

CODE MODIFICATION PROPOSAL No 0308
RG0252 Proposal 11: Appropriate use of the terms Surety and Security in UNC TPD
Section V
Version 1.0

Date: 25/05/2010

Proposed Implementation Date: 01 October 2010

Urgency: Non Urgent

1 The Modification Proposal

a) Nature and Purpose of this Proposal

WWU raised Review Group 0252 “Review of Network Operator Credit Arrangements” in April 2009. This was convened to discuss the appropriateness of the existing credit management arrangements , taking into account the many credit related issues which had occurred since the publication of Ofgems “Best practice guidelines for gas and electricity network operator credit cover” (BPG) document.

This specific proposal better defines the terminology of security and surety so as to remove any ambiguity when credit issues are being considered.

The terms surety and security are used throughout TPD Section V, but are not always applied consistently. The table below illustrates what instrument of credit is surety or security. The necessary referencing has been incorporated into the revised legal text accompanying this modification proposal.

| Instrument of credit | Form | Form |
|-----------------------------|-------------|-------------|
| Letter of Credit | Surety | |
| Guarantee | Surety | |
| Deposit Deed | | Security |
| Prepayment Agreement | | Security |

b) Justification for Urgency and recommendation on the procedure and timetable to be followed (if applicable)

Not applicable

c) Recommendation on whether this Proposal should proceed to the review procedures, the Development Phase, the Consultation Phase or be referred to a Workstream for discussion.

This Proposal was originally developed within the remit of Review Group 0252, which recommended the correct terms being assigned within the UNC when surety and security terms were used. It is important to note that no ‘rule changes’ are brought about by these corrections. Discussions have taken place within the Distribution and Transmission workstreams in May and June 2010. [All relevant comments received in these workstreams have been reflected in the proposal]. Accordingly the Proposer believes the Proposal is sufficiently developed to enable it to proceed to consultation.

2 User Pays

a) Classification of the Proposal as User Pays or not and justification for classification

This Proposal is not classified as a User Pays Modification Proposal as it does not create or amend any User Pays services.

b) Identification of Users, proposed split of the recovery between Gas Transporters and Users for User Pays costs and justification

Not applicable

c) Proposed charge(s) for application of Users Pays charges to Shippers

Not applicable

d) Proposed charge for inclusion in ACS – to be completed upon receipt of cost estimate from xserve

Not applicable

3 Extent to which implementation of this Modification Proposal would better facilitate the achievement (for the purposes of each Transporter’s Licence) of the Relevant Objectives

The Proposer believes that implementation would further the GT Licence ‘Code relevant objective(s)’ of Standard Special Condition A11. Network Code and Uniform Network Code

| | |
|---|--|
| Condition | |
| 1a- efficient and economic operation of the pipeline system to which licence relates | |
| 1b- co-ordinated, efficient and economic operation of (i) combined pipeline system and/or (ii) pipeline system of one or more other relevant gas transporters | |
| 1c- consistent with (a) and (b) above, efficient discharge of licensees obligations | |
| 1d- securing of effective competition between | |

| | |
|--|---|
| 1e-provision of reasonable economic incentive for relevant suppliers to secure that domestic customer supply standards are satisfied | |
| 1f- promotion of efficiency in the implementation and administration of the uniform network code | ✓ |

1f- The Proposer believes that implementation would further the GT Licence ‘Code relevant objective’ of promoting efficiency in the implementation and administration of the network code and/or the uniform network code. The consistency of (correct) terminology being applied through this proposal will remove ambiguity when different credit instruments are being utilised.

4 The implications of implementing this Modification Proposal on security of supply, operation of the Total System and industry fragmentation

No such implication has been identified.

5 The implications for Transporters and each Transporter of implementing this Modification Proposal, including:

a) The implications for operation of the System:

No such implications have been identified.

b) The development and capital cost and operating cost implications:

No such implications have been identified.

c) Whether it is appropriate to recover all or any of the costs and, if so, a proposal for the most appropriate way for these costs to be recovered:

No additional cost recovery is proposed.

d) The consequence (if any) on the level of contractual risk of each Transporter under the Uniform Network Code of the Individual Network Codes proposed to be modified by this Modification Proposal

The contractual risk of each Transporter is unaltered.

6 The extent to which the implementation is required to enable each Transporter to facilitate compliance with a safety notice from the Health and Safety Executive pursuant to Standard Condition A11 (14) (Transporters Only)

No such requirement has been identified.

7 The development implications and other implications for the UK Link System of the Transporter, related computer systems of each Transporter and related computer systems of Users

No changes have been identified.

8 The implications for Users of implementing the Modification Proposal, including:

a) The administrative and operational implications (including impact upon manual processes and procedures)

No implications have been identified.

b) The development and capital cost and operating cost implications

To be advised by Users.

c) The consequence (if any) on the level of contractual risk of Users under the Uniform Network Code of the Individual Network Codes proposed to be modified by this Modification Proposal

The level of risk is unaltered by this proposal.

