

URGENT Modification Report
Revised requirement for Users to ensure non-domestic Supply Meter Installations are installed and maintained by accredited Meter Asset Managers
Modification Reference Number 0704
Version 1.0

This Modification Report is made pursuant to Rule 9 of the Modification Rules and follows the format required under Rule 8.9.3.

Circumstances Making this Modification Proposal Urgent:

In accordance with Rule 9.1.2 Ofgem has agreed that this Modification Proposal should be treated as Urgent because it addresses matters that are sufficiently material to warrant urgent consideration.

Procedures Followed:

Transco agreed with Ofgem (and has followed) the following procedures for this Proposal:

ACTIVITY	Transco's Suggested Timetable	Ofgem's Revised Timetable	Status
Issued to Ofgem for decision on urgency	7 July 2004	7 July 2004	Completed
Proposal agreed as urgent	8 July 2004	8 July 2004	Completed
Proposal issued for consultation	8 July 2004	8 July 2004	Completed
Close out for representations	14 July 2004	21 July 2004	Completed
Final report to Ofgem	16 July 2004	27 July 2004	Completed
Ofgem decision expected w/c	19 July 2004	29 July 2004	Outstanding

1. The Modification Proposal

8.4 TRANSITION DOCUMENT II

Insert the following to read:

“8.4.21 M2.1

Until July 12th, 2006 but not thereafter, for the purposes of Section M:

(a) Where:-

- (i) a Supply Meter Point does not relate to premises covered by Standard Condition 34(2) of the Supplier's Licence; and
- (ii) any supplier or any User in relation to such Supply Meter Point has provided or requested, or is providing or requesting, another to provide a Supply Meter Installation (other than where the

Supply Meter Installation belongs to a consumer, or is lent or hired to a consumer and is the responsibility of a person other than a Gas transporter or supplier) for such Supply Meter Point;

then the Registered User in respect of such Supply Meter Point shall secure that:

- (1) where the Supply Meter Installation at such Supply Meter Point is installed after the 12 July 2004, appropriate approval, appraisal and authorisation will be obtained from Transco to the extent required by Section 6 of the MAM CoP; and/or
 - (2) after 12 July 2004, such Supply Meter Installation at such Supply Meter Point is maintained by a Meter Asset Manager appointed by the supplier or the User; and
- (b) where Transco discovers after the 12 July 2004 that in respect of such such Supply Meter Installation paragraphs (a)(1) and /or (2) have not been complied with then Transco shall notify the Registered User accordingly and the Registered User will:
 - (i) within fourteen (14) calendar days of receipt of the notice from Transco ensure that such Supply Meter Installation is re-installed and/or maintained by a Meter Asset Manager and notify Transco of the identity of such Meter Asset Manager; or
 - (ii) where it is not practicable to ensure the performance of such re-installation and/or maintenance within such 14 calendar day period, within 7 calendar days of receipt of the notice from Transco notify Transco of the reasons for this and the date by which it will ensure such re-installation and/or maintenance is performed by a Meter Asset Manager and promptly notify Transco when such work has occurred;
- (c) where the Registered User has failed to fully comply with paragraphs (a)(1) or (2) Transco, acting reasonably, shall be entitled to take whatever steps it deems necessary (including the inspection, repair, replacement or disconnection of the Supply Meter Installation) to ensure that Transco complies with any Legal Requirements imposed upon it, and the Registered User shall reimburse Transco in respect of any and all costs, expenses and charges reasonably incurred or expended by or on behalf of Transco in taking such steps;
- (d) Transco's entitlement in paragraph (c) is without prejudice to Transco's entitlement at any time to make safe any Supply Meter Installation (including disconnection) for this purpose;
- (e) for the purposes of paragraph (a) "**Meter Asset Manager**" means:-
 - (i) a person approved by the Authority as possessing expertise satisfactorily to provide services in relation to Supply Meter Installations or a class or description of persons so approved; or
 - (ii) an undertaking approved by the Authority as having staff possessing the requisite expertise;and, for the purposes of this definition, "**approved by the Authority**" means approved by it for the purposes of this paragraph generally and "**staff**" includes officers, servants and agents;

- (f) for the purposes of paragraph (a) “**MAM CoP**” means the document entitled Code of Practice for Gas Meter Asset Managers which is published by the Authority from time to time.”

2. Transco’s Opinion

It is Transco's opinion that this Urgent Modification Proposal should be implemented.

Urgent Modification Proposal 0701 identified a safety related issue of significant concern to NGT. This is described as follows:

The effective management of gas meter assets requires the awareness of, and conformance with, a considerable number of regulatory requirements and industry standards including those required by the Gas Act, the Gas Safety Management Regulations (GSM), the Gas Installation and Use Regulations ("GSIU"), CORGI, Ofgem and the Institution of Gas Engineers and Managers ("IGEM"). To ensure all of these requirements can be found in one place, the Code of Practice for Gas Meter Asset Managers (MAMCoP), ("MAMCoP"), has been developed by the industry to provide new and existing Meter Asset Managers, ("MAMs"), with a route-map to conformance with those requirements and industry standards. Its aim is to promote the whole-life management of Supply Meter Installations as its scope, from design through to installation and eventually removal.

In principle, the MAMCoP should apply to all MAMs undertaking works for gas suppliers installing meters on networks and any network downstream of a connection to the National Transmission System. This MAMCoP expands on the requirements laid down in the Codes of Practice ("CoPs") for Ofgem Approved Meter Installers, ("OAMI"), COP/1a, COP/1b and COP/1c, by specifying the requirements for all stages of the meter installation’s life.

Unfortunately, the requirement for the use of accredited MAMs, and hence, by implication, the requirement to adopt the MAMCoP principles, has only been placed on suppliers⁽¹⁾ undertaking work at domestic Supply Points and, consequently, in order for Transco to mitigate its risk associated with the liberalisation of the meter asset management market, Transco sees the inclusions of these provisions within the Network Code as an essential measure.

Transco reiterates its preference for an over-arching requirement, placed either within the Gas Suppliers Licence or appropriate gas safety legislation, to require all persons commissioning meter related work to use accredited Meter Asset Managers. Transco supports the key conclusion of the IGEM risk assessment, carried out to assess the impact of metering competition on the industry, being the need for compliance with MAMCoP to be mandatory for all parties and for this to be established in law. However, in the absence of such legislation, Transco believes that modification of the Network Code in line with the proposal is the minimum requirement.

In anticipation of the requirement to use accredited MAMs being extended to suppliers undertaking work at both domestic and non-domestic Supply Points and reflected in relevant legislation, Transco has prepared transitional legal drafting with an expiry date of 24 months following implementation of this Modification Proposal. Transco anticipates prompt resolution by the industry of this matter leading to a longer term sustainable solution.

