Modification Report
Alignment with Transco Licence Changes Relating to the Treatment of the Costs of Locational Actions in Transco's SO Incentive Schemes
Modification Reference Number 0687

Version 1.0

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

In order to align the Network Code with the changes proposed for Transco's GT Licence, it is necessary to remove Locational Actions (as to be defined in the Licence) from Balancing Neutrality and include them in Capacity Neutrality, as well as to address associated invoicing arrangements. Similarly, it is necessary to remove Physical Renomination Incentive Charges from Balancing Neutrality and include them in Capacity Neutrality.

Transco believes that the following areas will need to be addressed in aligning the Network Code with the proposed changes to Transco's GT Licence:

1. Remove Locational Actions from Balancing Neutrality;
2. Add Locational Actions to Capacity Neutrality;
3. Remove Physical Renomination Incentive Charges from Balancing Neutrality;
4. Add Physical Renomination Incentive Charges to Capacity Neutrality; and
5. Make associated changes to energy and capacity invoicing arrangements.

This Modification Proposal has been developed to remove inconsistencies in the treatment of revenue streams that would otherwise arise between the Network Code and the proposed changes to Transco's GT Licence as notified under Section 23(3) of the Gas Act on 3rd March 2004.

2. Transco's Opinion

On 3rd March 2004 Ofgem made a direction under Section 23(3) of the Gas Act 1986 that changes should be made to Transco's GT Licence with effect from 1st April 2004 (Transco NTS SO Incentives 2004-2007: Licence Modifications – Shallow Incentives). Ofgem subsequently published a letter on 23rd March identifying and correcting a number of minor errors in the Section 23(3) notice. Transco has consented to the modification of its GT Licence in the manner specified in the Section 23(3) notice, as subsequently amended. The modification to the GT Licence was implemented on 1 April 2004.

Under the modified Licence the Entry Capacity Buy Back Incentive now includes the costs and revenues resulting from locational energy actions and Physical Renomination Incentive (PRI) Charges on the premise that locational energy actions are substitutable for entry capacity buy back actions. In addition to the Licence change, Ofgem has made it clear to Transco that the above costs and revenues should be apportioned in line with Users' entry

capacity holdings. It is intended therefore to allocate the costs and revenues resulting from locational energy actions and PRI Charges on the same basis as entry capacity buy back costs, i.e. on end-of-day firm entry capacity holding rather than on energy throughput.

The revised GT Licence also includes a new term, 'Locational Actions', which is defined as:

> "any action taken by the licensee where the action was taken in respect of a specific location and would therefore be coded with a locational reason code on the OCM. Locational buys will be treated as a cost to the licensee and locational sells will be treated as a revenue."

Transco is of the opinion that the changes to the Network Code necessary to reflect the Licence changes include:

- The removal of the costs and revenues resulting from Locational Actions from Energy Balancing Neutrality by amending the calculations of Aggregate System Receipts and Aggregate System Payments to exclude Locational Actions.

- The inclusion of the costs and revenues resulting from Locational Actions in Entry Capacity Neutrality by amending the calculations of Relevant Capacity Revenues and Relevant Capacity Costs to include Locational Actions.

- The removal of revenues resulting from PRI Charges from Energy Balancing Neutrality by amending the calculation of Aggregate System Receipts to exclude PRI Charges.

- The inclusion of revenues resulting from PRI Charges into Entry Capacity Neutrality by amending the calculation of Relevant Capacity Revenues to include PRI Charges.

To facilitate early implementation of this Proposal, to move the redistribution of costs and revenues associated with Locational Actions and PRI Charges from the Energy Balancing (EBI) invoice to the NTS Entry Capacity (NTE) invoice, the invoicing and payment arrangements between Transco and the Market Operator will remain unchanged. Accounting processes internal to Transco will ensure that PRI Charges and payments from/to the Market Operator in relation to Locational Actions are included in the appropriate Neutrality revenue pots.

It may not be possible to include all potential Locational Actions in the NTS Entry Capacity Invoice produced at M+4, due to the timing of related data transfers. Consequently, it is proposed that the Neutrality elements of Locational Actions will be invoiced two months in arrears. However, Transco will continue to settle accounts with the Market Operator for the Locational Actions to the current timescales.

Transco recommends implementation of the Proposal.

