Modification Report
Energy Balancing Incentive Redesign
Modification Reference Number 0414
Version 2.0

This Modification Report is made pursuant to Rule 7.3 of the Modification Rules and follows the format required under Rule 8.9.3.

1. The Modification Proposal

Transco formulated this proposal to facilitate discussion of alternative incentive structures that might better facilitate the relevant objectives. The Workstream debate gave rise to the view that an incentive that would encourage efficient linepack management to complement the existing price efficiency based approach should be implemented.

Taking account of the Workstream debate, Transco proposed the following energy incentive structure:

The daily incentive amount received or paid by Transco would be determined as the sum of two daily incentive amounts defined by risk/reward functions for each of the price and linepack components of the incentive.

A daily cap and collar of £4,000 and -£30,000 would be applied in respect of the risk/reward associated with each of the price and linepack components. The energy incentive arrangement would continue to be subject to the current +/- £2m annual cap and collar.

A Linepack Incentive Performance Measure, LIPM, would be defined as the absolute magnitude of the difference between opening and closing linepack volumes (in units of mcm) for the gas day.

The current buy and sell price incentive performance measures would be replaced with a single Price Incentive Performance Measure, PIPM, defined as:

PIPM (%) =(SMIBP – SMISP)/(2 x SAP) x 100,

where SMIBP is the System Marginal Incentive Buy Price defined as the maximum of SAP and the price of the highest Market Offer Price transacted by Transco, and SMISP is the System Marginal Incentive Sell Price defined as minimum of SAP and the price of the lowest Market Offer Price transacted by Transco.

The daily incentive amounts for the linepack and price performance measures would be determined by the following risk/reward functions:-

(LIPT - LIPM)/ LIPT x £4,000, and

(PIPT - PIPM)/ PIPT x £4,000,

where LIPT is the Linepack Incentive Performance Target and PIPT is Price Incentive Performance Target, representing the performance level for which a neutral outcome would be obtained for each component.

The performance targets LIPT and PIPT would be equal to 2.4 mcm and 10% respectively.

An alternative incentive structure, referred to as the "hybrid model", was discussed by the Workstream. The difference between the hybrid model and the proposed "additive model" is that an incentive reward is only obtained if both performance targets are achieved, but providing that at least one performance target is met then Transco would not face a loss. The net daily incentive amount would thus be zero if the following condition was true:-

PIPM<=PIPT/LIPT x (2 x LIPT-LIPM), and

LIPM>LIPT or PIPM>PIPT,

and would otherwise be determined by the addition of the price and linepack daily incentive amounts.

2. Transco's Opinion

As part of the New Gas Trading Arrangements (NGTA), an energy incentive was introduced on 1 October 1999 arising from the implementation of Modification Proposal 0313, "Modification of the Energy Balancing Regime".

It was recognised that the incentive might need to be evolved as part of the ongoing NGTA development and that Ofgem would analyse the effects of the incentive as part of its review of the first six months operation of the NGTA regime.

Many participants within the industry recognised that a reconsideration of the incentive was needed and aspired to delivering an enhanced energy incentive that might better facilitate the relevant objectives for implementation from 1 October 2000. Transco therefore raised Modification Proposal 0414 "Energy Incentive Redesign", which the July Modification Panel referred to the Energy and Capacity Workstream for consideration.

The Workstream debate about this Modification Proposal was extensive due to a recognition that the energy incentive is inextricably linked to Transco's role, the nature of Transco's balancing tools and shipper incentives to balance. Several shippers believed that Transco's initial proposal for a "balancing neutrality based" incentive could encourage Transco to set wide cash-out prices just to "catch shippers out".

Transco believes that the current energy incentive encourages a degree of "price efficiency" in respect of Transco's system balancing decision making process. It has therefore delivered the primary objective, although actions that set out to maximise the benefits of the existing incentive structure may not necessarily be consistent with cost containment. The proposed incorporation of a linepack incentive element in addition to a price incentive arrangement is believed by Transco to address some of the shipper concerns over a balancing neutrality based incentive approach, whilst providing a transparent interim measure to address the perceived shortcomings of the present incentive structure.

In this Modification Proposal, Transco suggests that, in addition to the incorporation of a linepack incentive, the current price incentive arrangement consisting of separate buy and sell price incentives is combined into a single risk / reward function. Transco believes that this would achieve the same desired objective to incentivise Transco to consider the price efficiency of its balancing actions, but in a much simpler fashion.

