

**Final Modification Report**  
**Modification Reference Number 0094**  
**Capacity Overruns - 1.3.96 to 31.9.96**

This Modification Report is made pursuant to Rule 9 (**Urgent**) 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 proposal should be treated a URGENT because first, it proposes capacity overrun charges in the period to 30th September 1996 should be substantially reduced and delay may lead to breach of shipper credit provisions. Secondly, because of the linkage with the proposals concerning capacity overrun multipliers detailed in Modifications 095 and 096 (Also Urgent Proposals)

**2 Procedure and Timetable**

8th November	-	Modification Proposal submitted to OFGAS
22nd November	-	Written Representation close out
29th November	-	Final Modification Report to OFGAS.
	-	Implementation.

**3 The Modification Proposal**

Overrun charges at NTS entry points, to include all storage entry points, and NTS exit points will be retrospectively adjusted to reflect a multiplier of 0.2. In addition there will be a cap of £50,000 on the adjusted charges, so that no shipper will have to pay in excess of this sum in respect of any single overrun occurrence.

**4 TransCo's opinion**

TransCo supports implementation of this modification.

**5 Extent to which the modification would better facilitate the relevant objectives**

The existing overrun multipliers are higher than they need to be to incentivise shippers to book sufficient capacity in the summer months. The proposed overrun multipliers are lower on the basis that they give rise to lower overrun charges which better support TransCo in the discharge of its licence obligations in this period.

**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 such implications.

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

There are no development or capital cost implications. This modification will be implemented by manual adjustment to the overrun charges already levied.

**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 intend to recover any costs other than those provided for in the Transportation Statement.

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

TransCo is not aware of any consequences.

**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 proposes that a retrospective reduction of the capacity multipliers (& overrun charges) will give rise to sustainable charges and reduce contract risk.

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

TransCo has not been made aware of any system implications.

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

Shippers will receive lower capacity overrun charges for the period covered by this modification.

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

TransCo is not aware of any such implications.

**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 proposes this modification supports the discharge of its obligations under section 9.2(b) of the Gas Act.

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

Advantage Shippers will not be exposed to overruns of more than £50,000 per entry or exit point per month.

Disadvantage By using a March overrun to meet a seasonal peak requirement, a Shipper incurring an overrun could end up paying less than a Shipper who booked a 7 or 12 month tranche that commenced on 1st March 1996 (This Point was raised in Midlands Gas' Representation). However, evidence suggests that a large proportion of overruns occurred as a consequence of procedural or administrative errors as opposed to decisions by shippers to underbook capacity. A shipper could not plan for such a windfall, since when the bookings were registered the capacity multiplier stood at 2.

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

Written representations have been received from **Accord Energy Ltd., Alliance Gas Ltd., Associated Gas Supplies Ltd., British Gas Trading Ltd., BP Gas Marketing Ltd., Eastern Natural Gas Ltd., Kinetica Ltd., Midlands Gas Ltd., Mobil Gas Marketing (U.K.) Ltd. and Quadrant Gas Ltd.**

These are attached as Appendix 1.

All representations are supportive with exception of **Accord Energy Ltd., British Gas Trading Ltd. and Midlands Gas Ltd.** (Midlands' point of concern is raised in Section 12)

**Quadrant Gas Ltd.** make the point that the charges should be capped at £10,000. TransCo's view is that a lower cap will exacerbate the concerns raised in the representation from **Midlands Gas Ltd.**

In general the views of **British Gas Trading Ltd.** are supported by TransCo, in that shippers should be responsible for obtaining their required levels of NTS Entry and Exit capacity. We agree that without the appropriate incentives underbooking would be encouraged.

TransCo sees the retrospective application of a reduced multiplier for the months of March 1996 and April 1996 as in effect, a "soft landing " period for shippers. At the time shippers booked capacity for these months they faced substantial incentives to encourage them to book adequate capacity for their needs and presumably they acted accordingly. In the summer

months, the retrospective multiplier is the same as that proposed in modifications 095 and 096, which if implemented will apply from summer 1997 onwards.

**Accord Energy Ltd.** oppose the modification for reasons "that have been fully detailed in previous correspondence. That correspondence was circulated with the Modification Proposal.

In summary Accord propose that:

- a) TransCo has not applied itself properly to the balance between effective incentives and low charges, and
- b) instances of administrative error that can be substantiated as "genuine " errors should have lower charges applied to them.

TransCo does not accept Accord's position.

We conducted extensive industry consultation and this modification represents the majority view for implementing a balance between incentives and low charges. (The exception is reduced multipliers for the Summer, which did not have majority support, but is thought appropriate by TransCo.)

The feedback we have received from the industry is, generally, shippers do not believe administrative error should be grounds for levying lower charges. If certain errors were determined to be grounds for a reduction or reversal of overrun charges, TransCo believes it would be more appropriate that these should be decided upon by a review body (or "disputes group")

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

This 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 this clause.

**16 Programme of works required as a consequence of the implementation of the Modification Proposal**

This modification does not require any works other than amendment to Network Code text and amendment to TransCo's internal procedures.

**17 Proposed implementation timetable**

This modification will be implemented as soon as practicable after OFGAS approval.

**18 Recommendation for the implementation of the modification**

TransCo recommends that this modification is implemented as soon as practicable after OFGAS approval.

**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 (Urgent)**

Transition Document Part II paragraph 8

Insert the following under Section B:

- "B2.6.3 (1) For the purposes of Section B2.6.3, in respect of any overrun month from March to September 1996:
- (a) the relevant multiplier in respect of all Aggregate System Entry Points shall be 0.2;
  - (b) the maximum amount of any System Entry Overrun Charge shall be £50,000.
- (2) Where, before the date of the Code Modification by virtue of which paragraph (1) applies, TransCo has prepared or submitted an Invoice Document to a User in respect of a System Entry Overrun Charge incurred not later than 30th September, 1996, the amount of such charge will be redetermined in accordance with paragraph (1) and appropriate invoicing adjustments made in accordance with Section S"

Under Section B, delete what is provided in respect of Section B3.6.3 and replace with the following:

- "B3.6.3 (1) For overrun days in the months of March to September 1996.
- (a) the figure 0.2 shall be submitted for the figure 2 in Section B3.6.3;
- (b) the maximum amount of any NTS Exit Overrun Charge shall be £50,000.
- (2) Where, before the date of the Code Modification by virtue of which paragraph (1) applies, TransCo has prepared or submitted an Invoice Document to a User in respect of a NTS Exit Overrun Charge incurred not later than 30th September, 1996, the amount of such charge will be redetermined in accordance with paragraph (1) and appropriate invoicing adjustments made in accordance with Section S".

Signed for and on behalf of British Gas TransCo.

Signature: *P Carter*  
 Date: 2/12/96  
 Name: DR. P. CARTER  
 Position: GAS TRADING SUPPORT 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: *Eileen Marshall*

Date: 13/12/96

Name: Eileen Marshall  
 Position: Director, Regulation & Business Affairs

The network code is hereby modified, with effect from 17/12/96 in accordance with the above proposal.

Signature: *JRMajors*  
 DEPUTY  
 Secretary Modification Panel  
 British Gas TransCo

## 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.

## **APPENDIX 1**

### **Representations from:**

**Accord Energy Ltd.**

**Alliance Gas Ltd.**

**Associated Gas Supplies Ltd.**

**British Gas Trading Ltd.**

**BP Gas Marketing Ltd.**

**Eastern Natural Gas Ltd.**

**Kinetica Ltd.**

**Midlands Gas Ltd.**

**Mobil Gas Marketing (U.K.) Ltd.**

**Quadrant Gas Ltd.**