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

In its explanatory notes accompanying the Section 23(3) notice referred to in section 2 above, Ofgem considered that the Licence proposals would incentivise Transco "to make more efficient decisions when deciding which balancing tool to use, which would in turn allow Transco to more efficiently incur balancing costs". In Ofgem's opinion, it would therefore better facilitate the relevant objective of efficient discharge of Transco's obligations under its Licence, as stated in paragraph 1 of Standard Condition 9.

Implementation of the Proposal would ensure that the costs and revenues associated with Transco Locational Actions and PRI Charges are apportioned on the same basis as entry capacity costs and revenues. It may also be considered that it would also therefore better facilitate the relevant objective of efficient discharge of Transco's obligations under its Licence, as stated in paragraph 1 of Special Condition 29.

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

a) implications for the operation of the System:

It is not considered that implementation of the Proposal would have any material adverse impact on the operation of the system.

b) development and capital cost and operating cost implications:

It is not anticipated that any significant capital or operating costs will result from the implementation of this Proposal.

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:

Any costs associated with increased operating expenditure and/or system development would be considered under the internal costs incentive.

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

No such consequences are envisaged.

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

No such consequences are envisaged.

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

Transco has carried out an impact analysis in regard to the invoicing processes. This has identified that additional revenue share flags will be required for the Capacity Neutrality and Balancing Neutrality invoices, though it should be noted that this does not require a change to file formats.

In addition, in reviewing its operational systems, Transco has identified a potential need to review the reason codes it uses when tagging its actions on the OCM.

7. The implications of implementing the Modification Proposal for Users

The costs and revenues of Locational Actions and PRI Charges will be apportioned in line with Users' end-of-day firm entry capacity holding rather than on their energy throughput.

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

No such implications are anticipated.

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

No such implications are anticipated.

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

Advantage:

Implementation of this Proposal will ensure that the Network Code is aligned with Transco's GT Licence.

In its explanatory notes accompanying the Section 23(3) notice referred to in section 2 above, Ofgem considered that the Licence proposals would incentivise Transco "to make more efficient decisions when deciding which balancing tool to use, which would in turn allow Transco to more efficiently incur balancing costs".

Disadvantage:

Implementation timescales require a manual workaround in the short term to reallocate the costs and revenues associated with Locational Actions and PRI Charges. This will also have an impact on resources required, administration processes and will increase the risk of errors occurring until automated processes can be put in place.

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

Representations were received from the following seven parties:

Respondent	Response
Association of Electricity Producers (AEP)	Against
British Gas Trading (BGT)	Comments (Qualified Support)
Centrica Storage Ltd (CSL)	Comments (Qualified Support)
EdF Trading (EdF)	Comments (Qualified Support)
Powergen (PG)	Against
RWE Innogy (RWE)	Comments (Qualified Support)
Scottish & Southern Energy (SSE)	Against

Summary

For	0
Against	3
Comments (Qualified Support)	4

Of the three companies that indicated they were opposed to the Proposal, two (AEP & SSE) reaffirmed their support for the principle that the Network Code should be aligned with Transco's Licence obligations. This principle was also explicitly supported by EdF and CSL.

AEP noted that it "recognises the importance of the alignment of the Network Code with Transco's licence in order to ensure that there is clarity over the regulatory regime and for the incentives to work effectively."

SSE recognised "that it is undesirable for the Network Code to be at odds with Transco's licence obligations."

EdF noted "that [this Modification Proposal] should be implemented to ensure that the Network Code is compliant with the Licence.

CSL stated that it "accepts that it is necessary to align the Network Code with the changes proposed for Transco's GT Licence."

Principles Underlying Licence Change

Five respondents (BGT, SSE, RWE and CSL) expressed concerns about the inclusion of locational actions in the Entry Capacity Buy Back (ECBB) Incentive under changes to Transco's GT Licence.

BGT stated that it has "some reservation about … this change to Transco's incentives."

RWE Innogy stated they had concerns "about the appropriateness of including the costs of locational sell actions within capacity neutrality, and the improvement in performance this will afford Transco under the incentive scheme."

Similarly, CSL did not agree with the underlying principle that locational actions and capacity buy-back can have a similar impact.

AEP stated its belief "that the incentives as contained in Transco's licence do not treat the costs associated with locational sell actions appropriately and this may lead to undesirable consequences."

SSE expressed concern that there was a "lack of clarity in the licence". In addition, SSE noted that the Modification Proposal incorporates all Physical Renomination Incentive (PRI) Charges in Capacity Neutrality, but that they are incurred for both national and locational transactions. Thus, only PRI Charges relating to locational transactions should be included in Capacity Neutrality.