Transco advocates the application of the "additive" model, as opposed to the "hybrid" approach as Transco believes that this form would create more continuous incentives ie at all times Transco would face incentives to make marginal changes. This would impact either or both incentive measures to enhance the net financial position under the incentive scheme. Whilst Transco believes that both incentive schemes offer an improvement over the current incentive, the continuous incentive properties of the "additive" model would be more likely to encourage behaviour consistent with the relevant objectives.

Transco recognises that a number of Shippers want the incentive parameters to be set such that Transco faces a financial incentive which would yield a zero outcome even taking account of some expected performance improvement. Transco has thus determined the incentive parameters in accordance with the following methodology:-

The daily cap and collar of £4,000 and -£30,000 applied to the current price incentive arrangement have been maintained for the proposed revised price incentive. The same financial values have then been applied to the linepack incentive arrangement such that Transco's daily risk/reward has been substantially increased. The price incentive "target" value has been set at 10%, broadly equivalent to double the current target of 5% applied separately to the buy and sell incentive arrangements. This increase from the current values was initially proposed by BGT to recognise the fact that SMPs would need to be set at sufficient differentials to ensure that there would be a commercial incentive on shippers to balance. The linepack incentive "target" has been set assuming historic values for the two performance measures observed in 1999/2000 Gas Year in order to yield a net incentive outcome of -£60,000 should an identical performance be repeated. This implies a Linepack Incentive Performance Target of 2.4 mcm.

Transco is aware of the view that it is difficult to assess the effect of changes in the regime when two or more changes take place simultaneously. In fact due to the requirement of modifying the Operational Guidelines it would not be possible to implement this Modification Proposal until a month after zero tolerances for Shippers are introduced. Transco, is also sympathetic to the view that a further interval prior to the implementation date is desirable. This, however, should be balanced with the delay this would have on reaping the benefits of this Modification Proposal.

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

Transco believes that a financial incentive that promotes a consideration of expected end of day linepack, in association with a "price efficiency" consideration, is likely to lead to lower day-on-day swings in linepack thereby decreasing overall neutrality costs, and therefore may better facilitate:

Condition 7(a), "the efficient and economic operation by the licensee of its pipe-line system" and

Condition 7(c), "the securing of effective competition between relevant shippers and between relevant suppliers".

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

a) implications for the operation of the System:

Transco believes that the introduction of a linepack incentive, in addition to the current price incentive, will reduce day-on-day linepack swings and hence encourage more stable and efficient operation of the network.

b) development and capital cost and operating cost implications:

A revision to the mechanisms for the calculation, administration and reporting of the incentive payment/reward would require some changes to Transco systems. In the short term manual processes may be used before systems approaches are fully implemented.

Capital and operating costs are anticipated to be minimal.

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 would not seek to recover incremental costs of implementation of this proposal.

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

This proposal is not considered to have any consequences in respect of 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

Whilst the incentive would preserve the +/-£2m cap / collar on the energy incentive, the proposed incentive parameters require Transco to deliver a performance improvement in order to achieve a net zero outcome. In addition, Transco would be exposed to a maximum payment equal to twice that of the current value.

Transco is seeking a modification to the Operational Guidelines to permit system balancing actions after midnight within day. If this change is not approved, Transco would be denied the ability to respond to changes in shipper behaviour that may result from the incorporation of a linepack element into the energy incentive arrangement.

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

A revision to the mechanisms for the calculation, administration and reporting of the incentive payment/reward would require some changes to Transco systems. Transco is not aware of any changes required to Users' computer systems.

7. The implications of implementing the Modification Proposal for Users

A change in the nature of Transco's incentives and any consequential effect on balancing policy and hence potential cash-out prices may precipitate a change in balancing and trading behaviour of Users. So that these changes may be properly assessed an interval between the implementation of zero tolerances and this Modification Proposal is considered desirable.

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

Transco believes that there would be no direct effect on the above parties.

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 changes to contractual relationships are anticipated

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

Advantages:

Increased alignment between Transco's incentive and the provision of a low cost balancing service.

Addresses weaknesses of current incentive arrangement.

Provides continuous incentive properties.

Disadvantages:

Increased administrative complexity.

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

Twelve representations have been received of which nine supported this Modification Proposal.

Users in support of the Modification Proposal were: Alliance Gas Limited (AGL), Aquila Energy Trading Limited (Aquila), British Gas Trading (BGT), Dynegy, Northern Electric and Gas Limited (NEAGL), Scottish Power, TotalFinaElf Gas and Power Limited (TFEGP), TXU Europe Energy Trading (TXU) and Yorkshire Energy Limited.

