

URGENT Modification Report
Waiver of two month notice period for Pricing Consultation 53 : NTS Entry Capacity
Auction Revenue Re-balancing
Modification Reference Number 0397
Version 1.0

This Modification Report is made pursuant to Rule 9 of the Modification Rules and follows the format required under Rule 8.9.3.

Circumstances Making this Modification Proposal Urgent:

In accordance with Rule 9.1.2 OFGEM has agreed that this Modification Proposal should be treated as Urgent because In accordance with Rule 9.1.2 Ofgem has agreed that this Modification Proposal should be treated as Urgent.

Pricing Consultation 53 proposed a number of options for the adjustment of transportation charges to compensate for the higher than anticipated revenues arising from the last round of entry capacity auctions. A possible outcome of Pricing Consultation 53 is that transportation charges may be amended from 1 May 2000.

This proposal therefore required Urgent status to ensure that this timetable would be achievable.

Procedures Followed:

Transco agreed with OFGEM (and has followed) the following procedures for this Proposal:
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Issued to Ofgem for decision on urgency	26 April 2000
Proposal agreed as Urgent	26 April 2000
Proposal issued for consultation	26 April 2000
Close out for Representations	27 April 2000
Final Report to Ofgem	28 April 2000
Ofgem decision expected	28 April 2000

1. The Modification Proposal

During industry discussions regarding Pricing Consultation 53 it has been suggested that it may be appropriate to adjust transportation charges from 1 May 2000.

If this proves to be the case, the Network Code requirement for two months notice of change, as detailed in Section B 1.8.2, would not be achievable. It is therefore proposed that the Transitional Document should allow for this requirement to be waived in respect of any outcome of Pricing Consultation 53.

2. Transco's Opinion

Transco is in support of this Modification Proposal which would allow for the possible implementation of revised transportation charges, as contemplated by Pricing Consultation 53, with effect from 1 May 2000.

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

This proposal could facilitate a prompt reduction in transportation charges in accordance with the decision reached on Pricing Consultation 53. This could promote more active trading of both MSEC and NBP gas which could lead to a more efficient operation of the system and better facilitate competition between Users.

4. The implications for Transco of implementing the Modification Proposal , including a) implications for the operation of the System:

The implementation of this proposal would have no significant impact upon the operation of the System.

b) development and capital cost and operating cost implications:

There are no development, capital or operating cost implications as a result of implementing 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:

Not applicable.

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

Implementation of this proposal would facilitate any adjustments in transportation charges, in accordance with Pricing Consultation 53, to be effective from 1 May 2000.

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

It is not anticipated that there will be a change to the level of contractual risk to Transco as a consequence of this proposal.

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

No development implications on the computer systems of Transco or on the related computer systems of Users are anticipated.

7. The implications of implementing the Modification Proposal for Users

If implemented, Users could receive revised transportation charges from 1 May 2000, in accordance with the outcome of Pricing Consultation 53.

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

Any revisions to transportation charges in accordance with Pricing Consultation 53 may compensate some of the perceived market effects created by the higher than expected prices originally bid in the April to September 2000 MSEC auction. This may have a “knock on” effect to prices paid by consumers.

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

No significant consequences on the legislative and regulatory obligations and contractual relationships of Transco and each User and Non-Network Code Party are anticipated as a result of the implementation of this proposal.

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

Advantages

Transportation charges could be adjusted in a timely manner to account for the excess revenue generated by higher than expected bid prices in the April to September 2000 MSEC auction.

Disadvantages

The proposal would facilitate an early amendment to transportation charges in accordance with the outcome of Pricing Consultation 53. This could be viewed as undermining the outcome of the April to September 2000 MSEC auction. It may be argued that some

bidders who were not successful, because their bid was too low, would have bid higher had they known that transportation charges may subsequently be amended.

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

Twelve representations have been received on the Modification Proposal.

Marathon, Corus, National Power, Exxon Mobil, BP Amoco, TXU Europe Energy Trading and Powergen give full support for the proposal.

