

CODE MODIFICATION PROPOSAL No 0309
RG0252 Proposal 12: Timeframes for establishing and extending Guarantees and
Letters of Credit
Version 1.0

Date: 26/05/2010

Proposed Implementation Date: 01/10/2010

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 Ofgem’s “Best practice guidelines for gas and electricity network operator credit cover” (BPG) document”.

This specific proposal further clarifies the timeframes around establishing and maintaining Guarantees and Letters of Credit (LOC). Both are different types of surety, however their worth in terms of credit protection differs as their end dates near.

A Guarantee can reasonably be deemed valid for the purposes of surety up until the date of its expiry, whereas a LOC should only be deemed valid in terms of the level of surety until 30 days prior to its expiry, to allow time to present any claim prior to its expiry.

A Guarantee can be called upon at any point for any invoice amounts/invoices incurred up to the expiry date of the Guarantee. For example, if the Guarantee expires on 31st October 2010, it can be utilised to recover unpaid invoice amounts due or raised prior to 31st October 2010 (albeit having no value in terms of surety from 1st November 2010 onwards)

A LOC can only be presented (by the Transporter) within the timeframe of the LOC. For example if the LOC expires on 31st October 2010, it has zero worth from 1st November 2010 both in terms of surety and leverage to recover unpaid invoiced amounts.

GUARANTEE	LOC
Assuming Guarantee end dated 31 st October, credit limit (based on this Guarantee) will be set to zero if Guarantee not extended or replaced by 30 th September with document effective 1 st November (or earlier).	Assuming LOC end dated 31 st October, credit limit will be set to zero if LOC not extended or replaced by 30 th September (or earlier)

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 identified within the remit of Review Group 0252, which recommended amending the UNC to better define these two credit tools and the timeframes associated with their applications as surety for means of securing credit. These proposals have also been shared within the Distribution and Transmission workstreams in May and June 2010. [All comments received in these workstreams have been reflected in the proposal. Accordingly the Proposer believes the Proposal is sufficiently developed and clear 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

No User Pays charges applicable.

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

No User Pays charges applicable.

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

No charges applicable for inclusion in ACS.

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 (i) Relevant shippers (ii) Relevant suppliers and/or (iii)DN operators	✓
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	✓

1d – secures effective competition between shippers by reducing the risk of Transporters being ‘timed out’ for claiming on certain surety credit forms, which could lead to bad debt being passed through to Users via transportation charges.

1f – efficiency is gained by more clearly defining the timeframes within which shippers may opt to use the surety available to them to maintain their Code Credit Limits with Transporters.

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

No such implications 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 identified.

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

No such implications 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 period 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 reduced by this proposal as it better articulates the timeframes by which credit limits can be assigned and maintained with shippers.

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)

Users may need to ensure their timeframes for re establishing LOC and Guarantees are consistent with the timeframes outlined in the proposal, but as this is consistent with previous regimes for Guarantees and LOC's under previous Code Credit Rules, it is not expected to be a material issue.

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 Contractual risk of Users is improved by this proposal, as it provides greater clarity for the timeframes which will protect the required credit limits of Users, and better ensures they maintain the credit limits they require with transporters.

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 such implications have been identified.

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

No such consequences have 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 clarity and certainty for all Users on timeframes for re-establishing lines of credit using these two forms of surety.
- reduces likelihood of Transporters being timed out when claiming against surety, therefore protecting Users from potential User bad debt being charged via Transportation charges.

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 amendments to TPD Section V provide a clearer description of when these two forms of surety need re-establishing to confirm Users ongoing credit limits.

17 Suggested Text

3.2.4

(a) A User's Code Credit Limit may from time to time be reviewed and revised, in accordance with the Code, save where either paragraph 3.2.5 or 3.2.6 applies, in the case of ~~a(i)~~, ~~b(ii)~~, ~~d(iv)~~ and ~~e(v)~~ on notice of not less than 30 Days, or in the case of ~~e(iii)~~ below on notice of not less than 2 Business Days following the Business Day on which a notice is issued in accordance with 3.2.9, (or in any such case, such lesser period agreed by the User) to the User:

- ~~a(i)~~ At intervals of approximately 12 months
- ~~b(ii)~~ At the User's request (but subject to 3.2);
- ~~e(iii)~~ Where any published or Specially Commissioned Rating of the User or any person providing surety for the User is revised downwards
- ~~d(iv)~~ Where any instrument of surety or security expires or is determined
- ~~e(v)~~ At the Transporter's request where the Transporter has reasonable grounds to believe that the effect of the review will be to reduce the User's Code Credit Limit

(b) A Letter of Credit is deemed zero value for User's Code Credit Limit purposes 30 days prior to the date of its expiry.

(c) A Guarantee is deemed zero value for User's Code Credit Limit purposes 30 days before expiry unless either extended or replaced by security or surety effective from no later than the day after the expiry date of the existing guarantee.

3.2.8 The Transporter will not be obliged to agree to any request of the User under paragraph

3.2.4~~(b)~~ (ii) unless the User agrees to reimburse to the Transporter the reasonable costs and fees payable by the Transporter to any third party in accordance with the Code in connection with such request.

3.2.9 Where a User's Code Credit Limit has been revised downwards in accordance with paragraph 3.2.4~~(e)~~ (iii) above, the Transporter will notify the User accordingly on the next.

Code Concerned, sections and paragraphs

Uniform Network Code

Transportation Principal Document

Section(s) V

Proposer's Representative

Simon Trivella (Wales & West Utilities)

Proposer

Simon Trivella (Wales & West Utilities)