Modification Report
Reconciliation of Energy for Meter Points moved to the Larger Supply Point category via Annual AQ Review Process
Modification Reference Number 0484

Version 2.0

This Modification Report is made pursuant to Rule 8.9 of the Modification Rules and follows the format required under Rule 8.9.3.

1. The Modification Proposal

It is proposed that any Supply meter point which is configured within a smaller supply point but which becomes a Large supply point is subjected to reconciliation following completion of the annual AQ review process, including Appeals. The relevant date for the transfer from Small to Large supply point would be taken as being the date of the opening read used in the AQ review process. Reconciliation would then be applied from this relevant date, rather than from 1st October.The equal and opposite effect of these reconciled quantities will flow back via the RbD process and reduce the exposure to the quantities of gas consumed over and above that deemed.

2. Transco's Opinion

A sub-group of the I&A Workstream was formed to discuss this Modification Proposal and to identify possible mechanisms that might be employed to retrospectively re-allocate the "threshold crosser" energy, if Transco were directed to implement. Transco does not support implementation of this Modification Proposal as in its view it seeks to retrospectively change the commercial regime.

The group met twice and identified a number of difficulties associated with implementation of the Proposal. Most of the difficulties remain unresolved and would need to be further addressed by the sub-group if it the authority's decision to implement this Proposal.

Ultimately the group was unable to come to a consensual view on the various issues and, with the exception of the Proposer, members were against implementation of this Proposal. In Transco's opinion the proposal has some significant issues still attaching and lacks general support. Transco cannot therefore endorse the Proposal and is in any event concerned at it's retrospective nature.

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

The proposer has suggested Transco's relevant objective to operate an 'efficient and economic system' would be better facilitated by the implementation of this Proposal.

Transco is not persuaded that this Modification Proposal would better facilitate the operation of its pipe-line system.

4. The implications for Transco of implementing the Modification Proposal , including

a) implications for the operation of the System:

It is not felt that this Proposal would have any implications on the operation of the System if implemented.

b) development and capital cost and operating cost implications:

Any method adopted would result in Transco and Users incurring costs in the development of systems and usage of resources.

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 any additional cost recovery.

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

Transco has not identified any such consequences.

5. 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

Implementation of this proposal would result in energy and transportation charges, derived in accordance with the Network Code, being re-allocated. The principle of retrospectivity introduces unanticipated changes and instability which increases risk. There would be impacts on Transco and Users which would not have been anticipated and could have undesirable consequences.

6. The development implications and other implications for computer systems of Transco and related computer systems of Users

Transco and Users would have to develop or amend their systems in order to derive and validate any reconciliations and /or adjustments.

7. The implications of implementing the Modification Proposal for Users

The potential cost of implementation for Users would be dependent upon the mechanism adopted. However, there is an implication that Users will be exposed to re-distributive effects arising from adjustments to closed periods.

8. The implications of implementing the Modification Proposal for Terminal Operators,Consumers, Connected System Operators, Suppliers, producers and, any Non-Network Code Party

The implications depend largely upon the methodology adopted if the proposal were implemented. There may be an effect on Registered Users for Supply

Points that have crossed the 73,200 kWh threshold and had originally been charged Smaller Supply Point rates and which, under one possible methodology, would be re-adjusted at Larger Supply Point rates. Transco is not aware whether Users would be able to adjust charges to consumers via their Suppliers.

9. 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

Implementing such a potentially large retrospective adjustment to the regime could be regarded as an unwelcome precedent, generally increasing uncertainty and risk to the contractual relationship between Transco and each User.

10. Analysis of any advantages or disadvantages of implementation of the Modification Proposal

Advantages

Perceived over deeming in RbD could be partly addressed

Could resolve gaming or poor practice in setting and maintaining AQs

Cost reflectivity (more accurate charges for individual sites)

Disadvantages

Retrospectivity has previously been avoided

Re-opens Users' prior periods which have been closed

Could be regarded as an unwelcome precedent

Any impact on Transco revenue could impact price stability

May require special RbD pot

Administration cost faced by both Users and Transco

There may be an incentive not to amend incorrect AQ's

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

Four representations have been received in respect of this Modification Proposal. One is supportive and three are against implementation of this Modification Proposal.