9 The implications of the implementation for other relevant persons (including, but without limitation, Users, Connected System Operators, Consumers, Terminal Operators, Storage Operators, Suppliers and producers and, to the extent not so otherwise addressed, any Non-Code Party)

No implications have been identified

10 Consequences on the legislative and regulatory obligations and contractual relationships of the Transporters

No such consequence has been identified.

11 Analysis of any advantages or disadvantages of implementation of the Modification Proposal not otherwise identified in paragraphs 2 to 10 above

Advantages

Provides consistent and appropriate terminology within Section V3 and V4 of the UNC in respect of security and/or surety.

Disadvantages

No disadvantages have been identified.

12 Summary of representations received as a result of consultation by the Proposer (to the extent that the import of those representations are not reflected elsewhere in this Proposal)

No such representations have been received, save for the support received from during the Review Groups work.

13 Detail of all other representations received and considered by the Proposer

No such representations have been received.

14 Any other matter the Proposer considers needs to be addressed

The proposer believes that no additional matters require consideration.

15 Recommendations on the time scale for the implementation of the whole or any part of this Modification Proposal

It is suggested that this Proposal be implemented on 1st October 2010 to coincide with the implementation of the other credit proposals being considered in this timeframe. Should this date not be achievable, then implementation could take place immediately following an Authority direction

16 Comments on Suggested Text

The suggested amendment to Section V take account of the revised legal drafting providing consistency of terminology.

17 Suggested Text

Uniform Network Code – Transportation Principal Document Section V

3.1.3

(b) Subject to paragraph 3.1.3(c), where a Qualifying Company or Parent Company provides ~~security~~ surety in respect of a User in the form of a Guarantee (the “~~Security~~ Surety Provider”), then the Approved Credit Rating of such ~~Surety~~ Security Provider may be used in place of the User’s to calculate such User’s Unsecured Credit Limit in accordance with the table set out in paragraph 3.1.3(a).

(c) Where a Surety ~~Security~~ Provider provides ~~security~~ surety pursuant to paragraph 3.1.3(b) or paragraph 3.1.3(d) for more than one User, the aggregate ~~security~~ surety provided by the ~~Security~~ Surety Provider shall not exceed the maximum credit entitlement of the ~~Security~~ Surety Provider calculated in accordance with the table set out in paragraph

3.1.3(a).

(d) A User may increase an Unsecured Credit Limit allocated pursuant to paragraph 3.1.3(a) or paragraph 3.1.4 by an incremental amount (the “Incremental Amount”) by providing surety ~~security~~ (in respect of the Incremental Amount) in the form of a Guarantee from a ~~Security~~ Surety Provider with an Approved Credit Rating

subject to:

3.2.1 For the purposes of the Code:

(a) a "**Code Credit Limit**" is the sum of a User's Unsecured Credit Limit and any security or surety provided by a User pursuant to paragraph 3.4, provided that such amount must be equal to or greater than the User's Value at Risk;

3.2.10

(a) such amount as set out in the table below based upon the amount of additional surety or security demanded by the Transporter; and

| Amount of additional <u>surety or security</u> required | Amount |
|---|--------|
| Up to £999.99 | £40 |
| £1,000 to £9,999.99 | £70 |
| £10,000 or more | £100 |

(b) a daily charge equivalent to that percentage rate as is set out from time to time in the Late Payments of Commercial Debts (Interest) Act 1998 multiplied by the amount of additional surety or security demanded by the Transporter.

3.3.2 Without prejudice to paragraph V3.3.3, where a User fails to provide such additional surety or security as required in paragraph 3.3.1 (b) by the date specified in the notice pursuant to

3.3.1(b): until such time as the User's Value at Risk is reduced to less than 100% of its Code Credit Limit; and

3.4 Surety or Security under Code

3.4.5 For the purposes of Code:

"**Deposit Deed**" shall mean an agreement that is Enforceable and in such form as provided to the User from time to time by the Transporter enabling the deposit of cash as surety or security. ~~or advance payments by a User~~;

"**Enforceable**" shall mean the Transporter (acting reasonably) is satisfied that the instrument of security or surety is legally enforceable and in this respect, where ~~security or surety~~ is provided by a company registered outside of England and Wales, the country of residence of such company must have a sovereign credit rating of at least A awarded by Moody's Investors Services or such equivalent rating by Standard and Poor's Corporation (where such ratings conflict, the lower of the two ratings will be used) and the User shall at its own expense provides such legal opinion as the Transporter may reasonably require;

Code Concerned, sections and paragraphs

Uniform Network Code

Transportation Principal Document

Section(s) V

Proposer's Representative

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Proposer

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