

**Modification Proposal**  
**Removal of Failure Notices in respect of Energy Balancing Credit**  
**Modification Reference Number TBA**

Version DRAFT

**Date:** 07/06/2006

**Proposed Implementation Date:** 01/10/2006

**Urgency:** Non-Urgent

**Proposer's preferred route through modification procedures and if applicable, justification for Urgency**

(see the criteria at [http://www.ofgem.gov.uk/temp/ofgem/cache/cmsattach/2752\\_Urgency\\_Criteria.pdf](http://www.ofgem.gov.uk/temp/ofgem/cache/cmsattach/2752_Urgency_Criteria.pdf))

To be discussed within the Uniform Network Code (UNC) Distribution Workstream.

**Nature and Purpose of Proposal (including consequence of non implementation)**

The Energy Balancing Credit Committee (EBCC) has carried out a review to identify potential areas where controls could be further tightened in pursuit of minimising the community's exposure to financial loss as a result of Energy Balancing Credit Risk.

This Proposal aims to reduce the lapse time period between the issuing of failure notices and convening of EBCC meetings, to determine whether or not to issue Termination Notice to defaulting Users by removing the requirement to issue such failure notices.

The scope of this proposal includes notices in respect of the following areas: Failure to Pay Cash Call Notice (X2.9.1), Failure to Supply Further Security Notice (X2.10.9) and Failure to Pay Energy Balancing Invoices (X3.2). This proposal further looks to introduce Email as an acceptable format for delivery of a notice (B5.2.2) in order to facilitate timely communication.

Uniform Network Code currently sets out the following timescales:

**Failure to Pay Cash Call Notice**

Where National Grid NTS submits a Cash Call notice and the User does not successfully appeal such notice the User is obliged to make payment in full of the Cash Call amount on the Business day following the Day on which the Cash Call was made. Where payment is not made Uniform Network Code (UNC) Section X 2.9.1 states that "National Grid NTS shall be entitled to, and as soon as reasonably practicable after the Business Day will, submit to the User a notice substantially in the form set out in the Energy Balancing Credit Rules, notifying the User that National Grid NTS may give Termination Notice to the User if the User does not pay the amount of the Cash Call in full by the Business Day following such notice".

### Failure to Supply Further Security Notice

Where National Grid NTS submits a Further Security Request and the User has not demonstrated that it is inappropriate to provide further, additional or revised Security and where on the 8<sup>th</sup> Business Day following such request has not been satisfied the UNC Section X 2.10.9 states that “National Grid NTS shall submit to the User a Failure to Supply Further Security Notice in a form set out in the Energy Balancing Credit Rules. Without prejudice to paragraph 1.2.5. National Grid NTS shall notify the Energy Balancing Credit Committee that such notice has been issued.”

UNC provides a further period of 7 Business days before National Grid NTS shall be entitled to issue a Termination Notice to the defaulting User and be obliged to convene a meeting of the EBCC to determine if such notice should be issued.

### Failure to Pay Energy Balancing Invoice

Where a User fails to pay the net amount of an Energy Balancing Invoice in full on the due date UNC section X3.2.1 states “ National Grid NTS shall be entitled to, and as soon as reasonably practicable after the Invoice Due Date will, submit to the User a notice, substantially in the form set out in the Energy Balancing Credit Rules, notifying the User that National Grid NTS will give Termination Notice to the User if the User does not pay the outstanding amount of the Net Invoice Amount in full by the 5<sup>th</sup> Business Day after the date of such notice.”

Following members detailed review of the circumstances and events leading to and subsequent to Termination Notices being issued to Reepham Limited and Utilita Gas Shipping Ltd in December 2005 and January 2006 respectively, the EBCC members believe that the lapse periods in respect of such notices outlined above represent an unnecessary and avoidable potential financial exposure to the community and as such this proposal aspires to remove these lapse periods providing National Grid NTS more rapid escalation to EBCC to determine issue of Termination Notices to Defaulting Users in an attempt to curtail the communities exposure to avoidable financial loss.

In recognition of the fact that Users require timely notification and in order to provide for the optimum time to remedy such breaches this proposal further seeks to extend the UNC provisions in respect of notices as set out in the UNC General Terms section B 5.2 to include Email as an acceptable method of delivery. The amendment would be consistent with recent changes in Court proceeding where following a trial period email was introduced as a means of communication and service for certain legal documents under the Civil Procedure Rules PD5B.

### **Basis upon which the Proposer considers that it will better facilitate the achievement of the Relevant Objectives, specified in Standard Special Condition A11.1 & 2 of the Gas Transporters Licence**

Following review by the EBCC of Section X of the Uniform Network Code and the EBCR, EBCC believes that the measures identified within this Modification Proposal further the GT Licence relevant objective of facilitating the efficient and economic

operation by the licensee of its pipe-line system by ensuring that robust procedures and best practice measures are in place to minimise the impact on the industry of User failure.

Additionally, EBCC believe that making revision to the rules governing the management of Energy Balancing Credit Management, the level of risk faced by Users could be reduced. The revisions proposed demonstrate continued development of the objectives of the EBCR, namely to “develop and maintain a Framework for limiting the risk of financial loss to the shipper community resulting from the operation of the Energy Balancing regime”, therefore implementation of this Proposal would be consistent with the relevant objective of the promotion of efficiency in the implementation and administration of the Network Code and/or the Uniform Network Code.

**Any further information (Optional), likely impact on systems, processes or procedures, Proposer's view on implementation timescales and suggested text**

**Code Concerned, sections and paragraphs**

Uniform Network Code

**Proposer's Representative**

Mike Young

**Proposer**

British Gas Trading Ltd

**Signature**