

Modification Report
Extending established Uniform Network Code governance arrangements to include the
Code Credit Rules referenced in section V3.1.2
Modification Reference Number 0056
Version 3.0

This Modification Report is made pursuant to Rule 8.9 of the Modification Rules and follows the format required under Rule 9.6.

1. The Modification Proposal

The Proposal, as amended by the Proposer, is as follows:

A number of procedural documents which set out how Transporters and Users implement Uniform Network Code (UNC) 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 UNC they are typically managed by the Transporters outside the UNC governance processes with only the Transporters being allowed to propose changes to the documents. 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.

This modification proposal builds on the principles established by Modification 730 to the Network Code and proposes extending the UNC governance arrangements to include all of the Code Credit Rules.

With respect to the Code Credit Rules prepared by each Transporter, it is proposed that the UNC be modified:

- To require publication of the Code Credit Rules on a publicly accessible industry website, such as the Joint Office of Gas Transporters' website.
- To require creation of a new version of any of the Code Credit Rules following any revisions, with each version numbered sequentially, and with earlier versions continuing to be made available by the Relevant Transporter on request
- To enable Transporters or Users to propose revisions to any of the Code Credit Rules by written notice to the Uniform Network Code Committee
- To prevent any revisions being made to any of the Code Credit Rules without approval by majority vote of the UNC committee
- Without fettering the discretion of the committee, to permit the UNC Committee if it considers it appropriate (again subject to majority vote) to refer any proposed change to a relevant sub-committee, which would in turn be required to consider the matter and make recommendations to the UNC committee
- In the event of the failure by the UNC Committee to come to a decision then the change should be subject to the UNC modification procedures unless the UNC Committee decides otherwise.

Implementation of this Modification Proposal would allow Users as well as Transporters to instigate revisions to any of the Code Credit Rules. However the implementation of proposed revisions would only be allowed by first formally satisfying industry stake holders. 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" and in their decision letter regarding Modification 730 to the Network Code.

2. Extent to which implementation of the proposed modification would better facilitate the relevant objectives

The Proposer suggested that implementation of this Proposal would be expected to better facilitate the relevant objectives by improving transparency and accountability. It would be a means of ensuring efficient consultation, which would increase the certainty and confidence of all UNC parties, thereby facilitating competition between Shippers and between Suppliers. Further, increasing the efficiency and transparency of consultation would contribute to the promotion of efficiency in the implementation and administration of the UNC.

Implementation might also be expected to facilitate more efficient change management of processes associated with the UNC and therefore potentially facilitate the reduction of operating costs for the industry, consequently facilitating competition between shippers and between suppliers. Implementation might also reduce risk associated with insufficient visibility and governance of the Code Credit Rules, and any such reduction in risk would be expected to further facilitate the securing of effective competition.

BGT agreed "*that the implementation of this Modification Proposal would further relevant objectives:-*

(d) the securing of effective competition between Shippers and Suppliers and

(f) the promotion of efficiency in the implementation and administration of the Uniform Network Code by improving the visibility and transparency of these processes and by affording access by user to the process by which beneficial changes may be introduced".

EON also believes the proposal "*will better facilitate the relevant objectives*

(f) the promotion of efficiency in the implementation and administration of the network code and/or the uniform network code and relevant objective (d)the securing of effective competition between relevant shippers, suppliers and/or between DN Operators and relevant shippers through improving transparency and accountability and creating a more level playing field, enabling both Users and Transporters to propose changes to the relevant documents".

SGN believes implementation of the Modification Proposal "*would better facilitate the relevant objectives*".

TGP concluded that "*the proposal clearly facilitates the Relevant Objectives specified within the Gas Transporters Licence by improving transparency and accountability*".

STUK states "*As proposer STUK believe that this would better facilitate the relevant objectives specified in the Gas Transporters Licence by improving transparency and accountability and facilitate better change management and competition between*

shippers and suppliers” adding “ it would further facilitate the securing of effective competition”.

NG UKD “believe ... the Proposal does not better facilitate the ‘relevant objectives’ specified within the Gas Transporters Licence, specifically it does not ‘facilitate the promotion of efficiency in the implementation and administration of the network code and or the uniform network code’

NG NTS stated “We do not agree with the Proposer's view that the Proposal would improve transparency and accountability and we would question how the Proposal would achieve the stated result of, 'ensuring efficient consultation' any better than prevailing arrangements. We note that under prevailing UNC Modification Rules Users can propose changes to the Transportation Code Credit arrangements through the Modification Process; therefore we don't believe that this Proposal demonstrates any improvement to the relevant objectives in respect of this particular aspect of the Proposal”.