Alliance Gas, Scottish and Southern Energy (SSE) and Shell Gas Direct (SGD) give their support for the Modification Proposal, however, comment that it should have been raised at an earlier stage, to allow for a longer consultation period. SSE and SGD add that the industry has been aware since the issue of Pricing Consultation 53 that the two month notice period under Network Code would need to be waived and the proposal should not have been raised at such a late stage.

British Gas Trading (BGT) acknowledges that the Modification Proposal would be required for any adjustment in transportation charges to be effective from 1 May 2000, however, it notes that no justification has been given for why the standard two month notice period, which is required under Network Code, should be waived. It states that in the past, previous under or over recoveries which had also arisen due to “unanticipated” circumstances have been handled without this notice period being modified and stresses that this proposal should not set a precedent for any future price changes. BGT advises that it would welcome confirmation from Transco and Ofgem that the usual notice periods would remain for all other price changes.

BGT also comments that changes to transportation charges at short notice are not desirable as the lack of stability and predictability in pricing will affect the market and the ability of suppliers to maintain stability in the offers and prices provided to end users.

Scottish Power is strongly opposed to the Modification Proposal, which it believes is “unnecessary”. Scottish Power refers to its opposition to the proposals under Pricing Consultation 53, and, like BGT, argues that a “one-off solution” and a short term reduction in transportation charges will lead to “significant problems in setting customer tariffs.”

Transco Response:

Transco welcomes the significant level of support given for the proposal.

of which was the use of the existing “k” process which would not have required this Modification Proposal. In view of this, Transco felt that it would have been inappropriate to raise this Modification Proposal until the consultation for Pricing Consultation 53 had concluded to ensure that respondents did not feel that any decisions had already been reached.

Ideally, this proposal would have been raised after a decision had been reached regarding Pricing Consultation 53 but given the industry’s preference for an early adjustment of charges the proposal was raised in advance of this to maintain the potential for 1 May 2000 changes.

Transco can confirm its intention to comply with the prevailing Network Code notice periods for pricing changes. It is true to say that “unanticipated” circumstances have been subject to the notice period in the past but the current circumstances may be viewed as exceptional. Indeed, a number of industry participants, from Producers through to consumer groups, have indicated a strong preference for a swift adjustment to charges.

Transco accepts that changes to prices at short notice may have some undesirable effects but believes that this must be set against the perceived impact on market and end customer prices resulting from the auction outcome. Given the fact that a number of parties who would be affected by an immediate adjustment are supportive of it, Transco believes that a rapid adjustment is warranted in this circumstance.

Transco would also like to reiterate that the purpose of this Modification Proposal is not to decide how prices are adjusted but to enable an adjustment if necessary. This issue of whether and, if so, how prices should be adjusted has been the subject of thorough consultation within Pricing Consultation 53.

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

Implementation is not required 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

If any changes to transportation charges arising from Pricing Consultation 53 are to have an effect from 1 May 2000, this Modification Proposal must be implemented to enable such changes.

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

There are no modifications required to the UK-Link Systems and therefore a programme of works will not be required as a result of implementing the Modification Proposal.

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

It is proposed that this Modification Proposal is approved on 28 April 2000, allowing any adjustment to transportation charges arising from Pricing Consultation 53 to be effective from 1 May 2000.

16. Recommendation concerning the implementation of the Modification Proposal

Transco recommends that this Modification Proposal is implemented and seeks direction from the Director General in accordance with this recommendation.

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.

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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.

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19. Text

Transitional Document, Part II, Paragraph 8,

Delete paragraph 8.1.1, B1.8 and replace with :

“8.1.1 B1.8 In respect of Pricing Consultation 53 the requirement in Section B1.8.2 that the notice to be given by Transco pursuant to the Transco Licence in relation thereto be given not less than 2 months prior to the proposed date of implementation shall not apply and Transco shall instead give such notice as far in advance of the date on which the proposals contained therein are to be implemented as is reasonably practicable.”

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 **0397**, version **1.0** dated **03/05/2000**) 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 **1.0**.

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 appropriate

provided 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.