

URGENT Modification Report
Requirement for Users to ensure non-domestic Supply Meter Installations are installed and maintained by accredited Meter Asset Managers
Modification Reference Number 0701
Version 1.0

This Modification Report is made pursuant to Rule 9 of the Modification Rules and follows the format required under Rule 8.9.3.

Circumstances Making this Modification Proposal Urgent:

In accordance with Rule 9.1.2 Ofgem has agreed that this Modification Proposal should be treated as Urgent because if it is accepted, the Proposal may have an influence on the decision to activate RGMA 'cutover' and therefore can be considered to be time-related. In addition, Ofgem considers that the Proposal addresses matters that are sufficiently material to warrant urgent consideration.

Procedures Followed:

Transco agreed with Ofgem (and has followed) the following procedures for this Proposal:

Proposal issued to Ofgem for decision on urgency	08/06/2004
Proposal agreed as urgent	09/06/2004
Circulate to Users requesting representations	09/06/2004
Representation close-out	16/06/2004
Urgent Modification Report issued to Ofgem	21/06/2004
Ofgem decision expected	23/06/2004

1. The Modification Proposal

8.4 TRANSITION DOCUMENT II

Insert the following to read:

“8.4.21M2.1

Until July 12th, 2006 but not thereafter, for the purposes of Section M:

(a) Where:-

- (i) a Supply Meter Point does not relate to premises at which a supply of gas is taken wholly or mainly for domestic purposes; and
- (ii) any supplier or any User in relation to such Supply Meter Point has provided or requested, or is providing or requesting, another to provide a Supply Meter Installation (other than where the Supply Meter Installation belongs to a consumer, or is lent or hired to a consumer and is owned otherwise than by a Gas transporter or supplier) for such Supply Meter Point;

then the Registered User in respect of such Supply Meter Point shall secure that the Supply Meter Installation at such Supply Meter Point is installed and maintained by a Meter Asset Manager

- (b) where Transco discovers that such Supply Meter Installation has been installed:
 - (i) after 12th July 2004 and it has not been installed by a Meter Asset Manager; and/or
 - (ii) at any time, and subsequently has not been maintained by a Meter Asset Manager, Transco shall notify the Registered User accordingly and the Registered User will:
 - (1) within fourteen (14) calendar days of receipt of the notice from Transco ensure that such Supply Meter Installation is re-installed and/or maintained by a Meter Asset Manager and notify Transco of the identity of such Meter Asset Manager; or
 - (2) where it is not practicable to ensure the performance of such re-installation and/or maintenance within such 14 calendar day period, within 7 calendar days of receipt of the notice from Transco notify Transco of the reasons for this and the date by which it will ensure such re-installation and/or maintenance is performed by a Meter Asset Manager and promptly notify Transco when such work has occurred;
- (c) where the Registered User has failed to fully comply with paragraphs (b) (1) or (2) Transco, acting reasonably, shall be entitled to take whatever steps it deems necessary (including the inspection, repair, replacement or disconnection of the Supply Meter Installation) to ensure that Transco complies with any Legal Requirements imposed upon it, and the Registered User shall reimburse Transco in respect of any and all costs, expenses and charges reasonably incurred or expended by or on behalf of Transco in taking such steps;
- (d) Transco's entitlement in paragraph (c) is without prejudice to Transco's entitlement at any time to make safe any Supply Meter Installation (including disconnection) for this purpose;
- (e) for the purposes of paragraphs (b) and (c) "Meter Asset Manager" means:-
 - (i) a person approved by the Authority as possessing expertise satisfactorily to provide services in relation to Supply Meter Installations or a class or description of persons so approved; or
 - (ii) an undertaking approved by the Authority as having staff possessing the requisite expertiseand, for the purposes of this definition, "approved by the Authority" means approved by it for the purposes of this paragraph generally and "staff" includes officers, servants and agents."

2. Transco's Opinion

It is Transco's opinion that this Urgent Modification Proposal should be implemented.

The effective management of gas meter assets requires the awareness of, and conformance with, a considerable number of regulatory requirements, industry standards and good practice including those required

by the Gas Act, Gas Installation and Use Regulations ("GSIU"), CORGI, Ofgem and the Institution of Gas Engineers and Managers ("IGEM"). To ensure requirements for the whole life management can be found in one place, the Meter Asset Manager Code of Practice, ("MAMCoP"), has been developed by the industry to provide new and existing Meter Asset Managers, ("MAMs"), with a document which comprehensively describes the requirements for the whole life asset management, design through to installation and eventually removal, of Supply Meter Installations.

In principle, the MAMCoP would apply to all MAMs undertaking works, installation, operation, maintenance, performance monitoring, modification, removal and decommissioning, for gas suppliers on gas supply meter installations which are on or connected to gas networks. This MAMCoP expands on the requirements laid down in the Codes of Practice ("CoPs") for Ofgem Approved Meter Installers, ("OAMI"), COP/1a, COP/1b and COP/1c, by specifying the requirements for all stages of the meter installation's life.

For Transco as a GT the MAM CoP also reinforces the requirement for a meter installer to obtain an authorisation to set and seal a meter regulator and to install in accordance with standards which describe the performance of the meter regulator and meter installation pressure absorption so that the installation is compatible with the way in which Transco operates networks. The requirements within the MAMCoP facilitate Transco discharging its obligations under the Gas Safety (Management) Regulations 1996 for maintaining adequate pressure at the appliance and the requirements under Gas Safety (Installation and Use) Regulations with respect to controlling the setting of the meter regulator, which is also reflected within Transco's Safety Case.

