

**Modification Report**  
**URGENT Modification Reference Numbers 267 and 270**

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 Proposal Urgent:**

In accordance with Rule 9.2(a) Ofgas has agreed that this Modification Proposal should be treated as Urgent because as drafted the code does not specifically cover a number of eventualities regarding nominations and allocations made by / for non CSEP users which could lead to uncertainty, risk and subsequent cost for Transco and Shippers from 1st October 1998.

**2. Procedures Followed:**

Transco agreed with Ofgas (and has followed) the following procedures for these Proposals;

|         |   |
|---------|---|
| 18.9.98 | Proposals issued to the industry for consultation |
| 28.9.98 | Close for responses                               |
| 29.8.98 | Final modification report to Ofgas                |
| 30.9.98 | Ofgas direction                                   |

**3. The Modification Proposal:**

***Modification 267***

(Consistent with the principle of mod 260 which states that Transco may require Shippers to enter into a CSEP Ancillary Agreement in order to enter gas at the Bacton Interconnector Sub Terminal)

Transco will not enter zero nominations or create activities at the Bacton Interconnector sub terminal for shippers who have not signed the CSEP Ancillary Agreement.

Where Transco has previously entered zero nominations or created activities for non CSEP users these will be deemed ineffective and Transco will be entitled to remove these from AT-Link.

Shippers who have not signed the CSEP Ancillary Agreement will not be entitled to nominate / renominate or receive allocations at the Bacton Interconnector Sub-Terminal.

Where the CVA allocates to a Shipper who has not signed the CSEP Ancillary Agreement Transco will be entitled to treat the allocation as un-claimed gas.

This modification will avoid uncertainty and therefore reduce risk financial and otherwise for all Shippers using the Interconnector to enter or exit gas to/from the NTS.

### ***Modification 270***

The proposal is that Transco's interpretation of the required signatories to the CSEP be redefined so that only those shippers that are receiving gas directly from the Interconnector need be a party to it. Transco could request a list of those shippers claiming the initial quantities from the BIC from either the Bacton Agent or the CVA. Gas once transferred into the pool would be classed as Bacton gas and the allocation on AT Link would be merely the result of a paper exercise.

In order for this proposal to work, the rules detailed in the CSEP ancillary agreement, regarding the concept of deemed flows at the Interconnector, will need to be incorporated into the Network Code.

#### **Purpose of Proposal**

- \* To increase liquidity at Bacton.
- \* To prevent any legal problems between shippers arising from gas being delivered but not received.
- \* To ensure that the requirements of the CSEP are addressed as they were intended, rather than penalizing all shippers that wish to trade at Bacton.
- Mod 232 regarding the input of zeros at all sub terminals, having been implemented, would remain valid and a further proposal would not be required,
- \* To facilitate on-the-day trading in the coming winter and, in part, to fulfil some of the objectives of the OCM, which shall now not be available until the winter of 1999/2000, at the earliest

#### **4. Transco's opinion:**

Transco have combined the modification report for these two modifications because of the linkage in the issues that the two modifications are addressing.

The two modifications were designed to address different problems. Modification 267 is designed to clarify the current CSEP Ancillary Agreement rules for the interconnectors. These rules currently require all shippers to sign the CSEP Ancillary Agreement (and any agency agreement which Transco may designate) if the shipper wishes to have gas allocated for entry purposes at the Interconnector sub-terminal at Bacton. The rules currently do not identify what process should be followed if a shipper (through the CVA process) claims gas at this entry point when they are not entitled to. Modification 267 is designed to provide clarification to this.

Modification 270, as proposed by BP, is designed to revisit the current rules in the CSEP Ancillary Agreement to address the concerns arising from the introduction of the Terminal Level Trading (TLT) process and the requirement for shippers to sign the CSEP Ancillary Agreement and any designated agency agreement.

Modification 270 requires Transco to identify those shippers who are involved directly in nominating and flowing gas through the Interconnector and those who are allocated gas at the Interconnector sub-terminal as a result of TLT. The requirement then being to require those shippers with a direct involvement with the Interconnector as an entry point to sign the CSEP Ancillary Agreement and hence be subject to the rules on deemed nominations contained in the CSEP Ancillary Agreement and to be subject to the requirement to sign the Bacton Agency Agreement (when designated).

The only way in which it is possible to differentiate between the two types of shippers (those with a direct relationship with the Interconnector and those as a consequence of TLT) is through the base statement provided to the CVA by the Bacton Agent for the Interconnector. Therefore, the requirement would be to check that those who appeared on the Base Statement had signed the CSEP Ancillary agreement and hence the Bacton Agents Agreement. Since the Base Statement actually comes from the Bacton Agent for the Interconnector, it is not possible that a party could appear on this statement who would not have a relationship with the Bacton Agent (i.e. have signed the Bacton Agency Agreement).

