



Transco, Shippers and interested parties.

Our Ref: Net/Cod/Mod/724  
Direct Dial: 020 7901 7355  
Email: [nick.simpson@ofgem.gov.uk](mailto:nick.simpson@ofgem.gov.uk)

21 March 2005

Dear Colleague,

**Modification Proposal 724: 'Acceptance of Gemini Energy Implementation by Shippers'.**

Ofgem<sup>1</sup> has carefully considered the issues raised in modification proposal 724, 'Acceptance of Gemini Energy Implementation by Shippers' and has decided to direct Transco not to implement it as we do not believe that it will better facilitate the achievement of the relevant objectives of Transco's network code. In this letter we explain the background to the modification proposal and outline the reasons for making our decision.

**Background**

Until recently the energy balancing and capacity systems have been supported by two IT systems, known as RGTA and AT-Link. These systems have become increasingly expensive to maintain, therefore Transco instigated the Gemini Project which has sought to develop suitable replacements for these systems. The capacity element of the Gemini system has recently been implemented as a replacement for RGTA. The energy balancing side of the system designed to replace AT-Link is in its final phase of development, in accordance with the Gemini Implementation Plan.

There is a perception among the shipping community that this final phase of the Gemini Project has been developed with insufficient User (Shipper) consultation. This has resulted in concern among Users that Transco may not fully understand the way in which they would use Gemini and, consequently, what is required of Gemini as an efficient and effective User system. In September 2004 the Network Code Committee (NCC) chairman wrote to the Gemini project manager at the behest of that committee in order to formally express their concerns. A response was subsequently circulated on 2 November 2004.

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<sup>1</sup> Ofgem is the office of the Gas and Electricity Markets Authority. The terms 'Ofgem' and the 'Authority' are used interchangeably in this letter.

## **The Modification Proposal**

This modification proposal was raised by Shell Gas Direct Ltd as a means of introducing a set of checks and balances to the Network Code to guarantee that Gemini is not implemented unless there is consensus between Transco and Shippers that it is fit for purpose. This modification proposal seeks to introduce a number of amendments to the governance surrounding the implementation of the energy balancing component of the Gemini project.

The proposal refers to five elements of governance which, the proposer believes, should be introduced:

1. Implementation of Gemini to be subject to a two-thirds majority vote by Shipper representatives on the Network Code Committee;
2. The Network Code Committee will vote following the recommendation of the appropriate Gemini Shipper Working Group (GSWG) rather than from the UK Link Committee.
3. The GSWG terms of reference to be updated to include development of acceptance criteria for Gemini implementation, which would then require ratification by the UK Link Committee.
4. Gemini implementation would proceed not less than 6 months after the initial approval of the acceptance criteria by the UK Link Committee.

## **Transco's view**

Transco does not support the implementation of this modification proposal. This opinion is based on the broad assertion that the implementation of the proposal will not facilitate the relevant objectives of Transco's Network Code Gas Transporters' (GT) Licence.

Transco has acknowledged and attempted to address Users' concerns regarding the Gemini project by working closely with the Gemini Shipper Forum (GSF), GSWG, the UK Link Committee and NCC. Transco notes that as these working groups/committees already have adequate shipper representation a stricter voting regime is not necessary.

Transco states that under the existing arrangements, should the UK Link committee be unable to reach a consensus, then the implementation plan could be referred to the NCC for a majority vote under Network Code Section U 8.4.5 (c) and 8.4.6. Transco is also concerned that the requirement for a 66% majority vote could place it in conflict with its existing obligations under licence.

Introduction of a system whereby the UK Link committee approve implementation plans of IT-related system changes based on a recommendation from the GSF and GSWG means that the UK Link would be acting on recommendation from a body not recognised or defined under the auspices of the Network Code.

The proposal does not specify the basis or timescales on which the acceptance criteria might be developed and agreed. In its FMR Transco state that it has pursued this issue with User representatives and has since confirmed that these criteria were 'accepted' by consensus of the UK Link Committee of February 2005.

## Respondent's views

Transco received 10 representations in relation to this modification proposal. Of those ten, eight offered either complete or qualified support and two were against the implementation of the modification proposal.

Those respondents who were against the modification proposal expressed a number of concerns. In particular, there was concern that certain elements of the proposal could lead to delays in the implementation of Gemini from the planned implementation in October 2005<sup>1</sup>. In addition, there is continuing support for the existing structure for approval of Gemini; some respondents are not in favour of seeing a switch from the UK Link Committee to the Network Code Committee as the approving body of Gemini.

Those respondents who support the implementation of this modification proposal give a variety of reasons for their support, with a common theme being that there has been a lack of real consultation with Users over what is both required and desired of the new Gemini system. For this reason, Users are keen to introduce provisions which would prohibit the implementation of Gemini without their full acceptance and support.

