

Draft Modification Report
Extension of Transco's rights to apply sanctions
Modification Reference Number 0627
Version 1.0

This Draft 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

To extend the circumstances when the provisions of Section V.3.3.2 of the Network Code could be applied to include a situation where a User is in default by an amount greater than £10,000.

2. Transco's Opinion

Transco's opinion is that this modification proposal should be implemented. The purpose of this Modification Proposal is to increase the remedies available for prompting payments from Users while removing the need to take Termination, Legal or Insolvency action as a first step. The ability to provide a measured response to non-payment which avoids precipitous action could reduce risk for all Users.

Currently where a User exceeds 85% of its Code Credit Limit, Transco is entitled to refuse to accept any or all of the following (these measures are collectively referred to as “sanctions”):

- Applications for system capacity or increases of system capacity:
- Applications to acquire capacity on the secondary market:
- Supply point nominations or confirmations.

The only current contractual remedy in the event of non payment is to terminate a User from the Network Code. By allowing Transco to impose sanctions in this situation in addition to when a User exceeds the 85% indebtedness trigger, Transco would have an escalation process to stimulate payment by restricting portfolio growth without the threat of termination. Transco is of the opinion that for Users in default, it is sensible to have a halfway-house remedy that encourages payment whilst minimising the risk of bad debt to Transco and the Shipping Community and avoiding any precipitous action.

The justification to support this change results from Transco not being in a commercial position to temporarily withdraw services as a lever to force payment. Restricting the rate at which the debt increases, while still allowing the shipper to trade, should be seen as a prudent commercial measure.

By allowing Transco to have the flexibility to apply a remedy for non-payment without termination, limited financial exposure would be incurred. Transco believes that termination should be an action of last resort, however, it is currently the only contractual remedy for non-payment of an overdue transportation debt in excess of £10,000.

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

The ability to provide a measured response to non-payment which avoids precipitous action could reduce risk for all parties and therefore better facilitate the relevant objectives by the efficient and economic operation of the pipeline System.

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 impact to the operation of the system.

b) development and capital cost and operating cost implications:

Transco is not aware of any development or capital costs from the implementation of the 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's costs would be treated as normal operating costs.

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

Transco is unaware of any such consequence.

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

Transco does not believe that implementing this Modification Proposal would have any consequence on the level of contractual risk to Transco under the Network Code.

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

Transco is not aware of any implications for computer systems.

7. The implications of implementing the Modification Proposal for Users

Sanctions may be applied to limit a Users portfolio growth where a User is in Default.

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

No such implications have been identified.

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 is unaware of any change in legislative, regulatory obligations or contractual relationship of Transco, and each User or Non-Network Code Party as a consequence of implementing this Modification Proposal.

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

Advantages

- Provides Transco with the flexibility to apply a remedy for non payment of Transportation invoices without Termination.
- Minimise financial exposure and ultimately bad debts to Transco and the Shipping Community.

Disadvantages

- May increase the costs of Transco's administration processes for those Users in Default.

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

Representations are now sought.

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

Implementation of this Modification Proposal is not required to enable Transco to facilitate compliance with safety or other legislation.

13. The extent to which the implementation is required having regard to any proposed change in the methodology established under Standard Condition 4(5) or the statement furnished by Transco under Standard Condition 4(1) of the Licence

This proposal is not required to facilitate any such change.

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

Development of Transco's internal processes and procedures is required.

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

A period of 1 month following a decision by Ofgem to implement is required to develop internal processes and procedures.

16. Recommendation concerning the implementation of the Modification Proposal

Transco recommends that this proposal is implemented.

17. Text

Insert new paragraph at S 3.5.3

“Without prejudice to any other rights of Transco under the Code, including without limitation those under Section V4.3, where, in relation to any amount (or amounts in aggregate) of not less than £10,000 which has become due for payment by a User under the Code (excluding for the avoidance of doubt amounts which are the subject of an Invoice Query which by virtue of paragraph 4.2.2 have not become due for payment) and the relevant User has not paid the amount in full by the due date for payment;

Transco shall be entitled to reject or refuse to accept all or any of the following by the relevant User:

- (i) an application for System Capacity or increased System Capacity at any System Point under Section B or Section G5; and
- (ii) a System Capacity Trade under Section B5 in respect of which the User is Transferee User; and
- (iii) a Supply Point Nomination or Supply Point Confirmation under Section G, other than a Supply Point Nomination or Supply Point Reconfirmation (unless made in the context of an application under paragraph (i) (above));

with effect from the day after the due date for payment until such time as the relevant User has paid the amount due for payment in full.”

Representations are now sought in respect of this Draft Report and prior to Transco finalising the Report

Signed for and on behalf of Transco.

Signature:

Debbie Dowling
Finance Manager

Support Services

Date: