

11th October 2007

Transportation Network Code Proposed Modification 5 Final Modification Report

1 Introduction

BGE(NI) (“the Transporter”) has prepared this report in accordance with Sections 3 and 4 of the BGE(NI) Transportation Network Code Modification Rules.

2 Proposed Modification

Background

The Transporter has been requested by the Northern Ireland Authority for Utility Regulation (NIAUR) to progress this modification due to proposed changes to the licence structure of Phoenix Natural Gas Limited (PNGL), to maintain consistency with the other Northern Ireland Transmission Codes.

Phoenix Natural Gas Ltd (PNGL) currently has a Combined Gas Licence, which includes a gas supply element. Due to required business separation the supply element of the licence is soon to be revoked leaving Phoenix Natural Gas Ltd with a licence to convey gas only. Phoenix Supply Ltd will continue to hold a valid gas supply licence.

- Currently Section 16 of the BGE(NI) Transportation Network Code titled “Termination”, states:

16.2.1 The Transporter shall declare a “Termination Default”, if the Shipper:

(d) having an Exit Point Registration in respect of an Exit Point in Northern Ireland, ceases to hold a valid Gas Supply Licence.

Therefore, under this clause of the BGE(NI) Transportation Network Code, the Transporter is required to terminate PNGL’s existing Accession Agreement if they cease to hold a valid Gas Supply License, irrespective of whether the Authority has provided consent to hold an Exit Point Registration and hold Capacity without a Gas Supply Licence.

Modification Proposal

To allow Phoenix Natural Gas Ltd (PNGL) to continue to book and hold Capacity on the BGE(NI) Network (“NI Network”) on behalf of Shippers to Greater Belfast, and to avoid Termination of PNGL’s Accession Agreement, the following modifications are proposed:

This modification proposal amends the BGE(NI) Transportation Network Code such that the Transporter is not required to terminate a Shippers Accession Agreement if the NIAUR provides the consent for that Shipper to either hold Capacity or exit the NI Network as if it had a Gas Supply Licence, provided that the Shipper submits to the Transporter a copy of this consent. It is also proposed to include a section to declare a termination default when a Shipper, not in possession of a Gas Supply Licence, but having written consent from the Authority to hold Capacity or exit the NI Network, subsequently ceases to hold this consent.

The requirements for Exit Point Registration have been modified in the BGE(NI) Network Code to enable Shippers, who are not in possession of a Gas Supply Licence but who have prior written consent from the Authority to hold Capacity or exit the NI Network, to obtain Exit Point Registration (see detail in Schedule 1).

Termination Default section of Appendix 4 "Credit Committee Terms of Reference" has been modified to allow for situation where Shippers do not hold Gas Supply Licence but who have the Authority's consent to hold Capacity or Exit gas from the NI Network.

The Transporter also proposes some associated clarifications to the Definitions section of the Code as outlined in Schedule 1 of this Proposed Modification.

3 Modification proposed by:

The Transporter

4 Final Modification Report submitted:

11th October 2007

5 Transporter Opinion of the Code Modification

The Transporter supports the proposal as it has been requested by NIAUR to ensure consistency between the various DPO Codes in Northern Ireland, and recommends that this proposed modification should be made.

6 Impact on other Designated Pipeline Operator's Network Codes:

The Transporter has consulted with the other DPO's in respect of this Proposed Modification 5 and a similar modification has been agreed by the other DPO's to their Network Codes to ensure consistency between the codes.

7. Representations or objections made by any Consultee

Detailed discussions have taken place between the Transporter, PTL and Phoenix on the Proposed Code Modification. There are some small variations between the PTL and BGE(NI) proposed modification in relation to exit point registration, but these have been discussed and agreed by all parties.

8 How the modification better facilitates the relevant objective

The modification facilitates a continued level of consistency between the BGE(NI) Code, PTL Code and Phoenix Code, and facilitates continuation of existing arrangements for Phoenix Distribution to book and hold Capacity on behalf of all shippers to Greater Belfast.

9 Sections and parts of the Code that would require amending

See Schedule 1 at the end of this document for details of the modifications to the BGE(NI) Transportation Network Code.

10 Consultation period for Final Modification Report

The Authority has indicated that a further period of consultation on this Final Modification Report is not required.

11 Likely Implementation Date:

The Transporter proposes that this modification will be implemented upon the Authority's approval of this Code Modification.

