

Modification Report
Acceptance of Gemini Energy Implementation by Shippers
Modification Reference Number 0724

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

Gemini is only implemented if a two-thirds majority of NCC shipper representatives vote for it to go ahead. Two-thirds is used to ensure that reasonable proposals to implement cannot be held up due to individual shipper requirements although we would expect all Network Code Committee members would continue to act as representatives of the whole shipping community.

It is envisaged that the NCC would only vote on recommendation from the appropriate Gemini Shipper Working Group.

This proposal also proposes that the Gemini Shipper Working Group's terms of reference are updated to include development of acceptance criteria for agreeing implementation. Acceptance criteria would be expected to include items such as functionality, risk, performance etc. The Working Group's proposals would then need to be ratified by the UK Link committee. Implementation of Gemini could not occur less than six months after initial approval by the UK Link Committee of the acceptance criteria.

2. Transco's Opinion

Transco believes that this Modification Proposal does not facilitate the relevant objectives, specifically 9.1.b *"so far as is consistent with sub-paragraph (a), the efficient discharge of its obligations under this licence;"*. The implication of the requirement for a 66% majority vote at the NCC rather than a consensual vote at the UK Link Committee is that it might place Transco in conflict with its existing obligations under Licence Condition 9.1a *"the efficient and economic operation of its pipe-line system"* and 9.1c *"... securing effective competition between relevant shippers and relevant suppliers."*

With respect to the Gemini Project, Transco has acknowledged the Users' concerns, including those expressed within this Modification Proposal and it is addressing these concerns by working closely with the Users through discussions within the Gemini Shipper Forum, Gemini Shipper Working Group, UK Link Committee and the Network Code Committee.

The Gemini Project:

As a prudent and efficient operator, Transco initiated the Gemini Project with the primary objective of replacing the increasingly maintenance dependent UK Link systems (RGTA and AT-Link) that support the commercial entry capacity and energy balancing arrangements; prescribed in the Network Code. The rationale and timescales for the replacement of these two systems is well documented and have been discussed with Users in various meetings including the UK Link

Committee, Gemini Shipper Forum (GSF), Gemini Shipper Working Group (GSWG), NT&T Workstream and at the Operations & Trading Operational Forum Meetings.

The GSF was established in October 2002 whilst the GSWG was initiated by Transco in June 2004. In addition to representation from Transco, there is also representation from approximately fifteen User organisations at the GSF and approximately eight User organisations at the GSWG.

In order to understand and address those concerns raised by Users in relation to the technical implementation of Gemini energy balancing (eb), the Gemini Project Team has, through the GSF and GSWG, been actively engaging and consulting with those Users that have raised such concerns. Transco has acknowledged the concerns raised by Users in relation to their requirement to initiate (semi-)automated data processing on the new Gemini technical infrastructure i.e. hardware and software. In conjunction with the Users and 3rd party service providers, Transco has been assessing the technical options, e.g. bulk data upload/download processes, Application Programming Interfaces (APIs) and screen data access via Citrix and the Internet to extract data from Gemini. Transco has adopted a pragmatic approach to address this particular concern and has requested, and received the Users' requirements for APIs that are in addition to those originally specified. These additional APIs are now in the IT development stage and it is anticipated that they will be available for use by the Users as part of the implementation of Gemini eb.

As with all large scale, multi-user IT-related projects, it is not always feasible, economic nor efficient to meet all the expectations and desires of the various users. However, throughout the development of the Gemini Project, Transco has sought to;

- i) ensure that any new replacement system will continue to support those energy balancing and entry capacity obligations as prescribed in the Network Code.
- ii) replicate the existing functionality of AT-Link wherever possible whilst taking into consideration the technical differences that exist between the ageing (AT-Link) and advanced (Gemini) technologies.
- iii) in conjunction with Users, identify and develop appropriate enhancements. For example, the rationalisation of the nominations and renominations functionality (screens).

The Gemini eb Implementation Plan contains the key milestones and inter-dependencies; including the determination and agreement of an appropriate set of acceptance criteria between Users and Transco. Transco will continue to work in conjunction with, and balancing the technical requirements of all Users through the UK Link Committee, GSF and GSWG and provide the necessary technical support and assistance required to ensure the successful implementation of Gemini eb.

