

URGENT Modification Report
Waiver of Notice Period for implementation of changes to Transportation Charges
Modification Reference Number 0486

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 any revisions to reserve prices at individual entry points may impact on bidding strategies in the forthcoming Monthly System Entry Capacity (MSEC) auction for the period 1 October 2001 to 31 March 2002, which are due to commence on 29 August 2001. Ofgem believed that urgent status for the proposal was appropriate to ensure that auction participants understand all aspects of the revised entry capacity regime prior to the commencement of the auctions.

Procedures Followed:

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

Issued to Ofgem for decision on urgency	13 August 2001
Proposal agreed as urgent	15 August 2001
Proposal issued for consultation	15 August 2001
Close out for representations	20 August 2001
Final report to Ofgem	21 August 2001
Ofgem decision expected	22 August 2001

1. The Modification Proposal

It is proposed that the Transitional Document of the Network Code should be amended to specify that the provisions of B1.8.2 be waived for the period from 15 August 2001 through to 25 September 2001.

Section B1.8.2 requires that not less than two months notice be provided by Transco prior to implementation of any revised transportation charges. It also stipulates that a one month notice period be provided prior to any adjustments to the level of NTS Commodity charges.

2. Transco's Opinion

Transco is in support of this proposal and believes it is necessary following the implementation of Modification Proposals 0481 (Release of ASEP Maximum System Entry

Capacity Volumes for MSEC auction) and 0482 (Delay to System Entry Capacity Auction for the Period 1 October 2001 to 31 March 2002).

Implementation of Modification Proposal 0481 has increased the MSEC quantities which will be released in respect of each Aggregate System Entry Point for the period of 1 October 2001 to 31 March 2002. In order to meet the required level of target revenue the established Pricing Methodology requires that reserve prices are reduced, to take into account the fact that larger volumes of capacity are available. If the revised reserve prices are to take effect before the auctions MSEC auction commences on 29 August 2001 it will be necessary to waive the standard two month notice period which is required under the Network Code for implementing changes to transportation charges.

Transco has also raised Pricing Consultation Paper PC66 (Transportation Charge Adjustment following Entry Capacity Auctions) which considers the potential for rebalancing wider transportation charges to reflect imbalances caused by auction income that is below allowed revenue requirements. Implementation of Modification Proposal 0482 means that there is less than one month between the completion of the Monthly Interruptible System Entry Capacity auctions (14 September 2001) and the first day of use of capacity (1 October 2001).

Transco believes it is therefore necessary to waive the required notice period to facilitate any Pricing Methodology change and allow Transportation Charges to be adjusted from 1 October 2001 to reflect any misalignment of auction income and allowed revenues. In the event that a Pricing Methodology change is not approved, Transco still believes that it would be preferable to waive the one month notice period for adjustments to the NTS Commodity Charge, to prevent a later adjustment midway through the capacity period and to avoid the situation whereby two different levels of NTS Commodity Charge would be in place during the capacity period.

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

Adjusting NTS Entry Capacity reserve prices prior to the forthcoming auction would reduce the likelihood of a revenue over-recovery situation arising. Transco has a licence objective to ensure that aggregate revenue remains broadly in line with allowed revenue expectations in a formula year. Implementation of this proposal would enable Transco to comply with this requirement.

Transco also considers that a single adjustment to the NTS Commodity Charge, to be applied over the entire capacity period offered at auction, presents a more efficient discharge of its obligations and offers greater clarity to Users than would be the case if a revised NTS Commodity Charge is applied following a one month notice period.

Transco therefore believes that implementation of the Modification Proposal could be expected to better facilitate competition between shippers and between suppliers.

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

Implementation of this proposal would have no impact upon the operation of the System.

b) development and capital cost and operating cost implications:

There are no development, capital or operating cost implications as a result of implementing this 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:

Not applicable.

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

Implementation of this proposal would facilitate adjustments to be made to transportation charges. This should enable aggregate NTS revenue to remain broadly in line with allowed revenue expectations and ensure that the relevant auction reserve prices are set in accordance with Transco's Transportation Charging methodology.

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

It is not anticipated that there would be a change to the level of contractual risk to Transco as a consequence of implementing this proposal.

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

No development implications on the computer systems of Transco or on the related computer systems of Users are anticipated.

7. The implications of implementing the Modification Proposal for Users

If implemented, the revised MSEC reserve prices, as set out in the amended auction invitation letter dated 13 August 2001, will take effect.

If there is a requirement to adjust the NTS Commodity Charge after the auction, in line with the established Transportation Charging Methodology, then the revised NTS Commodity Charge would be applicable for the entire capacity period offered at auction. Likewise, should any Transportation Charging Methodology change be implemented as a result of the outcome of Pricing Consultation PC66, then transportation charges would be adjusted from 1 October 2001 and the start of the capacity period, rather than be amended midway through a capacity period

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

No implications on the above parties are envisaged as a consequence of implementing this Modification Proposal.

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

No consequences on the legislative and regulatory obligations and contractual relationships of Transco and each User and Non-Network Code Party are envisaged as a consequence of implementing this Modification Proposal.

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

Advantages :

MSEC floor prices could be adjusted to keep revenue expectations in line with allowed revenues.

If adjustments are required to the NTS Commodity Charge after the auction then a single rate would apply, rather than two rates which would be a consequence of retaining a one month notice period. Subject to approval of Transco's Pricing Consultation paper PC66, the proposal would also allow a revised post auction adjustment mechanism to be implemented in a timely manner, enabling adjustments to transportation charges to take effect from 1 October 2001 and be applied over the entire capacity period.

Disadvantages :

Users would have less than two months notice of any changes to transportation charges.