Unfortunately, the requirement for the use of accredited MAMs, and hence, by implication, the requirement to adopt the MAMCoP principles, has only been placed on suppliers⁽¹⁾ undertaking work at domestic Supply Points and, consequently, in order for Transco to mitigate its risk associated with the liberalisation of the meter asset management market, Transco sees the inclusions of relevant provisions within the Network Code as an essential measure.

Clearly, Transco would have preferred an over-arching requirement, placed within the Gas Suppliers Licence, to require all persons commissioning meter related work to use accredited Meter Asset Managers. Transco has noted the key conclusion of the IGEM risk assessment, carried out to assess the impact of metering competition on the industry, being the need for compliance with MAMCoP to be mandatory for all parties and for this to be established through legislation. Transco believes that these recommendations cannot be ignored and in the absence of such legislation, Transco believes that modification of the Network Code in line with the proposal is the minimum requirement.

In anticipation of the requirement within relevant legislation to use accredited MAMs being extended to suppliers undertaking work at both domestic and non-domestic Supply Points, Transco has prepared transitional legal drafting with an expiry date of 24 months following implementation of this Modification Proposal. Transco notes Ofgem's intentions with respect to this and described within its Decision Document and Section 23 Notices 'Competition in the Provision of Gas Metering Services: Licence Amendments' and looks forward to prompt resolution by the industry of this matter leading to a longer term sustainable solution.

The proposed date for the implementation of the Review of Gas Metering Arrangements ("RGMA") is the 12th July 2004. Transco is of the view that the matter must be resolved in conjunction with the "go / no-go"

decision, that is prior to 25th June 2004, and hence the requirement for an Ofgem decision is linked to a specific time-related event. Transco therefore requested and Ofgem subsequently granted that Urgent Procedures be applied to this Modification Proposal. Transco believes that it is unacceptable for the matter to remain unresolved post RGMA 'cutover' given the recommendations of the IGEM risk assessment described above.

⁽¹⁾ This obligation has been placed on suppliers by way of an inclusion within the Suppliers' Licence.

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

The purpose of this Modification Proposal is to incentivise Users to only contract with suppliers which use accredited Meter Asset Managers to manage gas supply metering activities. Accredited Meter Asset Managers are required to employ competent persons in the design, installation and operation of Supply Meter Installations. The User, and hence Transco would therefore be assured that certain standards and design criteria are used, which should in turn ensure that such installations are safely installed, operated and maintained and will be compatible with the design and operation of the gas network and the consumers gas appliances.

Transco's view is that its ability to discharge its legislative obligations safely and efficiently is of paramount importance. Key to these is are the design and pressures associated with the meter asset and Transco's ability to manage these. Transco believes that if this is compromised, it may be necessary to implement and operate inefficient measures concerned with maintaining gas pressure.

The Proposal therefore sets out steps that would be taken by Users and Transco where the design criteria of the transportation system and the metering installation are not compatible which could involve cost for the User and cost and inconvenience for the customer. Implementation would ensure such remedial action is less likely and hence should ensure that Transco is able to conduct its business in a more efficient and effective way than would be the case should these provisions not be included within the Network Code. This Modification Proposal therefore facilitates Transco's GT Licence 'code relevant objective' of the efficient and economic operation by the licensee of its pipe-line system.

4. The implications for Transco of implementing the Modification Proposal , including **a) implications for the operation of the System:**

In the event that this Modification Proposal were not implemented, it may be necessary for Transco to implement inefficient measures concerned with maintaining gas pressure for the operation and reinforcement of its pipeline system and to ensure that meter installations are designed, installed and operated such that they would not jeopardise the safe operation of a consumers gas appliance.

b) development and capital cost and operating cost implications:

Limited costs would be incurred as a consequence of implementing this Modification 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:

Transco does not propose any additional cost recovery.

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

No such consequences have been identified.

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

This Modification Proposal is to establish provisions that have a similar effect as the high priority conclusions of the IGEM risk assessment, that the MAMCoP should be mandated in law, thereby decreasing the level of Transco's risk. Transco's contractual risk under the Network Code is not increased.

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

No such implications have been identified.

7. The implications of implementing the Modification Proposal for Users

Users may need to make procedural and commercial changes to accommodate implementation of this Modification Proposal.

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

Transco's notes Ofgem's comments contained within its Decision Document referred to above concerning the likelihood that all MAMs would be accredited.

Suppliers would need to ensure that they have appropriate measures in place to ensure the recruitment of accredited MAMs. Robust procedures would also be required to identify and take remedial action (if required) in the event in the event that a supplier assumes ownership of a Supply Point having a Supply Meter Installation not installed and/or maintained by an accredited MAM.

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

Transco's notes Ofgem's comments contained within its Decision Document referred to above concerning the need for industry wide compliance with the MAMCoP (including the I&C supplier community) to be secured by the most appropriate means possible. Transco is also aware that a range of options have emerged (including adopting a Network Code solution). This represents the only

solution which can be implemented within the timescales for RGMA 'cutover' and has similar effect to the IGEM risk assessment recommendations described above.

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

Advantages:

- Ensures that significant risk faced by the Gas Transporter concerned with failure to ensure the maintenance of a satisfactory working pressure at the consumers appliance is mitigated.
- Provides an interim solution within the non-domestic market which is consistent with the proposed amendments to the Supplier Licence concerning the need for domestic suppliers to recruit MAMs.
- Proposal is consistent with the recommendations of the IGEM document 'Assessment of the Risks associated with the Introduction of Competition into the provision of Metering Services – a report prepared on behalf of Ofgem by the IGEM gas meter competition risk assessment panel' issued on 13 May 2004.
- Proposal is required by Transco to ensure its pipe-line network is able to operate efficiently.

