco's proposal to modify the Network Code and Transco now seeks agreement from the Director General in accordance with this report.

19. Text

Section F

Paragraph 4.1.2 (a) : Delete "the relevant Storage Operators".

Paragraph 4.1.2 (d) : Delete.

Paragraph 4.1.2 (c) : Delete "and".
Insert "." after "relevant User".

Paragraph 6.1.3 (a) : Delete "the Storage Operator when acting for Storage Management Purposes".

Section P

Paragraph 6.4.2 (a) : Delete "the Storage Operator when acting for Storage Management Purposes".

Signed for and on behalf of Transco.

Signature:

Tim Davis
Manager, Network Code

Date:

Director General of Gas Supply Response:

In accordance with Condition 7 (10) (b) of the Standard Conditions of Public Gas Transporters' Licences dated 21st February 1996 I hereby direct Transco that the above proposal (as contained in Modification Report Reference **0387**, version **3.0** dated **31/05/2000**) be made as a modification to the Network Code.

Signed for and on Behalf of the Director General of Gas Supply.

Signature:

The Network Code is hereby modified with effect from, in accordance with the proposal as set out in this Modification Report, version **3.0**.

Signature:

Process Manager - Network Code
Transco

Date:

Annex

1. Any provision contained in this Agreement or in any arrangement of which this Agreement forms part by virtue of which The Restrictive Trade Practices Act 1976 ("the RTPA"), had it not been repealed, would apply to this Agreement or such arrangement shall not come into effect:
 - (i) if a copy of the Agreement is not provided to the Director General of Gas Supply ("the Director") within 28 days of the date on which the Agreement is made; or
 - (ii) if, within 28 days of the provision of the copy, the Director gives notice in writing, to the party providing it, that he does not approve the Agreement because it does not satisfy the criterion specified in paragraphs 1(6) or 2(3) of the Schedule to The Restrictive Trade Practices (Gas Conveyance and Storage) Order 1996 ("the Order") as appropriateprovided that if the Director does not so approve the Agreement then Clause 3 shall apply.
2. If the Director does so approve this Agreement in accordance with the terms of the Order (whether such approval is actual or deemed by effluxion of time) any provision contained in this Agreement or in any arrangement of which this Agreement forms part by virtue of which the RTPA, had it not been repealed, would apply this Agreement or such arrangement shall come into full force and effect on the date of such approval.
3. If the Director does not approve this Agreement in accordance with the terms of the Order the parties agree to use their best endeavours to discuss with Ofgem any provision (or provisions) contained in this Agreement by virtue of which the RTPA, had it not been repealed, would apply to this Agreement or any arrangement of which this Agreement forms part with a view to modifying such provision (or provisions) as may be necessary to ensure that the Director would not exercise his right to give notice pursuant to paragraph 1(5)(d)(ii) or 2(2)(b)(ii) of the Order in respect of the Agreement as amended. Such modification having been made, the parties shall provide a copy of the Agreement as modified to the Director pursuant to Clause 1(i) above for approval in accordance with the terms of the Order.
4. For the purposes of this Clause, "Agreement" includes a variation of or an amendment to an agreement to which any provision of paragraphs 1(1) to (4) in the Schedule to the Order applies.