The SME believes this is incorrect. The UNC, V 3.1.2, states “The “Code Credit Rules” are the rules from time to time established and revised by the Transporter and issued to Users...”, while 3.1.3 states “The Code Credit Rules do not form a part of the Code”. As such, changes to the Code Credit Rules are not covered by the UNC Modification Rules.

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

The implementation of this proposal should not have any effect on security of supply or the operation of the Total System.

Establishing a consistent process to be followed before any change is made to the Credit Rules operated by each Transporter would be expected to help avoid industry fragmentation.

NG NTS agreed that, “in some instances ensuring that documents are consistent across Transporters may mitigate perceived adverse affects of market fragmentation.”

4. The implications for Transporters and each Transporter of implementing the Modification Proposal, including

a) implications for operation of the System:

Implementation of this Proposal would not affect the operation of the System.

TGP “agree that there are no operational or systems impacts as a result of the implementation of the modification”.

b) development and capital cost and operating cost implications:

No material development or capital cost implications have been identified.

TGP believe that “ there should be no cost implications other than to provide the relevant facility to publish and version control the manual on a publicly accessible industry website. This is a concept that the Joint Office have already informally taken forward”.

The SME notes that these documents are currently available on the gas governance website.

c) extent to which it is appropriate to recover the costs, and proposal for the most appropriate way to recover the costs:

No additional cost recovery mechanism is proposed.

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

No such consequences on price regulation have been identified.

5. The consequence of implementing the Modification Proposal on the level of contractual risk of each Transporter under the Code as modified by the Modification Proposal

The Proposer suggested that implementation may help reduce the level of contractual risk for each Transporter by improving transparency and governance.

NG UKD disagrees - “ Section 5 of the Draft Modification Report suggests that a Transporter’s level of contractual risk may reduce if the Proposal were implemented. We would question the validity of this statement given that the Proposal allows non-Transporter parties to instigate change to the Code Credit Rules whereas currently only Transporters have this ability. Such changes could result in significant financial detriment to Transporters. Also, whereas the Code Credit Rule provisions which govern contractual operation, may be changed only by the Modification process by Ofgem’s determination, this proposal would allow the commercial guidance rules which do not form part of UNC to be changed (or change vetoed) without recourse to regulatory determination. This could lead to perverse conflicts between the operation of the contract and the guidance to that contract.”

6. The high level indication of the areas of the UK Link System likely to be affected, together with the development implications and other implications for the UK Link Systems and related computer systems of each Transporter and Users

No systems implications have been identified.

7. The implications of implementing the Modification Proposal for Users, including administrative and operational costs and level of contractual risk

Implementation could help reduce administrative costs and contractual risks for Users by increasing visibility and awareness of arrangements and introducing more robust governance arrangements. This could in turn facilitate competition between shippers and between suppliers.

STUK believes that “this proposal would reduce the risks associated with insufficient visibility of the Code Credit Rules”.

TGP “support the statement that implementation could help reduce administrative costs and contractual risk for users by providing a clear and transparent mechanism to help

ensure that the Code Credit Rules are relevant to the needs of both Transporters and Users”.

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

Implementation would provide an opportunity for Users other than Transporters to sponsor changes put forward by non UNC parties, ensuring wider industry involvement or participation.

9. Consequences on the legislative and regulatory obligations and contractual relationships of each Transporter and each User and Non Code Party of implementing the Modification Proposal

No implications have been identified.

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

Advantages

- allows Users as well as Transporters to propose changes to any of the Code Credit Rules, introducing more balanced governance arrangements and ensuring they are more relevant to User Requirements.
- prevents changes being made to the reports without the approval of the UNC Committee, except where the normal Modification Procedures are followed
- improved transparency and confidence in arrangements as the current version of the Code Credit Rules would be published and available on the industry website and subject to formal change control
- more inclusive and efficient consultation will increase the certainty and confidence of UNC parties leading to the securing of effective competition between Shippers and between Suppliers
- contributes to the promotion of efficiency in the implementation and administration of the UNC.

