

Modification proposal:	BGP001, ESP126, ESPC050, ESPN126, ESPP126, GPL40, GTC341, GUC21, IPL020, QPL030, SSE30, UGI32: "Creation of an iGT UNC"		
Decision:	The Authority¹ directs that this proposal be made²		
Target audience:	iGTs, Parties to the iGT Network Codes and other interested parties		
Date of publication:	30 April 2007	Implementation Date:	1 May 2007

Background to the modification proposals

Independent Gas Transporters (iGTs) now provide connections to over 800,000 customers. Each iGT is obliged to prepare a Network Code in accordance with standard condition 9 of the GT licence. Although these Network Codes are broadly similar in content, any differences in processes and procedures can have cost and efficiency implications for shippers operating across those networks. These arrangements also increase the administrative burden and cost of pursuing industry change through the modification process and as such may be a disincentive for Network Code development.

The governance around the iGT Network Codes has been the subject of several Ofgem consultation documents, as follows:

- Initial consultation letter: independent Gas Transporters Network Code governance, 21 July 2006 (Ref No. 128/06);
- Way forward letter: independent Gas Transporters Network Code Governance, 24 November 2006; and
- Independent Gas Transporters' Network Code Governance, 15 December 2006 (Ref No. 216/06).

It has also been the subject of a conclusions document and accompanying Notice under Section 23(3) of the Gas Act 1986:

- Independent Gas Transporters' Network Code Governance: Conclusions, 22 March 2006 (Ref No. 47/07)

Further to that Notice, the Authority has today issued a Direction under Section 23(1) of the Gas Act 1986 modifying standard condition 9 of the GT licence.

The modification proposals

Network Code modification proposals BGP001, ESP126, ESPC050, ESPN126, ESPP126, GPL40, GTC341, GUC21, IPL020, QPL030, SSE30, UGI32 were raised simultaneously to the Network Codes of the following independent Gas Transporters (iGTs):

- British Gas Pipelines Limited;
- ES Pipelines Limited;
- ESP Connections Limited;
- ESP Networks Limited;

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.

²This document is notice of the reasons for this decision as required by section 38A of the Gas Act 1986.

- ESP Pipelines Limited;
- GTC Pipelines Limited;
- The Gas Transportation Company Limited;
- Energetics Gas Limited (formerly known as Global Utility Connections Limited);
- Independent Pipelines Limited;
- Quadrant Pipelines Limited;
- SSE Pipelines Limited;
- Utility Grid Installations Limited.

Each of the above licensees proposes to substantively replace the full text of its Network Code with reference to a common document to be referred to as the independent Gas Transporters' Uniform Network Code, or iGT UNC. Each licensee's Network Code would be retained, albeit in its amended short form. In essence, this would operate in much the same way as the current UNC does for the large GTs.

As noted in the FMR, the iGTs have developed these proposals in the context of the existing Standard Condition 9 of their GT licence, which they believe could operate without a modification to that licence. However, Ofgem considered that a licence modification was necessary, primarily to ensure the enduring uniformity of the arrangements with all incumbent iGTs and future new entrants being required to participate. The rationale for this decision is explained in more detail in the documents set out above.

The Authority's decision

The Authority has considered the issues raised by the modification proposals and the consolidated Final Modification Report (FMR) dated 09 March 2007. The Authority has considered and taken into account the responses to the iGTs' consultation on the modification proposal which are attached to the FMR and, where relevant, the responses to the earlier consultations by Ofgem referred to above. The Authority has concluded that:

1. implementation of the modification proposals will better facilitate the achievement of the relevant objectives of the relevant GTs Network Codes³; and
2. directing that the modification be made is consistent with the Authority's principal objective and statutory duties⁴.

Reasons for the Authority's decision

We welcome the proposals to introduce an iGT UNC, as we anticipate that an iGT UNC will remove some of the administrative burden and associated costs upon all parties operating in this sector and that some suppliers have in part used to justify supplementary charges for consumers connected to those networks. We also anticipate that the iGT UNC will be a catalyst for improvements to arrangements in the iGT sector, allowing industry parties to progress change in a co-ordinated and efficient manner. We particularly welcome the introduction of consumer representation into these governance arrangements.