In its decision letter for Modification Proposal 0701, Ofgem concluded:

“..... that there could be benefit from the introduction of additional controls and procedures that further ensure the continued provision of a safe and secure supply of gas to consumers in an emerging competitive gas metering service market. This view is supported by the independent risk assessment undertaken by IGEM which emphasized the importance of ensuring industry-wide compliance with MAMCOP”.

On this basis Transco has decided that it would be appropriate to revise the legal drafting originally contained within Modification Proposal 0701 addressing the specific concerns raised by Ofgem in its decision letter as follows:

“Transco does not intend this Modification Proposal to extend to consumer owned meters and has amended the accompanying legal text accordingly;”

Ideally, Transco would have liked its Modification Proposal to cover consumer meters in addition to those provided by suppliers but contractually Transco's opinion is that this would be impractical through the Network Code. However, consumer owned meters represent a minute proportion of the population of newly installed meters and consequently Transco remains of the opinion that it would be inappropriate to ignore the vast majority of meters on the basis that it would not be possible to incorporate this tiny group in time for RGMA go-live.

“the accompanying legal text for this modification refers to potential remedial action being prompted not only where Transco becomes aware that a meter has been installed by a party other than an accredited MAM, but where at any time subsequently it is not been maintained by such a MAM. Ofgem considers that this may place undue restriction on the commercial decisions of I&C suppliers, which may prefer to contract with service providers on a job by job basis, possibly carrying out site visits for periodic maintenance in line with the manufacturer’s recommendations, rather than having a standing maintenance contract for each meter;”

Transco has modified its legal text to address this concern and would now only require suppliers to ensure that an organisation is MAMCoP accredited when it is appointed by the supplier to maintain a meter.

“the modification as drafted does not appear to specifically support Transco’s view that compliance with the MAMCOP will help underpin procedures which ensure that appropriate GT authorisations are sought by third parties when setting and sealing the pressure regulator and that MAMs will ensure that installations comply with the MAMCOP.”

Transco has modified its legal text relating to the installation of meters to ensure it fully underpins compliance with appropriate GT authorisations by requiring compliance with section 6 of the MAM CoP. This would now apply to any meter worker installing a supplier owned meter, whether a MAM, OAMI or other competent person.

⁽¹⁾ This obligation has been placed on suppliers in Standard Condition 34(2) of the Gas Suppliers Licence.

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

The purpose of this Modification Proposal is to incentivise Users to ensure that:

- When they arrange for a meter to be installed, that the requirements of the relevant Gas Transporter relating to approval, appraisal or authorisation of the work shall be established and the Gas Transporter's work management procedures shall be taken into account prior to installation.
- When they arrange for an organisation to maintain their Supply Meter Installation that the person or organisation has the appropriate expertise and operates in accordance with the requirement of the MAMCoP.

By ensuring such persons are employed in the design and installation of Supply Meter Installations, the User, and hence Transco would be assured that certain standards and design criteria are used, which should in turn ensure that such installations are compatible with the design assumptions adopted by Transco.

The Proposal sets out steps that would be taken by Transco where the design criteria of the transportation system and the metering installation are not compatible which would involve Transco operating its pipeline system inefficiently and additional cost for the User, and cost and inconvenience for the customer. Implementation could ensure such remedial action is less likely and hence should ensure that Transco is able to conduct its business in a more efficient and effective way than would be the case should these provisions not be included within the Network Code. (See also paragraph 4a)

This Modification Proposal is to establish provisions that have a similar effect as the high priority conclusions of the 'Assessment of the Risks associated with the Introduction of Competition into the provision of Metering Services' – a report prepared on behalf of Ofgem by the IGEM gas meter competition risk assessment panel' issued on 13 May 2004 (IGEM risk assessment), that the MAMCoP should be mandated in law, thereby decreasing the level of Transco's risk. If the Modification Proposal were not implemented the key recommendations of the IGEM risk assessment regarding the need for compliance with the MAMCoP would not be met.

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

a) implications for the operation of the System:

In the event that this Modification Proposal were not implemented, it may be necessary for Transco to operate and reinforce its pipeline system in an inefficient manner to allow for meter installations which are designed, installed and operated to a different set of pressure assumptions and standards than those prescribed by Transco's procedure GT2 and MAM CoP. This action would be necessary to ensure that gas continues to be supplied at a suitable pressure at a consumer's appliance.

b) development and capital cost and operating cost implications:

Limited costs would be incurred as a consequence of implementing 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:

Transco does not propose any additional cost recovery.

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

No such consequences have been identified.

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 is to establish provisions that have a similar effect as the high priority conclusions of the IGEM risk assessment, that the MAMCoP should be mandated in law, thereby decreasing the level of Transco's risk. Transco's contractual risk under the Network Code is not increased.

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

No such implications have been identified.

7. The implications of implementing the Modification Proposal for Users

Users may need to make procedural and commercial changes to accommodate implementation of this Modification Proposal.

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

Transco notes Ofgem's comments contained within its Decision Document referred to above concerning the likelihood that all MAMs would be accredited.

Suppliers would need to ensure that they have appropriate measures in place to ensure the recruitment and use of accredited MAMs. Robust procedures would also be required to identify and take remedial action (if required) in the event in the event that a supplier assumes ownership of a Supply Point having a Supply Meter Installation that falls outside the criteria set out in this Modification Proposal.

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 notes Ofgem's comments contained within its Decision Document referred to above concerning the need for industry wide compliance with the MAMCoP (including the I&C supplier community) to be secured by the most appropriate means possible. Transco is also aware that a range of options have emerged (including adopting a Network Code solution). This represents the only

solution which can be implemented within similar timescales to RGMA 'cutover' and has similar effect to the IGEM risk assessment recommendations described above.

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

Advantages:

- Ensures that a significant safety related risk faced by the Gas Transporter concerned with failure to ensure the maintenance of a satisfactory working pressure at the consumers appliance is mitigated.
- Provides an interim solution within the non-domestic market which is consistent with the proposed amendments to the Supplier Licence concerning the need for domestic suppliers to recruit MAMs.
- Proposal is consistent with the recommendations of the IGEM risk assessment.
- Proposal is required by Transco to ensure its pipe-line network is able to operate safely and efficiently.

Disadvantages:

- The incorporation of the obligations described with this Urgent Modification Proposal within the Network Code, while being pragmatic, represents a less than optimum solution (due to the contractual chain needed) to ensure that all suppliers contract with accredited Meter Asset Managers. However, the transitional nature of the Proposal permits a more optimal solution to be implemented later.

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

Twelve representations were received with respect to this Modification Proposal. Six were supportive of its implementation and six were opposed.

A number of common themes are identified within the responses and for the purposes of this summary are separately addressed.