In contrast to the Transco view, several respondents believe that the introduction of acceptance criteria and a 66% majority vote (rather than a simple majority vote) to ratify Gemini would allow Transco to better fulfil their licence obligations as defined in Condition 9 of the GI licence. In fact, one respondent states that were the modification not implemented Transco may in fact be in breach of LC 9 (1) (c) *'the securing of effective competition between relevant shippers and between relevant suppliers'*, as it could increase the risk to Users of having efficient access to the network systems.

## Ofgem's view

Ofgem is aware that shippers have for some time had concerns over the development of the Gemini system. Ofgem is therefore sympathetic to the aims of this modification proposal.

*The Network Code Committee will vote following the recommendation of the appropriate Gemini Shipper Working Group (GSWG) rather than from the UK Link Committee.*

Ofgem agrees with those respondents who suggested that the recommendation on whether the Gemini system is ready to be implemented should be from the UK Link committee, as constituted under the Network Code, rather than the GSWG or GSF which have no formal status under the Network Code.

Section U.8.4.4 of the Network Code states the following:

*"If by consensus of the members of the UK Link Committee the implementation plan (with or without any revisions proposed by Transco pursuant to paragraph 8.4.3) is approved, Transco will proceed to implement the proposed modification in accordance with the implementation plan."*

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<sup>1</sup> Gemini Shipper Fortnightly Progress Summary for weeks ending 18 February 2005 and 4 March 2005 provides a target implementation date of 18 October 2005.

Section U8.4.5 (c) provides that where the UK Link Committee is unable to reach a consensus then the implementation plan can be referred to the NCC. As agreement of the UK Link is determined on a consensus basis, with silence being taken as acquiescence, it is vital that those shipper representatives on the committee ensure their views are known and recorded.

*Implementation of Gemini to be subject to a two-thirds majority vote by Shipper representatives on the Network Code Committee.*

The NCC may approve an implementation plan by a majority vote. The NCC currently has the same constitution as the Network Code Modification Panel, and certain modification rules, including those pertaining to voting, apply *mutatis mutandis*. A panel majority will therefore require the votes of a majority of the nine shipper representatives and of a Transco representative. Given that Gemini is a Transco project Ofgem considers it extremely unlikely that it would pursue a go-live decision unless it is itself content that it is ready to be implemented.

If this proposal were to be accepted Transco would not formally have a vote on the implementation of Gemini, though its agreement can be considered implicit for the reasons given above. The key difference between the existing arrangements (needing five shippers in favour) and the proposed two-thirds shipper vote would simply be the requirement for an additional shipper representative to be in favour. Ofgem does not consider that such a marginal difference would, in itself, provide any additional safeguards.

*The GSWG terms of reference to be updated to include development of acceptance criteria for Gemini implementation, which would then require ratification by the UK Link Committee.*

Ofgem understands from the FMR that since this modification proposal was raised, discussions were held at the October 2004 meeting of the GSWG on suitable acceptance criteria that would inform a Gemini go-live decision. The Gemini project team subsequently presented these draft criteria for further discussion at the November 2004 GSWG and December 2004 GSF. These criteria were subsequently approved by consensus at the UK Link committee meeting of 17 February 2005.

*Gemini implementation would proceed not less than 6 months after the initial approval of the acceptance criteria by the UK Link Committee.*

Ofgem understands that according to the latest Gemini implementation plan, the energy balancing aspect of Gemini is scheduled for implementation in October 2005 at the earliest. Given that the acceptance criteria were agreed in February 2005, this would seem to satisfy the 6 month lead time intended by this modification proposal.

Ofgem considers that this modification proposal has performed a useful function in raising awareness of shipper concerns regarding the implementation of the Gemini energy balancing system, and may itself have prompted the development of the acceptance criteria referred to above. However, this benefit has been realised absent the implementation of this proposal. Equally, a 6 month lead time now exists, regardless of whether this proposal is accepted.

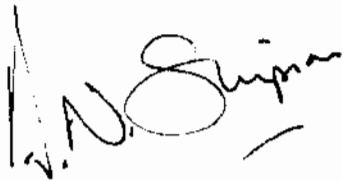
Ofgem has considered whether the proposed governance for the acceptance of the implementation plan would better satisfy the relevant objectives than the prevailing arrangements. Given that the UK Link Committee has a role in approving the implementation plan, which may be referred to the NCC if consensus is not reached, Ofgem considers that this aspect of the proposal can be adequately satisfied by existing arrangements, subject to dissatisfied shipper representatives on the UK Link Committee making their views known. Ofgem does not consider that there is any discernable benefit to be achieved by marginally altering the NCC voting arrangements specifically for the acceptance or otherwise of the Gemini implementation plan.

### **Ofgem's decision**

For the reasons outlined above, Ofgem has decided not to direct Transco to implement this modification as we do not consider that it would better facilitate the achievement of the relevant objectives of the Transco network code, as outlined under amended standard condition 9 of its GT licence.

If you have any further questions regarding this letter please do not hesitate to contact me on the above number or Samantha McEwen on 020 7901 7032.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'N. Simpson', with a stylized flourish at the end.

**Nick Simpson**  
**Director, Modifications**