³ As set out in Amended Standard Condition 9(1) of the Gas Transporters Licence, see: http://62.173.69.60/document_fetch.php?documentid=4311

⁴The Authority's statutory duties are wider than the relevant objectives and are detailed mainly in the Gas Act 1986.

We consider that this group of modification proposals, bringing into effect the iGT UNC, to be a facilitator of positive change rather than an end in itself. The drafting of the iGT UNC was therefore largely a consolidation exercise aimed at bringing together the standard terms and conditions used within the iGT sector and providing a single set of governance arrangements around them, i.e. the iGT UNC modification rules.

We recognise that in some areas, and unlike the current situation with the large GTs, there remain substantive provisions in the short form codes of the individual licensees, for instance the *TAS* computer system used by IPL/QPL⁵. However, unlike the situation with large GTs following the sale by National Grid of 4 of its Distribution Networks, the iGTs are not starting from a common set of arrangements. The issue is therefore not one of preventing unnecessary fragmentation, but seeking synergies and efficiencies in already fragmented arrangements.

We note many of the points raised by shippers in respect of the provisions which make up the iGTs' short form code or are now incorporated into the main body of the code and therefore now applicable to all iGTs. The key points identified within the FMR are considered below. However, we do not as part of this decision seek to provide a definitive view on the appropriateness or otherwise of specific provisions, or whether they could suitably reside in the short form Network Code or the main iGT UNC. Instead, we have concentrated on whether the proposal as a whole would better facilitate the relevant objectives of both the Network Code(s) and, following the direction of the Authority to modify standard condition 9 of the GT licence, the iGT UNC. We have not commented on those points upon which parties do not agree, but are not considered to be material.

Bulk registration process

Provisions regarding the bulk transfer of new supply points were previously included within the GTC Network Code(s), following the Authority's direction to implement modification GTC 312: 'Supply Point Administration'. These provisions allow for the registration of new small supply points 'en masse', which may occur when registering supply points for new development sites, thereby allowing administrative efficiency gains. These are commonly referred to as bulk registrations. Following the principle of adding value to the drafting rather than simply resorting to the lowest common denominator, the iGTs included these provisions within the iGT UNC, though we note that they are dis-applied in the QPL/IPL short form Network Code.

Several shippers have raised concerns at the inclusion of the bulk transfer process within the iGT UNC, which they consider to be a new provision rather than simply a consolidation. Shippers note that they are particularly disappointed at the inclusion of this process given the extensive work carried out on new connections processes by the iGT sub-group of the Gas Forum, which some hope may replace those currently used by some iGTs. Notwithstanding that IPL/QPL will not initially apply the bulk transfer processes, the iGTs generally consider that they represent current practice and should therefore appropriately be codified.

Whilst we understand shippers concerns with the inclusion of text within the iGT UNC which was not previously standard, or at least relatively common, across the Network Codes, we welcome the fact that the iGTs have sought to add value to the drafting, rather than simply opting for the lowest common denominator. As expressed in previous

⁵ In effect their equivalent of the UK Link system used under the large GTs UNC

consultation documents, we consider that to have done so could have resulted in a document which, if implemented, would be a retrograde step for one or more of the iGTs. In order to direct the implementation of these proposals, we must be satisfied that they better facilitate the relevant objectives of all the licensees Network Codes.

We note the iGTs comments that the bulk transfer processes are currently common practice, albeit on a non-contractual basis. As stated in our decision letter on GTC modification 312, we consider that there are benefits to be gained from aligning the Network Code with current business practices surrounding a change of supplier. In particular this should increase participants' confidence in the process and generally lower the risks of default or error. Whilst shippers may feel that there is a newer connections process which should be adopted, we understand that this is yet to be formally agreed by all parties. This does not preclude the processes developed by the Gas Forum sub-group from being raised as an iGT UNC modification proposal.