RWE in support of the modification proposal considers *“that the incorporation of these documents under the UNC will assist transparency and accountability, which will help to increase Users confidence as the consultation process will be inclusive and efficient”.*

STUK agreed, *“that the Code Credit Rules would benefit from full joint industry governance so that all Transporters and Users can propose revisions, with changes only being made by majority vote of the UNC committee”.*

TGP believes *“the Draft Modification Report clearly sets out the advantages that implementing this proposal will bring”.*

Disadvantages

- gives responsibility for decisions to the UNC Committee rather than a neutral party, such as Ofgem

NG NTS expressed concern that proposals would change the status of the UNC Committee from a “reviewing body to a governing body” and that this could “dilute” the current decision making role of the Authority.

TGP “do not believe that the disadvantage highlighted in the report, such that responsibility for the administration of change being given to the Uniform Network Code (UNC) Committee rather than Ofgem, warrants concern with respect to the Code Credit Rules. The arrangements proposed by the Modification, such that the UNC Committee has open to it the option to refer any proposed change to a relevant sub-committee, should provide a route to ensure full transparency and discussion by the industry should any proposed change be unclear or contentious.”

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

| <u>Organisation</u> | <u>Abbreviation</u> | <u>Position</u> |
|------------------------------|---------------------|-----------------|
| British Gas Trading | BGT | For |
| E.ON UK | EON | For |
| National Grid Distribution | NG UKD | Against |
| National Grid Transmission | NG NTS | Against |
| RWE Npower Plc | RWE | For |
| Scotia Gas Networks | SGN | For |
| Scottish and Southern Energy | SSE | For |
| Statoil UK | Statoil | For |
| Total Gas & Power Limited | TGP | For |

EON states that “The proposed arrangements would also ensure consistency with Ofgem’s principles of good governance set out in their June 2003 consultation document, ‘Gas Retail Governance – Further Consultation’”.

SGN notes in light of the recent implementation of a number of Modification Proposals which have incorporated elements of the Code Credit Rules into the UNC “Although we support the principle behind the proposal, we are now less clear that this would actually bring any substantial benefit”.

SSE believes “The proposed changes to the governance arrangements to extend the established Network Code arrangements to include Code Credit Rules is a pragmatic solution usefully developed via the Workstream”.

TGP having agreed the proposal clearly facilitates the relevant objectives added that it is also “consistent with Ofgem’s principles of good governance set out in their June 2003 consultation document “Gas Retail Governance – Further Consultation”.

NG UKD state “A potential debtor is likely to seek relaxation of a Transporter’s credit security policy whereas this is in place to minimise the level of unsecured debt in the event of Shipper default. This facilitates competition between relevant Shippers by mitigating against potential exposure to additional costs”.

NG NTS “note that each Transporter is required to manage its Transportation Code Credit Rules in accordance with the UNC section V3.1.2 - Transportation Code Credit Rules. We recognise that separate Code Credit Rules are produced by each individual

Transporter and therefore may not be consistent across all Transporters. We agree that for the purposes of providing greater transparency there is merit in ensuring that such documents and any updated versions are available through one common website, this may to some degree mitigate perceived adverse affects of fragmentation of the Market”.

NG NTS added, “we believe that any change relating to the Code Credit Rules must be subject to full industry consultation. We do not believe that submission to the UNC Committee is the appropriate level of governance for such changes. We believe that this position is consistent with the views expressed by Ofgem in its decision letter for UNC 0032”.

SGN commented “ Whilst the ...proposals seek to amend governance arrangements and involve the UNC Committee in decision making, we note that this does not in any way prevent a party from seeking to implement changes through the UNC formal modification process, requiring Authority approval.”

NG UKD argues the Proposal “allows for a UNC Modification Proposal to be raised “unless UNC Committee decides otherwise” which indicates that the UNC Committee has a power of veto over future related Proposals” and “believes that the UNC Committee should not (and cannot) have the authority to prohibit any Transporter or Shipper from raising a UNC Modification Proposal”.

The SME would point out that the Proposal does not include any barriers to a Modification Proposal being raised. The Proposal includes a provision that where the UNC Committee are unable to “ come to a decision” they can subject a proposal to the “UNC modification procedures” if they believe this would help them reach a decision. However this is not necessary if the UNC Committee “determines otherwise” i.e. they believe there would be no obvious benefit to be gained from further consultation. This makes no reference to vetoing the raising of a Modification Proposal and would not change the existing position whereby UNC Modification Proposals can be raised by Transporters or Shippers at any point in time.

Legal Text

The Proposer has not provided draft text.