Disadvantages:

- The incorporation of the obligations described with this Urgent Modification Proposal within the Network Code, while being pragmatic, represents a less than optimum solution (due to the contractual chain needed) to ensure that all suppliers contract with accredited Meter Asset Managers. However, The Proposal does ensure that the RGMA timetable may be met and its transitional nature permits a more optimal solution to be implemented later.

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

Eleven Representations were received with respect to this Urgent Modification Proposal. Three respondents were supportive of its implementation and eight were opposed.

A number of common themes are identified within the responses and for the purposes of this summary are separately addressed.

Timing of raising a Modification Proposal

Four respondents comment of the timing of the raising of the Urgent Modification Proposal by Transco and the interaction of this with the RGMA go/no go decision.

Corona Energy comments that *"The perceived risk that Transco appears to be trying to mitigate must be present now and have been present since the introduction of the current regulatory regime for metering. It is unclear why an urgent modification is suddenly required for 12th July, the separation of Transco's metering and transportation functions and the implementation of RGMA flows. This date should not be confused with the onset of metering competition, which is already in existence"*. Corona Energy further notes *"If the current regime is not sufficient to mitigate the risk in the Industry then this*

should have been discovered earlier and appropriate action taken, rather than using this crude answer involving shippers".

ScottishPower ('SCP') emphasises its *"concern at it's timing given that the development of RGMA is now in it's final stages of implementation"*.

BP Energy notes that *"We are extremely concerned with the "last minute" introduction of a modification from Transco, which provides little opportunity to provide a full response coming as it does in the final stages of the RGMA project".* BP Energy further believes the Modification Proposal to be *"inappropriate and predicated on a concern within the Gas Transporters business based on a misunderstanding of the current drivers in the I&C metering market. This modification seems based on the incorrect assumption of significant volumes of assets moving from the incumbent monopoly service provider Transco Metering (TM). As Transco have refused to adopt assets, other than PEM's meters, and currently to sell any existing assets the likelihood of a fluid market in meter assets in the short term is impracticable"*.

Shell Gas Direct comments that *"RGMA does not introduce metering competition itself but rather introduces processes and data flows to underpin that competition. As such, it is not clear why this needs to be introduced at this time. Furthermore, it is not new that suppliers to non-domestic consumers have no obligations under the Gas Act to provide metering services. If Ofgem were to approve this modification, it would result in significant additional regulatory involvement contrary to Ofgem's stated advocacy of withdrawing whenever possible."*

Since the beginning of gas industry discussions on metering liberalisation, there have been two significant Bills affecting gas regulation introduced: the Utilities Bill which was passed into law in 2000 and the Energy Bill presently being debated in the House and expected to become law in July 2004. If this was such an important issue to resolve, we cannot understand why it was not raised previously to allow for amendments to be made through primary legislation".

Transco's response is that the Ofgem Technical Standards Implementation Group ('TISC') which developed the MAMCoP made an assumption that the Supplier Licence would be amended to mandate all MAMs to sign on to the MAMCoP for all market categories. This assumption was reinforced by the IGEM risk assessment recently published. Transco only recently became aware that the recommendations of IGEM could not be implemented, hence the urgency of this Proposal.

Timing of implementation

Scottish & Southern Energy ('SSE') comments that *"In addition, the Network Code change specifies July 12 2004 as being the RGMA go-live date. The decision to go with this date will not be made until 25 June, however Ofgem has indicated that a decision on this urgent proposal will be made by 23 June. We suggest that this date is square bracketed to avoid the need for a further urgent modification proposal to change the date"*.

Transco's response is that given the urgency of the matter conveyed within the IGEM risk assessment, Transco believes that it is essential that the Proposal be implemented upon RGMA 'cutover'. This is of

particular significance given that Transco has already experienced problems with meter workers not seeking approval from Transco to set and seal the meter regulator prior to carrying out meter works.

Edf Energy requests that *"this modification is implemented in time for RMGA go-live and that the go-live date is not affected by this modification"*. British Gas ('BGT') notes that *"With regard to the RGMA date, whether this modification is implemented or not we would not wish to see this issue prejudice the effective date of RGMA. If all other factors indicate that 12th July is viable, when the go/no-go decision is taken on 25th June, this date should stand"*.

Transco concurs with the views of the above respondents.

Transitional provisions

BGT comments that *"We also understand that consideration is being given to amendment of the Suppliers licence but this would not be in place prior to the RGMA "go-live" date of 12 July. Placing this obligation on Code for a defined period of 2 years affords ample opportunity to effect this change"*. Powergen notes that it *"understands the reasons why Transco are suggesting implementing this temporary change and support the limited timescale that has been suggested"*.

Corona Energy comments that *"The two year period suggested for inclusion of this modification in the Code is, in our opinion too long. Transco seem to be attempting to remedy an Industry issue in an inappropriate way and are suggesting that the appropriate governance could be up to 2 years away. Transco have indicated that the inclusion in the Licence of the requirement for I & C Suppliers to appoint a MAM, which adheres to the MAMCoP, when installing and maintaining meters, would render this modification unnecessary. Consequently we do not understand why it would take 2 years to remedy this situation. The time period should be a lot shorter and should act as an incentive to get the appropriate governance in place"*.

Transco's response is that it has proposed a 2 year transitional period as being the period it considers reasonable to establish a robust legislative solution. Transco believes that implementation of this Urgent Modification Proposal represents a pragmatic solution to facilitate the early stages of RGMA. Transco would welcome earlier resolution and looks forward to proactively working with the industry and Ofgem to develop a longer term solution. Of note, Transco would be prepared to raise a further Modification Proposal to bring forward the transition end date should this prove to be possible.

Safety

Edf Energy observes that *"Under the MAM CoP domestic suppliers are obliged to use accredited MAM's and therefore any development to extend this further is of benefit to ensure fully competent engineers work on gas meters. This will ensure there is no degradation in safety standards"*.

