

Modification Report
Notification of LNG Storage Duration
Modification Reference Number 0654
Version 1.0

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

With effect from Storage Year 2004/5, it is proposed that the Network Code be amended to remove the reference to the fixed 5-day Storage Duration so that capacity can be offered with a Duration derived from the available Storage Space and Storage Deliverability. This would allow the Storage Durations for each LNG facility to be separately calculated and stated within the ASI.

2. Transco's Opinion

Prior to the onset of each Storage Year, Transco assesses the physical Storage Space and Deliverability available to Users at each LNG Facility. In March 2003, as a result of discussions with Transco LNG Storage ("TLNGS") regarding changes to available Storage Capacity, Ofgem consulted with the industry on capacity available at each of the five LNG facilities. In its report on this consultation, Ofgem concluded that " .. Section Z of the Network Code permits TLNGS to determine the volume level of LNG capacity that can be offered. As such, decisions on LNG capacity withdrawal of this kind are a matter for TLNGS."

The Storage Duration offered to Users within the ASI might better reflect the Space and Deliverability available and this would vary between LNG Facilities. Section Z, however, defines a fixed Storage Duration of 5 days leading to an unavailability of either Storage Space or Storage Deliverability within the initial service auction process. In 2003/4, this restriction led to an initial unavailability of 176,400,000 kWh of Storage Space and 131,200,000 kWh/day of Storage Deliverability. This was offered for sale as Special Storage Capacity after the primary auction process.

Transco believes that it would be more efficient to make the Maximum Storage Capacity available for each Facility within the initial service auction process and is raising this Modification Proposal in order to facilitate change. Transco believes that the principle of making available the Maximum Storage Capacity is already established in clauses Z2.1.6 and Z3.1.3 and would hope that this would provide sufficient assurance to Users that TLNGS does not have the rights under the Network Code to deliberately withhold part of its available Storage Capacity. This assurance is in addition to the relevant provisions within the Competition Act 1998.

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

Implementation of this Proposal would facilitate the maximisation of LNG capacity available to the market in a primary auction. This would be consistent with facilitating effective competition between relevant Users and the efficient and economic operation of the System.

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

Transco has not identified any implications for operation of the System.

b) development and capital cost and operating cost implications:

Minor implications on the costs of any Transco LNG bookings have been identified, the impact of which could be negative or positive.

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:

The minor costs identified in 4(b) would be reflected in Transco's SO incentives.

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

Transco believes there may be a small impact on the level of transportation credits in respect of bookings at Constrained LNG sites, since these depend on both the constrained deliverability level and the maximum deliverability available at each Constrained LNG site.

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

Implementation of this Modification Proposal would not have any adverse consequences upon the level of contractual risk to Transco under the Network Code.

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

Transco does not anticipate any major development implications or other implications for computer system of Transco and related computer systems.

7. The implications of implementing the Modification Proposal for Users

Transco believes that Users that are potential or existing Storage Users would benefit from implementation of this Modification Proposal as it would facilitate the maximisation of capacity being made available to the market.

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

Other than for the Transco LNG Facilities, Transco does not anticipate any direct implications through implementation of this Modification Proposal. Transco would, however, anticipate that any economic benefits would be passed on by Users to their customers.

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

Transco does not anticipate any consequences on 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

Advantages:

Storage Users would benefit from implementation of this Modification Proposal as it would facilitate the maximisation of capacity being made available to the market.

Disadvantages:

Transco has not identified any disadvantages.

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

Respondents	Responses
British Gas Trading (BGT)	Reserved support
EDF Energy plc (EDF)	In support
Powergen (PG)	Not in support
RWE Innogy (Inn)	In support

Inn supported the proposed Modification as by “more accurately reflecting the actual storage duration of each facility in the primary auctions, shippers will be provided with more flexibility to initially specify their storage requirements.”

EDF supported the Modification Proposal as by “removing the fixed 5-day Storage Duration by a reference to the Annual Storage Invitation, which would contain Storage Duration values for each individual LNG facility, will utilise each LNG facility’s different maximum Storage capacity. The overall effect will be to maximise the capacity made available to the market, which should facilitate competition between Users.”

PG did not support the Proposal as “we feel it may add complexity to the current arrangements. It would be more difficult to price for different Storage Duration resulting in a lack of certainty for Users.” It suggested that “One way of maintaining some certainty might, however, be to increase the scope for storage duration, for example, between 3 and 7 days, rather than an indefinite available Storage Duration.”