Deeming compliance of supplier-installed meters

Shippers raised some concerns that the early draft of the iGT UNC contained provisions which deemed all meters not provided by the GT themselves as being compliant. The FMR suggests that it was felt that this may prevent accurate reconciliation where the meter proved to be reading incorrectly. Whilst the iGTs considered that this would simply have been consistent with the UNC, given the concerns raised by shippers these provisions have been removed from the final version.

Our understanding of the respondent's comments is that the concern was primarily in relation to outstanding meter queries on iGT networks and that deeming all meter installations to be valid at the time the iGT UNC goes live could cause these queries to remain unresolved. Whilst it would have been possible to re-raise any queries should the implementation of the iGT UNC have had this unintended effect, we acknowledge this would have been inefficient.

With respect to the validity or otherwise of meter installations, we agree that it may be beneficial to align these provisions with those of the UNC, which were drafted in such a way as to prevent a potential barrier to competition in the form of GT approval of meter installations. We also note that any meter installations must be carried out by a person approved by the Authority as possessing expertise to satisfactorily connect the meter to ensure that the gas supplied through it is duly registered⁶.

14 day rule

Ofgem recently approved modifications to a number of iGT Network Codes⁷ which had the effect of introducing a restriction on the application of transportation charges if delays occur in notifying the shipper of meter asset details. If meter asset information is not provided to the shipper within 14 days of the physical meter fit, Transportation Charges will only apply from the date that the meter information is eventually provided. Shippers have raised concerns over the varied implementation dates of these modifications.

We agree with the view of iGTs that this issue, whilst valid, has not been created by the proposed introduction of an iGT UNC and needn't necessarily be resolved within the

⁶ Standard Condition 34 (domestic) and 7a of the Gas Suppliers licence

⁷ For example, ESP120: 'Application of transportation charges in the event of late submission of meter fit information by Pipeline Operator - 14 day rule'

current legal text. Each licensee will need to ensure they are discharging their obligations under standard condition 9 of the GT licence to comply with any direction given by the Authority to make a modification. Under the existing arrangements these implementation dates could reasonably differ according to each licensee's particular circumstances. However, we understand shippers' desire for the implementation of such proposals to be co-ordinated. Whilst the iGT UNC will provide for co-ordinated implementation dates, this does not have retrospective effect to any directions previously issued.

Should this continue to be a concern, shippers may wish to consider seeking earlier alignment of these arrangements via the iGT UNC and/or the short form Network Code modification process. Once established, the iGT UNC panel may also wish to consider this issue.

Estimated meter reads

Shippers raised concerns with the lack of visibility around estimated read charges. We agree with the iGT view that charging is itself outside the scope of the iGT UNC. Again, we do not consider this issue to be affected by the introduction of the iGT UNC. However, shippers are at liberty to seek greater clarity around the application of these charges within the iGT UNC by means of the modification process, or indeed avoid the charge altogether by providing an actual or agreed read.

Suspension of provisions in an emergency

The original drafting of the iGT UNC allowed for any provisions to be suspended in the event of an emergency. Following shipper concerns that this was too general, the iGTs have amended the reference in Section I 'Emergencies' to more closely reflect the drafting within Section Q of the large GTs UNC.

Whilst recognising that greater clarity may be of benefit to shippers, we do not consider a review of the emergency arrangements to be within the scope of this proposal. Shippers are not precluded from separately initiating such a review if they wish.

Deemed change of date in code communications

Shippers raised some concerns with the provisions of the iGT UNC which deem communications received after midnight to have been received the next working day, suggesting that this should be additionally flagged in some way. The iGTs have not amended the text and note that these provisions are comparable to those within the general terms of the large GTs UNC.

Given the shippers general desire to align iGT processes with those of the large GTs, we are also unclear why they would want to deviate in this respect, particularly as little has been provided by way of supporting arguments. Whilst we do not consider this to be a material issue at this stage, we would again note that shippers are at liberty to propose further improvements to the iGT UNC through the modification process.