SCHEDULE 1

The proposed changes to the following sections of the BGE (NI) Transportation Network Code are outlined below.

16.2.1 The Transporter shall declare a “Termination Default”, if the Shipper:

- (d) having an Exit Point Registration in respect of an Exit Point in Northern Ireland, ceases to hold a valid Gas Supply Licence unless that Shipper has prior written consent from the Authority to either:
- (i) hold Reserved Capacity; or
 - (ii) have entitlement to Exit gas from the NI Network as if it had a Gas Supply Licence,
- provided that the Shipper submits to the Transporter a copy of such consent from the Authority;
- (e) having an Exit Point Registration in respect of an Exit Point in Northern Ireland, without a valid Gas Supply Licence and on the basis that the Shipper has prior written consent from the Authority to either:
- (i) hold Reserved Capacity; or
 - (ii) have entitlement to Exit gas from the NI Network as if it had a Gas Supply Licence;
- ceases to hold the relevant consent from the Authority; or
- (f) is in LPC default.

Add new section 17.5.6 as below:

- 17.5.6 Section 17.5.5 shall not apply in respect of any Shipper, or Prospective Shipper, that does not have a Gas Supply Licence, but does have the Authority’s prior written consent to either:
- (i) hold Reserved Capacity; or
 - (ii) have entitlement to Exit gas from the NI Network as if it had a Gas Supply Licence;
- provided that the Shipper submits to the Transporter a copy of such consent from the Authority;

Modify section 1.1 and add new sections 1.1(B) parts (8) and (9) in Appendix 4 as below:

APPENDIX 4 CREDIT COMMITTEE

1 Purpose of the Committee

1.1 The Credit Committee is appointed, on behalf of Designated Pipe-line Operators ~~and~~ PS Gas Suppliers and Shippers to manage the credit risk associated with the following defaults by a PS Gas Supplier or Shipper:

1.1 (B) a "Termination Default" which shall occur in any of the following circumstances:

(7) if a PS Gas Supplier, if it has an Exit Point Registration in respect of an Exit Point in Northern Ireland, has ceased to hold a valid Gas Supply Licence

(8) if a Shipper, if it has an Exit Point Registration in respect of an Exit Point in Northern Ireland, has ceased to hold a valid Gas Supply Licence unless that Shipper has the Authority's prior written consent to either:

(i) hold Reserved Capacity; or

(ii) have entitlement to Exit gas from the NI Network as if it had a Gas Supply Licence;

provided that the Shipper submits to the relevant Designated Pipeline Operator a copy of such consent from the Authority;

(9) if a Shipper has an Exit Point Registration in respect of an Exit Point in Northern Ireland, without a valid Gas Supply Licence and on the basis that the Shipper has the prior written consent from the Authority to either:

(i) hold Reserved Capacity; or

(ii) have entitlement to Exit gas from the NI Network as if it had a Gas Supply Licence;

and such Shipper ceases to hold the relevant consent from the Authority; or

(10) if there is a breach of Section 16.3.2 of the Network Code and such breach is referred to the Credit Committee in accordance with the provisions of Section 16.3.1 of the relevant Network Code,

The following definition will also be added to this Appendix 4 Credit Committee section as follows:

"Shipper" has the meaning given to it in Appendix 1 Definitions and Interpretations.

Three additional modifications are also proposed to **Appendix 1 (Definitions and Interpretation)** of the Network Code to clarify definitions of "Gas Supplier" and "Phoenix Distribution" as follows:

- Modify the definition of Shipper as follows to be in line with other DPO definitions:

"**Shipper**" means a person other than the Transporter who, for the time being, has acceded to and is bound by [the this](#) Code through the Accession Agreement ~~and has an entitlement to transport Natural Gas through the Transportation System or any part thereof for offtake at an Exit Point, whether for its own use or for use by a third party as an End User (the term "Shipper" shall include a Shipper's permitted successors and/or assigns);~~

- Modify the Definition of Gas Supplier in the Network Code as follows:

"**Gas Supplier**" shall have the meaning given to it in the Licence [Section 2A.1.1 Definitions](#);

- Modify the Definition of "Phoenix Distribution" in the Network Code as follows:

Change from:

"**Phoenix Distribution**" [insert legal name] or the holder for the time being of capacity at the Lisburn Exit Point;

Change to:

"**Phoenix Distribution**" [means Phoenix Natural Gas Limited](#) or the holder for the time being of capacity at the Lisburn Exit Point;