The Association of Electricity Producers (AEP) and Powergen UK did not support the Modification Proposal. There was also a confidential representation which was not in support of the Modification Proposal.

General Issues

Dynegy believed that "This modification process has highlighted a weakness in the regime that does not allow a Transco nominated workstream modification to suggest two alternatives, nor for a similar modification to be considered concurrently."

Transco's Response

Transco is willing to consider whether the progress of this Modification Proposal highlighted any weaknesses in the modification process. A number of proposed changes to the Modification Rules were the subject of consultation in Autumn 2000 (including the removal of the restriction on similar concurrent Modification Proposals). These are awaiting a decision from GEMA.

Views on Merits of the Additive and Hybrid Models

In the workstream two alternative proposals were discussed: the "additive" model and the "hybrid" model. AGL, NEAGL and Yorkshire Energy supported the Modification Proposal and the additive model.

Although Powergen did not support the Modification Proposal it expressed a preference for the additive model over the hybrid model. Amongst those supporting the Modification Proposal, Aquila, BGT, Dynegy, TFEGP and TXU nevertheless expressed a preference for the hybrid model. Scottish Power expressed the view that it had no preference between the two models.

Reviewing the arguments made in favour of the additive model, NEAGL believed that it would provide "continuous incentives at all times for Transco to minimise both price and linepack differentials, and to improve one performance measure even when the target has been hit on the other." It also believed that it would encourage Transco to take smaller actions within day. Powergen favoured the additive model in that "it seems to incentivise the 'right' complementary behaviours". It also argued that it benefits from "the fact that one incentive will continue to have effect although the cap or floor may have been breached on the other". Yorkshire Energy believed that the additive model would create more continuous incentives on Transco.

Whilst Aquila supported the hybrid model it believed the advantages over the additive model were marginal. BGT originally formulated the hybrid model in the belief that the additive model would reward Transco "for not achieving targets". It also believed that the additive model would lead "to the setting of extreme SMP's late in the day" This it believed would lead to fluctuations in shippers' flows at the end of the day which would distort the system balance and "potentially compromise system security". BGT also expressed this view in its representations concerning the proposed amendments to Transco's Operational Guidelines (OG21) which were designed to permit on the day system balancing actions after midnight.

Dynegy recognised that the crux of the discussions is whether Transco will be incentivised "to continue taking actions within the dead-zones of this model where they receive zero benefit, and then attempt to reach benefit zones". However, it believed that under the additive model Transco "would have no incentive to improve whichever parameter was performing worse". It believed therefore that Transco "will always attempt to maximise their revenue" although Dynegy added a qualifying footnote that Transco would show "due consideration to Licence and Code obligations." Dynegy also believed that under the hybrid model Transco would be "incentivised to take incremental actions within the OCM, setting prices on either side of the market and aiding OCM liquidity.

TFEGP supported the hybrid model as "Transco should only be rewarded if it achieves both price and linepack targets". TXU supported the hybrid model in the belief that it "should provide an increased incentive on Transco to move into a position where they are receiving a benefit".

Transco's Response

The views expressed might indicate that the arguments are finely balanced. However Transco still believes that the additive model would create more continuous incentives and be more likely to encourage behaviour consistent with the relevant objectives. Transco would also point out that whilst there are a few more representations which favour the hybrid model, this balance of views is not conclusive.

Setting of Incentive Parameters

BGT expressed its support for replacing buy and sell price incentive performance measures with a single price and the adoption of a 10% price incentive "target" value, although it cautioned against applying 10% too widely. It supported the retention of the cap and collar at current levels but felt that a linepack performance measure of 2.0 mcm was more appropriate than the 2.4 mcm proposed. TFEGP supported all the parameter levels ie the 10% target level, the daily and annual caps and collars and the linepack performance measure of 2.4 mcm. TXU expressed concerns regarding the caps and collars but did not make any suggestions on how the levels might be revised.

Transco's Response

The responses indicate general agreement to the parameter levels proposed.

Rationale for Incentives

Whilst supporting this Modification Proposal AGL had some concerns on whether the linepack part of the incentive should still apply in the event of extreme weather fluctuations. It believed that in such situations "it may not be prudent to implement a financial penalty which could be directly in conflict with essential operational actions".

