

Stage 03: Draft Modification Report

0444S:

Changes to reflect demerger by APX of OCM Trading System Operator from the Trading System Clearer

This modification seeks to amend references within the UNC to the Trading System Operator to reflect the demerger of the Trading System Clearer from the Trading System Operator.



Responses invited by **07 February 2013**.



High Impact: Shipper Users, National Grid NTS and Trader Users

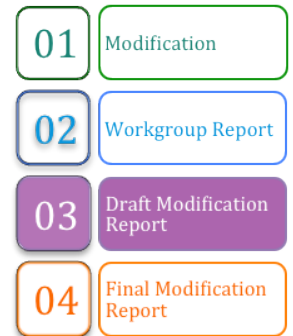


Medium Impact: -



Low Impact: -

At what stage is this document in the process?



0444S

Draft Modification Report

17 January 2013

Version 1.0

Page 1 of 8

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Contents

| | | |
|---|---------------------|---|
| 1 | Summary | 3 |
| 2 | Why Change? | 4 |
| 3 | Solution | 4 |
| 4 | Relevant Objectives | 5 |
| 5 | Implementation | 5 |
| 6 | Legal Text | 6 |
| 7 | Recommendation | 8 |

About this document:

This Draft Modification Report is issued for consultation responses, at the request of the Panel on 17 January 2013.

All parties are invited to consider whether they wish to submit views regarding this self-governance modification.

The close-out date for responses is **07 February 2013**, which should be sent to enquiries@gasgovernance.co.uk.

A response template, which you may wish to use, is at www.gasgovernance.co.uk/0444

The Panel will consider the responses and agree whether or not this self-governance modification should be made.



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0444S

Draft Modification Report

17 January 2013

Version 1.0

Page 2 of 8

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1 Summary

Is this a Self-Governance Modification?

The Modification Panel determined that this is a self-governance modification.

Why Change?

The current provider of both the On-the-day Commodity Market (OCM) and the associated trade clearing services is APX. APX delivers these services to the industry as both TSO and TSC.

APX has communicated to National Grid Gas plc (in its capacity as both appointer of the operator of the independent market for balancing (also known as "OCM Market Operator") and APX Member) and its other Members that it intends to demerge into two separate legal entities: APX Commodities Ltd. (APX) and ENDEX Gas Spot Ltd. (ENDEX). Following completion of the demerger APX will continue its UNC role of TSC, providing trade clearing services to ENDEX as TSO (whose appointment as such will become effective from 01 February 2013 (subject to certain conditions being met, including designation by Ofgem)).

Whilst considering the impact of the proposed demerger, National Grid NTS became aware of the need to reflect, within TPD Section X, the separation of the TSC from the TSO. TPD Section X currently refers to both TSO and TSC functions under the single heading of TSO. As both functions are currently provided by the same legal entity, the omission of specific reference to the TSC is acceptable. However, legal separation of TSO and TSC organisations requires that the two service providers be identified separately in relation to their discrete roles.

Solution

It is proposed that references to the Trading System Operator within the UNC are changed, where appropriate, to reflect the separation of activities related to the TSO and TSC from the current single legal entity.

Relevant Objectives

This modification furthers the relevant objectives by delivering clarity within the UNC on key roles within the provision of the OCM and gas trades clearing services. The cost of implementation is anticipated to be zero (£0).

Implementation

No systems changes are envisaged by this proposal as the role of the TSO and TSC continue unchanged and as such no costs have been identified.

No implementation timescale is proposed.

As Self-Governance procedures are proposed, implementation could be sixteen (16) business days after a Panel decision to implement (subject to no Appeal being raised).

2 Why Change?

The current provider of both the On-the-day Commodity Market (OCM) and the associated trade clearing services is APX. As referred to above, APX has communicated to National Grid NTS and its other Members that it intends to demerge into two separate legal entities: APX Commodities Ltd (APX) and APX ENDEX Gas Spot Ltd. (ENDEX). Following completion of the demerger, APX will continue its UNC role of TSC and provide trade clearing services to ENDEX as TSO (whose appointment as such will be effective from 01 February 2013 (subject to certain conditions being met, including designation by Ofgem)).

Whilst considering the impact of the above proposed demerger National Grid NTS became aware of the need to reflect, within Section X of the Transportation Principal Document (TPD), the separation of the TSC from the TSO. Section X refers to the treatment of a User's imbalance indebtedness. This Section currently separates the TSO from other Users and makes specific provisions for the treatment of the TSO. Whilst this may be appropriate where the TSO and TSC are the same party, once these roles are provided by two legally separate parties it is clear that, of the two parties, only the TSC is able to acquire an imbalance position as it is only that party that is entering into gas trades with other Users. The TSO is the party which provides the market which facilitates such trades but does not enter into the trades itself and as such cannot incur an imbalance position.