Timing Issues

Corona Energy (Corona) comments that *"The perceived risk that Transco appears to be trying to mitigate must be present now and has been present since the introduction of the current regulatory regime for metering."*

Shell Gas Direct (SGD) states that *"Transco reiterates its preference for obligations to be placed within suppliers' licences. However, we note that Ofgem referred specifically to metering arrangements for domestic customers throughout its consultations. If Transco considered that this constituted a significant area of concern, we would have expected Transco to have raised its concerns earlier."*

BP Energy (BP) advises that *"Competent operators in the market, a market that as Transco have repeatedly advocated is already operative, must be fully compliant with their legal obligations and*

trying to force compliance with a COP through a contract with a third party serves no purpose and represents a disproportionate response to the Legal position regarding the introduction of a Licence obligation on I&C Suppliers.

It is not “unfortunate”, nor an accident, but a reflection of the very statutes that Transco state they are seeking to protect, that I&C suppliers are not statutorily required to require compliance with the MAMCoP from a MAM operating in the I&C market (more accurately not operating on a meter in a domestic premises) as the gas act does not require supplier to provide metering services in the I&C market. As such any such Licence condition would in itself be an extension of regulation by Ofgem.

This condition has existed since the 1986 Gas Act and has never been challenged as being detrimental to the operation of the gas market either in economic or safety terms. Had the issue been seen to be of such importance then Meter Asset Managers should themselves have been licenced as a matter of course in a similar manner to Transporters, Shippers and Suppliers. If legislation needed extending the 3 years this project has taken should have provided adequate time for such revisions to be undertaken."

Transco's response is that the Ofgem Technical Standards Implementation Group ('TISC') which developed the MAMCoP made an assumption that the Supplier Licence would be amended to mandate all MAMs to sign on to the MAMCoP for all market categories. This assumption was reinforced by the IGEM risk assessment recently published. Transco only recently became aware that the recommendations of IGEM could not be implemented, hence the urgency of this Proposal. Transco acknowledges that the issue exists currently. It is worthy of note that difficulties are already being experienced in this area and Metering Competition is expected to increase this significantly. The IGEM risk assessment used August 2000 as a baseline against which to measure the increased risk associated with Metering Competition. Although RGMA will inevitably increase activity in this area the risks identified in the IGEM risk assessment existed in the period leading up to RGMA.

SGD also comments "*Transco states that its reasons for urgency are to 'ensure that these provisions are effective within the timeframe that RGMA goes live'. However, in its decision letter on M701, Ofgem states that it 'does not consider that Transco's legislative obligations are different post-RGMA than they are currently. This is reinforced by the fact that the HSE and Transco have agreed at this state that there is not change necessary to [Transco's] safety case as RGMA is not seen as a material change.'* While Ofgem does state that there may be benefits to the industry operating to the same technical standards, as provided by MAMCoP, it does not suggest that there is an urgent need to implement changes to mandate this change. Instead, it recommends that any party involved in conducting metering work should familiarise itself with the relevant safety legislation. As we already have obligations in this area, SGD has taken steps to ensure we understand this area and would expect other suppliers to do so as well. We would expect the HSE to take action if there is evidence that any safety legislation is not being complied with. This proposal proposes an unnecessary additional layer of bureaucracy, not an improvement in safety.

Transco states that a prompt resolution is required but we are not convinced this is the case. We do agree with Ofgem's view 'that matters relating to the competence of meter installers are more appropriately captured within, and mandated by, relative safety legislation'. This is consistent the IGEM risk assessment which proposes that compliance with MAMCoP be established in law.

We do not see that this leads to any requirement for a modification proposal as a 'minimum requirement'. Ofgem states that "there could be benefits from the introduction of additional controls" [our emphasis], this does not mean that there is a need for additional controls to be implemented, and certainly does not imply that changes needs to be introduced as a matter of urgency."

RWE npower (npower) comments "We believe that by specifically addressing the three areas of concern raised by Ofgem in the way that they have, Transco have not resolved the basic issue that prescriptive legislation as recommended in this modification is undesirable and unnecessary."

It is a licence condition for domestic suppliers to use only MAMCoP approved MAMs to undertake meter work/provision. Indeed, Ofgem in their response to mod 701 note that they are of the view that matters relating to the competence of meter installers are more appropriately captured within and mandated by relative safety legislation. However Ofgem have not made it a licence condition for I & C suppliers to supply and maintain meters, therefore it is not appropriate that the domestic licence conditions apply to the I & C market."

Corona notes "we do see MAMs as the relative experts in the matter of meter installation and maintenance, just as our expertise lies in other areas, and it is not our intention to 'police' their activities."

The HSE comments "we believe it important for the actions concerned to be implemented in full. The provision of a statutory MAM registration scheme was a key recommendation that made no distinction between sectors or players concerned. We therefore believe it should apply uniformly to all parties concerned.' On this basis, we support in principle, the proposed change to the Network Code inasmuch as it aims to extend scope to the industrial and commercial sector."

Scottish And Southern Energy plc (SSE) comments "our preferred long-term solution would be to see an amendment to the Supply Licence obligation to make it apply to both Domestic and I&C, but in the meantime, we see no adequate alternative to include this condition within Network Code."

EDF Energy (Edf) "are in support of making I&C Suppliers use only MAM's which are MAMCoP accredited. Under the MAM CoP, domestic suppliers are obliged to use accredited MAM's and therefore any development to extend this further is of benefit to ensure fully competent engineers work on gas meters. This will ensure there is no degradation in safety standards."

British Gas Trading (BGT) notes "We understand that the intent of this modification is to correct an oversight made in the implementation of the Reform of Gas Metering Arrangements (RGMA). It is obviously desirable that there are consistent standards applied across all Meter Asset Managers (MAMs). The implementation of this Modification would extend the Licence requirement currently applying only to Suppliers of domestic supply points to all Users via the Network Code."

Transco agrees that this matter is more effectively dealt with through licence or safety legislation. However, it is Transco's opinion that a change to the suppliers licence is unlikely given the nature of the response to this modification by several shippers, and safety legislation is several years away. Transco believe there are compelling arguments for the introduction of this Modification Proposal at this time including the existing problems experienced by Transco which are expected to increase

following the introduction of RGMA. IGEM and the HSE have also made it clear that these risks need to be addressed urgently and additionally the HSE has indicated that it supports this Modification Proposal *"inasmuch as it aims to extend scope to the Industrial and commercial sector."*

Transitional provisions

BGT comments that *"We also understand that consideration is being given to amendment of the Suppliers licence but this would not be in place prior to the RGMA "go-live" date of 12 July. Placing this obligation on Code for a defined period of 2 years affords ample opportunity to effect this change"*.