The Modification Proposal:

a. Implementation of Gemini eb based on an Network Code Committee majority vote on the recommendation from the GSWG

This element of the Modification Proposal would, if implemented, be a variation from the existing arrangements as defined in the Network Code whereby the UK Link Committee (Shipper representatives and Transco) approve the implementation plans of IT-related system changes on a consensual basis (Network Code Section U.8.4.4). The GSF and the GSWG are not defined nor recognised under the auspices of Network Code and as such, it might be considered more appropriate for the NCC to vote on a recommendation from the UK Link Committee.

Under the existing arrangements, should the UK Link Committee not reach a consensus, then the implementation plan could be referred to the NCC for a majority vote under Network Code Section U.8.4.5(c) and U8.4.6.

Having taken due consideration of the representations received, Transco continues to believe that by requiring an NCC voting majority of the User representatives, this Modification Proposal could stifle or delay any new development and may indeed prevent the Gemini Project from being implemented even where it had the majority support from the Industry and/or a recommendation to implement from the UK Link Committee and, as such, is at odds with the relevant objectives 9.1a *"the efficient and economic operation of its pipe-line system"* and 9.1c *"... securing effective competition between relevant shippers and relevant suppliers."*

The current Network Code arrangements for IT systems development and implementation have been successfully operated through the UK Link Committee since its inception in 1996 and it is therefore unclear to Transco how this Modification Proposal would further the relevant objectives or improve the existing arrangements.

b. Redevelop the Terms of Reference of the GSF and the GSWG

The GSF and GSWG have not been established under the vires of Network Code and therefore, this element is outside the formal scope of the Network Code. Transco is however mindful that the function of, and co-operation within, these groups is essential to the successful implementation of Gemini energy balancing and would suggest that the Proposer and all attendees of these groups discuss and agree to any new Terms of Reference within the appropriate group.

c. Develop a defined acceptance criteria for agreeing Gemini eb implementation

The Modification Proposal does not indicate the basis or timescales on which the acceptance criteria might be set and agreed between Users and Transco.

At the GSWG held on 20th October 2004, Transco made a request to User representatives for views and an indication of their requirements for suitable acceptance criteria that might be used to help inform the decision in relation to

the Gemini eb implementation. The User representatives suggested that Transco should undertake the initial determination of the acceptance criteria and then present the draft to the GSWG for their subsequent assessment.

Since this meeting, Transco has considered the views of the User representatives and is progressing the development of the acceptance criteria. The Gemini Project Team has presented an initial draft set of acceptance criteria at the GSWG in November 2004 and the GSF in December 2004 and continues to work closely with Users in the anticipation that the acceptance criteria will be presented to the UK Link Committee for formal approval in February 2005.

d. Ratification of the Gemini system acceptance criteria by the UK Link Committee

In addition to the development and setting of the acceptance criteria, the Proposer has stated that the implementation of Gemini eb should not occur less than six months after the acceptance criteria has been *"...ratified by the UK Link Committee"*.

Transco has contacted the Proposer who has provided confirmation that the six month 'pre-implementation' period would be triggered by the date on which the definition of the acceptance criteria is agreed and ratified by the UK Link Committee.

It is the intention of the Gemini Project Team to attend the UK Link Committee in February 2005 to seek their approval for the Gemini eb implementation plan. This will include the key milestones relevant to the definition and agreement of the acceptance criteria within the planned implementation timescales.

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

The Proposer considers that the Modification Proposal would, if implemented;

"...furthers Transco's Condition 9 requirements by ensuring that Transco can continue to meet its licence requirements to operate its pipeline network in an efficient manner at the same time as it furthers efficient competition between shippers by allowing them efficient access to the network systems".

Transco believes that this Modification Proposal does not facilitate the relevant objectives, specifically 9.1.b *"so far as is consistent with sub-paragraph (a), the efficient discharge of its obligations under this licence;"*. The implication of the requirement for a 66% majority vote at the NCC rather than a consensual vote at the UK Link Committee would place Transco in conflict with its existing obligations under Licence Condition 9.1a *"the efficient and economic operation of its pipe-line system"* and 9.1c *"... securing effective competition between relevant shippers and relevant suppliers."* in that it might prevent Transco from implementing Gemini eb, even where it had the majority support from the Industry and UK Link Committee.