Transco concurs with the views of the above respondent.

Compliance with the MAMCoP

Npower states that *"As a safety conscious supplier we recognise the importance of having trained and accredited personnel working in the industry. Therefore we wholeheartedly support the concept that suppliers only contract with MAMs who are signatories to the MAMCoP"*.

Corona Energy advises of its *"intention to require Meter Asset Managers, engaged by Corona Energy, to sign and comply with the MAMCoP"*. Corona Energy further notes that *"The MAMCoP has only been finalised very recently and Ofgem, while indicating that they will manage an approval scheme, have not indicated in what timescales this will become operational. There is less than 4 weeks to the intended implementation date of this modification"*.

SCP advises of its *"support for the principle of I&C Suppliers being covered by the MAMCoP"*.

BGT expresses the opinion that *"It is obviously desirable that there are consistent standards applied across all Meter Asset Managers (MAMs)"*. One other respondent, SSE notes that it is *"generally supportive of the intent of this modification"*.

Transco notes that it is clear from the views expressed in representation that most respondents intend to use accredited MAMs. This point is noted by respondents in their expression of support for the intention to reflect a requirement for MAMs to be signatories to the MAMCoP within the Gas Forum I&C Codes of Practice ('CoP') (see below).

Transco recognises the requirement for prompt and timely implementation of the MAMCoP. Of interest, the same issue (noted within Corona's representation) arises as a consequence of implementing the changes to the Suppliers Licence relating to domestic premises.

Introduction of Network Code obligations

Total Gas & Power ('TGP') notes that *"Several modifications have already been raised within the last few months in order to remove certain metering arrangements from the network code in order to facilitate RGMA's implementation, and at the time of writing, are awaiting Ofgem's decision on whether these should be implemented. TGP feel that this modification goes against the "spirit" of RGMA, as the industry's objectives are to remove meter related obligations from the network code in order to enhance the development of supplier-hub metering"*. TGP further comments that *"Given that RGMA removes the obligation for Transco to provide metering arrangements from Transco's licence obligations as a Gas Transporter, TGP do not feel that Transco has the right to introduce a network code obligation on suppliers' commercial operations through shippers. As previously stated, this goes against those modification proposals that are awaiting Ofgem's decision to remove commercial obligation from Transco's licence"*.

BP Energy expresses a view that *"Adoption of this modification would be a retrograde step as it runs counter to the general principle of RGMA namely the development of the Supplier Hub and Transco's stated objective of removing metering related obligations from the Network Code. The industry has, with Transco's support, through the implementation of the Metering Unbundling modifications*

removed from the Network Code, obligations on Shippers in respect of the provision of metering services". BP Energy further comments that "We do not see it as the responsibility of Transco acting as a Transporter, indeed a Transporter proactively seeking to divest itself of involvement in certain parts of the downstream transportation business, to dictate obligations on Suppliers through the NWC. BP believes it is wholly inappropriate to impose obligations on Suppliers for their retail activities via the contract for Shipping services between the Transporter and the Shipper. In fact Transco have insisted that it will not enter into contracts with Shippers as well as Suppliers for the provision of Metering Services".

SCP comments that "It is our view that this proposal should not be implemented into Network Code, as it would conflict with Transco's objective of removing metering related obligations from Network Code. Industry work to date has lead to the removal of obligations on Shippers with regard to the provision of metering services from Network Code and therefore we see no reason why this should be altered by this modification proposal. We are concerned that Network Code could be used to place obligations upon Suppliers through the contract in place between their nominated shipper and Transco. Transco have indeed to date expressed the view that they would be unwilling to enter into contracts with Shippers as well as Suppliers for the provision of services relating to metering. We therefore see no justification for implementing such obligations through Network Code".

Shell Gas Direct notes that it is "surprised that this route would be taken to resolve Transco's issue. Over the past few years, Ofgem has pushed forward on its agenda to introduce a 'supplier hub' principle in gas. SGD has not supported this approach as we do not understand why it is necessary nor how it benefits consumers and the competitive market. If this proposal is accepted, we could now have a supplier activity (metering provision) regulated through the Network Code. This would seem to run counter to claims made that separate governance arrangements are required to support the supplier hub principle. It should be noted that Transco will be entering into contracts with suppliers, not shippers for metering services".

Transco's response is that there appears to be some misunderstanding of the nature of the revisions to be made to the Network Code as a consequence of RGMA implementation. The relevant Code changes (Modification Proposal 0672) are associated with removing Transco's obligations (Principal Document Section M2.2) which are concerned with Transco securing on behalf of Users the provision, installation and maintenance of Supply Meter Installations. There are no plans to significantly change or remove the fundamental Network Code obligations incumbent on Users (Section M2.1) for providing, installing and maintaining Supply Meter Installations. Section M2.1 reflects significant obligations on Users requiring them to ensure (for example, it is assumed by way of their suppliers) the suitability of the Supply Meter Installation. In conclusion, the principal metering obligations on shippers are not being removed from the Network Code. Transco therefore believes that this Urgent Modification Proposal is complementary to and consistent with those awaiting direction under the RGMA banner. Transco is further of the view that it should seek to establish reasonable obligations on Users (which may or may not impact on suppliers) where significant issues concerned with the integrity of its safety related legislative obligations exist.

Statoil UK ('STUK') questions "the basis for using network code as a tool to attempt to enforce engineering standards. The chain of obligations from Transco to Shipper to Supplier to MAM/end user seems difficult and as such is likely to cause more problems than it solves. STUK would also be

interested to know whether questions raised in industry discussions about Ofgem's remit to extend regulation in this area have been resolved".