SSE *"support Transco's proposal to impose a time limit on the condition of 24 months from implementation. We believe this provides the necessary impetus to work towards a more appropriate and robust long term solution."*

Corona comments that *"The two year period suggested for inclusion of this modification in the Code is, in our opinion too long. Transco seem to be attempting to remedy an Industry issue in an inappropriate way and are suggesting that the appropriate governance could be up to 2 years away. Transco have indicated that the inclusion in the Licence of the requirement for I & C Suppliers to appoint a MAM, which adheres to the MAMCoP, when installing and maintaining meters, would render this modification unnecessary. Consequently we do not understand why it would take 2 years to remedy this situation. The time period should be a lot shorter and should act as an incentive to get the appropriate governance in place"*.

BP states that *"Transco claim that this is a safety issue, but we fail to understand why Transco are proposing to implement such a "critical" modification in the Transitional section of Code and to end-date the proposal, or what matters are expected to transpire during this period that will render this issue no longer safety-critical. We are unsure as to what the "prompt resolution" suggested in Transco's document is, and would note that the failure to achieve such resolution would result in the removal of any obligation from Code."*

Transco is aware that as part of the Competition in the Provision of Gas Metering Services: Licence Amendments Decision Document and Section 23 notices, Ofgem has commenced a consultation on the changes to the Suppliers Licence and also that the HSE is currently reviewing the GSM and GSIU Regulations. Transco therefore believes that either of these two processes will result in legislation that will enable Transco to withdraw the Modification within the two year proposed period.

Transco believes that implementation of this Urgent Modification Proposal represents a pragmatic solution to address the issues raised in the IGEM risk assessment. Transco would welcome earlier resolution and looks forward to proactively working with the industry and Ofgem to develop a longer-term solution. Of note, Transco would be prepared to raise a further Modification Proposal to bring forward the transition end date should this prove to be possible.

Safety

Edf observes that *"Under the MAM CoP domestic suppliers are obliged to use accredited MAM's and therefore any development to extend this further is of benefit to ensure fully competent engineers work on gas meters. This will ensure there is no degradation in safety standards."*

Transco concurs with the views of the above respondent.

BP states *"A potential consequence of forcing through this modification could be for I&C gas suppliers to withdraw from the provision of metering services leaving the end consumer to make their own arrangements. This in itself is unlikely to lead to an improvement in safety."*

Transco view is that this appears inconsistent with that expressed by many respondents who advocate compliance with the MAMCoP be reflected within the I&C CoP.

Statoil (UK) Limited (STUK) states that *" Many of the points raised in this response are mirrored in the Ofgem decision letter to reject Modification 701, which clearly indicted that Transco did not require this obligation to be placed on Shippers to ensure the safety of its network."*

Corona states that *"We remain unconvinced that this modification is necessary and that the current levels of risk to the Industry cannot rise from existing levels, to levels of concern, in the time it would take to apply a proper solution through the Licence, legislation or otherwise."*

Edf comments that *"Under the MAM CoP, domestic suppliers are obliged to use accredited MAM's and therefore any development to extend this further is of benefit to ensure fully competent engineers work on gas meters. This will ensure there is no degradation in safety standards."*

The HSE is responsible for ensuring compliance with legislation and the improvement of safety within the Gas industry. In its representation the HSE notes that it is *"important for the actions (IGEM risk assessment recommendations) concerned to be implemented in full on this basis we support in principle the proposed changes to the Network Code in so much as it aims to extend scope to the industrial and commercial sector."*

Transco's response is that the independent IGEM risk assessment concluded that "on balance the risks had increased as a result of RGMA" and that action needed to be urgently taken to address an increase in risk including making the MAM CoP mandatory in law. This has been done for domestic meter installations. This Modification proposal seeks to address this issue in the I&C market until appropriate licence or safety legislation changes can be introduced.

Compliance with the MAMCoP

Corona states *"that it is still our intention to require Meter Asset Managers (MAM's) engaged by Corona Energy, to sign and comply with the MAMCoP. Corona Energy are also signatories to the new I&C Code of Practice."*

BGT expresses the opinion that *"It is obviously desirable that there are consistent standards applied across all Meter Asset Managers (MAMs)".*

Edf states it is *"in support of making I&C Suppliers use only MAM's which are MAMCoP accredited."*

BP states it *"will, as signatory to the I&C CoP, be requiring its MAMs to be signatories to the MAMCoP.."*

SGD comments that *"A further issue that the Authority would wish to consider is whether the implementation of such a proposal is consistent with its principal obligation to protect the interests of consumers. This proposal holds the potential to increase risk for suppliers to non-domestic consumers when providing metering."*

This risk may be passed on to consumers, e.g. by passing on the costs of increased risk or by leaving the provision of meters to the consumers themselves reducing the consumer's choice or by shippers. If more consumers find that they need to provide their own meters, this could have a negative impact on safety".

Transco is encouraged to note that the majority of the respondents have indicated that they will only be using MAMCoP accredited MAMs to undertake their I&C meter works either through a statement in their response or assurances that they will comply with the I&C CoP. Several respondents also stated that they believed that the mandatory requirements in the Network Code to use accredited MAMs, represented an increased risk when compared with their voluntary obligations under the I&C CoP, which re-enforces Transco's concerns about the effectiveness of voluntary arrangements.

If suppliers use accredited MAMs for all their meter works as the majority of respondents have indicated, then the shipper will be complying with Section (a)(1) & (2) of the proposed legal text and the remedies prescribed in this Modification Proposal would not apply.

Introduction of Network Code obligations

SSE maintains its *"concerns about metering obligations being put back into the Network Code, however, we agree that I&C Suppliers not currently being required through the Supply Licence to use accredited MAMs does pose a significant risk to the industry. Our preferred long-term solution would be to see an amendment to the Supply Licence obligation to make it apply to both Domestic and I&C, but in the meantime, we see no adequate alternative to including this condition within Network Code."*

Total Gas & Power Limited (TGP) states that *"Our primary concern remains that the modification is seeking inappropriately to use the Network Code to place further metering obligations on shippers when the whole thrust of the competitive metering arrangements reform has been to recognise the role of the supplier and to remove obligations on shippers for the provision of metering services."*

BP expresses a view that *"..the industry has, with Transco's support, through the implementation of the Metering Unbundling modifications removed from the Network Code, obligations on Shippers in respect of the provision of metering services".* BP Energy further comments that *"..adoption of this modification would be a retrograde step as it runs counter to the general principle of RGMA namely*

the development of the Supplier Hub and Transco's stated objective of removing metering related obligations from the Network Code."

SGD does "not consider it appropriate for this route to be taken to resolve Transco's issue. Over the past few years, Ofgem has been introducing its 'supplier hub' principle in gas. This proposal would run contrary to this and undermine the argument that has been put forward that separate governance arrangements are required to support the supplier hub principle. The legal drafting refers to 'premises at which a supply of gas is taken' which is a supplier activity and 'any supplier'. As the Network Code is a contract only between shippers and Transco, we do not see that Transco should be using it to introduce these obligations on suppliers."