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

a) implications for the operation of the System:

Transco is not aware of any such implications.

b) development and capital cost and operating cost implications:

Should a delay occur to the proposed implementation date of the Gemini eb component then additional costs of approximately £0.7 million per month would arise due to ongoing support and maintenance obligations.

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 NTS SO costs would be shared with Users through the operation of the internal cost element of the SO incentive scheme arrangements.

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

Transco is not aware of any consequences that this Modification Proposal would have on price regulation.

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

There would be greater contractual risk as the Modification Proposal, as drafted, might lead to protracted delays to the proposed Gemini eb implementation date. Transco would be unable to implement Gemini eb in less than "*... six months after initial approval by the UK Link Committee of the acceptance criteria*".

During the proposed minimum six month Gemini pre-implementation period, Transco might be prevented from meeting its Licence and Network Code obligations should Ofgem direct any new eb or entry capacity-related Modification Proposal to be implemented (and effective within this period) that required associated IT system changes.

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

Any protracted delays to the proposed implementation timescales of Gemini eb would require Transco to support two parallel IT systems and thus incur additional costs. Further, during the six month pre-implementation window, and in order to change manage Gemini, it would be necessary for Transco to apply a 'code freeze' that would effectively suspend any further eb or entry capacity IT

development until post implementation. Consequently, Ofgem would need to take into account any suspension of IT systems development when making decisions as to the implementation dates of any Modification Proposals.

7. The implications of implementing the Modification Proposal for Users

Representations to this Modification Proposal have not highlighted any implications in this area.

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

Representations to this Modification Proposal have not highlighted any implications in this area.

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

By requiring an NCC voting majority of the User representatives, this Modification Proposal could stifle or delay any new development and may indeed prevent the Gemini Project from being implemented even where it had the majority support from the Industry and UK Link Committee.

During the proposed minimum six month Gemini pre-implementation period, Transco might be prevented from meeting its Licence and Network Code obligations should Ofgem direct any new eb or entry capacity-related Modification Proposal to be implemented (and effective within this period) that required associated IT system changes.

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

Advantages:

As stated by the *Proposer*;

- "... the Gemini system is only implemented if it meets criteria agreed by Transco and shippers.... and a majority of shipper representatives [of the NCC] also agree."
- "This proposal furthers Transco's Condition 9 requirements.....further efficient competition between shippers by allowing them efficient access to the network systems".

Disadvantages:

- The requirement for an NCC voting majority of the User representatives provides an inappropriate and arbitrary barrier to the Gemini Project from being implemented even where it might have gained the majority support of the Industry.
- The Modification Proposal does not describe how the acceptance criteria would be set, the approval process, nor what would occur in the event that Users and/or Transco cannot agree to the definition of the acceptance criteria.
- Protracted Gemini implementation delays would lead to increased costs and duplication of time/resources - Transco would be obliged to support essentially duplicate IT systems in parallel.
- During the proposed six month pre-implementation period;
 - i) Transco would be required to enforce a 'code freeze' i.e. suspend the development of any new Gemini IT system changes (including those related to entry Capacity) until the post-implementation of Gemini eb.
 - ii) This might restrict the implementation dates of any new energy balancing/entry capacity Modification Proposals that required associated IT-related changes to Gemini.

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

Transco has received ten representations to the Proposal from the following:

BP Gas Ltd	BPG
British Gas Trading	BGT
EDF Energy plc	EDF
Eni (UK) Ltd	Eni
E.ON UK plc	EON
Gaz De France Solutions Ltd	GDF
RWE npower plc	RWE
Shell Gas Direct	SGD
Statoil (UK) Ltd	STA
Total Gas and Power Ltd	TGP

Six of the respondents supported the Proposal

Two of the respondents were against the Proposal

Two of the respondents provided comments

Implementation of Gemini eb based on a Network Code Committee shipper representatives majority vote

RWE does not support the implementation of Gemini based on a majority vote at the NCC. RWE does not believe it is appropriate for the *"Network Code Committee, or the Gemini Shipper Workgroup to directly determine whether the Gemini Energy Balancing system replacement should proceed or not, and if so in what timeframe."* RWE believes that *"... the implementation plan, should be put to UK Link committee for approval on a consensual basis as currently envisaged under the Network Code."*

BP is not supportive of the Proposal and states " *...whilst BP appreciate the intention of the proposal, BP believe that it would cause unnecessary delays and BP remain to be convinced that it would achieve a beneficial overall result.*".