Transco Opinion

This Modification Proposal has been raised to reflect the changes to Transco's GT Licence that were introduced by Ofgem with effect from 1 April 2004 following consultation with the industry. As such, the Licence changes do not themselves form a part of the Proposal that can be amended as part of the Network Code consultation process.

The same issue applies in respect of SSE's concern regarding PRI Charges. The Licence now specifies that all PRI Charges will feed into the ECBB Incentive regardless of the nature of transaction against which they were incurred.

Interpretation of the Term 'Locational Actions'

AEP noted that the Licence refers to all locational actions and this Modification Proposal addresses itself to actions taken to resolve a Localised Transportation Deficit (LTD) and/or a Transportation Constraint (TC). AEP felt that the "proposed wording for the Code is more logical but would be inconsistent with the licence." In addition, AEP stated that "the use of market balancing actions relating to a localised transportation deficit and or transportation constraint could be interpreted as also including the actions necessary to restore a system balance. The use of the defined term Locational Market Transaction might avoid any ambiguity and potential for mismatch between the Code and licence."

SSE also raised similar concerns relating to the appropriate apportionment of the costs of locational actions. SSE also commented that the use of the term Locational Market Transaction would provide additional clarity in this regard, together with the suggestion that the definitions of LTD and TC should be "tightened up".

Transco Opinion

Ofgem stated in paragraph 2.17 of its guidance notes to the Section 23(3) Notice to implement the April 2004 Licence changes that the locational actions being considered were in respect of "locational network constraints". Transco therefore agrees with AEP's statement about the logicality of the Proposal and considers that including only those actions taken in respect of a LTD and/or a TC is indeed consistent with the intent of the Licence and that the Licence should not be interpreted as referring to all actions taken on the Locational Market.

Furthermore, Transco believes that, where a transaction is taken to resolve a LTD (and/or a TC) on the Locational Market, both it and the subsequent transaction to restore system balance (if required) should be treated as 'locational actions' for the purposes of the ECBB Incentive scheme.

Transco will tag these transactions as 'locational actions' at the time of their being taken as it does currently.

Transco does not consider it appropriate for all actions taken on the Locational Market (Locational Market Transactions) to be included in the ECBB Incentive. There may be circumstances when, in order to resolve a national issue, an offer on the Locational Market is more cost-effective than any on the Title or Physical Market. Transco would, in such circumstances, wish to retain the freedom to be able to take that Locational Market transaction with it feeding correctly into the Residual Balancing Incentive.

Choice of Balancing Action

Two main issues were raised concerning which balancing action Transco would choose to use in any particular situation:

- Likely preference for locational sells
- Effectiveness of locational actions

These are dealt with in turn below.

Likely preference for locational sells

AEP noted that "from an incentive viewpoint [Transco] will always favour locational sell actions" as this will generate a revenue, whilst entry capacity buy-back will generate a cost.

SSE also identified that Transco would likely "favour locational sell actions over capacity buy-back to address entry capacity constraints."

Effectiveness of locational actions

EdF noted that "if Transco conducts a locational sell at a specific system entry point it is not necessarily true that this would cause a deficit of gas on the system such that Transco would then take locational buy actions to resolve it. Transco may buy title gas which is included under Balancing Neutrality as opposed to locational buys which are included under Capacity Neutrality."

As well as making exactly the same point AEP also commented that "from the viewpoint of system efficiency Transco should also consider whether capacity buy back or locational sell is most likely to result in a reduction in flow at the terminal, however given the potentially large volumes of capacity that would need to be purchased and the difficulties in measuring compliance with OCM trades the efficiency of either tool is debateable".

AEP also noted that "as there are no rules which restrict upward nominations following locational specific actions nor require capacity to be held for the gas which would otherwise have flowed if the locational action had not been taken, then some very odd cycling effects could occur which could be compounded by non-compliance with bids in an attempt to force Transco to sell more locational gas, a situation very similar to St Fergus 1998, that prompted review of the entry capacity arrangements in the first place!"

CSL also did "not believe that locational transactions will generally be as efficient as capacity buy backs. The only parties able to offer locational gas would also be able to offer capacity buy backs and should price the two using the same principles." CSL went on to state its belief that "Transco and the community should review the effectiveness of locational transactions as well as the commercial incentives for Transco to use such actions."