Amerada, TXU Energy and Scottish Power all believe that introducing retrospectivity detrimentally affects the commercial regime.

Amerada and Scottish Power detail different methods of Adjusting which they would prefer to be used if this Modification were to be implemented, which differ from the simple approach BGT would like to see adopted.

BGT raised many issues and concerns within its representation. Transco's responses are as follows:

BGT stated "...In excess of 18 TWh of energy had been incorrectly allocated over the last 2 years, with an estimated value of over £50 million...".

Transco's view is that energy was not incorrectly allocated as all Supply Points received correct allocations in line with the AQ prevailing at the time. Transco would also add that a large proportion of this energy relates to sites which move around the threshold each year, which should be regarded as 'normal churn'.

BGT stated "...Transco claims that this Modification seeks to retrospectively change the commercial regime. This is not the case...".

Transco believes that any Modification which seeks to alter previously agreed contracts and apply those alterations in a retrospective manner will affect the commercial regime and may set an unwelcome precedent.

BGT stated "...The purpose of the Modification is to recognise that there were gross errors in the data underpinning the commercial regime and that the result has been a misallocation of energy between the Domestic and I&C markets...".

Transco would emphasise the point that the prevailing AQ's had been calculated correctly in accordance with the prevailing arrangements and allowed to continue into 1999/2000 by industry consensus. Modification Proposal No.0317 "Smaller Supply Point ("Domestic") AQ Review for Gas Year 1999/2000", which allowed for a limited AQ Review in 99/00, was supported by all Users who submitted representations. BGT stated in its representation, "...In general we agree that a full domestic AQ review is not a prudent course of action for Gas Year 1999/2000. There would, we consider, be very significant risks in pursuing such a process. However, the industry should be working towards a full review for Gas Year 2000/2001, which will allow time for data quality to be improved and functionality to be implemented...".

BGT stated "...if it were implemented, there is an existing proposal for application of the adjustment which has been discussed within the I&A Workstream and has qualified support..."

Transco believes that as several different mechanisms had been discussed in the sub-group with no clear preference emerging for any one, the term 'qualified support' is questionable and that no meaningful consensus was achieved.

BGT stated "...We dispute that there would be additional development and capital costs for Transco or Users in providing the systems to support this

Modification. Any adjustment could be calculated and applied using existing systems...".

Transco believes that as no single mechanism has been agreed as yet, development costs cannot be assessed. However, Transco would have to carry out any adjustment as an off-line process and manually calculate it regardless of the procedure used and therefore believes that a significant cost would be associated with the implementation of this Proposal.

On this point Scottish Power also noted "...if this proposal were implemented, heavy development costs for Transco would result, irrespective of the chosen method. In tandem with this it would leave shippers in a difficult position of trying to validate their charges historically...".

BGT stated "...Transco claims that there will be an effect upon consumers if this Modification Proposal is implemented. This is very unlikely as customers will have been billed based on actual meter readings...".

Transco included this in the Draft Modification Report stating that there may be a risk to consumers and believes that it remains unclear that there would be no effect on Consumers.

BGT stated "...Transco state that an advantage of the Modification Proposal is to address the 'perceived over deeming' within the RbD process. We contest that there is clear evidence that the over deeming is actual...".

Transco would answer that there is no clear evidence of over-deeming. The results of RbD Verification work as presented at the RbD sub-group of the I&A Workstream, do not support this assertion. If Meter Point reconciliation were to take place it would give the same results as RbD allocation within agreed tolerances.

BGT stated "...Transco lists as disadvantages, retrospection and re-opening of closed periods. The proposal set a backstop date of IQR close-out Feb 98. All periods since that date are open to adjustment under the existing NWC provisions..."

