

Modification Report
Extending established Network Code governance arrangements to relevant
Transco documents
Modification Reference Number 0730
Version 2.0

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

The Nature of Proposal is as follows:

"A number of procedural documents which set out how Transco and users implement Network Code obligations are not currently subject to joint industry governance arrangements. This is despite the fact that many of the matters outlined in these documents can and do have a significant impact on the quality of service shipper-suppliers are able to provide to their customers.

Although many of these documents are referred to in the Network Code they are typically managed by Transco outside the Code. Amendments are invariably made at the discretion of Transco. Greater visibility of these documents is also desirable. Although updated documents are circulated and consulted on from time-to-time, these are not readily available to new users; indeed such users would not necessarily be aware the documents exist to ask for them in the first place.

This proposal specifies which existing industry documents should be subject to best practice Network Code change control procedures and also requires any new procedural documents that deal with how parties implement Network Code obligations to be subject to identical controls. The said documents would become known collectively as Network Code Procedures. An indicative list of Network Code Procedures initially covered by this proposal is attached (Appendix A).

This proposal also requires Transco to publish Network Code Procedures on an easily accessible website. Any document revisions would be given a version number with earlier versions continuing to be made available.

From time-to-time Transco would propose changes to a particular Network Code Procedure. Such changes would be subject to approval by majority vote of the Network Code Committee. The Network Code Committee could if it considers it appropriate (again subject to a majority vote) refer any proposed change to a relevant sub-committee, who would in turn consider the matter and make recommendations to the Network Code Committee. Transco would also be required to bring any newly established Network Code Procedures to the Network Code Committee for approval. In effect this proposal confirms and clarifies the existing powers of the Network Code Committee that are already set out in Section V10 of the Code.

Although under this proposal Transco would continue to instigate all changes to Network Code Procedures, it would only be able to implement procedural changes by first formally satisfying industry stakeholders. Such arrangements

would be consistent with approval processes established in industry codes elsewhere. It is also consistent with Ofgem's principles of good governance set out in their June 2003 consultation document "Gas Retail Governance – Further Consultation".

This proposal will help ensure robust, coordinated development of Network Code Procedures, ensuring effective implementation of particular Network Code obligations and in so doing will better facilitate relevant objective (a) the efficient and economic operation by the licensee of its pipe-line network. It will also make it easier for new entrants and potential new entrants to access and familiarise themselves with key industry processes thereby helping to promote relevant objective (c) the securing of effective competition between relevant shippers and between relevant suppliers.

Appendix A

Indicative list of Network Code Procedures covered by this proposal

- Network Code Operations Reporting Manual
- LDZ Shrinkage Adjustments Methodology
- Invoice Query Estimation Methodology
- Standards of Service Query Management Operational Guidelines
- Network Code Reconciliation Suppression Guidelines
- Guidelines for the Treatment of Shared Supply Meter Points
- Operational Rules Governing the Supply of Invoice Charges via the Ad-hoc Process

Note the list is not exhaustive and consideration may need to be given to include other relevant procedural documents. The proposal envisages that any new procedural document established by Transco setting out detailed matters for the implementation of Network Code obligations should also be cover by this proposal."

2. Transco's Opinion

Transco does not support this Proposal.

In its representation to the draft report, the proposer clarified its intention that only the procedures in Appendix A would be included if this Proposal were implemented and has stated the principle that a further Modification Proposal would need to be implemented if any further procedures already referenced in Code were to be included. However, one of these listed Proposals ("Operational Rules Governing the Supply of Invoice Charges via the Ad-hoc Process") is specifically excluded from Code governance. In its representation, the Proposer has suggested amendment of this particular clause (S2.4.7) which Transco assumes to be removal of this specific exclusion. Transco believes that a streamlined governance process is required for operational rules of this nature, although it does recognise the need to consult with Users. The current exclusion is consistent with less onerous governance requirements than those associated

with the other procedures listed. Transco, therefore, does not support this aspect of the Proposal, which would, if implemented, remove this exclusion.

In its representation, the proposer clarified that any new documents that deal with procedural matters of Network Code Governance processes should be subject to the governance proposed. Transco believes that this definition is too wide, potentially including procedures covering one-off requirements. Whilst Transco would always seek to consult with Users, in respect of such procedures, it believes that governance of the form suggested in this Proposal would not be appropriate.

Transco recognises and supports the current principle that the Network Code Committee has a right to review these procedures (V10.2.1). Implementation of this Proposal would, however, change the status of the Network Code Committee, in this context, from a reviewing body to an approving body. The current principle in Code is that the Network Code Committee has no powers to bind Transco except as expressly provided (V10.4.1). Implementation of this Proposal would, therefore, constitute a new express provision. Transco does not believe that a new express provision is required as Transco would not ignore advice from the Network Code Committee if, for example, this committee advised Transco that an amendment to a procedure ran counter to the furtherance of the Code Relevant Objectives or any other Transco licence provision.

