

Final Modification Report
Modification Reference Number 0104
Bridging NTS Exit Capacity to support Supply Point Transfers

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 the service needs to be available prior to 1st March 1997.

2 Procedure and Timetable

18th November 1996	-	Modification Proposal submitted to shippers and Ofgas
6th December	-	Written representation close out
15th January 1997	-	Final Modification Report to Ofgas
12th February	-	Open forum meeting to review of representations and legal drafting
17th February	-	Revised legal drafting sent to shippers and Ofgas
20th February	-	Written representation close out
24th February	-	Final Modification Report re-submitted to Ofgas
25th February	-	Ofgas decision
26th February	-	Implementation

3 The Modification Proposal

3a NTS Exit Bridging Capacity Service

A shipper notifies Transco that its NTS Exit Capacity booked in respect of a DM Supply Point Component is about to expire and it requires NTS exit bridging capacity. The period of notification will be a maximum of 12 and a minimum of 2 Days prior to expiry of the Exit Capacity.

To apply for this service the shipper warrants that:

- i) it has held the supply point continuously for at least the preceding 6 months and,
- ii) its contract to ship to the supply point is about to expire.

The bridging capacity will be booked by Transco and last for a period of one month. The shipper may re-apply for exit bridging capacity if it can show that the circumstances preventing the transfer of the supply point are on-going. As part of the initial application the shipper will inform Transco of the DM Supply Point for which the service is being requested. This service will be available during the period 1st March 1996 to 30th April 1997 and 1st November 1997 to 30th April 1998 inclusive. The quantity of bridging capacity booked will be the amount notified by the shipper up to a maximum of the Supply Point Capacity of the DM component. If a second application is made, the quantity of exit capacity requested cannot be less than that booked as part of the initial application.

3b NTS Exit Capacity Summer Service

A User may request an amount of NTS Exit Capacity to commence not earlier than 1st May and terminate not later than 31st October during gas years 1997/8 and 1998/9. The capacity booking transactions will be made by Fax, in accordance with the time-scale detailed in Section B of the Principal Document.

All capacity booked through these services will be charged at the prevailing rate.

4 Transco's opinion

Transco supports implementation of this modification.

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

5a Bridging Service

This modification better supports Transco in the discharge of its license obligations by ensuring that competition at DM Supply Points is better facilitated by preventing the introduction of undue transaction costs.

5b Summer Exit Service

This modification better supports Transco in the discharge of its license obligations by ensuring that the transportation charges for counter-seasonal offtakes are minimised, thus ensuring better cost reflectivity. This service also provides short term capacity in the absence of the bridging service.

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

a) implications for the operation of the 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 costs implications. Tranches of bridging and summer exit capacity will be input into AT-Link by Transco.

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's level of contractual risk remains unchanged as a result of this modification.

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 shipper system implications.

9 The implications of implementing the modification for Relevant Shippers

Shippers will be able to better tailor their exit capacity bookings to reflect the timing of DM Supply Point leaving their portfolio.

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 has not been informed of any such consequences.

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

12a Bridging Service

This modification will allow an incumbent shipper (and hence possibly an end-user) to avoid the NTS exit capacity charges (and/or overrun charges) that could be incurred should a supply point not transfer on the same day as a shipper's exit capacity booking expires.

12b Summer Exit Capacity

This service provides a source of exit capacity during the off-peak months in the absence of an active and liquid secondary market. It is anticipated that the beneficiaries of this service will be supply points with counter-seasonal offtake profiles.

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

a) Representations received prior to 6th December 1996 close out

Written representation have been received from **Associated Gas Supplies Ltd., BP Gas Marketing Ltd., British Gas Trading Ltd., Eastern Natural Gas (Retail) Ltd., Quadrant Gas Ltd. and United Gas Services Ltd.** and are attached as Appendix 1.

All the representations, with the exception of that from **British Gas Trading Ltd.**, are broadly supportive.

