



East Surrey Pipelines Ltd,
Shippers and other parties.

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13 January 2006

Dear Colleague,

Modification Proposal ESP113: 'Inclusion of incident communications governance within Network Code'.

Ofgem¹ has considered the issues raised by this modification proposal and has decided to direct East Surrey Pipelines Ltd (ESP) to implement the proposal as we believe that it will better facilitate the relevant objectives of ESP's Network Code as defined in standard condition 9 of its GT Licence.

Background

Gas Transporters have certain obligations under regulations such as the Gas Safety (Management) Regulations 1996 (GS(M)R) and the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR), relating to reporting of emergency incidents covered by those regulations. However, detailed operational procedures on how such incidents will be communicated to shippers are not prescribed in these regulations and have hitherto been contained largely in non-binding procedural documentation.

On 20 November 2003 Ofgem approved modification 649² to the Transco Network Code, which has since been replaced by the Uniform Network Code (UNC). The effect of this modification, which was implemented with effect 1 October 2005, was to reference and give contractual effect to certain provisions within external documentation produced in line with the above regulations. This documentation was subsequently published as the *'Schedule for Shipper Communications in Incidents of CO Poisoning, Gas Fire/Explosions and Local Gas Supply Emergency'*³.

¹ Ofgem is the Office of the Gas and Electricity Markets Authority. The terms 'Ofgem' and the 'Authority' are used interchangeably in this letter

² Modification proposal 649: 'Referencing incident notification within Network Code.'

³ Available at: www.gasgovernance.com/docs/COandFireExplosioncomms.doc

The Modification Proposal

This proposal seeks to introduce specific obligations onto ESP in its Network Code, similar to those introduced into the Uniform Network Code. It is proposed that where the GT becomes aware of a loss of supply incident upon its Network which affects more than 50 premises, it will inform Users, provide ongoing updates where the incident is prolonged and provide a final notice once this incident has been rectified, all within specified timescales.

Respondents' Views

ESP received five responses to its consultation on this proposal, all of which were in support of its implementation. Respondents generally felt that the implementation of this proposal would provide greater clarity, assisting Users with their planning for loss of supply incidents and their ability to manage communications with consumers.

One respondent raised concerns about the communication of incidents involving fewer than 50 premises and was particularly concerned with instances of carbon monoxide poisoning. However, the respondent recognised that such instances are outside of the scope of this proposal and was not covered in the modification to the UNC which this proposal seeks to replicate, but urged the industry to consider the implications of such incidents.

ESP's Views

ESP states that in principle it is supportive of the proposal. ESP considers that the proposal sets out a reasonable practice for the management of information to shippers, and adds that it seems reasonable for these procedures to be formalised. ESP also considers that this proposal fits with its policy of seeking to align its procedures with those contained in the Uniform Network Code wherever possible.

ESP has also taken the view that the procedures themselves should not be contained in the body of its Network Code but should be contained in a separate document, to be entitled '*Shipper Incident Communication Procedure*'.

However, ESP does raise concerns about its ability to implement this proposal at the present time, given the current uncertainty around the emergency cover to be provided to independent Gas Transporters (iGT) following the expiry of existing contracts with Distribution Network (DN) operators on 31 March 2006. ESP states that as an iGT it is dependent upon the provision of emergency cover under contract from the incumbent DN, and does not consider it is able to commit to the provision of information within the timescales provided in this proposal.

ESP is also concerned that it may not be possible to obtain the precise identification of the relevant pipeline in the timescales required in an emergency incident, potentially resulting in shippers obtaining a duplicate notification of an incident, from both it and the relevant DN. ESP is concerned that this may lead to greater confusion for the shipper.

Ofgem's Views

Ofgem understands that the intent of the proposal is essentially to codify the communications that a shipper would reasonably expect a GT to make in the event of a loss of supply incident. It is anticipated that this will increase certainty, allowing shippers

and suppliers to plan with greater confidence and otherwise manage their customer relationships more effectively.

Ofgem notes the concern raised by one respondent regarding the arrangements in the event of an incident affecting fewer than 50 premises. Given that a Network Code User has raised such concerns, it seems apparent that there is currently a lack of clarity over the procedures to be followed during such incidents. However, as noted above, this is outside of the scope of this particular proposal, though it is open to any Network Code party to suggest further modifications which may remedy this situation if considered appropriate.

With respect to carbon monoxide poisoning, the RIDDOR cover CO incidents involving death or major injuries. The GS(M)R requires that where an incident is notifiable under the RIDDOR, the Network Operator will inform the relevant gas supplier as soon as reasonably practicable. Again, if any Network Code party considers that further clarity is required on these points, or arrangements are required for incidents which may not fall within the scope of the existing regulations, they are able to propose further modifications to the Network Code, or perhaps more appropriately the '*Shipper Incident Communication Procedure*' document.

Ofgem acknowledges that ESP, along with other iGTs, is currently in a period of uncertainty with respect to emergency service provisions, given that the contractual arrangements for these services are currently being renegotiated with the respective Distribution Network Operators. Ofgem is itself concerned to ensure that consumers' interests are not detrimentally affected by the expiry of the existing contracts, and is currently consulting upon a proposal to introduce a special licence condition which would allow it to issue a direction obliging a DN to provide emergency services to a GT within its specified area⁴.

Given the above, Ofgem also has some sympathy with the concerns raised by ESP, that it may be beholden to third parties to inform it of such incidents in the first place, via currently unknown means. However, the proposal seems to offer sufficient flexibility, stating that the obligation to provide notification commences from the time ESP receives notification itself (by whatever source). It is also specified in the proposal that the '*Incident Date*' and '*Incident Start Time*' will be deemed to commence when the information is received by ESP. Ofgem also notes the potential for shippers to be notified of incidents by both ESP and the incumbent DN. However, Ofgem considers that this is an issue that shippers should be able to manage, and is far preferable to the risk of them not being informed at all.

Ofgem considers that matters of implementation, including the production of the '*Shipper Incident Communication Procedure*' document referred to in the legal text, are largely for ESP to resolve. Whilst ESP is obligated by Standard Condition 9 of its GT licence to comply with any direction given by the Authority to make a modification to its Network Code, this need not be with immediate effect and can reasonably allow for an appropriate period within which to resolve any implementation issues.

⁴ Emergency Services Arrangements provided by Distribution Networks to Independent Gas Transporters: Initial Proposals, December 2005

Ofgem's decision

Having considered the issues raised by this modification proposal Ofgem has decided to direct ESP to implement modification proposal 113, as it will contribute to the efficient and economic operation of the pipe-line system and to the fulfilment of the relevant code objectives, particularly c) *the securing of effective competition between relevant shippers and between relevant suppliers.*

If you have any further queries regarding this decision letter please feel free to contact Ofgem at: modifications@ofgem.gov.uk.

Yours sincerely

A handwritten signature in black ink, appearing to read 'N. Simpson', written over a horizontal line.

Nick Simpson
Director, Industry Codes and Licensing