AEP had more fundamental concerns that full consideration had not been given to the issue of "overall cost minimisation vs cost targeting". Whilst recognising the reduction of linepack carry-over between days "may improve cost targeting to each gas day but is unlikely to result in lower costs, since Transco will be encouraged to take unnecessary balancing actions". AEP also believed that these actions were "clearly at odds with its [Transco's] role of residual system balancer". This led it to believe that there would be an adverse affect on balancing neutrality. AEP's suggestion was that an energy incentive based upon price and possibly neutrality should be considered instead of price and linepack. It also believed that a delay of six to twelve months following the removal of tolerances was logical in order that the effect of the tolerance removals can be established. Finally it believed that it was possible that in the light of tolerance changes "Transco will not have to adjust its behaviour at all in order to benefit from this incentive scheme. This is clearly bizarre". Powergen took a similar view that "there is an excellent chance that shipper balancing performance will improve over the next few months, thus reducing the need for a linepack incentive at this point in time. We would suggest a further review of the energy balancing incentives once we have had at least six months experience of the new cash-out regime". Whilst not supporting deferring implementation of this Modification Proposal, Scottish Power believed that "it is fundamentally important that the impact of the various changes are looked at both in isolation and together to see if all are working together or separately to induce the desired behaviours and outcomes".

The confidential representation stated that "the fundamental error is to incentivise Transco to maximise its income as opposed to ensuring the integrity of the system" It further stated that "Incentives could set Transco's objectives at conflict to the market as their role could swing from system operator (service provider) to market player (competitor)." Turning from the general issue of incentive to the manner in which this Modification Proposal might operate, the representation detailed four areas in which it believed the proposed incentive would fail. These were: that Transco would have an incentive not to change linepack levels even if it were desirable; the linepack performance measure may be less than the target but there would be an incentive on Transco in moving further in that direction; the proposed incentive does not aim to ensure the safety and integrity of the system; and it perpetuates the inherent error in the present structure in that Transco is incentivised to take a large initial action or as few actions as possible.

BGT believed that "an incentive can be a powerful tool in ensuring that a safe and economic system balance is maintained" and that the Modification Proposal "is an improvement on the existing incentive and so support it as a step towards achieving better and more economic system balancing". Dynegy saw this Modification Proposal as "a beneficial move in keeping with current objectives of the reform of the gas market". NEAGL supported incentives in principle and regarded "the introduction of a linepack term as a beneficial interim addition to the current incentive." It supported this view with an expectation that implementation would lead to lower swings in linepack which would lead to a more stable and efficient network. Scottish Power believed that its implementation would "have an impact on balancing neutrality costs and lead to a more efficient system and indirectly to improved cost targeting". After reviewing the perceived shortcomings of the present regime TFEGP believed that "this proposal represents a positive step towards addressing the above shortcomings and introducing the aforementioned benefits to the present incentive regime." It also believed that the Modification Proposal would "introduce significant improvements to both Transco and shipper balancing behaviour within the evolving energy and capacity regimes".

Transco's Response

Transco is supporting this Modification Proposal in recognition of Users' desires that appropriate incentives should be in place on Transco in its system balancing role. It is, however, aware of the view that it can be difficult to assess the effect of different enhancements to the balancing regime if they are implemented simultaneously. As implementation of this Modification Proposal could only take place once the Operational Guidelines have been modified at least one month would elapse between implementation of reduced tolerances and this Modification Proposal. There may be some merit in deferring the implementation of this Modification Proposal further to allow a longer assessment of the effect of reduced tolerances. Transco would be in agreeement if GEMA should determine that a longer separation between the implemention of the two Modification Proposals were appropriate.

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

Not applicable.

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

Not applicable

14. Programme of works required as a consequence of implementing the ModificationProposal

System changes would be required to various AT Link, financial, administration and reporting processes. Modifications would also be required to the Operational Guidelines to ensure that they adequately define NTS Linepack. This would include the necessary consultation procedures.

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

To allow sufficient time to revise the Operational Guidelines, Transco proposes implementation should be a minimum of six weeks following approval by GEMA.

16. Recommendation concerning the implementation of the Modification Proposal

Transco recommends that this proposal be 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.

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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.

SECTION D. OPERATIONAL BALANCING, TRADING ARRANGEMENTS AND ENERGY BALANCING INCENTIVE

Add paragraph 1.4.1vii. as follows:

"(vii) NTS Linepack shall mean , for a Day, the volume of gas within the National Transmission System [ascertained in accordance with the principles set out in the Operational Guidelines.] "

Amend paragraph 3.1.1 to read as follows:

"….