Size of panel and quorum

Several shippers commented on the proposed constitution of the iGT UNC panel, being made up of three iGTs and three shippers, with other parties able to attend in a non-

voting capacity. Shippers generally feel that this is inadequate and would prefer greater shipper participation.

As set out in our conclusions document, at this stage we have no particular views on the appropriate constitution for the iGT UNC panel, subject to it remaining balanced and able to discharge its functions effectively. However, we do welcome the inclusion of consumer representation within the iGT UNC, with allowance to raise informational modification proposals and attend the iGT UNC panel, commensurate with the consumer representative's role under the large GTs UNC. Whilst any party will be at liberty to raise a modification seeking to amend the constitution of the iGT UNC panel as currently drafted, we note that as with any proposal they would need to demonstrate why the proposed alternative constitution would better facilitate the relevant objectives.

Content of modification proposal

Some shippers requested further detail about what a proposal should include by way of standard sections etc. We agree with the iGT view that standard templates could suitably be provided as guidance, perhaps amended by iGT UNC panel consent, rather than being overly prescribed in the modification rules with the inherent limits on flexibility. In the absence of such guidance, the proposer will be at liberty to add whatever details they consider appropriate. In this sense we consider this area should be relatively self policing as the more detail the proposer can provide, the more likely it is that the proposal will gain support.

Review and development procedures

Some shippers commented that they would like further details to be provided about the iGT UNC development procedures, particularly with respect to the role of the panel, timetables etc. The iGTs view is that the modification rules should not be as prescriptive as, for instance, the large GTs' UNC. They also suggested that the iGT UNC panel should initially have a degree of discretion, with guidance and standard practices being developed over time.

Whilst we share shippers' desire to see greater transparency and robustness in relation to the iGT UNC development arrangements, we also consider that it is sensible for standard practices and guidelines to be developed over time as lessons are learned about the nature and operation of the iGT UNC and more particularly the modifications being proposed to it. We would generally support the iGT UNC panel having a degree of discretion over the timetabling of development etc, as this may appropriately differ on a case by case basis. Subject to the panel remaining balanced and able to discharge its role effectively, it should be able to ensure that the interests of all parties are considered fairly.

Single consultation

Following the introduction of more standardised modification rules for the Network Codes, iGTs have been following a two-stage consultation process, whereby representations may be submitted on both the modification proposal and the subsequent Draft Modification Report (DMR). This has served largely as a proxy for the development and discussion which may occur under other industry codes such as the large GTs UNC, but as a rule has not formally been carried out under the iGT Network Codes. Some shippers, mindful of the introduction of an iGT UNC panel and its ability to require development of a proposal, questioned whether this two-stage consultation remained necessary. iGTs suggested

that as formal development of a proposal has not previously been the norm in the iGT sector, it may be preferable to gain greater familiarity with the new processes before reducing the current levels of consultation.

We consider that appropriate consultation is vital to the effective and robust governance of the iGT UNC. However, we also note that there is a degree of redundancy within the current arrangements. We also note that consultations on iGT Network Code modification proposals have traditionally attracted a low level of response. The introduction into the modification procedures of arrangements for genuine development should not only lead to more robust proposals, but encourage shipper participation and generally lead to a more effective modification process. Any party will be at liberty to propose further improvements and/or potential efficiencies.

Modification implementation dates

As noted in the FMR, following consideration of the views set out in our earlier consultation documents and consistent with the modification to standard condition 9, the iGT UNC modification rules now include a formal recommendation from the panel on modification implementation dates. It is recognised that this will assist in co-ordinating the implementation of modifications.

Transition arrangements and in-flight modifications

One respondent expressed concern that the transitional arrangements had not been fully explained, resulting in further details on the treatment of in-flight modifications being provided in the implementation issues section of the FMR.

For the avoidance of doubt, our decision in relation to this modification proposal does not necessarily obviate the relevant GTs of any obligations in respect of previous directions to implement modification proposals. We would anticipate that any provisions which were previously included within the GTs Network Code will be reflected in either the iGT UNC, the short form Network Code or if appropriate, specifically identified as being removed as part of these proposals. The same is true of any modifications which have been given a direction but are yet to be implemented. It is up to each relevant GT to satisfy itself that it has complied in full with any directions received from the Authority, and therefore the conditions of its licence.