In summary, Transco believes that the current requirement to consult with Users, together with the rights of the Network Code Committee to review matters concerned with Code implementation and the underlying requirements of Transco's licence, provide the protection that Users require and that, in consequence, implementation of this Proposal is unnecessary.

Transco would wish to reiterate that it has no objections, in principle, to placing the procedures listed in Appendix A on its web-site. It would also wish to restate its intention to fully consult with the relevant workstreams whenever it intends to amend any of these procedures and take into account any suggestions from the Network Code Committee on how such consultation might best be conducted.

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

The proposer suggested that implementation of this Proposal would "help ensure robust, coordinated development of Network Code Procedures, ensuring effective implementation of particular Network Code obligations and in so doing will better facilitate relevant objective (a) the efficient and economic operation by the licensee of its pipe-line network." The proposer also considered that it would "make it easier for new entrants and potential new entrants to access and familiarise themselves with key industry processes thereby helping to promote relevant objective (c) the securing of effective competition between relevant shippers and between relevant suppliers."

Transco would point out that the key issue here is whether a more formal approval process would meet the aims described above, particularly in comparison with the current situation where consultation on procedures is both

assured and flexible and typically involves the relevant Network Code Workstream.

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:

Based upon the list of procedures identified in Appendix A of this Proposal, the associated costs would be minor.

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 would not seek specific recovery of costs.

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

Transco is unaware of any consequences implementation would have on price regulation.

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

Transco believes that any such consequence would be minor.

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

Transco believes that these implications would be minor.

7. The implications of implementing the Modification Proposal for Users

Users' involvement in the process would be more formal than now - either through the Network Code Committee or a formally constituted Sub Committee. If the revised consultation process led to better designed procedures, Users would benefit accordingly.

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

Involvement in the process of these parties would be more formal than now - either through the Network Code Committee or a formally constituted Sub Committee. If the revised consultation process led to better designed procedures, these parties might benefit accordingly.

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 is unaware of any such consequences.

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

Transco has identified the following advantages of implementation:

- Greater assurance to Users that procedures would only be introduced or amended with Network Code Committee support.
- Potentially greater visibility of procedures as a result of assurance of web site publication.

Transco has identified the following disadvantage of implementation:

- Implementation could introduce delays in the development of documents particularly in relation to the review and approval process.
- Introduction of the potential for conflict between the requirements of Transco's licence and the decisions of the Network Code Committee.
- Introduction of the potential for deadlock in the approval process.

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

Representations were received from the following:

| | |
|----------------------------------|-------------------|
| E.ON UK plc (EON) | For |
| RWE npower plc (RWE) | Qualified Support |
| Shell Gas Direct (SGD) | For |
| Statoil (U.K.) Limited (Statoil) | For |
| Total Gas & Power Limited (TGP) | For |

Scope of the Modification Proposal

EON clarified that "all the documents listed, including 'Operational Rules Governing the Supply of Invoice Charges via the Ad-hoc Process'" were intended to be included within the scope of the Proposal. EON recognised that this would require changes to S2.4.7. EON further clarified that other "named Transco documents specified in the Network Code" would not be included if this Proposal were implemented but suggested that all "future shipper - Transco procedural documents created from time to time, setting out how Network Code obligations are to be met, would be covered by this proposal."

TGP referred to the work of the Supply Point Administration Working Group (SPAWG) and suggested procedures within Appendix A covered the "areas that the SPAWG highlighted as having the biggest potential to affect the service standards of Shippers and/or where there was a concern that a network sale could

have the potential for a significant impact." TGP recognised that list in Appendix A was not exhaustive and suggested further documents be selected in the future for inclusion. However, TGP concluded that the list in Appendix A was "suitably complete for the time being." In turning to the issue of the procedure: "Operational Rules Governing the Supply of Invoice Charges via the Ad-hoc Process" TGP expressed the belief that it "should be included which may therefore require changes to S2.4.7."

Transco View

Whilst Transco recognises that the proposer has clarified the scope of this Proposal in respect of documents referenced in the Network Code it still believes that there is a lack of clarity in respect of future procedural documents. Transco has often circulated, to Users, details of procedures relevant to situations which are unlikely to recur in order to give Users assurances on processes to be followed. Making all these subject to formal Network Code governance would introduce further delay to the resolution of issues whilst the approval of the Network Code Committee was sought and provided. Transco still believes that it is valid to exclude "Operational Rules Governing the Supply of Invoice Charges via the Ad-hoc Process" from Code governance because operational rules of this nature tend to require flexibility in terms of development and revision and the current wording does give Users assurance on consultation.

