

Modification Report
Modification Reference Number : 0097
Relief from overrun charges resulting from CVA error

This modification report is made pursuant to Rule 9 of the Modification Rules and follows the format required under Rule 8.12.4.

1. Circumstances Making This Modification Urgent

In accordance with Rule 9.2(a) Ofgas has agreed that this modification should be treated as URGENT to ensure that Users are not required to pay overrun charges resulting from an error by a CVA agent.

2. Procedures Followed

TransCo agreed with Ofgas (and has followed) the following procedures for this Proposal:

13th November 1996 - Modification Proposal Submitted
15th November 1996 - Proposal Agreed as Urgent
22nd November 1996 - Representations Received
29th November 1996 - Report to OFGAS

3. The Modification Proposal:

The modification proposal provides a means for Users to query entry overrun charges which are thought to be affected by alleged CVA allocation errors for a period of up to 10 days following invoice production. The User would request the CVA to investigate (at no cost to TransCo) and certify the error to TransCo by the invoice due date.

In addition, for the period between March and September 1996 inclusive, Users would have until 20th December to notify TransCo of instances of alleged CVA error affecting overruns in that period and, the CVA would have until 15th January 1997 to certify these errors to TransCo.

TransCo would then recalculate the overrun charge. This procedure would only apply for overrun charges of at least £500 in value. There would be no provision to revise any Entry Allocation Statement or affect any UDQI of any user. It is anticipated that instances of CVA error will be eliminated by summer 1997 and it is proposed that the above procedure would terminate in October 1997.

4. TransCo's opinion:

In the early months of Network Code, late receipt of information has had an adverse effect on CVA operations to provide timely and accurate allocations by the close out date. This problem is being addressed but is not expected to be entirely resolved in the 1996/7 winter period.

While it is not practical to reopen energy allocations after close out, it is possible to adjust for errors which lead to entry capacity overrun charges. This is because a reversal of capacity overrun charges levied on a User does not affect the monthly accounts of other Users. There is, nonetheless, a consequence to other Users as overrun charges count towards formula revenue and a reversed charge is passed on, through K, to the next pricing period.

When the industry was consulted on 25th September, those Users who expressed a view, supported reversal of entry overrun charges to the extent these arise because of substantiated CVA errors which are only uncovered after close out.

It is TransCo's opinion that Users should not face capacity overrun charges resulting from incorrect allocations by the CVAs, which are beyond their control. TransCo therefore support the implementation of this modification proposal both retrospectively and prospectively.

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

Under this modification proposal Users would not be required to pay overrun charges which resulted from an error by a CVA agent.

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

a) implications for the operation of System and any BG Storage Facility;

TransCo is not aware of any impact on the System or any BG Storage Facility.

b) development and capital cost and operating cost implications

Additional costs incurred in recalculating overrun charges will not be recharged.

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;

Additional costs will be included in normal operating expenditure.

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

Any increase/decrease in TransCo revenue resulting from changes to overrun charges will be accounted for in price regulation in the normal way.

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;

TransCo is not aware of any changes to the level of contractual risk.

8. The development implications and other implications for computer systems of TransCo and related computer systems of Relevant Shippers;

TransCo is not aware of any implications for computer systems.

9. The implications of implementing the modification for Relevant Shippers.

Users will not be required to pay capacity overrun charges resulting from CVA errors.

10. The implications of implementing of the modification for terminal operators, suppliers, producers and, any Non-Network Code Party;

TransCo is not aware of any impact on terminal operators, suppliers, producers and any Non-Network Code Party. The CVAs may incur marginally higher operating costs resulting from the investigation of alleged errors, if these are not passed onto the Shippers who require errors to be investigated.

11. Consequences on the legislative and regulatory obligations and contractual relationships of TransCo and each Relevant Shipper and Non-Network Code Party (if any), of the implementation of the Modification Proposal;

TransCo has not been informed of any consequences on the legislative and regulatory obligations and contractual relationships of implementing this modification.

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

Advantages : Users will not incur capacity overrun charges resulting from CVA errors which are beyond their control.

The highlighting of errors by Users should improve the quality of CVA data and processes in the future.

13. Summary of the representations (to the extent that the import of those representations are not reflected elsewhere in the modification report;

In total 9 responses were received, of which 8 were in support of the modification.

Accord expressed concerns over the setting of the magnitude of capacity overruns in respect of modification proposals 0094, 0095, 0096 and 0097. However, TransCo does not feel that this is relevant to this proposal. The fundamental principle behind proposal 0097, that Users should not be liable for capacity overruns which are beyond their control, holds true irrespective of the scale of overrun charges.

Eastern suggest that the proposal should be extended to include other CVA parties and not just the Agent and cases where the Agent has failed to utilise information that would have materially affected the User. Similarly, Quadrant and BP suggest that the proposal should be extended to include administrative errors on the part of buyers or sellers. TransCo believes that these suggestions are beyond the scope of this modification proposal because of the difficulty of proving administrative error in cases not involving the CVA directly.

