

TRANSCO NETWORK CODE MODIFICATION PROPOSAL No. 0715
"Modification Panel approval of the treatment of Representations in Final
Modification Reports"
Version 1.0

Date: 09/09/2004

Proposed Implementation Date: 01/12/2004

Urgency: Non-Urgent

Justification

At present Transco summarises and responds to representations sent by shippers and other interested parties in response to its Draft Modification Report (DMR), when preparing its Final Modification Report (FMR). In some instances, this has led to respondents feeling that points made in their representations have sometimes been misrepresented, distorted, inadequately addressed or even ignored.

Whilst it is acknowledged that the full set of representations are circulated with the FMR it is nevertheless desirable that a properly balanced view of all points raised is set out within the FMR. It is essential that where views conflicting with those of Transco are put forward that they are accurately reflected and fully addressed in the FMR as it should be possible for Ofgem and other stakeholders to confidently rely upon the arguments within the FMR without having to check the original representations.

Nature of Proposal

To amend the Network Code Modification process to allow time for Members of the Panel to comment on, and give approval to, final modification reports.

Purpose of Proposal

The purpose of this Proposal is to give parties to the Network Code the comfort and protection afforded by a balanced oversight process. It requires Transco to send a copy of the Modification Report in near Final state to each Modification Panel Member (Member) and each respondent allowing an additional two business days for Members to express their opinions and to have those opinions recorded in the version of the FMR which finally goes to Ofgem and is published to the community at large.

It is considered that introduction of this additional safeguard would better facilitate Transco's discharge of its licence condition 4D "Conduct of Transportation Business", since it would no longer be open to criticism that it had sought to gain any unfair advantage through discriminating in favour representations supporting its own position at the expense of those which opposed it.

Consequence of not making this change

The opportunity to make the Network Code governance process more transparent and participative would be lost. Transco would also continue to be in danger of being accused of dealing with representations in an unfair or partial manner.

Area of Network Code Concerned

Section Y

Our proposed legal drafting is set out below.

Section Y,

Paragraph 8.9.2(a), Add new sub-paragraph:

"(iii) send a copy of that report to each Member and to each User and Non Code Party that submitted (and did not withdraw) a representation (if any), allowing two (2) Business Days for each Member to express an opinion as to the adequacy of the treatment of the representations so received (and not so withdrawn); and"

Amend paragraph 8.9.2 (b);

"at the expiry of the period provided for Members opinions under paragraph 8.9.2 (a) (iii) incorporate opinions received (if any) and submit a copy of that report (and attachments (if any)) to the Authority, seeking direction or consent to the making or rejection (as the case may be) of the Modification; and,"

Amend 8.9.3 (j);

".....paragraph 8.2.2 (not applicable to Third Party Modification Proposals), or were received in accordance with paragraph 7.3 and the representations...."

Amend sub-paragraph (k)(i)

".....in accordance with paragraph 8.10.1, or were received in accordance with paragraph 7.3; and"

Add new sub-paragraph:

"(s) set out the opinions (if any) expressed by Members in accordance with paragraph 8.9.2 (a)(iii)."

Proposer's Representative

Tanya Morrison (Shell Gas Direct Ltd)

Proposer

Tanya Morrison (Shell Gas Direct Ltd)

Signature

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