Transco Opinion

When System Operator incentive schemes were introduced in 2002 Ofgem required Transco to put in place, amongst other things, a System Management Principles Statement (SMPS). This describes the basis on which Transco will employ system management services and, as mentioned above, Transco is independently audited against it each year. Under its Licence Transco is also obliged to operate the system in an efficient, economic and co-ordinated manner.

Ofgem stated in paragraph 2.17 of its guidance notes to the Section 23(3) Notice to implement the April 2004 Licence changes that it "considers that incentivising Transco to make more efficient decisions when deciding which balancing tool to use would allow Transco to more efficiently incur balancing costs."

Transco therefore believes that the Proposal will give it greater flexibility when deciding which action it considers to be most appropriate in each situation, taking into account the costs and relative efficiencies of each type of action available to it.

Transco recognises AEP's concerns regarding the "cycling effects" that could occur following locational sell actions at entry points and will continue to analyse the effectiveness

of its balancing actions in relation to its Licence obligations regarding the efficient and economic operation of the system.

Tagging of Actions

SSE expressed concerns that there is "still considerable ambiguity and scope to interpret both the licence and the Network Code such that inappropriate gas flows planned by Transco could be taken into account, including gas flows planned for balancing purposes." This relates to Transco's ability under the Licence changes to determine which actions are to be treated as locational for the purposes of treatment under the SO Incentive Schemes.

Similarly, PG expressed concern about Transco's "scope and discretion to tag which actions are to be considered locational." PG went on to suggest that "clear rules are required" to avoid Transco being accused of inappropriate tagging of actions. Finally, PG expressed a "general concern about the lack of transparency of Transco SO incentives."

Transco Opinion

Transco notes that the Licence gives it the ability to determine which actions should be included in the ECBB Incentive, and that this might cause concern among the shipper community. Transco already tags its actions based on the reason for the transaction being taken according to the System Management Principles (SMP) Statement and its compliance with the SMP Statement is audited independently on an annual basis as required under the Licence. Transco incorporates the auditor's findings in its annual SMP Report, which is sent to Ofgem with the audit report. The SMP Report is published on Transco's web site.

Billing

SSE noted that "manual workarounds will be required initially" in the invoicing arrangements and that the risk of errors might increase.

RWE also noted the introduction of manual workarounds and suggested that "any revenue transfers are regularly audited and that system changes to ensure that revenues are charged correctly will be implemented quickly and in such a way that shippers are not required to accommodate any changes to invoice file formats."

In addition RWE commented on Transco's willingness to propose manual workarounds in this case when "shipper proposed modifications [are] regularly frustrated by Transco's apparent need to make changes to their integrated systems".

Transco Opinion

This Proposal is required to align the Network Code with the revised Licence implemented on 1 April 2004. Transco has therefore had to consider how its billing processes can be adapted at very short notice to accommodate the transfer of locational actions from Balancing Neutrality to Capacity Neutrality. This has inevitably led to the need for audited

manual workarounds until longer term system solutions can be implemented. As discussed in section 6 above there is no requirement for any change to file formats.

Implementation

SSE expressed concern that "insufficient time has been afforded to consider the impact of the proposals and implementation" and that there is no implementation timetable.

Transco Opinion

The requirement for this Proposal was triggered by the outcome of a Licence consultation initiated by Ofgem on 5 February 2004 (Transco's National Transmission System Review of System Operator Incentives 2002-7: Proposals Document)

Within that Licence consultation Ofgem indicated a proposed implementation date of 1 April 2004 for any changes arising from the Licence consultation. Therefore, although the industry may not have anticipated the exact outcome of this Licence consultation, it nevertheless has been aware of the potential changes since February 2004.

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

This Proposal is not required to facilitate compliance with safety or other legislation.

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

No such requirement exists in respect of this Modification Proposal.

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

Ad hoc processes are required for Billing to ensure the correct allocation of charges for locational actions. Work is in progress and these processes will be available in time for the proposed implementation date.

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

Transco proposes implementation of this Proposal on 1st July 2004.

16. Recommendation concerning the implementation of the Modification Proposal

Transco recommends that this Proposal should be implemented.

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 to modify the Network Code and Transco now seeks direction from the Gas & Electricity Markets Authority in accordance with this report.