Corona states "The IGEM risk assessment is an Industry concern and is not one that Transco should attempt to cover through Shippers and the Network Code. This modification has the reverse intent of the metering modifications recently implemented for RGMA go-live, which were brought in to support the principle of a supplier hub. We maintain that if the current regime is not sufficient to mitigate the risk in the Industry then this is a crude answer placing further regulation, inappropriately, on shippers."

npower "Does not support this change to the Network Code as we do not believe it to be the correct vehicle by which this issue should be regulated."

STUK questions "the basis for using network code as a tool to attempt to enforce engineering standards. The chain of obligations from Transco to Shipper to Supplier to MAM/end user seems difficult and as such is likely to cause more problems than it solves. STUK have previously asked that questions raised in industry discussions about Ofgem's remit and extended regulation in this area are resolved. STUK would still be interested in having these questions answered in order to provide clarity."

Transco view is that there appears to be some misunderstanding of the nature of the revisions to be made to the Network Code as a consequence of RGMA implementation. The relevant Code changes (Modification Proposal 0672) were associated with removing Transco's obligations (Principal Document Section M2.2) which were concerned with Transco securing on behalf of Users the provision, installation and maintenance of Supply Meter Installations. There are no plans to significantly change or remove the fundamental Network Code obligations incumbent on Users (Section M2.1) for providing, installing and maintaining Supply Meter Installations. Section M2.1 reflects significant obligations on Users requiring them to ensure (for example, it is assumed by way of their suppliers) the suitability of the Supply Meter Installation. In conclusion, the principal metering obligations on shippers were not removed from the Network Code as a result of the RGMA changes. Transco therefore believes that this Urgent Modification Proposal is complementary to and consistent with the RGMA Proposals. Transco is further of the view that it should seek to establish reasonable obligations on Users (which may or may not impact on suppliers) where significant issues concerned with the integrity of its safety related legislative obligations exist.

Transco's believes that it is necessary to utilise the Network Code as being the most effective way of meeting the requirements of the IGEM risk assessment given the absence of a legislative solution. Transco would also draw attention to existing Network Code provisions (Principal Document Section

M2.1), which are concerned with Users obligations relating to engineering standards for Supply Meter Installations. Transco believes that this Urgent Modification Proposal is consistent with and clarifies the above obligations. Transco is not aware of any comments made by Ofgem with respect to its remit and extended regulation in this area.

Scope of Modification Proposal

Installation of meters by consumers

E.ON UK (E.ON) *"..are satisfied that Transco have amended their legal drafting to reflect that customer owned meters are specifically excluded from the provisions of this Network Code requirement."*

BP notes *"..Transco's decision not to pursue the inclusion of obligation on the Consumer through the NWC."*

Transco's response is that given the very limited number of such meters anticipated to be installed during the transition period of this Modification Proposal, its risk exposure is minimal. Transco also notes the further recommendations of the IGEM risk assessment, that DIY installation should be discouraged with consideration being given to banning such work.

TGP *"welcomes clarification of the scope to exclude Supply Meter Installations belonging to a consumer. However we still do not believe that the proposal has addressed the issue of maintenance as highlighted by Ofgem."*

Transco response is that the legal text in a(ii) 2 does not place a requirement on suppliers to have a MAM continuously at a supply meter point but when they do appoint a MAM either continuously or on a job by job basis that the MAM is accredited. Therefore in Transco's opinion the revisions contained within Modification Proposal 0704, address the concern raised by Ofgem in their decision letter for Modification proposal 0701.

Shipper/Transco Action

Corona comments on the proposed legal drafting, specifically Section 8.4.21(b) identifies that *"This section although revised still allows Transco to take action (at the shipper's cost) if they find that the shipper has failed to meet section (a). This goes beyond any requirements that might have been placed on Suppliers via the Licence, judged from the licence changes made for Domestic Suppliers. As the Shippers' Licence requires conduct in line with the Transporter's Network, it is not clear why Transco feel it necessary to include these provisions."*

STUK states that *"The modification above goes further than the domestic licence condition placed on the domestic suppliers, as it has the effect of making the I&C shipper responsible for ensuring a certified MAM has installed the assets, irrespective of where an end user has chosen to procure it's metering assets."*

Transco's opinion is that the scope of Transco's Modification Proposal is less extensive than the domestic licence obligation which includes an obligation on domestic suppliers to provide meter using an accredited MAM. Transco's Modification Proposal only requires organisations, which may or may not be MAMs, to comply with chapter six of the MAMCoP for installation and to only use an accredited MAM when they choose to appoint them to maintain a meter point. The remedies contained within the Modification Proposal only apply to the extent that Transco's legislative obligations are impacted and do not extend to cover the majority of the standards contained within the MAMCoP.

Corona states "We also believe that the 7 and 14 day timescales are not reasonable. It is important that we continue to remember the consumers and that their cooperation will be required. We are assuming that any matters of safety would have resulted in the gas supply being terminated."

As shippers, there is also a risk that we could confirm meters where the maintenance history does not meet this clause. Transco will inform the registered shipper at the time and expect action to be taken. This places a burden and a cost on shippers, which cannot be offset. As MAM histories are not available, shippers can only wait for 'notices' delivered by Transco, and would be unable to mitigate this risk, before being required to take action.

The notices could be raised following a 'desk based' exercise, as actual physical evidence is not required. This means that a MAM who is not accredited may fit a meter, complying with all regulation and completely safely, but shippers may still receive a notice.

Corona Energy would like to be reassured that the wording of the Modification relates exactly to what Transco expect of shippers and to what action they will take following failures. We would like to see the risk of their businesses, which Transco wishes to alleviate, clearly stated along with a modification specifically targeting that risk. The modification seems an excessive measure to achieve Transco's stated objectives.

Proposed wording for section (c)

Transco will decide solely, if the Supply Meter Installation is appropriate. We are concerned about the occasions when the MAM may disagree with Transco's assessment. The Shipper and Supplier are both likely to incur costs and the disagreeing parties (with the technical opinions) have no contractual relationship."

TGP comments "we still believe that the modification creates additional complexities within the change of supplier process in that the shipper will need to introduce additional steps to ensure that installations made before the proposed change of supply date were compliant with the Code."

ScottishPower (SP) in principle supports the objective of this Modification Proposal however it believes that consideration "...should be given to revising the existing text contained within paragraph (c) of the proposed modification. In it's present form implementation of the Modification would enable Transco to levy an open-ended charge against the present Registered User on discovery by Transco that Metering works had been undertaken by a person other than a registered MAM. The current drafting of this term gives no regard to the fact that the current Registered User may not have been responsible for the site when the relevant work was undertaken. This exposes all suppliers to unforeseen costs should they take over a site in such circumstances."