Powers of the Network Code Committee

EON stated that it was "entirely appropriate for any new documents that deal with procedural matters for Network Code obligations between shippers and Transco to be subject to these existing Network Code Governance processes." EON further suggested that "Transco should not have free reign to manage these matters as they see fit." In analysing the role of the Network Code Committee EON suggested that it was misleading of Transco to "suggest the Network Code Committee is taking on a new role (section V10 is clear in this regard)." It further suggested that the "purpose of this modification proposal is in part is to ensure that these V10 procedures are not sidestepped or given lip service in future." Finally, EON observed that "Transco and the Network Code Committee together have been somewhat lax in applying the obligations set out in section V.10 of the Code."

RWE expressed a failure to be convinced "that the Network Code Committee has necessarily the working knowledge to formulate an opinion and would rely upon the workstream or sub-committee for guidance." However, RWE expressed a preference for these bodies "to vote upon any change rather than rely upon a consensus, as is the current practice for workstreams"

SGD did not agree that implementation of this Proposal would give "the Network Code Committee a wider remit than it already has" and concluded that implementation would just ensure that the Committee's role was not circumvented.

Statoil suggested that implementation would ensure "that changes made by Transco to these documents would be subject to approval by majority vote of Network Code Committee ensuring that changes could not be made in isolation by Transco." In support of this view, Statoil pointed out that such "changes could result in costs being incurred by shippers where the benefits are one sided

and is therefore good practice to have a clear set of governance procedures in place to manage this." Finally, Statoil suggested that implementation would "also ensure that Transco do not have disproportionate control over central processes."

TGP referring to the work of SPAWG pointed out that this group had established that "not all of the services provided by Transco had the same degree of definition and also that the governance arrangements for agreeing and monitoring the service varied." TGP attributed this lack of consistency to a diversity of definition ie some directly through references within the Network Code, others through ancillary and procedural documents. TGP expressed the view that to date "Transco has in general been the deciding body when it comes to agreeing whether or not changes are to be made to any of these documents even though they can impact on the overall level of service that Shippers can expect to receive."

Transco View

The perceived degree of control that Transco has of current procedures should be viewed in the context of Transco's licence obligations. These would prevent Transco from introducing or amending procedures that would lead to Users facing undue costs. Transco would also wish to point out that for most of the procedures listed in Appendix A, there is a requirement for consultation; effective consultation has taken place in the past and there are good reasons to believe that it would in the future. Transco also notes the perception that the Network Code Committee might have been more active in reviewing these procedures but does not believe that it has been in any way obstructive to this committee. Whilst Transco believes that the relevant workstream or sub group is often the best forum for reviewing these procedures in detail it would have no objection to the Network Code Committee having some oversight in this respect and this can be achieved within the current Network Code arrangements. The key difference to the manner in which the Network Code Committee would function would be its right to decide by majority on any changes to existing procedures. This would also, by implication, include the right of delaying changes to the procedures, even if those changes were consistent with the furtherance of the relevant objectives. Transco notes the concerns that implementation of amendments to procedures might entail additional costs to Users but it should be recognised that maintenance or reduction of individual User's costs is not necessarily aligned to the furtherance of the relevant objectives.

Relevant Objective Criteria

EON referring to its statement that the Relevant Objectives "deal with commercial matters between shippers and Transco" concluded that "changes to procedures do not need to be judged on the basis of relevant objectives, as such procedures are simply implementing the market rules set out in the Network Code, changes which themselves are themselves judged against relevant objectives."

SGD expressed concurrence with the view of the proposer that implementation would further the Relevant Objectives by "improving transparency on processes, assisting both new entrants and established shippers to effectively compete."

Transco View

Transco believes that there have been cases where improvements in procedures have furthered the relevant objectives. Examples have included simplification or improvements in accuracy. Transco believes that for these benefits to be realised the onus for improvement should be on the party that holds the licence requirement ie Transco. Transco would also suggest that there might be occasions where such improvements would lead to additional costs for certain Network Code Users but this should not prevent such improvements taking place. Transco intends to continue consulting with Users on amendments to procedures and believes that this will address any concerns in respect of transparency.

Resolution of Deadlock

EON, referring to its proposed method of governance through the Network Code Committee, suggested that departure from that approach "would involve Ofgem in the minutia of administration arrangements between Transco and shippers." It further pointed out that in "the unlikely event of deadlock, a party would be free to propose a Network Code Modification proposal to expedite the matter." In support of this, EON commented that Transco had suggested this process following changes to central settlement systems Users had objected to.

TGP also referred to the possibility of deadlock and considered that it "may be more relevant for the deadlock to be addressed via a modification proposal rather than referring the matter to the Authority." However TGP commented that it did not "see this as a critical element of the modification proposal."

Transco View

Transco suggests that using a Network Code Modification Proposal to resolve a deadlock would add further delay to the resolution of any issues through the adoption a new or revised procedure. Transco would suggest that this is a further argument in favour of retaining the present processes where the issue of deadlock does not occur.