(i) System Marginal Incentive Buy Price differs from the System Marginal Incentive Sell Price; and

(ii) In respect of the Day the change in NTS Linepack from the Preceeding Day . "

Amend paragraph 3.1.2 to read as follows:

"…. the "Price Incentive Arrangement", and the arrangement giving effect to paragraph 3.1.1(ii) is the "Linepack Incentive Arrangement". ".

Amend paragraph 3.1.3 to read as follows:

"(a) …

(i) in relation to the Price Incentive Arrangement, the percentage determined as:

((SMIBP – SMISP) / (2 * SAP)) * 100

where:

SAP is System Average Price;
SMISP is System Marginal Incentive Sell Price;
SMIBP is System Marginal Incentive Buy Price.

(ii) in relation to the Linepack Incentive Arrangement, the volume determined as:

abs (OLP – CLP)

where:

OLP is NTS linepack at 06:00 hours on the Gas Day;
CLP is NTS linepack at 06:00 hours on the following Gas Day.

(b) ….

(i) in relation to the Price Incentive Arrangement, ten percent (10%);
(ii) in relation to the Linepack Incentive Arrangement, two point four MCM (2.4 MCM).

Amend paragraph 3.1.4 to read as follows:

"…., in relation to the Price Incentive Arrangement or the Linepack Incentive Arrangement, … "

Amend paragraph 3.1.5 to read as follows:

"(a) ….
(i) the Price Incentive Arrangement for superior performance, zero per cent (0%);
(ii) the Linepack Incentive Arrangement for superior performance, zero MCM (0 MCM);
(iii) the Price Incentive Arrangement for inferior performance, eighty five per cent (85%);
(iv) the Linepack Incentive Arrangement for inferior performance, twenty point four MCM (20.4 MCM);

(b) …..

(i) the Price Incentive Arrangement for superior performance, £4,000 (being a positive amount);
(ii) the Linepack Incentive Arrangement for superior performance, £4,000 (being a positive amount);
(iii) the Price Incentive Arrangement for inferior performance, £30,000 (being a negative amount);
(iv) the Linepack Incentive Arrangement for inferior performance, £30,000 (being a negative amount);

(c) …., in respect of the Price Incentive Arrangement and the Linepack Incentive Arrangement:….

(d) ….; New paragraph 3.1.5 (d) added by Modification 0373.

(e) for each day the "System Marginal Incentive Buy Price" is the higher of the System Average Price and the price in pence/kWh which is equal to the highest Market Offer Price in relation to a Market Balancing Action for that Day; and

(f) for each day the "System Marginal Incentive Sell Price" is the lowest of the System Average Price and the price in pence/kWh which is equal to the lowest Market Offer Price in relation to a Market Balancing Action for that Day. "

Amend paragraph 3.1.6 to read as follows:

"…., the Price Incentive Arrangement and the Linepack Incentive Arrangement, ….".

Amend paragraph 3.2.1 to read as follows:

"… the Price Incentive Arrangement and the Linepack Incentive Arrangement, ….".

Amend paragraph 3.2.3 to read as follows:

" ...the Daily Incentive Amount for the Price Incentive Arrangement shall be equal to the Maximum Incentive Amount for …."

Amend paragraph 3.3 to read as follows:

"(a) ….

(i) … the Price Incentive Arrangement …
(ii) ….the Linepack Incentive Arrangement …

(b) ….

(i) ….the Price Incentive Arrangement
(ii) ….the Linepack Incentive Arrangement …".

Amend paragraph 3.4.1 to read as follows:

"… the Price Incentive Arrangement and the Linepack Incentive Arrangement, …".

Amend paragraph 3.5.1 to read as follows:

"… the Price Incentive Arrangement and the Linepack Incentive Arrangement, …".

Amend paragraph 3.6.1 to read as follows:

"… the Price Incentive Arrangement and the Linepack Incentive Arrangement, …".

Amend paragraph 3.6.2 to read as follows:

"(b) ….the <u>Price</u> Incentive Arrangement and the <u>Linepack</u> Incentive Arrangement, …".

Amend paragraph 3.7 to read as follows:

"… (under the <u>Price</u> Incentive Arrangement and the <u>Linepack</u> Incentive Arrangement collectively) …

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 **0414**, version **2.0** dated **02/04/2001**) 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 **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 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 <u>(whether such approval is actual or deemed by effluxion of time)</u> 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, <u>had it not been repealed, would</u> 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) <u>or 2(2)(b)(ii)</u> 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.