Transco believes that this comment may stem from a misinterpretation of Section S of the Network Code which provides that queries can only be raised on the basis of incorrect invoice charges. As the Meter Points in question were billed correctly according to the information held on Transco's systems, this provision would not apply.

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

Transco does not believe that implementation of this Proposal is required to comply with any safety or other legislative requirements.

13. The extent to which the implementation is required having regard to any proposed change in the methodology established under Standard Condition 4(5) or the statement furnished by Transco under Standard Condition 4(1) of the Licence

Transco is not aware of any such requirements.

14. Programme of works required as a consequence of implementing the ModificationProposal

As a finalised approach has not been agreed the exact programme of works has not been decided. However, system changes would be unavoidable.

15. Proposed implementation timetable (including timetable for any necessary information systems changes)

If directed to implement Transco would recommend that a further industry discussion be held to consider the appropriate implementation timetable given the complexities involved.

16. Recommendation concerning the implementation of the Modification Proposal

As there is clear evidence that Users do not in general support the retrospective nature of this Proposal, and, as no agreement has been reached on a mechanism for its implementation Transco believes there is no basis upon which the Proposal can be implemented and therefore recommends that this Modification Proposal is rejected.

17. 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.

18. Transco's Proposal

This Modification Report contains Transco's proposal not to modify the Network Code and Transco now seeks agreement from the Gas & Electricity Markets Authority in accordance with this report.

19. Text

Signed for and on behalf of Transco.

Signature:

Steve R Phillips
Director of Shipper Services

Date:

Gas and Electricity Markets Authority Response:

> In accordance with Condition 9 of the Standard Conditions of the Gas Transporters' Licences dated 21st February 1996 I hereby direct Transco that the above proposal (as contained in Modification Report Reference **0484**, version **2.0** dated **26/02/2002**) be made as a modification to the Network Code.

Signed for and on Behalf of the Gas and Electricity Markets Authority.

Signature:

The Network Code is hereby modified with effect from, in accordance with the proposal as set out in this Modification Report, version **2.0**.

Signature:

Process Manager - Network Code

Transco

Date:

Annex

1. Any provision contained in this Agreement or in any arrangement of which this Agreement forms part by virtue of which The Restrictive Trade Practices Act 1976 ("the RTPA"), had it not been repealed, would apply to this Agreement or such arrangement shall not come into effect:

   (i) if a copy of the Agreement is not provided to the Gas and Electricity Markets Authority ("the Authority") 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 Authority 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 paragraphs 1(6) or 2(3) of the Schedule to The Restrictive Trade Practices (Gas Conveyance and Storage) Order 1996 ("the Order") as appropriate

   provided that if the Authority does not so approve the Agreement then Clause 3 shall apply.

2. If the Authority does so approve this Agreement in accordance with the terms of the Order (whether such approval is actual or deemed by effluxion of time) any provision contained in this Agreement or in any arrangement of which this Agreement forms part by virtue of which the RTPA, had it not been repealed, would apply this Agreement or such arrangement shall come into full force and effect on the date of such approval.

3. If the Authority does not approve this Agreement in accordance with the terms of the Order the parties agree to use their best endeavours to discuss with Ofgem any provision (or provisions) contained in this Agreement by virtue of which the RTPA, had it not been repealed, would apply to this Agreement or any arrangement of which this Agreement forms part with a view to modifying such provision (or provisions) as may be necessary to ensure that the Authority would not exercise his right to give notice pursuant to paragraph 1(5)(d)(ii) or 2(2)(b)(ii) of the Order in respect of the Agreement as amended. Such modification having been made, the parties shall provide a copy of the Agreement as modified to the Authority pursuant to Clause 1(i) above for approval in accordance with the terms of the Order.

4. For the purposes of this Clause, "Agreement" includes a variation of or an amendment to an agreement to which any provision of paragraphs 1(1) to (4) in the Schedule to the Order applies.