

Final Modification Report No.3

Credit Section Update

22nd May 2018

The Transporter has prepared this Final Modification Report No.3 in accordance with section 8 of the Code Modification Rules.

A Description of the nature and purpose of the modification

This modification is being made to update the credit section of the NI Network Gas Transmission Code, to amend the timescales for the provision of forecast information for the purposes of calculating credit, and to address a number of drafting issues identified over the last year. At the end of last year, the Utility Regulator approved Modification No.2 which brought forward the timescales for provision of Shipper forecast information so that tariffs could be determined earlier in the year and ahead of the Annual IP Entry Capacity Auctions in July. Shipper's forecast information will now be collected by the Transporter (for tariff calculation purposes) by the end of February each year.

To date this same information has been used to determine Shipper's credit requirements for the following year, but clearly moving the information gathering process earlier in the year means that there is a greater chance of inaccuracy when it comes to determining credit requirements. This modification is therefore to separate the process of applying for Credit from the information gathering for the purposes of tariff calculation.

The Transporter has also taken the opportunity to make some other updates which have been identified during the process of producing the NI Network Gas Transmission Code, including removing bonds as an acceptable form of security, updating the terms for the provision of cash deposits, and to overhaul the drafting of the section to provide a new introductory section and improve clarity and consistency in a number of areas.

B How the modification better facilitates the relevant objective

The Relevant Objective, (condition 2.4 of the Transporter Licences) will be better facilitated by the NI Network Gas Transmission Code as a result of this modification. This change will support the economic and efficient operation of the network by ensuring that the Shipper information required to determine their credit requirements can be collected as close as practicable to the start of the new gas year and by ensuring that the credit rules in the NI Network Gas Transmission Code are clear, up to date and reflect current practice.

C Third Party Representations and the views of the Transporter

The Transporter received 3 responses to the Initial Modification Report.

ESB highlights that in section 18.1.10, it would be appropriate to include the word 'due' in the context of invoices falling 'due' to be paid. The Transporter agrees and has made this change in the Final Legal Text. It is also shown in section G below.

The other two responses broadly support the proposed changes (including the changes to the calculation of PS Code Charges) and, in addition, seek some specific further changes to the proposals as outlined below:

- Firmus Energy (Firmus) suggests that the section should be further updated to include provision for the Transporter to inform the Distribution Network Operator if there has been a default on payment.
- Phoenix Natural Gas (Phoenix) suggests the inclusion of a provision for the Transporter to notify the Distribution Network Operators (DNOs) when it gives a Termination Notice to a gas supplier that holds capacity on a Distribution Network.

The Transporter considers that these suggestions touch on important areas of co-ordination between the Transporter and the DNOs which require further, more specific, consideration.

In summary, at present, to make either of these changes at this point would mean introducing changes to the Confidentiality provisions of the NI Network Gas Transmission Code which have not been consulted upon specifically and Shippers have not been given the opportunity to comment on these potential changes. The Transporter therefore cannot recommend making these additional changes at this stage, but it does consider that the industry should continue to work together on these issues, particularly in the context of current developments concerning the Supplier of Last Resort arrangements being introduced in relation to the Distribution Network Codes. Once the issues have had more specific industry consideration, and there is a clearer view of the precise changes to be made, if in the Transporter's view it was considered necessary, the Transporter would propose a further modification to the NI Network Gas Transmission Code to address these points. Please see section H below for further discussion of the Transporter's views.

D The clauses of the NI Network Gas Transmission Code that require amendment

This proposal primarily amends section 18, with some minor changes to other paragraphs in the Code, the Code Credit Rules and the forms of guarantee in the Appendices.

E Impact on the networks of the Designated Pipeline Operators, Adjacent Transporters and/or relevant agreements in respect of the NI Network:

The Transporter has considered the impacts the modification may have and has concluded as follows:

- Operation of the networks of the Designated Pipeline Operators: No impact
- Adjacent Transporters: No impact
- Relevant NI Agreements: No impact

F The date proposed for implementation

The Transporter proposes that this Modification should take effect from 1st June 2018.

G Changes from the Initial Modification Report

A change made relative to the Initial Modification Report is in section 18.3.10, which has been amended as follows:

- 18.1.10 If a Shipper has a Required Level of Credit Support for Y+1 which is lower than the Required Level of Credit Support for Gas Year Y, the Shipper shall maintain its

Provided Level of Credit Support at the Required Level of Credit Support for Gas Year Y until such time as the Shipper has paid all amounts which fall **due** to be paid by it in respect of Gas Year Y, including amounts which become payable following the calculation of the Year-End Postalised Charges for Gas Year Y and the invoicing of Reconciliation Payments for Gas Year Y.

The Transporter has also made a minor typographical change in section 17.9.3, which has been amended as follows:

17.9.3 The Transporter shall:

- (a) pay to a Shipper any balance specified in a PS Invoice in accordance with section 17.5.4 by the 8th Business Day following the Due Date; and
- (b) pay to the Shipper any balance specified in a CC Invoice in accordance with section 17.6.4 by the 8th Business Day **by following** the Due Date.

These changes are shown in yellow highlight in the Final Legal Text which has been published alongside this Final Modification Report.