Transco's response is that it is necessary to utilise the Network Code as being the most effective way of meeting the requirements of the IGEM risk assessment given the absence of a legislative solution. Transco would also draw attention to existing Network Code provisions (Principal Document Section M2.1) which are concerned with Users obligations relating to engineering standards for Supply Meter Installations. Transco believes that this Urgent Modification Proposal is consistent with and clarifies the above obligations. Transco is not aware of any comments made by Ofgem with respect to its remit to extend regulation in this area.

Scope of Modification Proposal

- **Installation of meters by consumers**

TGP highlights that it is "of the opinion that there are many practical and operational issues that this modification proposal has failed to address if it is implemented. If the Gas Act Owner is the customer, the supplier may not be involved in the installation of the meter and its subsequent maintenance, with the worse case scenario arising where a meter is installed by a consumer. A supplier cannot guarantee that the meter installer or maintainer is suitably qualified if this type of situation arises, hence it is unfair to put this obligation on a supplier".

SSE highlights that "Section 8.4 (a)(ii) needs redrafting as we do not believe that it is sufficiently clear that it is not in respect of Supply Meter Points where the Gas Act owner is the customer. It is normal when a customer contacts a supplier, for example in respect of a new connection, that the supplier will check whether the customer is providing his own meter or whether the customer wishes the supplier to provide one. The contract between the customer and supplier will also reference the need for a meter. Therefore the current phrase 'providing or requesting another to provide' might be misinterpreted".

Powergen comments that it "would suggest for the avoidance of doubt that the modification makes clear that customer owned meters are specifically excluded from the provisions of this Network Code requirement".

Npower views that "It is potentially unworkable in that it puts a financial incentive on a shipper to require the supplier (when it is not the provider of the meter) to determine the relationship between two other third parties. Therefore, we do not believe that the Network Code is the correct vehicle to regulate this".

Corona Energy notes that "Transco believe that the domestic licence change proposed by Ofgem is sufficient to mitigate their risk for domestic meters and have not sought to cover domestic meters in this modification. Consequently, we assume it is important that the definition in the modification captures all meters that are not covered by the revision to the licence. At the moment it does not".

Shell Gas Direct claims that "What this modification proposal does not address is the risks associated with consumers as Gas Act owners doing do-it-yourself connections. This will not be affected by

obligations in relation to MAMCoP but continuing reliance that as Gas Act Owners, consumers will ensure that OAMI inspections are carried out".

Transco's response to the view of the above respondents is that it was never Transco's intention that consumer owned meters were within the remit of this Urgent Modification Proposal. Transco concurs with the opinion that the legal drafting does not adequately make it clear that consumer owned meters are 'out of scope' for the purposes of this Modification Proposal and has revised the legal text accordingly to clarify the position. Transco's opinion is that given the very limited number of such meters anticipated to be installed during the transition period of this Modification Proposal, its risk exposure is minimal. Transco also notes the further recommendations of the IGEM risk assessment, that DIY installation should be discouraged with consideration given to banning such work.

- **Shipper/Transco Action**

Corona Energy comments on the proposed legal drafting, specifically Section 8.4.21(b) identifies that *"This section allows Transco to take action if they find that the shipper has failed to meet section (a). This goes beyond any requirements that might have been placed on Suppliers via the Licence, judged from the licence changes proposed for Domestic Suppliers. As the Shippers' Licence requires conduct in line with the Transporter's Network, it is not clear why Transco feel it necessary to include these provisions.*

Either of the two statements, that indicate which meters will qualify for action by Transco, may apply for Transco to take action. The second statement will encompass all meters fitted in the past ('or at anytime and subsequently has not been maintained...') as no MAM's to date have been authorised. Meters fitted historically, although maintained, will not have been maintained by an 'authorised' MAM.

As shippers, there is also a risk that we could confirm meters where the maintenance history does not meet this clause. Transco will inform the registered shipper at the time and expect action to be taken. This places a burden and a cost on shippers, which cannot be offset. As MAM histories are not available, shippers can only wait for 'notices' delivered by Transco, before taking action. This could lead to unnecessary visits to consumers as these notices could be raised following a 'desk based' exercise.

STUK comments that *"The modification above goes considerably further than the domestic licence condition placed on the domestic suppliers, as it has the effect of making the I&C shipper responsible for ensuring a certified MAM has installed the assets, irrespective of where an end user has chosen to procure it's metering assets. The legal text states:*

'(a) Where:-

- (i) a Supply Meter Point does not relate to premises at which a supply of gas is taken wholly or mainly for domestic purposes; and*

- (ii) **any supplier or any User in relation to such Supply Meter Point has provided or requested, or is providing or requesting another to provide, a Supply Meter Installation for such Supply Meter Point;**

then the Registered User in respect of such Supply Meter Point shall secure that the Supply Meter Installation at such Supply Meter Point is installed and maintained by a Meter Asset Manager'

This has the effect of making the Registered User responsible for the work/installations provided by any supplier or user, irrespective of commercial relationships. This would have the effect of restricting competition in I&C metering, in both installation and maintenance and remove one of the key benefits of unbundling metering services.

It should be noted that as clause (a)(ii) is non time specific that this could be triggered by any supplier or any user having ever requested another party to provide a Supply Meter Installation and there is no way for an incoming Registered User to ascertain therefore whether (a)(ii) has been triggered or not".

Shell Gas Direct observes that "this modification appears to go beyond what has already been agreed through industry debate to be necessary to include within MAMCoP. This suggests that there would be obligations in the non-domestic sector beyond that required for those with domestic licences with commensurately high risks. The extra risks that would be introduced for suppliers to non-domestic premises include risks when we take over the site, risks that Transco could isolate pre-emptively, etc". Shell Gas Direct further comments that "It should be made clear in the urgent modification report that this will apply to both suppliers only to the non-domestic market and to those in the non-domestic market. It should be noted that the obligations that this modification would introduce appear to be more onerous than those required in the domestic sector".

