

Draft Modification Report
Code Governance Review: Inclusion of 'The Gas Transmission Transportation Charging Methodology' and 'The Gas Transmission Connection Charging Methodology' within the UNC
Modification Reference Number 0322V
Version 1.0

This Draft Modification Report is made pursuant to Rule 9.1 of the Modification Rules and follows the format required under Rule 9.4.

1 The Modification Proposal

Nature and Purpose of this Proposal

Where capitalised words and phrases are used within this Modification Proposal, those words and phrases shall usually have the meaning given within the Uniform Network Code (unless they are otherwise defined in this Modification Proposal). Key UNC defined terms used in this Modification Proposal are highlighted by an asterisk (*) when first used.

This Modification Proposal*, as with all Modification Proposals, should be read in conjunction with the prevailing Uniform Network Code* (UNC).

Background

In November 2007, Ofgem announced the Review of Industry Code Governance, which concluded at the end of March 2010 when Ofgem published their Final Proposals for the Code Governance Review (CGR). The Ofgem Final Proposals covered the following work strands:

- Significant Code Review and Self Governance proposals;
- Proposals on the governance of network charging methodologies;
- Proposed approach to environmental assessment within the code objectives ;
- Proposals on the role of code administrators and small participant and consumer initiatives; and
- The Code Administration Code of Practice (subset of the above code administrators proposals).

The licence modifications necessary to implement the Final Proposals for the Code Governance Review and the Code Administration Code of Practice were published on 3 June 2010 and become effective on the 31 December 2010.

This Modification Proposal* aims to implement the Code Governance Review Final Proposals with regards to the governance of the NTS Transportation and Connection Charging Methodologies.

Ofgem proposed to open up the network companies' charging methodologies by giving network users* and other materially affected parties the right to raise proposals to modify those methodologies. This will be done by inserting charging methodologies into the relevant industry codes and utilising the existing code modifications procedures.

Ofgem summarised its final proposals as follows;

- Incorporating network charging methodologies into relevant

- industry codes will give Users the opportunity to propose change.
- Authority ability to designate a non-code party as a materially affected party.
- 25 day Key Performance Indicator for decisions (longer if doing Impact Assessment¹).
- Requirement to maintain charging forums.

Open governance on charging methodologies across all sectors should bring the merits of accessibility, transparency and accountability. The governance reform of the distribution connection methodologies (electricity and gas) is expected be progressed outside of this CGR project.

The Ofgem proposal would subsume Charging Methodologies into existing codes. The advantage of this approach is that these codes already have robust governance arrangements, which encompass the relevant parties.

Ofgem also consider that as the majority of connectees to the gas National Transmission System (NTS) are either shippers, or have strong contractual relationship with a shipper, the gas Transmission connection charging methodology is more appropriately accommodated within the UNC.

Ofgem are cognisant of the impact charging methodology and charging changes have on the industry and has stated that it will ensure that decisions on any potential proposals will be made in a timely manner. Ofgem consider it appropriate to adopt the existing code decision making framework, which currently has a 25 working day key performance indicators (KPI), for charging methodology decisions to make the processes consistent and gain the benefits of an holistic consideration of code and charging modifications where appropriate.

Currently where the implementation of a modification is connected to a time related event the panel/industry have the option to progress the proposal via urgency procedures. Ofgem consider that these arrangements could also be applied to charging methodologies (subject to the code modification rules being suitably drafted).

