

Modification Report
URGENT Modification Reference Number 0376

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

1. 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 it addresses concerns over the allocation of costs, which are reasonably outside the control of those Users which have secured gas supplies for peak shaving purposes in storage sites identified as constrained by Transco.

2. Procedures Followed:

Transco agreed with Ofgem (and has followed) the following procedures for this Proposal:

Modification Proposal to Ofgem	16/12/99
Ofgem Decision regarding Urgency	16/12/99
Close Out for Shipper Representations	21/12/99
Final Modification Report to Ofgem	22/12/99
Final Ofgem Decision	23/12/99

3. The Modification Proposal:

Until 30 April 2000, Users will not be charged for entry over-run charges at constrained LNG sites for deliveries in excess of a User's original booked entry capacity when the nomination giving rise to the delivery is as a result of Transco constraining on that site.

4. Transco's opinion:

This Modification would remove a risk of inappropriate charging of Users of Constrained LNG services. If constrained LNG is needed, and sufficient is in store and deliverable, Transco has the right to demand it and is entitled to withdraw from any constrained LNG site the quantity it requires for transmission support purposes or the maximum actual deliverability of that site at any time, whichever is greater.

The total withdrawal may be limited by the amount of LNG in store at that time, but Transco's nominations are not limited by Users' deliverability bookings. Essentially, it was accepted when the Network Code was written that Transco should get the gas out rather than have, or risk, a failure.

Some Users may be holding full stocks while others might have reduced their holding earlier in the winter. Transco ensures that sufficient gas is held in stock at any time (the "monitor" level) for national purposes. Transco can call on LNG to

provide the total transmission support needs on any day subject only to available physical deliverability and LNG in store.

For these purposes the Top-Up Manager is treated like any other User, and his gas can be constrained on too. The Top-Up Manager will have ensured that total booked deliverability at each site at least meets the predicted 1-in-20 requirement for the relevant area. So as long as any day's actual needs are less than that predicted requirement, there should be booked deliverability which can be used.

The main risk is that requirements on some days exceed the forecast 1-in-20 level. This might happen either if the (local) demands exceed the 1-in-20 forecast, whether or not the same is true of national requirements, or if (for whatever reason) the gas able to be transported to the relevant area is less than the transportation capacity for that area assumed for Top-Up calculations.

In that case it is right that Transco should get the gas out rather than have, or risk, a failure, even though the total withdrawn may exceed the total booking of deliverability. The actual volume withdrawn then has to be allocated to Users of Constrained Storage services at the site. Hence when Transco's requirements are converted into nominations on individual Users, a User's LNG withdrawal nomination may exceed that User's booked deliverability.

This was not thought at the time the Network Code was written to be an unreasonable approach. One consequence is that a User's LNG booking in a Constrained Site could be exhausted in a few days; this should continue to be regarded as a risk to be accepted by Users that book services at Constrained LNG sites, and this Modification proposes no change in this area.

Current arrangements provide that overruns are payable in the event that nominations by Transco exceed a User's available deliverability. It may be considered unfair that Users are charged overruns in the event that nominations by Transco exceed that User's available deliverability.

Users would normally be expected to have procured sufficient deliverability and entry capacity to meet their needs and sufficient deliverability in relation to their space bookings, and may be entitled to assume that this together with others' bookings (if any) and Top-Up would normally be available to meet the system's needs. If this is not so, then a User that has prudently procured and retained deliverability and capacity and has provided gas to the system should not incur additional costs through LNG deliverability and NTS entry over-run charges which result from the Transco constrained on nomination.

Transco believes that this modification should be implemented, but should only have effect until 30 April 2000 by which time changes are envisaged to be complete following the outcome of the current review of LNG storage. This also coincides with the start of the new storage year.

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

The modification will better facilitate Standard Condition 7 (1) (a) of Transco's PGT Licence: the economic and efficient operation of the pipeline system, and 7 (1) (b): to "comply with all licence obligations", in particular Standard Condition 11, where the costs associated with Users' storage bookings in constrained LNG sites resulting from Transco's constrained on nomination may be viewed as discriminatory.

6. **The implications for Transco of implementing the Modification Proposal, including:**

a) **implications for the operation of the System:**

There will be no implications for the operation of the gas supply system if this modification is implemented.

b) **development and capital cost and operating cost implications:**

There are no development, capital or operating costs that would result from the implementation of this modification.

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:**

Transco does not propose to recover any costs which it may incur as a result of this modification.

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

There are no consequences on price regulation that would result from the implementation of this modification

7. **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:**

Should this modification be implemented Transco will be exposed to the deliverability overrun charges which are currently picked up by Users as a result of Transco constraining on certain storage sites. Whilst this increases the contractual risk Transco faces, the level and likelihood of that risk is small.

8. **The development implications and other implications for computer systems of Transco and related computer systems of Users:**

There are no implications for Transco or Users. The modification is transitional and adjustments to any invoice will be managed through a manual process.