STUK comments that "As the clauses introduced by this modification only impact on I&C consumers, STUK believe these clauses could potentially discriminate between domestic and I&C end users. While recognising there are often differences between I&C and domestic metering arrangements, STUK believe parity between domestic and I&C consumers in network code is essential for an open, competitive metering market".

Transco's response is that it confirms that the obligations on it and Users as detailed within the legal text apply with respect to non-domestic Supply Meter Points. Transco considers that this is clear and unambiguous. Transco acknowledges that additional obligations appear to exist when compared with the domestic market. Transco believes that these are necessary for its Proposal to be as effective as would have been the case if the requirement for MAM accreditation was mandatory in law. Given the contractual nature of the Network Code, Transco's view is that an appropriate level of sanction must exist for the provisions to have effect.

Of note, the requirement that remedial work would be necessary at a Supply Meter Installation is only to the extent required for Transco to meet its legislative obligations, not the full requirements of the MAMCoP.

Transco believes that the measures contained within this Urgent Modification Proposal represent the minimum acceptable to protect the industry given the absence of appropriate legislation. Of note, Transco would only seek disconnection for reasons of safety, as is currently the case.

In response to concerns relating to the 'retrospective' element of the Proposal, Transco's view is that the materiality would be low given that Transco Metering would be an accredited MAM signed up to the MAMCoP. Transco is, however, of the opinion that given that a supplier is providing a service for the consumer, the supplier must be responsible for the Supply Meter Installation irrespective of which supplier originally commissioned relevant works or maintained the meter. This is particularly significant given the nature of the MAMCoP which covers the meter asset whole life cycle. Transco's view is that the supplier is providing a metering service to the customer and should not abdicate itself of this responsibility where it has not originally provided, installed or maintained the Supply Meter Installation.

Gas Forum - Proposed revision to the I&C Code of Practice

BP Energy comments that it *"believes a more appropriate vehicle for seeking compliance is the revised Gas Forum Industrial and Commercial Code Of Practice. This new COP is due to be implemented for the 1st August 2004 and contains an obligation on Supplier signatories to use MAM's who are complaint with the MAMCOP. Most I&C Suppliers are covered by the existing COP and as such we believe adequate assurance will exist from the 1st August 2004"*.

Npower comments that *"The introduction of a change to the Network Code is unnecessary as it will be covered by the I & C CoP"*. Npower further points out that *"The Gas Forum is working to introduce a requirement in the existing I & C Code of Practice to require all I & C suppliers to ensure their MAMs are signatories to the MAMCoP. We believe that this requirement will be implemented before RGMA go live and should be sufficient to satisfy the lack of licence conditions"*.

TGP states that *"Ofgem have only recently confirmed RGMA licence changes. Within this document, Ofgem have recognised the industry's proactive approach to ensure that within the I&C suppliers Code of Practice, a clause is included which ensures that only Meter Asset Managers (MAMs) that are signatory to the MAM Code of Practice (MAMCoP) are utilized by suppliers. As such, there is no need to introduce similar arrangements into the network code"*.

STUK observes that *"The problem that requires solving is how standards of metering assets and works can be maintained in an unbundled industry model that allows end users to procure their own metering assets and works. STUK believe the only long-term solution is for primary legislation to be enacted to secure appropriate standards. In the short term STUK believe that the commercial driver for Suppliers and both new and existing MAMs to operate to agreed standards (MAMCoP and RGMA) and existing legislation is sufficient. Indeed, I&C suppliers have already been working, voluntarily, to provide assurances to Ofgem and the community (through IcoP) that meter works procured through their MAMs will be completed to agreed standards"*.

Shell Gas Direct advises that *"We consider that compliance with this requirement can be achieved through voluntary arrangements, consistent with Ofgem's stated preference for self-regulation. The*

Industrial and Commercial Code of Practice (ICoP) has recently been revised and will place obligations on signatories to use MAMs who are compliant with MAMCoP".

Transco's response is that it welcomes that the recognition expressed by respondents to the importance of the MAMCoP, and the need for MAMs to adhere to its provisions. Transco, however, believes that the introduction of voluntary provisions within only the I&C CoP do not satisfy the clear and unambiguous recommendations contained within Section 10.2 of the IGEN risk assessment, being that the MAMCoP should be made mandatory in law. Also of note is IGEN's statement in 10.2 that *"The required progress is urgent as metering activities have already changed and further rapid change is anticipated"*. Also of interest is IGEN's statement that *"The recommendations are set out in order that loosely represents priority"*. Transco notes that IGEN's recommendation concerning the legal status of the MAMCoP is ranked at Section (b)(i).

Implementation of this Modification Proposal in the absence of legislation is consistent with the requirements of the risk assessment. Transco also has significant concerns associated with the voluntary nature of the revised I&C CoP coupled with the fact that not all I&C suppliers will be signatories.

Ofgem Approved Meter Installers (QAMI)

BP Energy claims that *"Suppliers already need to ensure their contractors are compliant with the law and any meter installation has to be inspected by an OAMI accredited person. Such an inspection ensures the installation is designed and installed to the relevant standards. We do not understand the benefit of adding a further layer of unnecessary and almost certainly contradictory control over a legally enforceable process. It is important to understand that there is no requirement even in the MAMCoP for a meter to be installed by a MAM complying with the MAMCoP. The only requirement is that any work "associated" with the installation of a meter be inspected by an OAMI accredited person. The current drafting of this modification seeks not only to implement the MAMCoP, but to extend it into areas already debated and rejected (through the MAMCoP's development) as being adequately covered by existing legislation"*.