Quadrant also object to the inclusion of paragraph (5) part (ii) in the legal text. However, TransCo believe that this text is essential to provide adequate control of the process.

Texaco correctly point out that the second date in paragraph (1)(v) of the proposed text in the modification proposal should read 15th January 1997. This has been corrected in this report. Texaco also point out that the time available for a full investigation of alleged errors and

certification by the Agent is limited. It is TransCo's opinion that sufficient time is available, although it is clearly in Users' best interests to notify the CVAs of any discrepancies as soon as possible after the invoice production date.

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

The modification is not required to facilitate compliance with safety or other legislation.

15. 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;

This modification is not required to comply with the above clause.

16. Programme of Works required as a consequence of the implementation of the Modification Proposal;

No programme of works is considered necessary.

17. Proposed implementation timetable;

The proposal will be implemented with immediate effect.

18. Recommendation for the implementation of the modification;

This modification should be implemented immediately to ensure that Users do not have to pay capacity overrun charges incurred as a result of CVA errors.

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 Proposal

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

21. Text provided pursuant to Rule 9.

Transition Document Part II paragraph 8

Insert the following under Section B:

"B2.6.1 (1) For the period from 1st March 1996 until 31st October 1997, where:

- (i) a single person is for the time being appointed, pursuant to an Agreement (the "Agency Agreement") of which a copy has been provided to TransCo, as User Agent to submit Entry Allocation Statements on behalf of all Users at the System Entry Points comprised in an Aggregate System Entry Point;
- (ii) a User incurs a System Entry Overrun Charge in any month in respect of such Aggregate System Entry Point;
- (iii) not more than 10 Business Days after the date of submission of the Invoice Document which contains such charge, or in relation to Gas Flow Days before 1st October 1996 not later than 20th December 1996, the User notifies TransCo that the User believes that the condition in paragraph (2) is satisfied;
- (iv) the amount by which the System Entry overrun Charge would (pursuant to paragraph (4)) be reduced is not less than £500; and
- (v) the User procures that (at no cost to TransCo) the User Agent submits to TransCo, not later than the Invoice Due Date, or in relation to Gas Flow Days before 1st October 1996 not later than 15th January 1997, a certificate (subject to paragraph (5)) as to the matters set out in paragraph (3),

then the amount of the System Entry Overrun Charge will, with effect from the date on which TransCo receives the User Agent's certificate, be reduced in accordance with paragraph (4), and an appropriate invoice adjustment will be made in accordance with Section S.

- (2) The condition is that, as a result of a failure (subject to paragraph (5)) by the User Agent:
 - (i) to comply with a material requirement of the Agency Agreement, or
 - (ii) to receive a routine communication which was submitted pursuant to the Agency Agreement by the User or any other party to the Agency Agreement,

the User's Entry Allocation Statement (as at the Entry Close-out Date) did not correctly reflect the User's entitlement to gas delivered to the System at the relevant System Entry Point.

- (3) The User Agent's certificate shall:
 - (i) refer to the User's notification to TransCo under paragraph (1)(iii);

- (ii) state that the User Agent has investigated the matter and that the condition in paragraph (2) is satisfied;
 - (iii) provide a brief description of the basis on which such condition is satisfied; and
 - (iv) state the quantity which, had the failure referred to in paragraph (2) not occurred, would have been set out in the User's Entry Allocation Statement (as at the Entry Close-out Date).
- (4) The System Entry Overrun Charge shall be reduced so that the User is liable only for the amount, if any, which the User would have incurred by way of System Entry Overrun Charge if the UDQI in respect of the relevant System Entry Point had been the quantity certified pursuant to paragraph (3)(iv).
- (5) TransCo may from time to time publish or revise implementation terms (generally or in relation to a particular Agency Agreement) for the purposes of this paragraph, in which case:
 - (i) a User Agent's certificate shall be in such form as TransCo may reasonably specify in such implementation terms;
 - (ii) a failure shall be counted for the purposes of paragraph (2) only where it is such a failure, or a failure in relation to such a provision of the Agency Agreement, as is described in such implementation terms.
- (6) Nothing in or done pursuant to this paragraph shall entitle the User or any other User to revise any Entry Allocation Statement, or affect any UDQI of any such User.

Signed for and on behalf of British Gas TransCo.

Signature:

Date: 27th November 1996

Name: Michael Piggin

Position: Capacity Development Manager

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 British Gas TransCo that the above proposal be made as a modification to the network code.

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

Signature:

Date:

Name:

Position:

The network code is hereby modified, with effect from _____, in accordance with the above proposal.

Signature:

Secretary Modification Panel
British Gas TransCo

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 British Gas TransCo that the above proposal be made as a modification to the network code.

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

Signature *Eileen Marshall*
Date: 23/12/96
Name: EILEEN MARSHALL
Position: DIRECTOR, REGULATION & BUSINESS AFFAIRS.

The network code is hereby modified, with effect from the above proposal.

, in accordance with

Signature

Secretary Modification Panel
British Gas TransCo