19. Text

Section B

Amend paragraph 2.13.2 to read as follows:-

"(a) "**Relevant Capacity Revenues**" are the aggregate of the amounts payable to Transco by Users:

(i) by way of Capacity Charges in respect of:

(1) ……;

(2) ……; and

(3) ……,

at the Aggregate System Entry Point;

(ii) by way of System Entry Overrun Charges; and

(iii) where any User has…….paragraph 5.5.2(b)~~,~~; and

(iv) by way of Market Balancing Action Charges in respect of each Market Balancing Sell Action (or negatively priced Market Balancing Buy Action) taken for that Day as a result of a Localised Transportation Deficit and/or a Transportation Constraint; and

(v) by way of any other amounts payable to Transco in respect of Eligible Balancing Actions taken pursuant to Contingency Balancing Arrangements as a result of a Localised Transportation Deficit and/or a Transportation Constraint; and

(vi) by way of Physical Renomination Incentive Charges,

in respect of such Day;

(b) "**Relevant Capacity Costs**" are the aggregate of the amounts payable by Transco to Users by way of:

(i) Capacity Management Charges……; and

(ii) Aggregate Constraint Amounts pursuant to Section I3.7.2,

in relation to the Aggregate System Entry Point in respect of such Day;~~.~~

(iii) Market Balancing Action Charges in respect of each Market Balancing Buy Action (or negatively priced Market Balancing Sell Action) taken for that Day as a result of a Localised Transportation Deficit and/or a Transportation Constraint; and

(iv) any other amounts in respect of Eligible Balancing Actions taken pursuant to Contingency Balancing Arrangements as a result of a Localised Transportation Deficit and/or a Transportation Constraint."

Section F

Amend paragraph 4.4.2(a) to read as follows:-

"(a) the Market Balancing Action Charges payable to Transco in respect of each Market Balancing Sell Action (or negatively priced Market Balancing Buy Action) taken for that Day (other than any Market Balancing Sell Action (or negatively priced Market Balancing Buy Action) taken for that Day as a result of a Localised Transportation Deficit and/or a Transportation Constraint) and any other amounts payable to Transco in respect of Eligible Balancing Actions taken pursuant to Contingency Balancing Arrangements (other than as a result of a Localised Transportation Deficit and/or a Transportation Constraint) in respect of such Day;"

Delete paragraph 4.4.2(d) and amend paragraph 4.4.2(e) to be paragraph 4.4.2(d)

Amend paragraph 4.4.3(a) to read as follows:-

"(a) the Market Balancing Action Charges payable by Transco in respect of each Market Balancing Buy Action (or negatively priced Market Balancing Sell Action) taken for that Day (other than any Market Balancing Buy Action (or negatively priced Market Balancing Sell Action) taken for that Day as a result of a Localised Transportation Deficit and/or a Transportation Constraint) and any other amounts payable by Transco in respect of Eligible Balancing Actions taken pursuant to Contingency Balancing Arrangements (other than as a result of a Localised Transportation Deficit and/or a Transportation Constraint) in respect of such Day;"

Amend paragraph 4.5.3(a)(ii) to read as follows:-

"(ii) the amount of any Market Balancing Action Charges (other than Market Balancing Action Charges in relation to any Market Balancing Action taken as a result of a Localised Transportation Deficit and/or a Transportation Constraint), other amounts payable in respect of Eligible Balancing Actions taken pursuant to Contingency Balancing Arrangements (other than as a result of a Localised Transportation Deficit and/or a Transportation Constraint), Total Incentivised Nomination Charges….."

Amend paragraph 4.5.3(b)(ii) to read as follows:-

"(ii) the amount of any Market Balancing Action Charges (other than Market Balancing Action Charges in relation to any Market Balancing Action taken as a result of a Localised Transportation Deficit and/or a Transportation Constraint), other amounts payable in respect of Eligible Balancing Actions taken pursuant to Contingency Balancing Arrangements (other than as a result of a Localised Transportation Deficit and/or a Transportation Constraint), Total Incentivised Nomination Charges….."

Amend paragraph 4.5.3(b)(iii) to read as follows:-

"(iii) the amount of any interest paid (in accordance with Section S4.3.2) by any User to Transco on any Day in month m by virtue of the late payment of Market Balancing Action Charges (other than Market Balancing Action Charges in relation to any Market Balancing Action taken as a result of a Localised Transportation Deficit and/or a Transportation Constraint), other amounts payable in respect of Eligible Balancing Actions taken pursuant to Contingency Balancing Arrangements (other than as a result of a Localised Transportation Deficit and/or a Transportation Constraint), Total Incentivised Nomination Charges….."

Signed for and on behalf of Transco.

Signature:

Richard Court
Commercial Frameworks Manager
NT & T

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 **0687**, version **1.0** dated **25/05/2004**) 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 **1.0**.

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.