SGD comments *"the consequences of the introduction of this modification with the shipper's exposure to the costs of Transco taking steps when 'it deems necessary' will increase the financial risk associated with provision of metering to consumers"*.

Transco opinion is that this Modification Proposal is not retrospective and if a supplier uses accredited MAMs, as the majority of respondents have indicated, they will be complying with these terms and the concerns described above will never arise.

In addition, should this Modification Proposal be approved then Transco would work with shippers to put in place appropriate guidelines and procedures to minimise costs for all parties and to reduce the potential for disagreements and misunderstandings. Transco will raise the topic at the next meeting of Supply Point & Billing Workstream should this Modification Proposal be approved.

TGP states *"We are also concerned about the timeframes put forward within the modification for corrective action as and when non compliance has been discovered by Transco."*

BP comments *"Under (b) (i) the timeline associated with the obligation to remedy the breach is unreasonable and fails to reflect the "normal" industry lead-times for such works. BP notes that Transco's lead-times for works indicate timelines up to 6 weeks for the installation of certain meter sizes. BP notes that if the matter is related to safety then other remedies would apply and as such we are referring to the exchange out of an installation that is not unsafe."*

SGD notes that the *"legal text (b) (i) gives fourteen days for the shipper to resolve the issue. This is outside the timescales Transco provides when it is exchanging meters. Where there is no evidence that the meter installation is unsafe, the timescales should be consistent with industry norms, ie 6 weeks."*

Transco believes that it is extremely unlikely that non-compliance would require the complete replacement of a meter installation. Action would normally take the form of adjustments to the regulator, which could easily be completed within the fourteen day window. This Modification Proposal also recognises that in exceptional circumstances more extensive work may be required and therefore the registered user is given seven days to notify Transco of the date when the work will actually be completed. In almost all circumstances this physical work will be triggered by complaints from the customer about supply pressure, and therefore the consumer will already be in communication with both Transco and their supplier.

STUK comments that *"As the clauses introduced by this modification only impact on I&C consumers, STUK believe these clauses could potentially discriminate between domestic and I&C end users. While recognising there are often differences between I&C and domestic metering arrangements, STUK believe parity between domestic and I&C consumers in network code is essential for an open, competitive metering market."*

Transco agrees with the above respondent that it is reasonable for both domestic and I&C suppliers have similar standards for the provision of metering in place. Current legislation only creates this obligation for domestic suppliers, which is clearly inconsistent. Transco's Proposed Modification to the

Network Code introduces similar arrangements to those which exist for domestic suppliers, thus removing this inconsistency.

Transco acknowledges that additional obligations appear to exist when compared with the domestic market. Transco believes that these are necessary for its Proposal to be as effective, as would have been the case if the requirement for MAM accreditation was mandatory in law. Given the contractual nature of the Network Code, Transco's view is that an appropriate level of sanction must exist for the provisions to have effect.

Any requirement for remedial work at a Supply Meter Installation, would only be to the extent required for Transco to meet its legislative obligations, not the full requirements of the MAMCoP.

Transco believes that the measures contained within this Urgent Modification Proposal represent the minimum acceptable to protect the industry given the absence of appropriate legislation. Of note, Transco would only seek disconnection for reasons of safety, as is currently the case.

Gas Forum - Revision to the I&C Code of Practice

BP comments that "Revisions to the Gas Forum I&C COP have included an obligation on Suppliers requiring them to only utilise MAMs who are signatories to the MAMCoP, providing Ofgem with an additional level of comfort over the commitment of the I&C sector to safety and customer service. This CoP covers the majority of active suppliers in the I&C market and its utilisation is consistent with other areas where it is considered inappropriate to use the Network Code. The new I&C CoP takes effect from 1 August 2004 and BP are a signatory to the document.

BP will, as a signatory to the I&C CoP, be requiring its MAMs to be signatories to the MAMCoP and as such our concerns are not set out on the basis that we wish to avoid placing duties on our agents, but rather that the level of obligation should be consistent with that required by primary and secondary legislation."

npower comments that "The introduction of a change to the Network Code is unnecessary as it will be covered by the I & C CoP". Npower further points out that "The Gas Forum is working to introduce a requirement in the existing I & C Code of Practice to require all I & C suppliers to ensure their MAMs are signatories to the MAMCoP. We believe that this requirement will be implemented before RGMA go live and should be sufficient to satisfy the lack of licence conditions."

TGP "would reaffirm our comments made on the previous modification with regard to the use of the Industrial and Commercial Code of Practice to address areas where the Network Code is felt to be inappropriate. In this respect we have been active in introducing the changes to the Code of Practice that would include an obligation on Suppliers to use Meter Asset Managers who are signatories to the MAMCOP. We continue to believe that this level of commitment is sufficient to ensure the continued provision of a safe and secure supply of gas to consumers, particularly when, as Ofgem state, Transco's legislative obligations would not appear to be different post –RGMA than they were pre-RGMA."

STUK observes that *"The major problem facing the industry is how standards can be maintained in an unbundled industry model that allows Suppliers and end users to procure metering assets and works for themselves. STUK believe the only long-term solution is for primary legislation to be enacted to secure appropriate standards. In the short term STUK believe that the commercial driver for Suppliers and both new and existing MAMs to operate to agreed standards (MAMCoP and RGMA) and existing legislation is sufficient. Indeed, I&C suppliers have already been working, voluntarily, to provide assurances to Ofgem and the community (through ICoP) that meter works procured through their MAMs will be completed to agreed standards."*

SGD states that *"As with the majority of I&C suppliers, Shell Gas Direct will be a signatory to the new I&C Code of Practice (ICoP). The new version, which will take effect from 1 August 2004, will place an obligation on the majority of I&C suppliers to only use MAMs who are signatories to MAMCoP. Signatories will include domestic suppliers who also operate in the non-domestic sector."* It goes on to comment *"SGD plans to ensure that MAMs with which it contracts are compliant with MAMCoP. We consider that compliance with this requirement can be achieved through voluntary arrangements, consistent with Ofgem's stated preference for self-regulation. The revised Industrial and Commercial Code of Practice (ICoP) will place obligations on signatories to use MAMs who are compliant with MAMCoP."*

Transco's welcomes the recognition given by respondents to the importance of the MAMCoP, and the need for MAMs to adhere to its provisions. Transco, however, believes that the introduction of voluntary provisions within the I&C CoP do not satisfy the clear and unambiguous recommendations contained within Section 10.2 of the IGEN risk assessment, being that the MAMCoP should be made mandatory in law. Also of note is IGEN's statement in 10.2 that *"The required progress is urgent as metering activities have already changed and further rapid change is anticipated."* Also of interest is IGEN's statement that *"The recommendations are set out in order that loosely represents priority."* Transco notes that IGEN's recommendation concerning the legal status of the MAMCoP is ranked at Section (b)(i).