Should any inconsistencies or inadvertent omissions in text come to light, we would be happy to discuss the means of resolving the matter, notwithstanding that all UNC parties may raise a modification at any time.

Consideration against the relevant objectives

Like the majority of respondents, we have considered this proposal against relevant objectives a) to c) as it has no obvious application to objective d) relating to domestic customer supply security standards.

a) the efficient and economic operation by the licensee of its pipeline system

The iGTs consider that by combining the governance arrangements of their Network Code with other iGTs the cost can be shared, which is more economic and efficient than the current arrangements.

As part of the modified standard licence conditions the relevant GTs will establish a Joint Governance Agreement, intended to discharge the obligations around administering the iGT UNC modification procedures. We anticipate that this entity will be able to operate more efficiently, particularly as the current arrangements require a high degree of duplication across the various Network Codes. We therefore consider that these proposals will further facilitate relevant objective a).

b) so far as is consistent with sub-paragraph a) the efficient discharge of its obligations under this licence

The iGTs consider that combined governance arrangements and common transportation terms will more efficiently discharge the licensees' obligations to provide a network code and modification rules. We agree with this view.

We also consider that in the context the direction to modify standard condition 9 of the GT licence, the implementation of these proposals would better facilitate the relevant GTs obligations to prepare a uniform network code.

c) so far as is consistent with sub-paragraph a) and b), the securing of effective competition between relevant shippers and between relevant suppliers

As highlighted in earlier Ofgem consultations, the currently fragmented arrangements in the iGT sector are causing difficulties and leading to additional costs for market participants. We therefore share the views of respondents that harmonising the bulk of transportation arrangements and the procedures for modifying those arrangements will reduce the costs of participating in the market, particularly for shippers.

Statutory duties

We consider that directing the implementation of this proposal would be consistent with our principal objective of protecting the interests of consumers wherever appropriate by promoting effective competition. In particular we anticipate that the removal of certain inefficiencies in the iGT sector will contribute to the reduction of costs which in turn are often passed on as a supplementary charge to iGT connected consumers. We also consider that the greater alignment of arrangements will allow suppliers to extend the same range of tariff offers and services to iGT connected consumers as currently enjoyed by those connected to other networks.

In line with our statutory duties, we are committed to the principles of better regulation and continually seeking to improve efficiency and effectiveness within the industry. As part of our simplification plan, contained within '*Ofgem's Corporate Strategy and Plan 2006–2011*', we identified an iGT UNC as a potential means of reducing the unnecessary burden imposed by the need for stakeholders to deal with multiple documents.

Conclusion

Whilst we sympathise with some of the views of shippers in respect of certain aspects of the legal text, we also acknowledge the view put forward by the iGTs that this modification was only intended to be a consolidation of existing iGT arrangements and not of itself address all of the issues in the iGT sector. We also note that there are alternative means of recourse to address any residual concerns. In particular, shippers or indeed the iGTs themselves are at liberty to raise modification proposals to either the short form Network Codes and/or the iGT UNC.

We do not consider that any of the issues set out above are of sufficient magnitude, either individually or collectively, to outweigh the benefits of aligning the arrangements in the iGT sector. These benefits were identified both during this modification process and as a result of our own consultations as set out above. We are therefore satisfied that on balance, these proposals would better facilitate relevant objectives a) to c) of each of the relevant GTs Network Codes.

Decision notice

In accordance with Standard Condition 9 the Gas Transporters Licence, the Authority, hereby directs that modification proposals BGP001, ESP126, ESPC050, ESPN126, ESPP126, GPL40, GTC341, GUC21, IPL020, QPL030, SSE30, UGI32: 'Creation of an iGT UNC' be made.



Mark Feather,
Associate Director, Industry Codes and Licensing
Signed on behalf of the Authority and authorised for that purpose