This Modification Proposal* aims to implement the conclusions of the Code Governance Review Final Proposals in respect of the NTS Transportation and Connection Charging Methodologies, specifically in respect of the new and amended NTS Licence requirements contained in:

- Standard Special Condition A11 (6)(e) which requires the licensee to have prepared a uniform network code setting out the UNC charging methodologies;
- Standard Special Condition A5 (5) which details the 'relevant methodology objectives' which a relevant transportation charging methodology modification must better facilitate
- Standard Condition 4B (5) of the NTS Licence which details the 'relevant methodology objectives' which a relevant connection

¹ Ofgem Regulatory Impact Assessment

charging methodology modification must better facilitate

- Standard Special Condition A11 (9)(ab)(ii) which requires the modification procedures provide that any proposal to modify the UNC Charging Methodologies must permit compliance with paragraphs 2, 2A and 3 of Standard Special Condition A4 of the Gas Transporter Licences;
- Standard Special Condition A11 (9)(ac) which requires:
 - the regular convening of the charging methodology forum;
 - the provision by the licensee of information reasonably requested by a Materially Affected Party; and
- Standard Special Condition A11 (10)(ab) which states that a Modification Proposal in respect of a UNC Charging Methodology may only be made by a UNC signatory or a Materially Affected Party (being a person or class of persons designated by the Authority for this purpose).

Nature of the Proposal

To facilitate the delivery of the above new licence conditions specific to the NTS Gas Transporter Licences, it is proposed that:

- the prevailing NTS Transportation and Connection² Charging Methodologies (as at the date of implementation, if so directed) are incorporated within the Uniform Network Code; and
- the UNC Modification Rules* are amended to reflect that
 - the NTS Transporter must convene meetings (not less frequently than every three months, unless there is no matter to discuss) of the charging methodology forum (as defined in Standard Special Condition A11 (24) of the Gas Transporter Licences) being the 'NTS Charging Methodology Forum'. It is proposed that this Forum shall be defined as a UNC Workstream (defined within the current UNC Modification Rules) other than that this Forum shall comprise of representatives of Materially Affected Parties, Users and Transporters
 - This Forum will operate in accordance with the Chairman's Guidelines*³ however in order to adhere to the new NTS licence drafting may not be dissolved. This Forum will be convened for the general purposes of discussing the further development of the applicable Charging Methodologies (and other charging related matters by agreement) in accordance with its Terms of

² For the avoidance of doubt, this applies solely to the NTS Connection Charging Methodology. The governance of the Distribution Connection Methodologies is outside the scope of the CGR Final Proposals and this Proposal.

³ ³ Chairman's Guidelines will be superseded by the Code Administration Code of Practice in the event of implementation of UNC Modification Proposal 0319.

Reference (which group shall have no power or authority to bind any User or any Transporter); and

- any proposal to modify the UNC Charging Methodologies must not conflict with paragraphs 8, 9, 10 and 11 of Condition 4B of the Gas Transporter Licences.

To facilitate the delivery of the above new licence conditions common to both the DNO Gas Transporter Licences and the NTS Gas Transporter Licence, it is proposed that the UNC Modification Rules are amended to reflect that;

- insofar as reasonably practicable, the relevant Transporter, will provide information or assistance (for the purpose of preparing a proposal to modify a Charging Methodology in respect of its network) reasonably requested by a Materially Affected Party;
- a Modification Proposal in respect of a Charging Methodology may only be made by a UNC signatory or a Materially Affected Party (being a person or class of persons designated by the Authority for this purpose);
- that Proposer of a Modification Proposal in respect of a Charging Methodology state its opinion as to why it believes that the proposal does not conflict with paragraphs 2, 2A and 3 of Standard Special Condition A4 of the Gas Transporter Licences;
- at initial discussion of a Modification Proposal in respect of a Charging Methodology, the Modification Panel consider whether the proposal conflicts with paragraphs 2, 2A and 3 of Standard Special Condition A4 of the Gas Transporter Licences;
- that the Modification Report incorporate a view as to whether a a Modification Proposal in respect of a Charging Methodology conflicts with paragraphs 2, 2A and 3 of Standard Special Condition A4 of the Gas Transporter Licences; and
- the wording in sub section (a) of the definition of “Relevant Objectives” within section 2.1 of the UNC Modification Rules alternatively refers to the relevant objectives in Standard Special Condition A11(24a).

The above six elements, generic to both DNO and NTS Gas Transporter Licences, are advocated by both this Proposal and Modification Proposal 0325. This enables each Proposal to be implemented in isolation if so directed.

