

TRANSCO NETWORK CODE MODIFICATION PROPOSAL No. 0633

"Cessation of Invoicing for Terminated and Discontinued Users"
Version 1.0

Date: 19/05/2003

Proposed Implementation Date:

Urgency: Non-Urgent

Justification

In order to facilitate an orderly exit from the gas market either under Termination or Discontinuance, there is a requirement to achieve certainty on the final invoicing position to enable closure of accounts and orderly wind-down. At present, the drafting of the Network Code and its application does not permit such closure. In addition, the ability to achieve such closure will assist in achieving certainty of distributions where the User is in an insolvency process.

The present position is interpreted such that the invoice position becomes final 18 months after the issuance of the last invoice. The implication of this is that if, for example, Transco issues a small adjustment to previous charging 17 months after the last invoice, another 18 months must elapse before the revised position can be deemed final. The practical effect of this interpretation is that companies face the costs of maintaining staff and skills to manage an unpredictable workload. In the case of an Administration or Liquidation, costs may only be incurred as an expense of that Administration or Liquidation if they are deemed to be for the benefit of all creditors, a criterion which clearly cannot be met in this case.

The Parties to the Network Code have a number of obligations under Discontinuance and Termination which are acknowledged, but a practical and equitable solution to this issue is required.

Nature of Proposal

This proposal is intended to apply only in the case of a User being Terminated or requesting Voluntary Discontinuance, i.e. where the User is exiting the market and does not have any Supply Points registered, does not hold any Capacity of any type and does not hold any open trading positions. It is not intended to impact in any way on the invoicing relationship between Transco and Users in the ordinary course of business.

The proposal seeks to link the date of the invoicing position becoming final to the cessation of activity by the User and the change in User Status, but with a minimum 3 month notice period.

Given that Users operate differently under the Network Code according to the nature of their business, there are two parts to this proposal:

1. In the case of a User who has operated in the NDM market as well as the DM, it is proposed that the invoicing position becomes final 18 months from the end of the month in which the last NDM supply point left the portfolio, the last Capacity holding expired or the last Trade was completed whichever is the later. For example, if the last supply point left on 13th March

2003 and Capacity was held until 31st March 2003, the invoicing position would close on 30th September 2004.

2. In the case of a User who has operated exclusively in the DM Market and/or as a Trader, it is proposed that the invoicing position becomes final 6 months from the end of the month in which the last DM supply point left the portfolio, the last Capacity holding expired or the last Trade was completed whichever is the later. Continuing the example above, if the last supply point left on 13th March 2003, but the User held Capacity until 30th April 2003 and had Trades up to 31st May 2003, the invoicing position would close on 30th November 2003. This reflects the different treatment of reconciliation in the two markets.

Once a User has been Terminated or requested Voluntary Discontinuance, Transco and the User will review the circumstances applicable to the User's portfolio(s) in the light of (1) & (2) above and the required minimum 3 month notice period proposed and confirm the Invoice Position Completion Date (IPCD). Again, using the examples above, if the User was Terminated or requested Voluntary Discontinuance on 30th June 2003, in both cases the IPCD would remain as above.

If however, the User was Terminated or requested Voluntary Discontinuance on 30th September 2003, whilst the IPCD in case (1) would remain unchanged, in case (2) it would move to 31st December 2003.

It is further proposed that as the IPCD will be known in advance, neither Transco nor the User should be able to raise any new disputes or queries in the final month leading to the IPCD to ensure Transco has time to process adjustments due.

It is believed that these periods should give Transco sufficient time to review invoicing issued for accuracy and completeness and allow the Terminating/Discontinuing User enough time to complete validation and disputes of invoices levied. This would also allow sufficient time for adjustments to be issued.

The proposal is intended to operate both ways, namely that as well as stopping invoices being issued, it would also prevent queries being raised by the User.

In view of the extensive periods factored in for review of the invoicing position and validation, it is believed that the vast majority of issues will be identified and resolved by both Transco and the User. Where adjustments become evident after closure, it is proposed that they would flow through the normal mechanisms for Transportation and Energy for unrecovered amounts. In this respect it should be noted that adjustments can be both debit and credit.

Purpose of Proposal

In order for a market to operate effectively, it needs low barriers to entry, a variety of participants, liquidity within the market and mechanisms to facilitate planned exit from the market.

The Proposal is intended to enable Network Code arrangements to be put in place that will facilitate the orderly exit from the market of participants by enabling certainty to be achieved as to when Transco invoicing will cease.

Consequence of not making this change

Participants will continue to be in a position of uncertainty in respect of when Transco invoicing will stop, delaying closure of operations and leading to additional costs being incurred.

Area of Network Code Concerned

Section V

Section S

Proposer's Representative

Alison Kuck (TXU Europe Energy Trading Ltd. (in Administration))

Proposer

Alison Kuck (TXU Europe Energy Trading Ltd. (in Administration))

Signature

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