9. **The implications of implementing the Modification Proposal for Users:**

User's will not incur deliverability and NTS entry overrun charges where Transco constrains on their gas in excess of the amount of their original deliverability and entry capacity bookings at the LNG site that Transco, from time to time, constrains on. This modification will not alter the possibility that a User's storage booking in a constrained site could be exhausted in a few days.

10. **The implications of implementing the Modification Proposal for Terminal Operators, Consumers, Connected System Operators, Storage Operators suppliers, producers and, any Non-Network Code Party:**

The principle of a firm LNG service with overruns will be maintained. Therefore, a charge will be made for withdrawals in excess of a User's deliverability although Transco will bear this cost in the event of constraining on at an LNG site.

The LNG Storage Operators will therefore need to invoice Transco for this additional amount instead of the relevant Users.

11. **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:**

None

12. **Analysis of any advantages or disadvantages of the implementation of the Modification Proposal:**

a) Advantages: the advantage of this Modification is that Users will no longer incur inappropriate charges for overruns in the event that nominations by Transco exceed that User's available deliverability and booked NTS entry capacity as a result of constraining on an LNG site.

b) Disadvantages: Given that this modification expires on 30th April 2000 no disadvantages are envisaged.

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

One representation was received, from BGT. BGT fully supports this modification, as it is “substantially similar” to a Modification proposal (375) previously raised by BGT.

BGT notes two key differences between the Modification raised by themselves and this modification:

Under this modification, Transco will bear the cost of any LNG deliverability overruns in the event that shippers’ LNG is constrained on at a rate which exceeds a shippers deliverability booking;

The resulting change to the Code is limited to 30 April 2000.

BGT recognises the reasons for the two key differences and does not declare any objections.

Transco Response:

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

Transco does not require this Modification to enable it to comply with safety or other legislation.

15. The extent to which the implementation is required having regard to any proposed change in the methodology established under Standard Condition 3(5) of the statement; furnished by Transco under Standard Condition 3(1) of the Licence:

There is no change to the charging methodology.

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

Identification of a suitable process and procedures to ensure the correct overrun charges are applied, to the correct quantities, by both Transco and the Storage Operator.

Amendments will be required to the invoicing processes to ensure invoices reflect the correct charges.

17. Proposed implementation timetable (inc timetable for any necessary information systems changes):

Identification of data items required to support adjustments to the over-run charging regime for Users and Transco: 22/12/99.

Implementation on 23/12/99.

Procedures implemented prior to next invoice production period (January 2000).

18. Recommendation concerning implementation of the Modification Proposal:

Transco recommends this Modification should be implemented.

19. 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.

20. Transco's Proposal:

This 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.

21. Text:

Transition Document Part II

Paragraph 8.1.4 B.2.10.2

"Where until 30/4/2000 in calculating the overrun quantity no account shall be taken of the quantity by which the Transco nomination in respect of the LNG Site where Transco has on a Day declared the Site to be Constrained, exceeds the Users booked Entry Capacity at that LNG Site in respect of that Day (excluding any quantity of Entry Capacity acquired or disposed of by a capacity transfer). "

Paragraph 8.17.4 Z.6.4.5.

" Where on a Day where Transco has declared an LNG Site to be constrained and the User becomes liable to pay a Storage Overrun Charge pursuant to Section 7.1.1. in respect of the Storage Withdrawal Nomination excluding the Users Available Storage Deliverability (excluding any deliverability acquired or disposed of by a trade) the Storage Overrun Charge shall be set at zero."

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 **0376**, version **6.0** dated **23/12/1999** 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 **6.0**.

Signature:

Process Manager - Network Code
Transco

Date:

ANNEX

Restrictive Trade Practices Act - Suspense Clause

For the purposes of the Restrictive Trade Practices Act 1976, this document forms part of the Agreement relating to the Network Code which has been exempted from the Act pursuant to the provisions of the Restrictive Trade Practices (Gas Conveyance and Storage) Order 1996. Additional information inserted into the document since the previous version constitutes a variation of the Agreement and as such, this document must contain the following suspense clause.

1.Suspense Clause:

1.1 Any provision contained in this Agreement or in any arrangement of which this Agreement forms part by virtue of which this Agreement or such arrangement is subject to registration under the Restrictive Trade Practices Act 1976 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 paragraph 2(3) of the Schedule to The Restrictive Trade Practices (Gas Conveyance and Storage) Order 1996.

provided that if the Director does not so approve the Agreement then Clause 1.2 shall apply.

1.2 Any provision contained in this Agreement or in any arrangement of which this Agreement forms part by virtue of which this Agreement or such arrangement is subject to registration under the Restrictive Trade Practices Act 1976 shall not come into effect until the day following the date on which particulars of this Agreement and of any such arrangement have been furnished to the Office of Fair Trading under Section 24 of the Act (or on such later date as may be provided for in relation to any such provision) and the parties hereto agree to furnish such particulars within three months of the date of this Agreement.