Suggested Text

Draft [legal text]

TPD

Insert text to create a new section within TPD to read as follows:

SECTION Y – CHARGING METHODOLOGIES

PART A - NTS CHARGING METHODOLOGIES

1. THE STATEMENT OF THE GAS TRANSMISSION TRANSPORTATION CHARGING METHODOLOGY

Insert Annex A - Gas Transmission Transportation Charging Methodology

2. THE STATEMENT AND METHODOLOGY FOR GAS TRANSMISSION CONNECTION CHARGING

Insert Annex B - Gas Transmission Connection Charging Methodology

MODIFICATION RULES

Add new paragraph 1.4 to read as follows:

1.4 Materially Affected Party

The Transporters shall provide, to the extent that is reasonably practicable, in relation to a Modification Proposal that includes a proposed modification to Section Y such information reasonably required by a Materially Affected Party in respect of the proposed modification to Section Y.

Add the following defined terms at paragraph 2.1:

"NTS Charging Methodology Forum": means a Workstream¹ comprised of representatives of Materially Affected Parties, Users and Transporters, chaired by a representative of the Transporters^{1,2} and operating within the Chairman's Guidelines^{2,3}, which is convened for the general purposes of consideration and discussion of matters relating to Part A of Section Y or Modification Proposals in respect of Part A of Section Y in accordance with its Terms of Reference (which group shall have no power or authority to bind any Materially Affected Party, User or Transporter);

"Materially Affected Party": has the meaning given in Standard Special Condition A11(24) of the Transporter's Licence;

"Workstream":

¹ 'Workstream' will be replaced by 'Workgroup' in the event of the implementation of UNC Modification Proposal 0319.

² If UNC Modification Proposal 0319 is implemented the reference to 'Transporters' will be replaced by 'Code Administrator'.

³ If UNC Modification Proposal 0319 is implemented the reference to the 'Chairman's Guidelines' will be replaced by 'Code of Practice'.

- (a) a group comprised of representatives of Users and Transporters chaired by a representative of the Transporters and operating within the Chairman's Guidelines, which is convened for the general purposes of consideration and discussion of matters relating to the Uniform Network Code, an Individual Network Code or a Modification Proposal in accordance with paragraph 7.4 in accordance with its Terms of Reference (which group shall have no power or authority to bind any User or any Transporter); or
- (b) a NTS Charging Methodology Forum, in respect of a Modification Proposal which proposes a modification to Part A of Section Y.

Amend paragraph 2.1 to read as follows:

"Chairman's Guidelines"³⁴: a set of standing guidelines issued by the Transporters governing the conduct of meetings of the Modification Panel, Workstreams, Development Work Groups, NTS Charging Methodology Forum and Review Groups, as amended from time to time by Panel Majority;

"Relevant Objectives": ~~means:~~ has the meaning given in

(a) ~~the relevant objectives in~~ Standard Special Condition A11(124)(a) of the Transporter's Licence; ~~and~~

~~(c) in relation to a proposed Modification of these Rules, the requirements in Standard Special Conditions A11(9) and (12) (to the extent that they do not conflict with the relevant objectives referred to in (a) above);~~

Amend paragraph 5.1.2(b) to read as follows:

Workstreams other than the NTS Charging Methodology Forum may be created or dissolved by Panel Majority.

Amend paragraph 6.1.1 to read as follows:

6.1.1. Without prejudice to paragraph 6.4 or paragraph 12.4 in respect of the Uniform Network Code may be made from time to time by:

- (a) **a Transporter; ~~and/or~~**
- (b) **any User;**
- (c) **in the case only of a Modification Proposal which proposes a modification to Section Y, a Proposer that is the Materially Affected Party;**
and any Third Party Participant may make a Third Party Modification

⁴ If UNC Modification Proposal 0319 is implemented this definition will be deleted.

Proposal.