The remaining respondents that have supported the Proposal or provided comments, support the Proposer's view that the approval of Gemini implementation should be through the Network Code Committee. ENI believes that " *... as the UK Link Committee reports into the NCC, it would be more appropriate for the vote to be taken at the NCC*".

However, of the respondents that have commented on the two-thirds majority vote of NCC shipper representatives, there are differing views as to how this should be achieved;

TGP have commented that they believe that the vote should be a simple majority of those voting and not a two-thirds majority of NCC User representatives. EDF agrees that the implementation of Gemini eb should be subject to a NCC vote and that, " *... there should be a majority vote in favour of implementation from the Network Code Committee (NCC). The NCC is representative of the industry and would not stifle or delay development, and a majority vote is required to ensure that there is industry support and understanding of the proposed amendments.*".

STA states that " *... there is value in ensuring that the vote to implement the Gemini systems is conditional upon a two-thirds majority of the NCC shipper representatives voting for this to proceed.*". BGT has responded that whilst it recognises " *... this option could be potentially exploited...*", it believes that " *... the requirement to gain the support of two-thirds of User representatives ensures that this possibility cannot be abused.*".

Transco Response

Under the current provisions of the Network Code it is the UK Link Committee, that approves the implementation plans of IT related system changes on a consensual basis. This "consensual" basis allows all representatives on the UK Link Committee to have an equal say in the structure, functionality and implementation process of IS-related changes. As such, it provides the measured assessment of any proposed changes and importantly, prevents a representative from having an undue influence on the UK Link systems change management process. Transco considers that this arrangement is consistent with its Licence obligations of ensuring non discriminatory access to its systems and services.

In regard to the Modification Proposal's suggestion that a vote on the Gemini eb implementation should be taken at the NCC, Transco is of the opinion that if a vote is required to be taken at NCC then it should follow on from a recommendation from the UK Link committee rather than the proposed recommendation from the Gemini Shipper Forum (GSF).

The Proposal is also seeking to modify the voting mechanism for Gemini implementation by requiring a two-thirds majority of NCC User representatives rather than a simple majority vote of all representatives. Transco believes that this Modification Proposal does not facilitate the relevant objectives, specifically 9.1.b *"so far as is consistent with sub-paragraph (a), the efficient discharge of its obligations under this licence;"*. The implication of the requirement for a two-thirds majority vote at the NCC rather than a consensual vote at the UK Link Committee is that it would place Transco in conflict with its existing obligations under Licence Condition 9.1a *"the efficient and economic operation of its pipe-line system"* and 9.1c *"... securing effective competition between relevant shippers and relevant suppliers."*. Transco also considers that this element of the Proposal is discriminatory in that it would exclude the Transco vote.

Acceptance criteria for Gemini eb implementation

EDF note that, *"it is important to have clear acceptance criteria for agreeing implementation and only once all acceptance criteria have been met can a go ahead decision be made"* and ENI states *"the responsibility should lie with the Gemini Project Team to produce the initial acceptance criteria including time scales and then work with GSWG (Gemini Shippers Working Group) to agree on a formal set of acceptance criteria."*

Transco Response

The GSF and GSWG have not been established under the vires of Network Code and therefore are outside of the formal scope of the Network Code. Transco is continuing to develop a set of acceptance criteria with the User community via the GSF and GSWG. It is the intention of the Gemini Project Team to seek approval for the Gemini eb implementation plan with the UK Link Committee in February 2005.

Six Month Implementation Lead Time

In respect to the Proposal's requirement for a minimum six months implementation lead time following the acceptance criteria having been agreed, STA and TGP supports the Proposer's view that the implementation of Gemini eb should not occur less than six months after the initial approval of the acceptance criteria by the UK Link Committee. EDF notes *"This would give Shippers adequate time to ensure they can upgrade and test their systems. The systems involved in the Gemini project are vital for our day-to-day operations and we need to ensure that they are robust."*.