This modification therefore seeks, where appropriate, to update references to the TSO to reflect the separation of the TSO and TSC. No other changes are proposed and as such the current aggregate liabilities and responsibilities of the TSO and TSC will remain unchanged.

3 Solution

It is proposed that references to the Trading System Operator within the UNC are updated, where appropriate, to reflect the separation of the TSO and TSC activities from the current single legal entity.

| User Pays |
|--|
| Classification of the modification as User Pays, or not, and the justification for such classification. |
| This modification is not User Pays as it does not propose to change any existing systems or processes carried out by Xoserve. |
| Identification of Users of the service, the proposed split of the recovery between Gas Transporters and Users for User Pays costs and the justification for such view. |
| N/A |
| Proposed charge(s) for application of User Pays charges to Shippers. |
| N/A |
| Proposed charge for inclusion in the Agency Charging Statement (ACS) – to be completed upon receipt of a cost estimate from Xoserve. |
| N/A |

4 Relevant Objectives

| Impact of the modification on the Relevant Objectives: | |
|--|-------------------|
| Relevant Objective | Identified impact |
| a) Efficient and economic operation of the pipe-line system. | None |
| b) Coordinated, efficient and economic operation of (i) the combined pipe-line system, and/ or (ii) the pipe-line system of one or more other relevant gas transporters. | None |
| c) Efficient discharge of the licensee's obligations. | None |
| d) Securing of effective competition: (i) between relevant shippers; (ii) between relevant suppliers; and/or (iii) between DN operators (who have entered into transportation arrangements with other relevant gas transporters) and relevant shippers. | None |
| e) Provision of reasonable economic incentives for relevant suppliers to secure that the domestic customer supply security standards... are satisfied as respects the availability of gas to their domestic customers. | None |
| f) Promotion of efficiency in the implementation and administration of the Code. | Positive |
| g) Compliance with the Regulation and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators. | None |

Accurately identifying within the UNC the entities that are party to trades will ensure the UNC reflects the underlying legal position, together with the operation of the market in practice, and hence implementation would be consistent with efficiency in the implementation and administration of the Code (Standard Special Condition A11.1.(f)).

5 Implementation

As self-governance procedures are proposed, implementation could be 16 business days after a Modification Panel decision to implement.

6 Legal Text

Text

The following Text has been prepared by National Grid NTS.

Amend Section X, Paragraph 2.5.2 (c) to read as follows:

(c) "Anticipated Balancing Indebtedness" for each User (other than the Trading System [Clearer Operator](#)) is an amount calculated, in respect of all Days in the relevant period (each such day ('i')), in accordance with the following formula:

Amend Section X, Paragraph 2.5.2 (d) to read as follows:

(d) "**Outstanding Relevant Balancing Indebtedness**" for each User (other than the Trading System [Clearer Operator](#)) means (subject to paragraph (g)) the sum of:

- (i) the net aggregate amount (payable by or to the User) of the Relevant Balancing Charges for each Day of the Uninvoiced Period;
- (ii) the Net Invoice Amounts in respect of all Energy Balancing Charges under each Energy Balancing Invoice which has been submitted for which the Invoice Due Date is on or after the calculation Day;
- (iii) the Net Invoice Amounts in respect of all Energy Balancing Charges under each Energy Balancing Invoice which has been submitted for which the Invoice Due Date is before the calculation Day and which have not been paid by the User; and
- (iv) the User's Anticipated Balancing Indebtedness less the amount (excluding any interest earned thereon) of any Cash Call which has been paid by the User and not for the time being applied in or towards payment of any Invoice Amount under paragraph 2.8;

Amend Section X, Paragraph 2.5.2 (i) to read as follows:

(i) "**Outstanding Relevant Balancing Indebtedness**" for the Trading System [Clearer Operator](#) means the sum of:

- (i) the net aggregate amount (payable by or to the User) of the Relevant Balancing Charges for each Day of the Uninvoiced Period;
- (ii) the Net Invoice Amounts in respect of all Energy Balancing Charges under each Energy Balancing Invoice which has been submitted for which the Invoice Due Date is on or after the Calculation Day; and
- (iii) the Net Invoice Amounts in respect of all Energy Balancing Charges under each Energy Balancing Invoice which has been submitted for which the Invoice Due Date is before the Calculation Day and which have not been paid by the User;

less

- (iv) the amount (excluding any interest earned thereon) of any Cash Call which has been paid by the Trading System [Clearer Operator](#) and not for the time being applied in or towards payment of any Invoice Amount under paragraph 2.8.