Implementation of this Modification Proposal in the absence of legislation is consistent with the requirements of the risk assessment. Transco also has significant concerns associated with the voluntary nature of the revised I&C CoP, coupled with the fact that not all I&C suppliers will be signatories.

Ofgem Approved Meter Installers (OAMI)

STUK comments *"Due to the developing competition in the provision of metering services STUK support the concept of tightened standards to ensure the effective management of gas meter assets. STUK recognise that there exists, in various forms, a level of governance of these assets and associated works. These include the Gas Act, Gas Installation and Use Regulations ("GSIU"), CORGI, Ofgem and the Institution of Gas Engineers and Managers ("IGEM"). These governance mechanisms were developed in a gas industry model that did not include the concept of a Meter Asset Manager (MAM) and did not allow for end users to make their own metering provisions."*

BP states that *"Suppliers already need to ensure their contractors are compliant with the law and any meter installation has to be inspected by an OAMI accredited person. Such an inspection ensures the installation is designed and installed to the relevant standards. We do not understand the benefit of adding a further layer of unnecessary and almost certainly contradictory control over a legally enforceable process. It is important to understand that there is no requirement even in the MAMCoP for a meter to be installed by a MAM complying with the MAMCoP. The only requirement is that any work "associated" with the installation of a meter be inspected by an OAMI accredited person. On this basis the current drafting of this modification seeks not only to implement the MAMCoP, but to extend it into areas already debated and rejected (through the MAMCOP's development) as being adequately covered by existing legislation. It would effectively require all MAMs operating in the I&C market to be accredited OAMIs, an obligation not placed on MAMs operating in the domestic market."*

BP also state that *"The Transporters existing obligation to the pressure management at the burner and the control of the regulator. The existing COP1a, 1b and 1c determine the design of installation connected to the Network including that of the regulator."*

Corona expresses the view that *"We are concerned that Transco as Transporter, feels it necessary to dictate to Suppliers, via their shippers, the contractual arrangements under which they will operate. MAMs themselves are required to operate within the Law and Suppliers are already required to ensure that meters are fitted or subsequently inspected by OAMI registered installers."*

Transco's response to the issues raised by the above respondents is that the modification as drafted does not require an organization to be MAM CoP accredited for meter installation, just that they comply with Chapter 6 of the MAM CoP. This is required because OAMI CoP1a and CoP1B are not consistent with chapter six of the MAM CoP.

The MAMCoP is concerned with the full life cycle management of the meter installation and compliance includes design, maintenance and cooperation with the GT. This contrasts with the current licence obligations which only requires an OAMI inspection following meter installation if the meter has not been installed by an OAMI accredited meter installer. No further check is required, for example, where a later modification of the meter installation is made.

Transco's view is that a clear condition of the IGEM risk assessment is that the MAMCoP be mandated in law and that the concern be addressed as a matter of priority. Transco believes that if OAMI accreditation is sufficient for ongoing maintenance of meter installations, then the risk identified by IGEM would not have been reflected within its conclusions.

BP also makes the following observations:
"The IGEM risk assessment identified 2 key areas of concern –

1. DIY connections by consumers. This is not manageable through the MAMCOP and relies on the existing OAMI inspection duty already in existence. The main MAM related work carried out in the I&C market to date has been at the request of end consumers where that become the GAO and none of this work is covered by the MAMCoP under present legislation."

Transco's response is that a recommendation of the IGEM risk assessment is that DIY installation should be discouraged, with consideration given to banning such work. Transco also reiterates that work procured by end consumers is 'out of scope' for the purposes of this Urgent Modification Proposal.

BP wishes to reiterate a point made in its previous response *"regarding Compliance with the IGEM recommendations. Compliance is currently being achieved through a wide range of solutions that are not open to legal challenge, however the approach suggested in this proposal could be open to numerous challenges."*

Transco's opinion is that IGEM have clearly stated in their conclusions that the MAM CoP should be mandatory in law and this Modification Proposal seeks to achieve a similar effect as far as practicable in the I&C market. Transco will be working constructively with Ofgem, HSE and the industry to put in place long-term solutions that deliver the recommendations from the IGEM risk assessment.

GT Licence 'Code relevant objectives'

SGD states that this proposal *"does not further the relevant objectives of the Network Code. It does not promote the efficient operation of the pipe-line system nor does it further Transco's obligations under its Gas Transporters' licence. It undermines effective competition between shippers and relevant suppliers but introducing unnecessary and burdensome risks."*

Transco's response is that as stated within Section 3 & 4a it believes that this proposal is entirely consistent with facilitating the economic and efficient utilisation of its pipe-line system.

SGD further notes that *"Amongst the issues the Authority will want to consider is whether it has the vires to extend regulation through this means despite having no statutory powers under the Act to do so."*

Transco does not believe that Ofgem is extending regulation as this Urgent Modification Proposal clarifies existing User obligations contained within Principal Document Section M2.1 of the Network Code.

Corona asserts that *"we do see meter Asset Managers as the relative experts in the matter off meter installation and maintenance, just as our expertise lies in other areas, and it is not our intention to 'police' their activities. We believe the regulatory framework that is in operation is sufficient and that our involvement/influence over MAM's, as a shipper and supplier should continue at the level enjoyed by Transco metering historically."*

Transco view is that a key advantage of being signed up to the MAMCoP is that organisations are independently assessed and accredited to work on Supply Meter Installations and therefore as a consequence, suppliers would not be required to 'police' activities; just ensure the accreditation of their MAMs.

Miscellaneous/Legal

SGD comments that *"Many respondents to M701 raised legal issues which could arise if that proposal had been implemented. We do not consider that Transco has addressed this issue. It will be essential to ensure that they are addressed if the Authority is minded to implement this modification proposal."*

Transco believes that it has taken account of Ofgem's concerns in the rejection of Modification Proposal 0701 with the revised drafting in this Proposal 0704.

BP states that *"This modification proposal is an attempt to seek to utilise the Network Code, an agreement between Transco operating as a GT and Shippers, to place obligations on Suppliers and MAMs that are not signatories to the agreement and have no means of influencing its development. BP also state "Transco make reference to the "size of the population" in accepting that the revised drafting should not seek to impose obligations directly on non-signatories. i.e. consumers. On the same basis Suppliers and MAMs are non-signatories to the Network Code and should logically enjoy a similar approach, thus removing the requirement for this modification."*

Transco's response is that suppliers and MAMs have a direct contractual relationship with shippers through which these provisions can be enforced. Consumer owned meters represent a tiny proportion of the population of non-GT meters, the overwhelming majority of which are supplier provided. RGMA and the principle of the "supplier hub" will further encourage growth in the supplier owned meter market and therefore Transco has focused this modification proposal on this sector of the market.