Amend paragraph 6.1.2 to read as follows:

6.1.2 Without prejudice to paragraph 6.4 or paragraph 12.4 a Modification Proposal in respect of an Individual Network Code may be made from time to time by:

- (a) **a Relevant Transporter; and/or**
- (b) **any Relevant Shipper; and/or**
- (c) **in the case only of a Modification Proposal which proposes a modification to Section Y, a Proposer that is the Materially Affected Party.**

Amend paragraph 6.2.1 to read as follows:::

6.2.1 ...

(j); ~~and~~

(k); and

(l) in the case of a Modification Proposal which proposes a modification to Part A of Section Y, shall state the Proposer's opinion why the Modification Proposal does not conflict with:

(i) paragraphs 8, 9, 10 and 11 of Standard Condition 4B of the Transporter's Licence; or

(ii) paragraphs 2, 2A and 3 of Standard Special Condition A4 of the Transporter's Licence.

Amend paragraph 7.2.2(a) to add a new paragraph (v) as follows:

(iii) ...; ~~and~~

(iv) ...; ~~or~~ and

(v) considered whether a Modification Proposal in respect of Part A of Section Y conflicts with:

(aa) paragraphs 8, 9, 10 and 11 of Standard Condition 4B of the Transporter's Licence; or

(bb) paragraphs 2, 2A and 3 of Standard Special Condition A4 of the Transporter's Licence; or

Amend paragraph 9.4.1 to add a new sub-paragraph (u) as follows:

(t) ...; *or*

- (u) where it is a Modification Proposal in respect of Part A of Section Y, state the view of the Modification Panel as to whether the Modification Proposal conflicts with:
- (i) *with paragraphs 8, 9, 10 and 11 of Standard Condition 4B of the Transporter's Licence; or*
 - (ii) *paragraphs 2, 2A and 3 of Standard Special Condition A4 of the Transporter's Licence.*

Add new paragraph 12.10 to read as follows:

12.10 NTS Charging Methodology Forum

The Transporters shall ensure the NTS Charging Methodology Forum meets on a regular basis, for which purpose the Secretary shall convene a meeting of such forum by notice to its members at least once every three (3) months unless there is no matter for the NTS Charging Methodology Forum to discuss.

GT SECTION C – INTERPRETATION

Amend paragraph 1 to read as follows:

"Transportation Statement": means the prevailing statement furnished by the Transporter to the Authority under Standard Special Condition A4 of the Transporter's Licence and in respect of which the methodology referred to in paragraph 5 of that condition is set out in TPD Section Y.

2

User Pays

a) Classification of the Proposal as User Pays or not and justification for classification

This Modification Proposal does not affect xoserve systems or procedures and therefore it is not affected by User Pays governance arrangements.

b) Identification of Users, proposed split of the recovery between Gas Transporters and Users for User Pays costs and justification

No User Pays charges applicable.

c) Proposed charge(s) for application of Users Pays charges to Shippers

No User Pays charges applicable to Shippers.

d) Proposed charge for inclusion in ACS – to be completed upon receipt of cost estimate from xoserve

No charges applicable for inclusion in ACS.

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

Standard Special Condition A11.1 (a): the efficient and economic operation of the pipe-line system to which this licence relates;

Implementation would not be expected to better facilitate this relevant objective.

Standard Special Condition A11.1 (b): so far as is consistent with subparagraph (a), the coordinated, efficient and economic operation of

(i) the combined pipe-line system, and/ or

(ii) the pipe-line system of one or more other relevant gas transporters;

Implementation would not be expected to better facilitate this relevant objective.

Standard Special Condition A11.1 (c): so far as is consistent with subparagraphs (a) and (b), the efficient discharge of the licensee's obligations under this licence;

This Proposal seeks to implement all requirements of the new licence conditions that relate to NTS Charging Methodologies and to this extent the Proposer believes that implementation would better facilitate the relevant objective of the efficient discharge of the licensee's obligations under its licence (Standard Special Condition A11 (1)(c)).