Transco Response

The requirement for, and the extent of any, implementation lead time should be discussed and agreed through the UK Link Committee rather than establishing an arbitrary period by a change to the Network Code. Transco is of the opinion that the existing procedure is the most appropriate as the

systems acceptance criteria and associated implementation lead times form component parts of the IS implementation plans that Transco present to the UK Link Committee for approval.

Development implications and other implications for computer systems of Transco and related computer systems of Users.

Eni have commented on Transco's statements in respect to Section 6 of this report entitled *"Development implications and other implications for computer systems of Transco and related computer systems of Users."* Eni feel *"... these statements by Transco seem to be extremely poor excuses when we have been informed that for example, Exit Capacity screens have already been shown/demonstrated at GSWG (Gemini Shippers Working Group), even though the final rules for the Exit arrangements have not been agreed let alone formalised. Therefore, it is inevitable that changes would be required to the Gemini eb (Energy Balancing) system at some stage in the future, yet this element has not been mentioned."*

Transco Response

Transco notes the concerns raised by Eni but would like to clarify that the capacity screens that have been demonstrated relate to the existing Exit arrangements currently in place and that these arrangements are supported by AT-Link. Until such time as the proposed exit reforms have been agreed and finalised, the Gemini Project will continue to develop systems in line with current Network Code requirements.

Provision of Costs Incurred if Gemini is delayed

EON have commented on Transco's statement in respect to Section 4 (b) entitled "development and capital cost and operating cost implications". EON state, *"Transco have estimated additional costs of approximately £0.7 million per month. E.on are unconvinced by this figure as the report does not include any calculations to substantiate it. The aim of the proposal is not to intentionally delay the Gemini project. Any delay, which might occur as a result of the implementation of this proposal, would undoubtedly be because the majority of the industry lacks certainty that Gemini is at such a stage to be implemented without a risk to Users. If such a significant change to Users' systems were to be implemented without the majority of industry confidence in that change then the cost of inadequate systems to support energy balancing would likely far outweigh £0.7 million per month, which would ultimately be fed through to the customer."*

SGD has stated, *"Transco provides its estimate of costs if Gemini is delayed. One could view that as part of the incentive incorporated into the price control which should drive Transco to implement such projects efficiently e.g. in a manner which can be acceptable to its customers, the shippers. SGD note that since raising this proposal, Transco has announced that implementation of this project will be delayed to Autumn 2005..."*

Transco Response

Transco notes the respondents' comments made in relation to the potential additional costs.

The figure included in this report is based on Transco's internal costs of IS resourcing, and extended AT-Link hardware/software support agreements that would be required if this proposal resulted in a delay to the implementation of Gemini eb. Transco considers that on this basis, the figure quoted is a reasonable estimation. In the absence of any respondent's views as to any estimates of additional costs that Users could incur associated to the implementation of their IT systems, it is difficult for Transco to quantify and provide an assessment of the cost implications for all parties.

By including an estimate of the potential costs incurred by delaying the Gemini eb project in this report, Transco considers that it is providing information appropriate to form a considered opinion as to the merit, or otherwise, of this Proposal.

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

No such requirement exists in respect of this Modification Proposal.

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

Implementation of this Modification Proposal is not required to satisfy these requirements.

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

Transco would continue to utilise the existing Gemini Shipper Forum and the Gemini Shipper Working Group and work in conjunction with the Users in the development and approval of the Gemini system acceptance criteria.

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

- Draft Modification Report issued - 10th November 2004
- Consultation period ends - 1st December 2004
- Final Modification Report issued - 21st December 2004
- Ofgem decision expected - January 2005

16. Recommendation concerning the implementation of the Modification Proposal

Transco does not recommend the implementation of this Modification Proposal.

17. Restrictive Trade Practices Act

If implemented this proposal will constitute an amendment to the Network Code. Accordingly the proposal is subject to the Suspense Clause set out in the attached Annex.

18. Transco's Proposal

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

19. Text

Signed for and on behalf of Transco.

Signature:

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 **0724**, version **1.0** dated **21/12/2004**) 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.