



Transco, Shippers and other  
interested parties

*Bringing choice and value  
to customers*

Your Ref:  
Our Ref: Net/Cod/Mod/642  
Direct Dial: 020 7901 7354  
Email: [industry.codes@ofgem.gov.uk](mailto:industry.codes@ofgem.gov.uk)

18 August 2003

Dear Colleague,

**Request for urgent status for modification proposal 642 'Withholding of energy charge where LDZ reconciliation has been disputed'**

Ofgem has considered the request for modification proposal 642 '*Withholding of energy charge where LDZ reconciliation has been disputed*', to follow urgent procedures. We consider that this proposal merits urgent status and we have set out our reasons for determining this status below.

Transco have indicated to shippers that an LDZ Reconciliation, retrospectively correcting the apportionment of costs across the community, is to be invoiced in the August Reconciliation Invoice. This may involve a significant sum being charged to all RbD Shippers. These sums will be due for payment on 8<sup>th</sup> September.

The application of this charge has been disputed by at least one shipper, but under the current rules shippers are not permitted to withhold payment of the energy element of any energy balancing or reconciliation charge or invoice while the dispute is being resolved. This is in contrast to other types of invoice, where shippers can raise an Invoice Query and withhold payment of the amount of the invoice that is being queried. The amount of the invoice that is not being queried must be paid on the due date as normal.

Modification proposal 642 would amend various clauses within the network code, allowing shippers to withhold the energy element of a reconciliation charge where a valid dispute has been raised and not resolved. It is proposed that in these circumstances only, this proposal would dis-apply the network code requirement for a shipper to pay the energy element of the charge in full, even when a valid dispute is raised.

It is intended that this Modification Proposal is implemented for a fixed term of six months only, alleviating the current concern regarding a potentially significant charge becoming payable by

all shippers subject to RbD. It is further intended that the full impacts of this proposal will be reviewed and if appropriate developed into a permanent change to the network code.

In determining whether to grant urgent status to this modification proposal, Ofgem has considered the criteria it generally applies to such requests. In this instance, it appears that the requirement to pay invoices that are subject to a genuine dispute may have a significant commercial impact upon Transco and shippers. This proposal is also linked to an imminent date related event, insofar as the reconciliation invoice is due for payment on the 8<sup>th</sup> September 2003. Failure to pay the invoice on time could result in a cash call and potentially further escalation procedures. In extreme cases this could result in a termination from the network code.

Ofgem has concluded that urgent procedures are necessary in this instance, in order for consideration of this proposal to be concluded in time to influence the resolution of the August Reconciliation Invoice. The timetable for this modification proposal to follow urgent status will be as follows:

Issued to Ofgem for urgency	14 August 2003
Proposal agreed as urgent	18 August 2003
Proposal issued for consultation	18 August 2003
Close out for representations	27 August 2003
Final report to Ofgem	2 September 2003
Ofgem decision expected	5 September 2003

If you have any queries in relation to the issues raised in this letter, please feel free to contact me on the above number or Bryony Sheldon on 020 7901 7043.

Yours sincerely,



**Jonathan Dixon**  
**Head of Gas Network Codes**