When the legal text is drawn up, the Proposer suggested that consideration be given to the creation of common governance arrangements for such documents. A list of similar documents and governance arrangements could be set out in a general section of the UNC. This would be consistent with the promotion of efficiency in the administration of the Uniform Network Code.

TGP supported this suggestion stating “ this would add clarity to the UNC and would promote efficiency in the administration of the Codes”.

EON “support the creation of a list of the relevant documents, along with the creation of a section detailing common governance arrangements” arguing this “would better facilitate the administration of the network code and improve transparency”. They added that they “would expect such changes to be developed within the Governance Workstream”.

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

Implementation is not required to enable each Transporter to facilitate compliance with safety or other legislation.

13. The extent to which the implementation is required having regard to any proposed change in the methodology established under paragraph 5 of Condition A4 or the statement furnished by each Transporter under paragraph 1 of Condition 4 of the Transporter's Licence

Implementation is not required having regard to any proposed change in the methodology established under paragraph 5 of Condition A4 or the statement furnished by each Transporter under paragraph 1 of Condition 4 of the Transporter's Licence.

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

No programme of works would be required as a consequence of implementing the Modification Proposal

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

It is proposed that implementation should be on the business day following receipt of direction from the Authority.

16. Implications of implementing this Modification Proposal upon existing Code Standards of Service

No implications of implementing this Modification Proposal upon existing Code Standards of Service have been identified.

17. Recommendation regarding implementation of this Modification Proposal and the number of votes of the Modification Panel

At the Modification Panel Meeting held on 16 March 2006, of the 10 Voting Members present, capable of casting 10 votes, 6 votes were cast in favour of implementing this Modification Proposal. Therefore the Panel recommend implementation of this Proposal.

18. Transporter's Proposal

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

19. Text

UNIFORM NETWORK CODE - TRANSPORTATION PRINCIPAL DOCUMENT SECTION V - GENERAL

Amend Section V3.1.3 TPD as follows:-

- 3.1.3 The Code Credit Rules ~~do not form part of the Code shall be governed in accordance with [Section V12 of the TPD]~~ and (but without prejudice to the further provisions of this paragraph or to anything done pursuant to the Code Credit Rules) nothing ~~elsewhere~~ in the Code shall make compliance with such rules an obligation of the Transporter or Users.

Insertion of a new Section V12 in the TPD

12 General Provisions Relating to UNC Related Documents

12.1 Purpose

The purpose of this Section is to establish generic governance arrangements in respect of the following UNC Related Documents (each a “**Document**” and collectively the “**Documents**”):-

- (a) Network Code Operations Reporting Manual as referenced in Section V9.4
- (b) Code Credit Rules referenced in Section V3.1.2
- (c) Network Code Validation Rules referenced in Section M1.5.3;
- (d) GRE Invoice Query Incentive Scheme Methodology Document referenced in Section S4.6; and
- (e) CSEP Ancillary Agreement document referenced in Section J5.9.

12.2 Publication Requirements

Each Document shall be kept up to date and published by the Transporters on the Joint Office of Gas Transporters website.

12.3 Modifications

Should a User or Transporter wish to propose modifications to any of the Documents, such proposed modifications shall be submitted to the Uniform Network Code Committee and considered by the Uniform Network ~~Committee~~ Committee or any relevant sub-committee where the Uniform Network Committee so decide by majority vote. in accordance with the [Uniform Network Code Modification Procedures].

12.4 Approved Modifications

- 12.4.1 If the event that the a proposed modification is approved ~~by~~ by a majority vote of the Uniform Network Code Committee, the modification ~~to the Document~~ shall be

~~implemented within the timescale set out in the proposed modification or as soon as is reasonably practicable and agreed by the Uniform Network Code Committee. Where the Uniform Network Code Committee fails to achieve majority approval the proposed modification shall be considered in accordance with the provisions set out in Section 7 of the Uniform Network Code Modification Rules unless the Uniform Network Code Committee determines otherwise.~~

12.4.2 Each revised version of a Document shall be version controlled and retained by the Transporters. It shall be made available on the Joint Office of Gas Transporters website.

~~12.4.3~~

Subject Matter Expert sign off:

I confirm that I have prepared this modification report in accordance with the Modification Rules.

Signature:

Date :

Signed for and on behalf of Relevant Gas Transporters:

Tim Davis
Chief Executive, Joint Office of Gas Transporters

Signature:

Date :