TGP comments that *"it understands that legislation does not require a meter to be installed by a MAM complying with the MAMCoP. A requirement is that once a meter is installed it is inspected by an Ofgem Approved Meter Installer (OAMI). As such, this modification proposal would appear to go further than current legislation"*.

SCP advises that *"The obligations set out within the modification proposal appear to be in addition to existing legal requirements that Suppliers are obliged to comply with in relation to meter installation but more importantly do not reflect the fact that every meter installation is required to be inspected by an Ofgem Approved Meter Installer (OAMI) representative."*

Corona Energy expresses the view that *"We are concerned that Transco as Transporter, feels it necessary to dictate to Suppliers, via their shippers, the contractual arrangements under which they will operate. MAMs themselves are required to operate within the Law and Suppliers are already*

required to ensure that meters are fitted or subsequently inspected by OAMI registered installers. To what additional provisions are Transco seeking to ensure compliance?"

Shell Gas Direct comments that *"Transco's report implies that without this proposal, existing regulatory requirements will not be met. This is not the case. As suppliers, we already will need to ensure that any meter installed is inspected by an OAMI accredited person to ensure that the installation meets relevant standards"*.

Transco's response to the issues raised by the above respondents is that OAMI accreditation is limited to the installation of Supply Meters and falls short of the requirements of MAM accreditation and adherence to the MAMCoP. An example of this is that OAMI CoP1a and CoP1B do not require approval to be sought from the GT to set and seal the meter regulator.

The MAMCoP is concerned with the full life cycle management of the meter installation and compliance includes design, maintenance and co-operation with the GT. This contrasts with the current obligations which only requires an OAMI inspection following meter installation. No further check is required, for example, where a later modification of the meter installation is made.

Transco's view is that a clear condition of the IGEM risk assessment is that the MAMCoP be mandated in law and that the concern be addressed as a matter of priority. Transco believes that if OAMI accreditation was sufficient and an acceptable alternative, then the risk identified by IGEM would not have been reflected within its conclusions.

BP Energy also makes the following observations:

"The IGEM risk assessment identified 2 key areas of concern –

1. DIY connections by consumers. This is not manageable through the MAMCOP and relies on the existing OAMI inspection duty already in existence. The main MAM related work carried out in the I&C market to date has been at the request of end consumers where that become the GAO and none of this work is covered by the MAMCoP under present legislation.

2. The Transporters existing obligation to the pressure management at the burner and the control of the regulator. The existing COP1a, 1b and 1c determine the design of installation connected to the Network including that of the regulator

Compliance with the IGEM recommendations could be achieved by a wide range of solutions that are not open to numerous legal challenges as could be this approach".

Transco's response is that as referred to above, a recommendation of the IGEM risk assessment is that DIY installation should be discouraged with consideration given to banning such work. Transco also reiterates that work procured by end consumers is 'out of scope' for the purposes of this Urgent Modification Proposal.

GT Licence 'Code relevant objectives'

Shell Gas Direct states that *"we consider this proposal results in significant risk being imposed on suppliers. Indeed, Transco states in its proposal that this modification has been raised in order to mitigate its own risk. However, it is doing this by passing the risk on to suppliers. This does not remove or reduce the risk; it only results in Transco reducing its own exposure by passing it over to suppliers. We do not see that it is appropriate for the monopoly transporter to impose obligations on suppliers through this route"*. Shell Gas Direct further claims that the Modification Proposal *"does not further the relevant objectives of the Network Code. It does not promote the efficient operation of the pipe-line system nor does it further Transco's obligations under its Gas Transporters' licence. It undermines effective competition between shippers and relevant suppliers but introducing unnecessary and burdensome risks*.

Transco's response is that its concerns are related to Transco's legislative obligations for providing a safe working pressure at the appliance. Given that a suitable supplier licence provision will not be in place, Transco's view is that utilisation of the contractual chain is the only sustainable way to proceed. Transco would point out that there are other examples within Network Code section M of this principle being applied.

As stated within Section 3 of this Urgent Modification Report, Transco believes that its proposal is entirely consistent with facilitating the economic and efficient utilisation of its pipe-line system.

Shell Gas Direct further notes that *"In making its decision on whether or not to approve this proposal, the Authority will need to consider whether it has the vires to extend regulation through this means despite having no statutory powers under the Act to do so"*.

SCP identifies that *"The omission of this obligation within the Gas Act is relevant as this legislation forms the basis of the powers and duties of Ofgem. If Ofgem were to direct Transco to implement this proposed modification they would in turn introduce regulation beyond their statutory duties of power. We can therefore see no grounds for this modification proposal to be implemented into Network Code. In addition, should Ofgem direct Transco to implement this modification proposal they would be unable to prevent themselves from being open to challenge on their decision"*.

Transco's response is that it does not believe that Ofgem is extending regulation as this Urgent Modification Proposal clarifies existing User obligations contained within Principal Document Section M2.1 of the Network Code.

Corona Energy asserts that *"we do see Meter Asset Managers as the relative experts in the matter of meter installation and maintenance, just as our expertise lies in other areas, and it is not our intention to 'police' their activities. We believe that the regulatory framework that is in operation is sufficient and that our involvement / influence, as a shipper and supplier, should continue at the level enjoyed by Transco Metering historically"*.

Transco's response is that a key advantage of being signed up to the MAMCoP is that organisations are independently assessed and accredited to work on Supply Meter Installations and therefore as a consequence, suppliers would not be required to 'police' activities.