BP notes *"that the majority of assets in the I&C market are **not** outside Transco's control and that the development of a competitive market is limited by Transco's decision not to sell or transfer its assets. As such, the potential for large numbers of assets to move into the competitive market seems limited. Further, as Transco would be in control of any large-scale disposal it could through the terms of any such sale place appropriate obligations on the purchaser to protect Transco's other businesses."*

Transco believes that it is not appropriate for it to put in place different arrangements for its own metering business than those which apply to other MAMs operating in the market.

BP notes *"Under (c) we are unclear as to what legal requirement is placed on Transco that falls outside that set out in (d),"*

Transco would only seek to disconnect meter installations where there was a danger to life or property. Transco would always seek to maintain customer supplies where it was safe to do so allowing time for remedial work to be carried out at minimal inconvenience to the consumer.

BP are *"unclear as to the justification behind the statement set out in the "consequence section" of the document relating to the necessity for Transco to implement inefficient measures concerned with maintaining gas pressure for the operation and reinforcement of its pipeline system and to ensure that meter installations are designed, installed and operated such that they would not jeopardise the safe operation of a consumers gas appliance. Transco presently have the right of approval over all*

metering and pressure control installations attached to their system and this proposed modification would have no effect on this right."

Transco's response is that this Modification Proposal is designed to ensure that all organisations installing and maintaining meter installations seek the appropriate authorisations and follow appropriate standards for connection to Transco's network. Recent experience has shown that this is often not the case.

Corona notes that "Transco believe that the domestic licence change proposed by Ofgem is sufficient to mitigate their risk for domestic meters and have not sought to cover domestic meters in this modification. Consequently, we assume it is important that the definition in the modification captures all meters that are not covered by the revision to the licence. We do not believe that the Modification Proposal does this. The wording of the section implies that domestic licensees supply all domestic premises without exception."

Transco has amended the legal text for paragraph (a)(i) to reflect the point made by the above respondent.

Corona also notes that "The term owned has the meaning of 'owned' in the terms of the gas Act in the context of this modification. If this is not explicit and the 'owned' definition is interpreted as legal title, then meters 'owned' by MAM's and MAP's and lent etc. to a consumer will be excluded under this definition."

Transco has amended the legal text for paragraph (a)(ii) to clarify the point made by the above respondent.

Corona states that "Either of the two statements, that indicate which meters will qualify for action by Transco (a(ii)1 and 2), may apply for Transco to take action. The second statement (a(ii)2) does not have any time reference of 12th July applied to it, so it will encompass all meters fitted in the past. Meters fitted historically, although maintained, will not have been maintained by an 'authorised' MAM, albeit that the MAM may have been accredited from the 12th July 2004. It is also unclear what would happen if a MAM lost its accreditation. Would that MAM's meters become subject to notices from Transco?"

Transco's response is that the legal text as drafted is not retrospective however it has been amended to improve clarity.

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

Implementation of the measures described within this Urgent Modification Proposal facilitate Transco's ability to meet its Safety Case and comply with its GT obligations contained within 'The Gas Safety (Management) Regulations' 1996 and Gas Safety (Installation and Use) Regulations 1998.

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

This Modification Proposal is not required to facilitate any such change.

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

No significant works are required to implement this Modification Proposal.

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

This Modification Proposal may be implemented with effect from 1 August 2004.

16. Recommendation concerning the implementation of the Modification Proposal

Transco recommends that this Modification 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.

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

8.4 TRANSITION DOCUMENT II

Insert the following to read:

“8.4.21 M2.1

Until July 12th, 2006 but not thereafter, for the purposes of Section M:

(a) Where:-

- (i) a Supply Meter Point does not relate to premises covered by Standard Condition 34(2) of the Supplier's Licence; and
- (ii) any supplier or any User in relation to such Supply Meter Point has provided or requested, or is providing or requesting, another to provide a Supply Meter Installation (other than where the Supply Meter Installation belongs to a consumer, or is lent or hired to a consumer and is the responsibility of a person other than a Gas transporter or supplier) for such Supply Meter Point;

then the Registered User in respect of such Supply Meter Point shall secure that:

- (1) where the Supply Meter Installation at such Supply Meter Point is installed after the 12 July 2004, appropriate approval, appraisal and authorisation will be obtained from Transco to the extent required by Section 6 of the MAM CoP; and/or
 - (2) after 12 July 2004, such Supply Meter Installation at such Supply Meter Point is maintained by a Meter Asset Manager appointed by the supplier or the User; and
- (b) where Transco discovers after the 12 July 2004 that in respect of such such Supply Meter Installation paragraphs (a)(1) and /or (2) have not been complied with then Transco shall notify the Registered User accordingly and the Registered User will:
- (i) within fourteen (14) calendar days of receipt of the notice from Transco ensure that such Supply Meter Installation is re-installed and/or maintained by a Meter Asset Manager and notify Transco of the identity of such Meter Asset Manager; or
 - (ii) where it is not practicable to ensure the performance of such re-installation and/or maintenance within such 14 calendar day period, within 7 calendar days of receipt of the notice from Transco notify Transco of the reasons for this and the date by which it will ensure such re-installation and/or maintenance is performed by a Meter Asset Manager and promptly notify Transco when such work has occurred;
- (c) where the Registered User has failed to fully comply with paragraphs (a)(1) or (2) Transco, acting reasonably, shall be entitled to take whatever steps it deems necessary (including the inspection, repair, replacement or disconnection of the Supply Meter Installation) to ensure that Transco complies with

any Legal Requirements imposed upon it, and the Registered User shall reimburse Transco in respect of any and all costs, expenses and charges reasonably incurred or expended by or on behalf of Transco in taking such steps;

- (d) Transco's entitlement in paragraph (c) is without prejudice to Transco's entitlement at any time to make safe any Supply Meter Installation (including disconnection) for this purpose;
- (e) for the purposes of paragraph (a) "**Meter Asset Manager**" means:-
 - (i) a person approved by the Authority as possessing expertise satisfactorily to provide services in relation to Supply Meter Installations or a class or description of persons so approved; or
 - (ii) an undertaking approved by the Authority as having staff possessing the requisite expertise;

and, for the purposes of this definition, "**approved by the Authority**" means approved by it for the purposes of this paragraph generally and "**staff**" includes officers, servants and agents;

- (f) for the purposes of paragraph (a) "**MAM CoP**" means the document entitled Code of Practice for Gas Meter Asset Managers which is published by the Authority from time to time."

Signed for and on behalf of Transco.

Signature:

Pete Rayson
Commercial Manager - Customer
Support Services

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 **0704**, version **1.0** dated **27/07/2004**) 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.