Standard Special Condition A11.1 (d): so far as is consistent with subparagraphs (a) to (c) the securing of effective competition:

(i) between relevant shippers;

(ii) between relevant suppliers; and/or

(iii) between DN operators (who have entered into transportation arrangements with other relevant gas transporters) and relevant shippers;

One of the key aims of the new licence conditions is to seek to ensure that the governance processes are more transparent and accessible, which was particularly seen as important for small participants and consumer groups. Given that at present the NTS charging methodologies are not subject to Code Governance (and therefore Shipper Users are not able to raise specific Modification Proposals to that Methodology) it may be argued that permitting such parties to do so may better facilitate the securing of effective competition between relevant shippers (Standard Special Condition A11 (1)(d)).

Standard Special Condition A11.1 (e): so far as is consistent with subparagraphs (a) to (d), the provision of reasonable economic incentives for

relevant suppliers to secure that the domestic customer supply security standards... are satisfied as respects the availability of gas to their domestic customers;

Implementation would not be expected to better facilitate this relevant objective.

Standard Special Condition A11.1 (f): so far as is consistent with subparagraphs (a) to (e), the promotion of efficiency in the implementation and administration of the network code and/or the uniform network code;

In respect of the aspects of this proposal relating to changes to the UNC Modification Rules, such changes seek to implement relevant new requirements of paragraphs 9 and 10 of Standard Special Condition A11 of the NTS Licence. The Proposer believes that implementation of this proposal would better facilitate the promotion of efficiency in the implementation and administration of the network code and/or the uniform network code (Standard Special Condition A11 (1)(f)).

4 The implications of implementing the Modification Proposal on security of supply, operation of the Total System and industry fragmentation

No implications on security of supply, operation of the Total System or industry fragmentation have been identified.

5 The implications for Transporters and each Transporter of implementing the Modification Proposal, including:

a) Implications for operation of the System:

No such implications have been identified.

b) Development and capital cost and operating cost implications:

The level of impact on operational costs is dependant on the additional volume of Modification Proposals (related to the NTS transportation and connection charging methodologies) and associated governance activity that may transpire as a consequence of implementation of this Proposal. Accordingly it is unclear whether existing resource dedicated to management of governance arrangements will be sufficient.

c) Extent to which it is appropriate to recover the costs, and proposal for the most appropriate way to recover the costs:

Not applicable.

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

Not applicable.

6 The consequence of implementing the Modification Proposal on the level of contractual risk of each Transporter under the Code as modified by the Modification Proposal

The proposer believes that National Grid NTS's contractual risk would increase as a consequence of implementation in that they will no longer have sole control of change proposals to the transportation and connection charging methodologies which at present are not incorporated into the UNC.

7 The high level indication of the areas of the UK Link System likely to be affected, together with the development implications and other implications for the UK Link Systems and related computer systems of each Transporter and Users

Not applicable.

8 The implications of implementing the Modification Proposal for Users, including administrative and operational costs and level of contractual risk

Administrative and operational implications (including impact upon manual processes and procedures)

Not applicable.

Development and capital cost and operating cost implications

Not applicable.

Consequence for the level of contractual risk of Users

As Users currently do not have the ability to raise direct change proposals to the NTS Charging Methodologies, it could be argued that a User's contractual risk associated with Charging Methodologies over which it currently has no direct influence may be reduced.

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

Those parties that can demonstrate to the Authority that they are a 'Materially Affected Party' (as per Standard Special Condition A11 (24) of the NTS Licence) will be able to raise change proposals to the NTS transportation and connection Charging Methodologies.

10 Consequences on the legislative and regulatory obligations and contractual relationships of each Transporter and each User and Non Code Party of implementing the Modification Proposal

Implementation of the proposal would allow the new Licence obligation effective on 31 December 2010 to be met.

11 Analysis of any advantages or disadvantages of implementation of the Modification Proposal

Advantages

The proposal would allow the new Licence obligations to be effective.

Disadvantages

Potentially increases risk and uncertainty in regard to the long term planning of a stable pricing regime.