BP Gas Marketing Ltd. and Quadrant Gas Ltd. express concerns that opportunities to use the bridging service are restricted unnecessarily by the warranties placed on the incumbent shipper. Transco's view is that, although a number of similar scenarios that could benefit from the use of the bridging service, it is not intended to be an all encompassing substitute for contractual rigour for addressing transportation charge (and overrun) risk during supply point transfers. This modification was drafted to address specific instances where shippers are exposed, by no fault of their own, to exit capacity charges because an End User has mis-lead the incumbent shipper into believing that it has signed a new sales agreement with a new shipper but the transfer does not occur on the expected date. **United Gas Services Ltd.** believe that " short term capacity should only be available to those shippers who are losing the supply point to another User." **Following the drafting review held on 12th February 1997, the application conditions and warranties required from the incumbent shipper have been modified.**

British Gas Trading Ltd. have concerns that "The current drafting places all the responsibility on the incumbent Shipper." Under the Network Code, it is the incumbent shipper who bears the transportation charges associated with its supply points until they transfer to a new shipper. It is reasonable that services to mitigate these charges are requested by those seeing the benefit.

British Gas Trading Ltd. ask whether the quantity of capacity that may be booked through the bridging service will be subject to a minimum. Due to the effects of diversity within exit zones and that this service will operate during off-peak periods, there will be no minimum booking incorporated into this service.

BP Gas Marketing Ltd. and Quadrant Gas Ltd. believe that in the event that the supply point does not transfer to another shipper, and exit capacity has not been booked to match the bridging capacity, the Transco initiated booking of 125% of the bridging capacity is excessive. **This rule has been deleted following the drafting review held on 12th February 1997.**

Eastern Natural Gas Ltd., BP Gas Marketing Ltd. and Quadrant Gas Ltd. suggest that the bridging service should extend for longer than one month. **Following the drafting review on 12th February 1997, the bridging period may, under certain circumstances, be extended for a further month after the initial period.**

British Gas Trading Ltd. and United Gas Services Ltd. share concerns over the minimum notice period required to make an application for this service. **Following the drafting review on 12th February 1997, the notice period has been reduced to 2 clear Days.**

Four comments, (9, 10, 11 and 13), raised in the representation from **Quadrant Gas Ltd.**, have been incorporated into the drafting.

b) Representations received prior to 20th February 1997 close out

Written representation have been received from **BP Gas Marketing Ltd., Kinetica Ltd. and Quadrant Gas Ltd.** and are attached as Appendix 2.

Quadrant Gas Ltd. state that their understanding of the outcome of the drafting review, regarding the extension of the bridging service, was that " shippers will be allowed to re-apply for exit capacity for subsequent months at Transco's discretion, if they can show that the circumstances preventing the transfer of the supply point are ongoing."

Transco's view is that the bridging service should not be made available for an indefinite period. In any event, the combination of the bridging and summer exit services mean that bridging capacity in excess of 2 months will not be required prior to 1st January 1998. Since the bridging service only treats the symptoms of the underlying issue, that is, the untimely transfer of DM supply points between shippers, a more elegant solution to this issue may be to address it by inter-shipper capacity trading, perhaps underpinned by a trading Code of Practice.

Kinetica Ltd. state "Bridging capacity should be available during the summer months in addition to the winter months."

The summer service is an on demand service which allows a shipper to register a short tranche of capacity. This service is intended to cater for a shipper's bridging requirements during the periods that the bridging service is not available.

BP Gas Marketing Ltd. raise similar issues to the above in their representation.

Kinetica Ltd. believe that " The expiry date of the bridging capacity should occur on the date of Transfer of Ownership of the supply point since bridging capacity granted is site specific."

The current drafting states that the bridging service is requested for separate periods, each lasting for one month. The duration of the bridging capacity is independent of the transfer of the supply point for which it was booked and it will not be prematurely terminated by Transco.

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 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

Add the following under Section B:

- "B3.2 (1) The Registered User of a DM Supply Point Component may, where the conditions at paragraph (2) are satisfied, apply (by facsimile) to Transco to be registered as holding DM NTS Exit Capacity at the relevant NTS Exit Point, for the bridging capacity period (in accordance with paragraph (5)(a)), in an amount not exceeding the User's Registered Supply Point Capacity at the DM Supply Point Component, with effect from a date (the "relevant date", whether or not an Eligible Capacity Registration Date) which falls:
- (a) between 1st March 1997 and 30th April 1997 in the Gas Year 1996/97 or between 1st November 1997 and 30th April 1998 in the Gas Year 1997/98, and
 - (b) not more than 12 nor less than 2 Days (or for applications made before 1st March 1997, not less than 1 Day) after the User's application.
- (2) The conditions referred to in paragraph (1) are:
- (a) that at the date of the application the User is, and for a period of not less than 6 months has been, the Registered User of the DM Supply Point Component identified in the application;
 - (b) that at the relevant date the contract(s) made by the User for the sale or supply of gas offtaken from the System at the DM Supply Point Component will have expired, is due to expire within one month of the relevant date or after subsisting for a period of not less than 6 months will have been terminated other than upon the breach of any party thereto; and
 - (c) that the User:
 - (i) has not previously submitted such an application in relation to the DM Supply Point Component; or

(ii) has previously submitted an application in relation to a DM Supply Point Component (which has been approved) (the "**first application**"), the User is still the Registered User of such DM Supply Point Component and the second application submitted by the User:

- (1) is in relation to the same DM Supply Point Component and is in respect of an amount of DM NTS Exit Capacity not less than that in the first application; and
- (2) is in respect of the month following the bridging capacity period for the first application

and that either the User is able to demonstrate to Transco's reasonable satisfaction that at the relevant date (in respect of the second application) the consumer, or where the User is not the supplier, the supplier, has not entered into a contract with a person other than the User for the sale or supply of gas offtaken from the System at the Supply Meter Points comprised within the DM Supply Point Component or that at the date of the second application Transco has not notified the User pursuant to Section G2.8.1(a) of the submission of a Supply Point Confirmation in relation to any Supply Meter Point comprised in the DM Supply Point Component.

- (3) By submitting an application pursuant to paragraph (1) the User warrants to Transco that each of the conditions at paragraph (2) is satisfied (and nothing herein shall require Transco to verify whether such conditions are satisfied).
- (4) Sections B3.2.2(a), B3.2.4 (except in relation to Section B3.2.2(b)) and B3.2.6 (disregarding the reference therein to Section B3.2.5) shall apply in respect of an application under paragraph (1).
- (5) Where a User's application in accordance with paragraph (1) is approved:
 - (a) the User will be registered as holding DM NTS Exit Capacity, in the amount applied for, a period of one month (the "**bridging capacity period**") from the relevant date, subject to paragraph (6)(c);
 - (b) Section B3.2.9 shall not apply in relation to such registration.
- (6) Where a User is registered as holding DM NTS Exit Capacity pursuant to an application under paragraph (1) the User shall not submit a Supply Point Objection in respect of any Supply Point Confirmation submitted in respect of a Proposed Supply Point including any Supply Meter Point comprised in the DM Supply Point Component.

(7) A User may, in relation to an application (in accordance with Section B3.2 but made by facsimile) for DM NTS Exit Capacity from an Eligible Capacity Registration Date between:

- (a) 1st May and 31st October 1997, specify a date not later than 31st October 1997;
- (b) 1st May and 31st October 1998, specify a date not later than 31st October 1998

on which the User wishes the registration to expire.

(8) Where pursuant to an application under paragraph (7) a User is registered as holding DM NTS Exit Capacity:

- (a) Section B3.2.9 shall apply in relation to such registration;
- (b) the capacity period will (notwithstanding Section B3.2.9) be the period from the registration date until the expiry date specified by the User.

Signed for and on behalf of Transco.

Signature: *T. Blair*

Date: 24/2/97

Name: T. BLAIR

Position: Manager, Capacity Development

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 be made as a modification to the network code.

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

Signature: *Kyran Hanks*

Date: 26/2/97

Name: KYRAN HANKS

Position: HEAD OF NETWORK OPERATIONS

The network code is hereby modified, with effect from 27th FEBRUARY 1997 in accordance with the above proposal.

Signature: *[Signature]*

Secretary Modification Panel, Transco

Transco

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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 received prior to 6th December 1996 close out:

Associated Gas Supplies Ltd.

BP Gas Marketing Ltd.

British Gas Trading Ltd.

Eastern Natural Gas (Retail) Ltd.

Quadrant Gas Ltd.

United Gas Services Ltd

APPENDIX 2

Representations received prior to 20th February 1997 close out:

BP Gas Marketing Ltd.

Kinetica Ltd.

Quadrant Gas Ltd.