Miscellaneous/Legal

BP Energy advises that *"Competent operators in the market, a market that as Transco have repeatedly advocated is already operative, must be fully compliant with their legal obligations and trying to force compliance with a COP through a contract with a third party serves no purpose and represents a disproportionate response to the Legal position regarding the introduction of a Licence obligation on I&C Suppliers. It is not "unfortunate", nor an accident, but a reflection of the very statutes that Transco state they are seeking to protect, that I&C suppliers are not statutorily required to require compliance with the MAMCoP from a MAM operating in the I&C market (more accurately not operating on a meter in a domestic premises) as the gas act does not require supplier to provide metering services in the I&C market. As such any such Licence condition would in itself be an extension of regulation by Ofgem.*

This condition has existed since the 1986 Gas Act and has never been challenged as being detrimental to the operation of the gas market either in economic or safety terms. Had the issue been seen to be of such importance then Meter Asset Managers should themselves have been licenced as a matter of course in a similar manner to Transporters, Shippers and Suppliers. If legislation needed extending the 3 years this project has taken should have provided adequate time for such revisions to be undertaken.

Transco's response is that:

- TISC in developing the MAMCoP made an assumption that the MAMCoP should be mandatory for all categories of Supply Meters.
- IGEM independently assessed the risk and concluded that the MAMCoP should be mandatory in law.

A potential consequence of forcing through this modification could be for I&C gas suppliers to withdraw from the provision of metering services leaving the end consumer to make their own arrangements. This in itself is unlikely to lead to an improvement in safety".

Transco's response is that this view appears inconsistent with that expressed by the respondent (described above), that it recommends MAMCoP compliance be reflected within the I&C CoP.

SCP comments that *"The proposal outlines that it is "Unfortunate" that the requirement for use of accredited MAM's has only been placed upon suppliers undertaking work at domestic Supply Points. When reviewing the exclusion of I&C supply points under this requirement it is important to recognise that the key legislation to consider in this case is the Gas Act which does not place an obligation on suppliers to provide metering services in the I&C market".*

Transco's response is that its Proposal does not seek to place an obligation on suppliers to provide meters. The obligations within the Proposal only apply where a supplier has chosen to provide a Supply Meter Installation.

SSE comments that *"In the event that Transco takes action against the Registered User there are no agreed processes in place as to how this will be dealt with. This issue needs to be resolved as soon as possible and ideally before RGMA go-live"*.

Transco acknowledges the views of the respondent and intends to ensure that procedures and process are established to ensure its compliance with the Proposal as drafted.

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

Implementation of the measures described within this Urgent Modification Proposal facilitate Transco's ability to meet its Safety Case and comply with its GT obligations contained within 'The Gas Safety (Management) Regulations' 1996 and Gas Safety (Installation and Use) Regulations 1998.

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

This Modification Proposal is not required to facilitate any such change.

14. Programme of works required as a consequence of implementing the Modification Proposal

No significant works are required to implement this Modification Proposal.

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

This Modification Proposal may be implemented with effect from the RGMA 'cutover' date planned for 12 July 2004.

16. Recommendation concerning the implementation of the Modification Proposal

Transco recommends that this Modification Proposal 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

8.4 TRANSITION DOCUMENT II

Insert the following to read:

“8.4.21M2.1

Until July 12th, 2006 but not thereafter, for the purposes of Section M:

(a) Where:-

- (i) a Supply Meter Point does not relate to premises at which a supply of gas is taken wholly or mainly for domestic purposes; and
- (ii) any supplier or any User in relation to such Supply Meter Point has provided or requested, or is providing or requesting, another to provide a Supply Meter Installation (other than where the Supply Meter Installation belongs to a consumer, or is lent or hired to a consumer and is owned otherwise than by a Gas transporter or supplier) for such Supply Meter Point;

then the Registered User in respect of such Supply Meter Point shall secure that the Supply Meter Installation at such Supply Meter Point is installed and maintained by a Meter Asset Manager.

(b) where Transco discovers that such Supply Meter Installation has been installed:

- (i) after 12th July 2004 and it has not been installed by a Meter Asset Manager; and/or
- (ii) at any time, and subsequently has not been maintained by a Meter Asset Manager, Transco shall notify the Registered User accordingly and the Registered User will:
 - (1) within fourteen (14) calendar days of receipt of the notice from Transco ensure that such Supply Meter Installation is re-installed and/or maintained by a Meter Asset Manager and notify Transco of the identity of such Meter Asset Manager; or
 - (2) where it is not practicable to ensure the performance of such re-installation and/or maintenance within such 14 calendar day period, within 7 calendar days of receipt of the notice from Transco notify Transco of the reasons for this and the date by which it will ensure such re-installation and/or maintenance is performed by a Meter Asset Manager and promptly notify Transco when such work has occurred;

(c) where the Registered User has failed to fully comply with paragraphs (b) (1) or (2) Transco, acting reasonably, shall be entitled to take whatever steps it deems necessary (including the inspection, repair, replacement or disconnection of the Supply Meter Installation) to ensure that Transco complies with any Legal Requirements imposed upon it, and the Registered User shall reimburse Transco in respect of any and all costs, expenses and charges reasonably incurred or expended by or on behalf of Transco in taking such steps;

(d) Transco's entitlement in paragraph (c) is without prejudice to Transco's entitlement at any time to make safe any Supply Meter Installation (including disconnection) for this purpose;

- (e) for the purposes of paragraphs (b) and (c) “Meter Asset Manager” means:-
 - (i) a person approved by the Authority as possessing expertise satisfactorily to provide services in relation to Supply Meter Installations or a class or description of persons so approved; or
 - (ii) an undertaking approved by the Authority as having staff possessing the requisite expertise and, for the purposes of this definition, “approved by the Authority” means approved by it for the purposes of this paragraph generally and “staff” includes officers, servants and agents.”

Signed for and on behalf of Transco.

Signature:

Jeremy Bending
Director; Distribution Network Strategy

Support 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 **0701**, version **1.0** dated **21/06/2004**) 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.