Modification proposal:	**East Surrey Pipelines Connections Ltd (ESPC) Network Code 38: Independent Gas Transporters (iGT) obligations in respect of data provision to Large Gas Transporters – Supply Point Classification.**		
Decision:	**The Authority[1] directs that each of these modifications be made[2]**		
Target audience:	**ESPC, Parties to the ESPC and other interested parties**		
Date of publication:	**09 November 2006**	Implementation Date:	**To be confirmed by ESPC**

Background to the modification proposal

Under the bilateral Connected System Exit Point (CSEP) Network Exit Agreement (NExA), iGT's are required to provide timely updates to large transporters[3] to allow them to calculate output quantities, the proportion of transportation costs relating to large transporters and to facilitate the reconciliation of Larger Supply Points as obliged under the UNC.

There do not seem to be any material risks associated for non compliance of these obligations for either of the contracting parties. Lack of timely provision of AQ updates and reconciliation volumes by iGT's may however result in material risk and concern for CSEP Users such as misallocation of energy volumes and therefore incorrect Reconciliation by Difference (RbD) and inaccurate calculation of transportation charges.

The modification proposal

These proposals would place the key obligations (in respect of data provision) outlined in the CSEP NExA into the ESPC Network Code. Code parties, including the relevant CSEP Users would gain oversight of the relevant data to be provided and associated timescales for provision.

The proposer considers these proposals will increase transparency and accountability and promote effective competition.

The Authority's decision

The Authority has considered the issues raised by the modification proposal and the Final Modification Report (FMR) received on 9 October 2006. The Authority has considered and taken into account the responses to the ESPC consultation on the modification proposal which are attached to the FMR. The Authority has concluded that:

1. implementation of the modification proposal will better facilitate the achievement of the relevant objectives of the ESPC Network Code[4]; and,

[1] The terms 'the Authority', 'Ofgem' and 'we' are used interchangeably in this document. Ofgem is the Office of the Gas and Electricity Markets Authority.
[2] This document is notice of the reasons for this decision as required by section 38A of the Gas Act 1986.
[3] Large Transporters include Transco plc, Scotia Scotland, UU/CKI, Macquarie Wales & West and Scotia South of England
[4] As set out in Standard Condition 9(1) of the Gas Transporters Licence, see: http://62.173.69.60/document_fetch.php?documentid=4311

2. directing that the modification be made is consistent with the Authority's principal objective and statutory duties[5].

Reasons for the Authority's decision

This modification proposal deals with data flows between the iGT and large transporters, in particular the timescales within which the data should be provided. The obligations to provide this data currently sit in the bi-lateral CSEP NExA agreement between the relevant iGT and large transporter. The large transporter utilises the data to calculate amongst other things transportation charges, accurate reconciliation values for the Rbd process and AQ values. All of these calculations have impacts beyond the two parties contracted to the CSEP NExA agreement, particularly upon the Shipper community. Untimely provision of the required data impacts Shipper charges and costs.

The majority of respondents were in favour of approval of this modification, considering that it would increase transparency, accuracy and consistency of the arrangements, thereby promoting competition. ESPC however considered the proposal should not be approved for a number of reasons and was supported in its view by one of the respondents. Firstly, the transporter considered that the ESPC Network Code already provide to a sufficient degree the obligations that are requested to be codified by this proposal. Secondly, the transporter considered codifying these obligations would mean that one obligation exists in two separate industry documents and to the extent that the obligations do not coincide then transporter will be in breach of one of these documents. Thirdly, the transporter considered that placing these obligations in the code would not incentivise non compliant NExA parties any more so than they were currently incentivised under the NExA. The supporting respondent added that the more appropriate place for these obligations may not be the Network Codes but rather the Supply Point Administration Agreement (SPAA).

We consider that to the extent that suggested amendments have been put forward to the current baseline, greater clarity has been added to the Network Code which will further enhance transparency. We would encourage increased participation and cooperation between the iGT and large transporters to facilitate the appropriate changes in relevant bilateral agreements to negate the risk of one obligation existing in two places which would constitute good governance across all codes and agreements. We note a concern the transporter highlights in the FMR in this regard, that these proposals do not require the iGT to provide a notice to large transporters where an LNM AQ does not vary, whereas the NExA does require such a notice. We consider that the provision in the code is intended to emphasise that when the LNM AQ does vary a notice **must** be sent. In situations where there is no such variation a notice need not be sent, under the code, but if one nevertheless was sent in compliance with the NExA, this would not constitute breach of the code. Clearly, if the transporter considers that to provide such a notice even when values do not change would better facilitate the code objectives than they could raise an appropriate code amendment, having not exercised their right to issue an alternative proposal to this amendment.

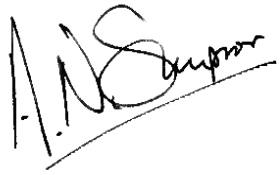
[5]The Authority's statutory duties are wider than the relevant objectives and are detailed mainly in the Gas Act 1986.

Ofgem has also recently approved UNC modification 083[6] which has placed corresponding obligations on large transporters within the UNC, to process the data received from iGT's in an equally timely fashion. Ofgem considers these modifications, together with UNC modification 083 will give oversight of the complete process to all interested parties. This should provide greater incentives for compliance. Increased compliance should lead to a more accurate reflection of costs and charges incurred by all relevant participants in the market which should facilitate competition. Ofgem considers these enhancement to better facilitate relevant objectives (a) and (c). The increased transparency and promotion of competition is also in accordance with Ofgem's Principal statutory duty to protect the interests of consumers, wherever appropriate by promoting competition.

In relation to whether these obligations may be more appropriate to be placed in the SPAA, the respondent should consider if they wish to raise an appropriate change proposal under the SPAA governance arrangements for this issue to be considered more fully.

Decision notice

In accordance with Standard Condition 9 the Gas Transporters Licence, the Authority, hereby directs that modification proposal ESPC 38: Independent Gas Transporters (iGT) obligations in respect of data provision to Large Gas Transporters – Supply Point Classification be made.



Nick Simpson
Director, Industry Codes and Licensing
Signed on behalf of the Authority and authorised for that purpose.

[6] UNC modification 083: 'Proposal to insert obligations to process data received from iGTs in line with the requirements as outlined within Annex A of the Connected System Exit Point (CSEP) Network Exit Agreement (NExA)'.