

Modification Report
Payment Mechanism for Closing Top-up Adjustment Amount
Modification Reference Number 0424
Version 2.0

This Modification Report is made pursuant to Rule 8.9 of the Modification Rules and follows the format required under Rule 8.9.3.

6 September 2000: The Modification Panel passed a written resolution to send the Modification Proposal direct to consultation. The Modification Panel decided to reduce the consultation period from fifteen to ten business days.

13 September 2000: Transco distributed Draft Modification Proposal 0424 'Payment Mechanism for Closing Top-up Adjustment Amount' to the community.

27 September 2000: Close out for representations.

1. The Modification Proposal

The Network Code contains provisions to identify Top-up costs which are payable by the Top-up Manager in respect of a Storage Year. Included in these provisions is a requirement that the Top-up Manager will pay to Users the amount (if any) identified as the Closing Top-up Adjustment Amount (CTAA). The CTAA is payable by Transco to Users where the revenues received by the Top-up Manager following a disposal of Top-up gas at the end of a Storage Year exceed the Weighted Average Cost of that Gas (WACOG).

This Modification Proposal aims to re-instate the mechanism by which the Top-up Manager may pay the CTAA to Users. The proposed mechanism is to divide CTAA by all relevant User's UDQOs for the Top-up Recovery Period (December to March inclusive for the relevant Storage Year) then multiply by each relevant User's UDQOs in that same period, as was the case prior to Modification Proposal 0297.

If this Modification Proposal is implemented there would be an interaction with Modification Proposal 0391 'Treatment of Constrained Top-up Costs for 2000 to 2002'.

Modification Proposal 0391 introduced transitional provisions by which Transco may recover from Users the costs associated with Constrained Top-up for the Storage Year 2000/01. Via the same provisions Transco is required to pay to Users the revenues realised from the disposal of Constrained Top-up gas where these revenues exceed costs. This 'Constrained Top-up Annual Adjustment Amount' is defined in Transition Document paragraph II 8.12.

It is necessary that the legal text for the payment of CTAA recognises the distinction between Constrained Top-up costs and revenues and 'National' Top-up costs and revenues in a Storage Year when the funding provisions for Constrained Top-up and 'National' Top-up are not the same.

Specifically for the purposes of the Storage Year 2000/01 it will be necessary that the legal text for this Modification Proposal excludes Constrained Top-up Costs from the determination of the Provisional Closing Top-up Adjustment Amount (the weighted average cost of Top-up gas as at 30 November in the relevant Storage Year) and excludes Constrained Top-up Revenues from the determination of the Out-turn Closing Top-up Amount (the revenues received by the Top-up Manager following disposal of the Top-up gas).

2. Transco's Opinion

The Network Code contains provisions requiring the Top-up Manager to pay to Users at the end of a Storage Year the amount (if any) defined as the Closing Top-up Adjustment Amount (CTAA).

It is Transco's opinion that in the interests of certainty and consistency it is necessary to define the mechanism by which CTAA would be paid to Users. The chosen mechanism would directly affect the amount paid to each User following the determination of a CTAA and Transco considers it appropriate that the mechanism is approved by the community and included in the Network Code.

Transco is of the opinion that if this Modification Proposal is implemented CTAA would be distributed to Users via a process which the community has agreed is not unduly discriminatory and it would better facilitate both existing Network Code provisions and the relevant objectives.

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

This Modification Proposal would facilitate Transco's compliance with existing Network Code provisions.

Transco's PGT Licence Special Condition 9C states that Transco is intended neither to suffer any financial detriment nor to acquire any financial benefit in relation to its functions as Top-up Manager. This Modification is consistent with that licence requirement. If implemented, this Modification Proposal would facilitate Standard Condition 7 (1)(b) of Transco's Licence which provides that Transco shall ensure the efficient discharge of its licence obligations.

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

a) implications for the operation of the System:

There would be no implications for the operation of the System which would arise from this Modification Proposal.

b) development and capital cost and operating cost implications:

There would be no development, capital or operating costs which would arise as a result of this 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:

There would be no costs arising from this Modification Proposal which Transco would seek to recover.

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

There would be no consequences arising with regard to price regulation as a result this Modification Proposal.

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

This Modification Proposal seeks merely to insert a defined mechanism into the Network Code by which Transco would pay CTAA to Users. The contractual provisions which determine when CTAA is payable by Transco to Users would remain unchanged. There would be no affect on the level of contractual risk to Transco under the Network Code as a result of this Modification Proposal.