Amend Section X, Paragraph 2.5.7 to read as follows:

2.5.7 Paragraphs 2.5.2(b), 2.5.2(c), 2.5.2(d), 2.5.2(g), 2.5.3, 2.5.4(a) and 2.5.6 shall not apply to the Trading System [Clearer Operator](#).

Amend Section X, Paragraph 2.11 to read as follows:

2.11 Trading System Operator [and/or Trading System Clearer](#)

2.11.1 Without prejudice to the implementation of the other provisions of this Section X in relation to the Trading System Operator [and/or the Trading System Clearer](#), paragraph 2.11.2 shall also apply in relation to the Trading System [Clearer Operator](#) (and not in relation to any other User).

0444S

Draft Modification Report

17 January 2013

Version 1.0

Page 6 of 8

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2.11.2 Where the amount of the Trading System ~~Clearer Operator~~ Outstanding Relevant Balancing Indebtedness exceeds 60% of its Secured Credit Limit:

- (a) National Grid NTS shall convene a meeting of the Energy Balancing Credit Committee, to be held as soon as is reasonable;
- (b) the Energy Balancing Credit Committee shall consider the delayed or modified implementation of the provisions of this Section X in relation to the Trading System ~~Clearer Operator~~; and
- (c) where the Energy Balancing Credit Committee approves the delayed or modified implementation of the provisions of this Section X in relation to the Trading System ~~Clearer Operator~~, National Grid NTS shall implement the provisions of this Section X in the manner and for such period as the Energy Balancing Credit Committee has approved.

2.11.3 For the purposes of paragraph 2.11.2(b), the Energy Balancing Credit Committee may:

- (a) delay the application of paragraph 2.6 until such time as the Trading System ~~Clearer's Operator's~~ Outstanding Relevant Balancing Indebtedness exceeds such other amount as the Energy Balancing Credit Committee approves (which such amount may exceed 100% of the Trading System ~~Clearer's Operator's~~ Secured Credit Limit);
- (b) authorise National Grid NTS to withhold amounts payable to the Trading System ~~Clearer Operator~~ by National Grid NTS pursuant to any Energy Balancing Invoice until such time as the Trading System ~~Clearer's Operator's~~ Outstanding Relevant Balancing Indebtedness no longer exceeds such amount as the Energy Balancing Credit Committee has approved;
- (c) authorise National Grid NTS to withhold the payment of interest payable to the Trading System ~~Clearer Operator~~ pursuant to Section S (and where National Grid NTS is so authorised National Grid NTS shall be relieved from its obligation to pay interest under Section S);
- (d) authorise National Grid NTS to take other such steps in respect of the implementation of the provisions of this Section X as it considers to be reasonable; and
- (e) require the Trading System ~~Clearer Operator~~ to take such steps as it considers, in the context of this Section X, to be reasonable.

2.11.4 For the purposes of this paragraph 2.11, the Energy Balancing Credit Committee may, for such period as the Energy Balancing Credit Committee determines, request:

- (a) National Grid NTS provide details of any steps taken by National Grid NTS in implementing the provisions of this Section X in relation to the Trading System ~~Clearer Operator~~;
- (b) the Trading System ~~Clearer Operator~~ provide details of:
 - (i) the levels of security cover and other credit facility and security arrangements in place with Users and third parties for the purposes of the Trading System Arrangements ("**other credit arrangements**");
 - (ii) historic and current levels of utilisation of credit facilities by Users under the other credit arrangements;
 - (iii) current projections of its future cash flows;
 - (iv) any steps taken by the Trading System ~~Clearer Operator~~ in relation to Users pursuant to the other credit arrangements; and
 - (v) a trend analysis of the Trading System ~~Clearer's Operator's~~ trading activities and data on the movement of the Trading System ~~Clearer's Operator's~~ Outstanding Relevant Balancing Indebtedness, and where requested National Grid NTS and the Trading System ~~Clearer Operator~~ shall provide such information as soon as is reasonably practicable.

2.11.5 Nothing in paragraph 2.11.4 shall require National Grid NTS or the Trading System ~~Clearer Operator~~ to disclose information which it is otherwise prohibited from disclosing pursuant to this Section V5 or the Trading System Arrangements.

7 Recommendation

The Panel have recommended that this report is issued to consultation and all parties should consider whether they wish to submit views regarding this self-governance modification.