Website Publication

RWE believed "that greater visibility of these documents by making them available on the Internet (with access by appropriate security procedures)" could only improve "the transparency and openness of industry wide practices." In the event of non-implementation RWE suggested that "a voluntary action by Transco of putting these documents on the Internet would be appreciated."

Statoil noted that implementation would "enable new entrants in the gas market to have ease of access to these documents which could be stored centrally on a designated website." It also pointed out that if "amendments to the documents were approved by majority vote, the website would ensure that the latest version of that document is available thus reducing the risk of shippers operating from outdated versions of documents."

TGP suggested that "the current Network Code information system (Nemisys) may be a useful place to publish them together with any revisions." TGP also commented that if this were adopted it "would not envisage the need for significant additional resource to administer what is, in practice, likely to be a very low level of change."

Transco View

Transco acknowledges the benefits of holding the procedures listed in Appendix A on a Transco website. It is currently investigating the best way of achieving this aim with a view to implementation. It would point out that implementation of this Proposal is not required to achieve website publication.

Systems Implications and Costs

EON contended that if additional costs were incurred in the event of implementation, those costs "should have been incurred in the first place". EON also expressed the belief that "additional expenditure on more effective joint oversight of changes to Network Code Modification Procedures" would ensure that shippers as well as Transco would be "able to manage changes to their internal systems more effectively."

Statoil were unclear of the statement made by Transco regarding significant cost implications in implementing this Proposal. It agreed "that some additional costs could be incurred by Transco through the code administrative process", but disagreed that these costs would "be significant as formalising these documents does not indicate that substantial changes will be made." Instead, Statoil suggested that the Proposal was "seeking to implement good practice which will benefit the industry as a whole." Statoil believed it to be unlikely that further development of computer systems would be required through implementation of this Proposal and were "unclear why Transco have stated that this would need to be further explored."

Transco View

Transco acknowledges that the costs involved in placing the procedures listed in Appendix A on a Transco website would not be major. Whilst there is a degree of uncertainty in respect of costs associated with procedures to be developed in the future, Transco acknowledges that providing the number of procedures brought into the proposed framework of governance is not large the costs would remain at a low level.

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

Transco is unaware of any such requirement.

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 unaware of any such requirement.

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

Transco would potentially need to instigate a small programme of works to develop more formal administrative processes that reflect the revised governance arrangements and to place the procedures on a Transco website.

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

Implementation of this Proposal could take place shortly following approval.

16. Recommendation concerning the implementation of the Modification Proposal

Transco recommends that this Proposal be rejected.

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 revised Modification Report contains Transco's proposal not to modify the Network Code but has been prepared following direction from the Gas & Electricity Markets Authority.

19. Text

Section E

Amend paragraph E 8.1.2 to read as follows:

“Those Reconciliation Values...in the “**Network Code Reconciliation Suppression Guidelines**”, the document so entitled, prepared, published and revised (subject to prior approval by Panel Majority of the Network Code Committee) from time to time...(in consultation with Users).

Section G

Amend paragraph 1.7.17 to read as follows:

“(a) Transco will, after consultation with Users, prepare and from time to time revise (subject to prior approval by Panel Majority of the Network Code Committee) and publish reasonable...Points.”

Section N

Amend paragraph 3.4.2 to read as follows:

“The “**LDZ Shrinkage Adjustments Methodology**” is the methodology from time to time established, published and revised (subject to prior approval by Panel Majority of the Network Code Committee) and issued to Users setting out the calculations for the reconciliation...paragraph 3.4.1”

Section S

Amend paragraph 2.4.7 to read as follows:

“The management of...in the “Operational Rules Governing the Supply of Invoice Charges via the Ad Hoc Process” which is the document so entitled, published and revised (subject to prior approval by Panel Majority of the Network Code Committee) from time to time by Transco...and such document does not form part of Code.”

Amend paragraph 4.1.10 to read as follows:

“An “**Invoice Query Estimation Methodology**” is a document so entitled, published, prepared and revised (subject to prior approval by Panel Majority of the Network Code Committee) from time to time...Query.”

Amend paragraph 4.8.1 to read as follows:

“For the purposes of this...

- (a) the “**the Guidelines**” is document...as prepared published and revised (subject to prior approval by Panel Majority of the Network Code Committee) from time to time...”

Section V

Amend paragraph 12.4.5 to read as follows:

“If Transco proposes to revise the Network Code Operations Reporting Manual it shall obtain prior approval by Panel Majority of the Network Code Committee and if such revision materially increases the extent of the information...doing so.”

Signed for and on behalf of Transco.

Signature:

Richard Court
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 **0730**, version **2.0** dated **15/03/2005**) 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 **2.0**.

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.