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

There would be no development implications for the computer systems of Transco or the related computer systems of Users.

7. The implications of implementing the Modification Proposal for Users

If this Modification Proposal is implemented Top-up costs and revenues would remain as defined by existing Network Code provisions. The Modification Proposal would define the mechanism by which Transco would pay CTAA to Users in the manner originally provided for by the Network Code. If this Modification Proposal is implemented it would better facilitate existing Network Code provisions.

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

There would be no implications which would arise from the implementation of this Modification Proposal for Terminal Operators, Consumers, Connected System Operators, Storage Operators, suppliers, producers or any Non-Network Code Party.

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

If this Modification Proposal is implemented no consequences would arise with respect to the legislative and regulatory obligations or contractual relationships of Transco and each User and Non-Network Code Party.

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

If implemented an advantage would be that this Modification Proposal would provide clarity with respect to the mechanism that would be applied to the payment of CTAA by Transco to Users.

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

Transco received representations in respect of this Modification Proposal from British Gas Trading, Northern Electric and Gas, Scottish and Southern Energy plc and Aquila Energy. All expressed their support for the implementation of this Modification Proposal.

Aquila Energy suggested that the timetable for the payment of CTAA by Transco to Users "...should be given more definition ...".

CTAA is payable by Transco to Users when the amounts received by the Top-up Manager following the disposal of Top-up gas at the end of a Storage Year exceeds the weighted average cost of that gas as at 1 November of the relevant Storage Year.

Following the determination of a CTAA the Top-up Manager may dispose of the surplus gas via Storage Gas Transfers or via a tender process. Neither the date nor the terms of such a disposal are determined by the Network Code and as such they may vary from year to year.

Due to the uncertainty of the date at which Transco would be able to pay CTAA to Users, Transco is of the opinion that it is not possible to further define the timetable for the payment of CTAA to Users. However, Transco will use its reasonable

endeavours to pay a CTAA to Users as soon as is reasonably practicable following the determination of a CTAA.

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

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

Not applicable.

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

Following a Storage Year in which a CTAA has been identified, Transco would be required to pay to Users the CTAA. Transco would calculate the amounts payable to each relevant User on the basis set out in this Modification Proposal. CTAA would be invoiced and payable under Section S.

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

It is proposed that this Modification Proposal be implemented on 1 November 2000.

16. Recommendation concerning the implementation of the Modification Proposal

Transco recommends 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 to modify the Network Code and Transco now seeks direction from the Gas & Electricity Markets Authority in accordance with this report.

19. Text

MODIFICATION 0424

CLOSING TOP-UP ADJUSTMENT AMOUNT

Proposed legal text

SECTION P: TOP-UP STORAGE

Renumber existing paragraphs 6.6.1 and 6.6.2 as paragraphs 6.6.2 and 6.6.3 and add text at paragraph 6.6.1 to read as follows:

"In respect of each Storage Year the Top-up Manager will as soon as reasonably practicable in the following Storage Year determine the Closing Top-up Adjustment Amount and where such amount is negative the Top-up Manager shall pay to each relevant User an amount calculated in accordance with paragraph 6.6.3."

Delete text at renumbered paragraph 6.6.3 and insert text to read as follows:

"Where an amount is payable by the Top-up Manager in accordance with paragraph 6.6.1, the Top-up Manager shall pay each relevant User an amount calculated as the Closing Top-up Adjustment Amount divided by the sum of all relevant UDQOs for each Day in the Top-up Recovery Period multiplied by the sum of the relevant User's UDQOs for each Day in the Top-up Recovery Period."

Add new paragraph 6.6.4 to read as follows:

"For the purposes of paragraph 6.6.3 'relevant User' and 'relevant UDQOs' have the meanings given in paragraph 6.4.2."

TRANSITION DOCUMENT, PART II

Amend paragraph 8.12(6) to read as follows:

"For the purposes of Section P6:

(a) Top-up Costs shall not include Constrained Top-up Costs and Top-up Revenues shall not include Constrained Top-up Revenues; and

(b) the Out-turn Closing Top-up Amount shall not include Constrained Top-up Revenues and the Provisional Closing Top-up Amount shall not include Constrained Top-up Costs."

Signed for and on behalf of Transco.

Signature:

Tim Davis
Manager, Network Code

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 **0424**, version **2.0** dated **09/10/2000**) 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 **2.0**.

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 appropriateprovided 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.