12 Summary of representations received (to the extent that the import of those representations are not reflected elsewhere in the Modification Report)

Written Representations are now sought in respect of this Draft Report. Consultation End Date: 05 November 2010

Representations were received from the following parties in respect of UNC0322:

Organisation	0322
British Gas	Supports
EDF Energy	Supports
E.ON UK	Supports
First Utility	Supports
National Grid Distribution	Supports
National Grid NTS	Supports
Northern Gas Networks	Supports
RWE Npower	Supports
Scotia Gas Networks	Supports
ScottishPower	Supports
SSE	Supports
Wales & West Utilities	Supports

In summary, of the twelve representations received, all support implementation

of the Proposal.

British Gas considers that providing shippers with greater influence over charging methodologies is more likely to see greater focus upon ensuring that charges are apportioned in the most efficient and appropriate way.

EDF Energy considers a fixed cut-off date approach would help provide clarity and predictability of future costs to the industry. Without an implementation cut-off date, parties potentially would need to put a "risk factor" amount into their tariffs to take account of potential changes to charges at a later date, which would lead to higher prices for consumers. It is noted that the Authority will always have the ability to determine a different implementation date to that recommended by the Modification Panel.

E.ON UK consider it is correct that Code signatories should be given the opportunity to raise proposals to change the charging methodologies but note that in the absence of appropriate checks and balances, there is a risk of un-coordinated piecemeal changes being implemented or issues being repeatedly re-visited.

In respect of the relevant objectives, E.ON UK are not of the opinion that opening up the charging methodologies for users and affected parties to raise changes will necessarily benefit competition in terms of simplicity, tariff predictability and frequency of changes. There could be detrimental impacts in each of these areas, but on balance, they consider that the competition benefits which may be expected to arise from reducing the scope for discrimination between different classes of Users and their customers and reductions in cross-subsidies could outweigh the dis-benefits.

National Grid NTS considers the Transmission Methodology Forums will play a key role in assisting industry participants in developing modification proposals related to the charging methodologies.

RWE Npower agree with the rationale that the proposed change will improve transparency and accessibility of the governance process, though it is questionable as to whether this will have a significant impact in terms of promoting competition by removing some of the barriers that the existing arrangements introduce.

13 The extent to which the implementation is required to enable each Transporter to facilitate compliance with safety or other legislation

Implementation is not required to enable each Transporter to facilitate compliance with safety or other legislation.

14 The extent to which the implementation is required having regard to any proposed change in the methodology established under paragraph 5 of Condition A4 or the statement furnished by each Transporter under paragraph 1 of Condition 4 of the Transporter's Licence

Implementation is not required having regard to any proposed change in the methodology established under paragraph 5 of Condition A4 or the statement furnished by each Transporter under paragraph 1 of Condition 4 of the

Transporter's Licence.

15 Programme for works required as a consequence of implementing the Modification Proposal

No programme of works would be required as a consequence of implementing the Modification Proposal.

16 Proposed implementation timetable (including timetable for any necessary information systems changes and detailing any potentially retrospective impacts)

It is recommended that this modification be implemented on 31st December 2010, if this date has already past at the time of the Authority decision then it is recommended that it is implemented on the next working day after the decision.

17 Implications of implementing this Modification Proposal upon existing Code Standards of Service

No implications of implementing this Modification Proposal upon existing Code Standards of Service have been identified.

18 Recommendation regarding implementation of this Modification Proposal and the number of votes of the Modification Panel

19 Transporter's Proposal

This Modification Report contains the Transporter's proposal to modify the Code and the Transporter now seeks direction from the Gas and Electricity Markets Authority in accordance with this report.

20 Text

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

For and on behalf of the Relevant Gas Transporters:

Tim Davis

Chief Executive, Joint Office of Gas Transporters

Annex A NTS Gas Transportation Charging Methodology

Annex A NTS Gas Transportation Charging Methodology has been provided as a separate document.

Annex B NTS Gas Connection Charging Methodology

Annex B NTS Gas Connection Charging Methodology has been provided as a separate document.