Therefore, the role that the process of differentiating the parties would provide is to ensure that shippers who are involved in entering gas in at the Interconnector sub-terminal are signed on to the rules on deemed nominations. It would be possible to deal with this concern by incorporating these rules in to the Network Code.

In order to deliver the BP proposal as detailed in modification 270, Transco would be required to make it a condition of appearing on the Base Statement that parties had signed the CSEP Ancillary Agreement (i.e. Network Code). If they appeared on the base statement when they shouldn't have done then (i.e.. hadn't signed the CSEP Ancillary Agreement, then that shipper would not be entitled to gas allocated at that entry point. Since neither Transco or Ofgas have no direct influence over the Base Statement nor is it recognized under the Network Code, then this provides unquantifiable risks for ensuring that the rules can work effectively and the process can be modified properly. The proposal creates unnecessary legal complexity associated with which parties have title to gas and the role of the Network Code in allocations upstream of the Transco system.

It is Transco's understanding that under the Bacton Agency Agreement rules it is not possible to appear on the Base Statement without being a signatory to the Bacton Agency Agreements, therefore the process of ensuring that parties do sign up to the Bacton Agency arrangements is already covered.

It would therefore, be possible in Transco's view to remove the requirement in the CSEP Ancillary Agreement for shippers who wish to be a User for entry purposes to have to sign the CSEP Ancillary Agreement and the hence the Bacton Agency Agreement. This would

need to be accompanied by a modification to the Code to allow the deemed nominations rules to be catered for in the Network Code and not the CSEP Ancillary Agreement.

This solution would address all the shippers concerns as detailed in their representations about the risks to the TLT process, while also addressing their concerns about the approval of modification 267. Modification 267 would no longer be required and subject to Ofgas acceptance of this approach, Transco would not seek implementation of modification 267.

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

The modification will better secure effective competition between relevant shippers by ensuring the smooth operation of the terminal level trading process.

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

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

There are no implications.

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

There are no implications.

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:**

There are no implications.

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:**

If the modification is implemented in accordance with Transco's opinion and section 21 of the report, then there are no implications. However, any other method may introduce contractual risk which at this stage is unquantifiable and which Transco and Ofgas would not have direct control over.

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

There are no implications.

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

Shippers would not be required (for entry purposes) to sign the CSEP Ancillary Agreement or any designated agency agreements. The current rules require shippers to sign these agreements in order to be a User at this SEP.

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

Allows the smooth operation of the terminal level trading process for CVA. Transco would designate the Bacton Agency Agreement for exit purposes, but not for entry purposes, this may have implications for the Bacton Agency Company in the comfort they draw from the designation process.

11. **Consequences on the legislative and regulatory obligations and contractual relationships of Transco and each Relevant Shipper and Non-Network Code Party of implementing the Modification Proposal:**

There are no implications.

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

Allows the Terminal Level Trading to work efficiently, while providing simply amendments to the rules. Ensures that the process for the Bacton Agent, Transco, CVA work as anticipated. However, the modification may not provide all the comfort that the Bacton Agent wished to draw from the designation process.

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

Eleven responses (from nine individual organizations) were received for modifications 267 and 270. Many of the respondents have combined their responses to these modifications.

The majority of respondents support modification 270 on the basis of ensuring that this will facilitate the Terminal Level Trading ("TLT") at Bacton. Five individual respondents specifically referred to concerns about ensuring TLT is facilitated and can be allowed to operate effectively and without risk. One respondent did not support modification 270.

Of the responses for modification 267, there was one respondent who supported the modification, while one further respondent supported mod 267 in the event that modification 270 was not possible to implement for 1st October 1998. Another respondent supported modification 267 so long as modification 270 was approved. The concerns raised by those respondents who did not support modification 267 focused on the need to remove any risk of shippers not being allocated gas at the Interconnector sub-terminal following TLT. In total there were three respondents who were unable to support modification 267.

**Transco Response:**

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

Not applicable.

**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:**

Not applicable

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

None are required.

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

To be implemented on 30th September 1998.

**18. Recommendation concerning implementation of the Modification Proposal:**

Transco recommends that the modification is implemented in accordance with Transco's opinion and the text as provided in section 21.

**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 direction from the Director General in accordance with this report.

**21. Text provided pursuant to Rule 9:**

See attached sheets

Signed for and on behalf of Transco.

Signature:

PP Tim Davis  
Manager, Network Code

Date: 30-9-98

**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 modification 267 and 270, dated 29/09/98) be made as a modification to the Network Code.

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

Signature:

**Shaun Day**  
Economic Advisor

Date: 2/10/98.

The Network Code is hereby modified, with effect from <sup>1<sup>st</sup> Oct 1998</sup> in accordance with the proposal as set out in this Modification Report.

Signature: PP D. Reardon

**Process Manager - Network Code**  
**Transco**

Date: 2/10/98.

## 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.