

Gas
Transmission

UNC 0743: Revisions to User Termination Provisions

3rd December 2020

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nationalgrid



Introduction

- Transporters can issue a **Termination Notice** to a User where a **User Default** has occurred under UNC TPD V4.
- **User Default** events include where:
 - the User is proposed to enter a Voluntary Arrangement;
 - an administrative receiver is appointed; or
 - an administration order is made.

Introduction (cont...)

- Corporate Insolvency & Governance Act 2020 enacted in June 2020
 - Inserts a new provision (section 233B) into the **Insolvency Act 1986**
 - Prevents cessation of contracts for the supply of services (subject to certain exceptions) where the relevant company is subject to a '**relevant insolvency procedure**'
 - Definition of '**relevant insolvency procedure**' includes the three User Default events listed previously

TPD Provisions and the new Insolvency Act Provisions

Uniform Network Code 'User Default'		Insolvency Act 1986 'relevant insolvency procedure'	
User Default Trigger	TPD V Ref	Procedure	Section 233B ref
a voluntary arrangement (under Section I of the Insolvency Act 1986) is proposed in respect of a User	4.3.1(e)(i)	a voluntary arrangement takes effect in respect of the company	Paragraph (2)(d)
an administrative receiver (as defined in Section 29 of the Insolvency Act 1986) is appointed in respect of the User's assets or undertaking	4.3.1(e)(ii)	an administrative receiver of the company is appointed	Paragraph (2)(c)
an administration order* (under Section 8 of the Insolvency Act 1986) is made in respect of the User	4.3.1(e)(iii)	the company enters administration	Paragraph (2)(b)

* making of an 'administration order' constitutes entering into administration (see Schedule B1 of the Insolvency Act 1986)

Considerations

- Legislation overrides UNC to the extent UNC conflicts
 - hence the current rights under the UNC for a Transporter to issue a Termination Notice to a User is already subject to the new legislation
- Whilst the option of 'no change' was considered (the above principle would apply regardless), it is considered preferable for the UNC to acknowledge the implications of the new legislation

Proposed Solution

- It is proposed that the relevant User Termination provisions in TPD V4.3 are amended to reflect they are subject to the new legislation
 - V4.3.1(e) – events or circumstances constituting a User Default, specifically including those that are relevant insolvency procedures
 - V4.3.3 – entitlement for a Transporter to issue a Termination Notice to a User;
 - V4.3.5(b) – issue of Termination Notice for Users where a foreign insolvency practitioner (i.e. outside England and Wales) is appointed

Code Relevant Objective

- Objective (f) Promotion of efficiency in the implementation and administration of the Code.
 - removes the conflict between legislation and the unconditional entitlement in the UNC for a Transporter to issue a Termination Notice where a User Default has occurred.

Workgroup Development

- Workgroup Report due to UNC Mod Panel by 18th February 2020
 - 3rd Dec 2020 - Workgroup 1 (Transmission Workgroup)
 - 7th Jan 2021 - Workgroup 2 (Transmission Workgroup)
 - 4th Feb 2021 - Workgroup 3 (Transmission Workgroup)
- To do
 - Consider Workgroup views, including on clarity of the solution
 - Compile and approve Workgroup Report
 - Consider suggested legal text (as detailed in the Proposal) / finalise legal text
 - Assess facilitation of relevant objectives