BGT expressed its support of the principle of the Modification Proposal, which would allow TNLGS to offer LNG storage duration for periods other than 5 days. It believed that in doing so, it might “improve the efficiency of the ASI process by allowing all available capacity to be offered in the first offering”. However, BGT were unable to “offer our unreserved support for the modification.” By allowing TNLGS to have “complete discretion over the applicable duration that would be offered” TNLGS could “potentially use its increased discretion to effect the prices of the storage services offered.” As a minimum requirement, in order to fully support the Proposal, BGT suggested a consultation should be held for each change in storage duration, in which TNLGS should be required to justify such change on an operational basis, and which would require Ofgem’s approval. BGT also suggested that preventing “undue reductions in the amount of capacity offered could be achieved by embedding current volumes of capacity offered within the Network Code.” Additionally, BGT felt that “the details of the volume and duration on the products to be offered in the annual auction should be made known sufficiently in advance of the Annual Storage Invitation ...”.

Transco Opinion

Transco welcomes the recognition by EDF and Inn of the aims of this Proposal, namely that it seeks to facilitate the maximisation of LNG capacity available to the market in a primary auction. By limiting the scope of storage duration to between 3 and 7 days within Network Code, as opposed to a non-specified duration limit, Transco believes that the full benefit of the proposed increased flexibility would be not be realised. A non-specific duration limit would enable each LNG facility to make available the maximum capacity to reflect its physical capability. Whilst it may seem more complex, the benefits would outweigh the initial complexities during the transition period, and would be passed onto Users in the form of increased flexibility for Shippers to initially specify their storage requirements and facilitate the maximisation of capacity being made available to the market. Transco would also wish to point out that there are present complexities in Storage Capacity allocation in that the present ASI process based on fixed duration often leads to unsold Storage Space and Storage Deliverability which is then offered separately. Implementation of this

Modification Proposal would lead to the removal of this stage and effectively simplify the process. Transco would anticipate that any economic benefits would ultimately be passed on by Users to their customers.

BGT expressed concern that implementation of this Proposal would allow TLNGS such increased discretion as could affect the prices of the storage services offered. Implementation of this Proposal would not increase discretion and Transco would refer to the existing Network Code obligation to offer the "Maximum Storage Capacity" for sale in respect of each Facility as defined in Network Code Z2.1.6. Additionally, Z3.1.3 explicitly states that TLNGS must offer "Maximum Storage Capacity" in the ASI. Ofgem also has powers under the Competition Act to investigate and remedy proven anti-competitive behaviour.

Transco supports the principle of issuing product information sufficiently in advance of the TLNGS ASI where possible. In practice, this information is detailed in the ASI and subsequently in the LNG Storage Brochure. Prior to the onset of each Storage Year, Transco assesses the physical Storage Space and Deliverability available to Users at each LNG facility and advises Ofgem if there is any change from the previous Storage Year. Once the ASI is complete, the results are furnished to Ofgem in accordance with Z3.5.6. Additionally, Transco issues details of its Annual Operating Margins requirements to the industry. Transco is of the opinion that these are sufficient safeguards for the industry to ensure that TLNGS releases the maximum available capacity for each Facility in the primary auction and concludes that it would be unnecessary and undesirable to embed present durations for each Storage Facility within the Network Code.

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 4(5) or the statement furnished by Transco under Standard Condition 4(1) of the Licence

Transco is not aware of any such requirement.

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

No programme of works has been identified.

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

Transco proposes that this Modification Proposal be implemented prior to the issue of 2004/05 LNG Annual Storage Invitation on 29 February 2004.

16. Recommendation concerning the implementation of the Modification Proposal

Transco recommends implementation of this 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

Amend Section Z2.3.2 to read as follows:

“Where a User applies under this Section Z for Storage Capacity the Storage Duration of the Storage Capacity applied for shall be that specified in the Annual Storage Invitation (but the Storage Duration of the Storage Capacity which a User is registered as holding may differ in accordance with paragraph 2.9).”

Signed for and on behalf of Transco.

Signature:

Mike Calviou
Commercial Frameworks Manager
NT & T

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 **0654**, version **1.0** dated **12/12/2003**) 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.