H Discussion on Transporter notifications to the DNOs

As noted above, two respondents to the Consultation on this Modification Proposal proposed further changes:

- Firmus proposed that, in addition to changes concerning convening the Credit Committee, the DNOs should be notified if there is a default on payment.
- Phoenix proposed that the Transporter should be required to notify the DNOs of any Termination Notice to a gas supplier that holds system capacity in the Distribution Networks. It noted that there is an equivalent provision (that the Transporter would be notified by the DNO of a defaulting Shipper) in the Distribution Network Codes (Section O Paragraph 5.14 of the DNO Codes), albeit that this section is also subject to current consultation in relation to Supplier of Last Resort arrangements.

Phoenix also observed that there is a similar arrangement in the NI Network Gas Transmission Code where the Transporter is required to notify an Adjacent Transporter of a terminating Shipper where it holds Bundled IP Capacity at the relevant Interconnection Point.

These suggestions raise a number of points which are discussed below.

a) Distinction between DNO roles as a Relevant DNO and as a Shipper under the NI Network Gas Transmission Code

The DNOs would be party to information discussed in the Credit Committee as a result of their participation in the role of a Shipper. Phoenix acknowledges that this means that it would already be aware of any termination which was discussed in the Credit Committee context, but it considers that it would also be appropriate for the DNO to be formally informed in its role as DNO.

The Transporter agrees that it is appropriate to distinguish between the different roles of the DNO, as currently set out in section 1.11.

It also considers that to enable the disclosures suggested, it would be necessary to review the Confidentiality provisions in section 23 of the NI Network Gas Transmission Code to ensure that the treatment of Confidential Information in the context of the dual roles of the DNOs is correctly

specified. Currently Section 1.11 specifies that the DNOs are treated as Shippers in respect of Section 23 (Confidentiality) and there is no provision for disclosure of information to DNOs in their role as a Relevant DNO.

b) Purpose of the Disclosure

The Transporter understands that various changes have recently been/are being consulted upon to support the introduction of Supplier of Last Resort (SOLR) Arrangements. However, it is not yet clear to the Transporter what action the DNOs would take if they were to receive a notification of a payment default or a termination under the NI Network Gas Transmission Code, or indeed whether some specific notification from the Transporter to the Regulator may be required in relation to a trigger for the SOLR arrangements.

Further discussion is therefore needed to ensure that the purpose of the disclosure is clear and that any consequences are transparent to Industry.

c) Equivalent provisions for Adjacent Transporters at IPs

The Bundled IP Capacity arrangements are specific to Interconnection Points and are supported via a number of interoperator and tri-partite agreements. Bundled IP Capacity is a product sold jointly by the Transporter and the Adjacent Transporter, and the notification provided for in the NI Network Gas Transmission Code is only notification of termination, as opposed to any information concerning the reason for termination, for example a payment default, or anything else. The purpose of the notification is to enable the operators to maintain compliance with Capacity Allocation Mechanisms Network Code under which Bundled IP Capacity should not be allowed to become unbundled.

Termination may be mandated by the credit committee or a simple result of insolvency under the NI Network Gas Transmission Code. Shippers may also choose to voluntarily retire from the NI Network Gas Transmission Code, and the Transporter would notify the Adjacent Transporter of an application for such retirement under section 22.9.8. Under Adjacent Transporter's Codes 'termination' may also be voluntary by the shipper. The provisions in the tripartite agreements are concerned with allowing an Adjacent Transporter a short period to object to a voluntary 'termination', where Bundled IP Capacity is held by a Shipper.

In the context of the IP arrangements, there is no sharing of credit-worthiness or payment performance information provided for between the Adjacent Transporters in any of the interoperator or tri-partite agreements or the Codes. This reflects the fact that, apart from the specific and limited effects of the tri-partite and interoperator agreements, the transmission arrangements on either side of an IP are independent of each other and form separate contractual arrangements between different groups of participants. Parties may have different credit arrangements for different contracts, and each of the operators must respect the confidentiality of their individual customers at all times, according to their own contracts with those customers.

d) Appropriate arrangements between the DNOs and the Transporter

The Transporter acknowledges that in the context of Northern Ireland, where many of the parties using the transmission system are also users of the distribution networks, there is a significant common interest in protecting against credit risk under all the arrangements. There may also be common interest in allowing early preparation for a SOLR event, or for greater co-ordination between the DNOs and the Transporter in issuing termination notices. However, the details and specifically, the particular triggers for an SOLR event are to be set out separately in the Distribution Codes and the Gas Shipper Licences, and the consultation on those is not yet completed. At present, these triggers do not directly involve the transmission arrangements.

In conclusion, the Transporter considers that there may be merit in a more co-ordinated approach for the formal sharing of payment default and/or termination information, which would otherwise be confidential, between the network operators.

However further work is required to establish exactly:

- What are each of the relevant circumstances in which information should be disclosed by the Transporter to a DNO?
- Precisely what information should be disclosed?
- What action would be taken in response by the DNO?

The Transporter is willing to engage in further discussion on these questions, and any others considered relevant by other parties. Based on the outcome of these discussions, if the Transporter considered it necessary, appropriate changes to the NI Network Gas Transmission Code could be brought forward by the Transporter for consultation as a modification proposal.

I Final Legal Text

(published separately)