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

Representations have been received from the following parties :

British Gas Trading (BGT)
Shell Gas Direct Limited (SGD)
Northern Electric and Gas Limited (NEAGL)
TotalFinaElf Exploration UK PLC (TFE)
TotalFinaElf Gas and Power Limited (TFEG&P)
Alliance Gas Limited (AGL)
BP Gas Marketing Limited (BP)

Amerada Hess Gas Limited (Amerada)
Scottish and Southern Energy (SSE)

Six respondents (SGD, NEAGL, TFE, TFEG&P, AGL, BP) support the proposal, agreeing that as a consequence of implementation of Modification Proposals 0481 (Release of ASEP Maximum System Entry Capacity Volumes for MSEC Auction) and 0482 (Delay to System Entry Capacity Auction for the Period 1 October 2001 to 31 March 2002) it will not be possible for Transco to provide the necessary notice periods prior to any changes to Transportation Charges. It is also accepted that, if approved, Pricing Consultation Paper PC66 would also mean that it would be necessary to waive the standard two month notice period for changes to transportation charges.

SSE reluctantly supports the waiver of the two month notice period in respect of the reduction that is required to MSEC reserve prices, as it accepts that Transco should not put itself in a position where it would be likely to over recover against allowed revenue. However, SSE highlights that this would result in a significant discount for shippers landing gas at Barrow, where the reserve price will fall to almost half the LRMC charge. SSE also supports the waiver of the one month notice period for changes to the NTS Commodity Charge but it suggests that as soon as Modification Proposal 0482 was raised the "knock on" effect on revenue adjustment mechanism should have been identified and a proposal raised at an earlier stage.

SSE does not, however, support waiver of the two month notice period in respect of any changes to transportation charges which may arise as a result of approval of Pricing Consultation PC66. It does not believe that the revenue adjustment mechanism should be adjusted on the basis of a possible under recovery and believes that if transportation charges are increased the standard two month notice period should be given.

SSE considers that changes to transportation charges on short notice make it difficult for suppliers to accurately forecast transportation costs and compete effectively for new customers. Amerada agrees with this view and both respondents highlight that the timing of this proposal is particularly unfortunate as the tariffs for contracts commencing in October 2001 have already been set.

BGT, Amerada and SSE express concerns that Modification Proposals are still being raised so close to the commencement date of the auctions and warn that this could potentially increase uncertainty in the market which could lead to price volatility. SSE also advises that this uncertainty does not help shippers in developing their bidding strategies. NEAGL expresses disappointment that fundamental changes to the regime were introduced without a thorough review to assess all the associated impacts. SSE also agrees with this sentiment and suggests that the proposal should have been raised immediately after approval of Modification Proposal 0481, which would have allowed the longest possible consultation period.

BGT, Amerada and SSE raise questions on the legal text and claim that it is not in line with the intent of the proposal. It is suggested instead that the legal text should specify that the

right to waive the notice period for changes to transportation charges would only apply over the period specified in the proposal of 15 August 2001 to 25 September 2001. As currently written concerns are expressed that the legal text would allow scope for Transco to waive the notice period for other changes to transportation charges right up to the end of March 2002. BGT states that it cannot support the proposal on the basis of this legal text.

Amerada does not support the Modification Proposal. It considers that even a one month notice period is not sufficient and suggests that a three month notice period for any changes to transportation charges would be more appropriate.

Transco Response

Transco welcomes the support for the proposal. It believes that, in light of the implementation of Modification Proposal 0481, it is necessary to adjust the NTS Entry Capacity reserve prices prior to the forthcoming auction, in order to take account of the increase in capacity availability and to set reserve prices in accordance with Transco's Transportation Charging Methodology. It also believes that, if it is still necessary to adjust transportation charges after the auction, it would be more efficient for these changes to take effect from the start of the capacity period and therefore the standard notice period requirement should be waived under these circumstances.

Transco understands the concerns expressed by a number of Users regarding the timing of this proposal and the fact that tariffs for gas supply contracts commencing in October 2001 may have already been set. However, it believes that price changes along the supply chain are an accepted element within the calculation of business risk.

Transco has reviewed the legal text in light of the comments made and has amended it to clarify that the notice period will be waived only in respect of transportation charges revised over the period of 15 August 2001 to 25 September 2001.

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

Implementation is not required 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 3(5) or the statement furnished by Transco under Standard Condition 3(1) of the Licence

Implementation of this proposal is required to enable a possible change to the Pricing Methodology, as proposed in Pricing Consultation PC66, to be implemented from 1 October 2001.

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

No modifications to the UK-Link Systems are required and therefore a programme of works will not be required as a result of implementing this Modification Proposal.

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

An Ofgem decision on the proposal is expected on 22 August 2001. If this date is met Transco suggests that the proposal should be implemented with immediate effect, which would provide Users with certainty over the MSEC reserve prices which will be in place for the forthcoming Entry Capacity auctions and allow any adjustments to Transportation Charges following the auction to be effective from 1 October 2001.

16. Recommendation concerning the implementation of the Modification Proposal

Transco recommends that this Modification Proposal is 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

Transition Document Part II

Add new paragraph 8.1.1

" 8.1.1. B.1.8.

In respect of the period from 15 August 2001 to 25 September 2001 (inclusive) the requirements in Section B.1.8.2. as to the giving of notice of changes to Transportation Charges shall not apply and Transco shall instead give such notice as far in advance of the date on which the proposals contained therein are to be implemented as is reasonably practicable."

Signed for and on behalf of Transco.

Signature:

Tim Davis
Manager, Network Code

Date:

Gas and Electricity Markets Authority Response:

In accordance with Condition 7 (10) (b) of the Standard Conditions of Public Gas Transporters' Licences dated 21st February 1996 I hereby direct Transco that the above proposal (as contained in Modification Report Reference **0486**, version **1.0** dated **21/08/2001**) 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.