

Phoenix Natural Gas Ltd.  
Transmission Network Code Modification Proposal 5  
Amendment to the Termination Process Under the Network Code  
Final Modification Report  
26<sup>th</sup> November 2007

## **Introduction**

Phoenix has prepared this report in accordance with section 8 of its Transmission Code Modification Rules.

### **1. Subject of Proposed Modification:**

This modification is to amend the Phoenix Transmission Network Code to reflect the proposed changes made to the PTL Network Code under Modification Proposal 14.

At NIAUR request Phoenix Natural Gas Limited (Phoenix Distribution) books Capacity on the Postalised Network on behalf of all Shippers to Greater Belfast. This method provides for efficiency as Phoenix Distribution can make the best estimate of Capacity requirements and also the approach prevents double booking or hoarding of Capacity and supports the introduction of Supply Competition in the Greater Belfast area.

Phoenix Natural Gas currently has a Combined Gas Licence, which includes a gas supply element. Due to business separation the supply element of the licence is soon to be revoked leaving Phoenix Distribution with a licence to convey gas only.

Under section J3 of the Phoenix Transmission Network Code a Shipper must provide proof that it is bound by the terms of the PTL Transportation Code, which includes providing proof of an Exit Point Registration. Phoenix Distribution has approval from the Authority to hold an Exit Point Registration despite not having a valid Gas Supply Licence, which is a prerequisite to acceding to the PTL Transportation Code. Therefore it is entitled to accede to the Phoenix Transmission Code. However, similar to clause 16.2 of the PTL Transportation Code, under section J7 of the Phoenix Transmission Code, Phoenix should declare a 'Termination Default' if Phoenix Distribution 'ceases to hold a valid Gas Supply Licence'

Therefore this modification proposes to amend the Phoenix Transmission Code such that Phoenix Transmission is not required to terminate a Shipper's Accession Agreement if the Authority provides the consent for that Shipper to either hold Capacity or exit the NI Network as if it had a Gas Supply Licence.

## **2. Proposed Text Amendments**

The section of the Transmission Code that requires amendment (as detailed in the Modification Report) is:

Section J7.2 (e)

When further reviewing the Modification Proposal, Phoenix Transmission identified further amendments required to Appendix 3 Section 1.1 (b) (vii) to ensure consistency throughout its Network Code.

The full text amendments proposed are included in Appendix One.

## **3. Third Party Representation made:**

Phoenix received two responses from the Utility Regulator and BGE (NI) to the proposed modification, details of which are provided below.

### **Details of Utility Regulator Comments:**

The Regulator's response to BGE (NI)'s draft modification also highlighted that there was inconsistency between the terms used by the three DPOs. The Regulator's comments were: "I note however that under their code mod proposals Phoenix had referred to the "Postalised" System" under 7.2(e) while PTL had made reference to the "designated network" under 16.2.1 (d). Please can the DPOs agree to adopt a consistent approach?"

### **Operators Opinion of the Utility Regulator Comments:**

Phoenix Transmission agrees that all three DPO Codes should be consistent and have therefore replaced the term used in the modification from "Postalised System" to "NI Network" to maintain consistency with the Modification Proposal 5 issued by BGE (NI).

The relevant sections of the Phoenix Transmission Code that require amendment are:

Section G 5.2 and G5.3

Section K1 Definitions of the following:

- Additional Definition of NI Network required
- Designated Pipeline Operator
- Transit Shipper

The full text amendments proposed are included in Appendix One.

**Details of BGE (NI) Comments:**

(i) BGE (NI) advised that the proposed wording for the termination clause obliged the Transporter to declare a termination default in the case of Shipper losing his Gas Supply Licence, unless he has consent from Authority. However this did not cater for the case where the Shipper then loses the consent from the Authority. BGE have therefore proposed including an additional section obliging the Transporter to declare a termination default if said Shipper subsequently loses the consent.

The relevant sections of the BGE (NI) code requiring amendment are Section 16.2.1 and Appendix 4 clause 1.1 (B)

(ii) BGE (NI) further recommended that the definition of 'Gas Supplier' should be amended to reference the relevant section of the BGE (NI) Licence and had suggested that PTL and Phoenix consider a similar amendment.

The relevant section of the BGE (NI) code requiring amendment is Appendix 1 Definitions and Interpretation

**Operators Opinion of BGE (NI) Comments:**

(i) Phoenix Transmission agrees that the additional clause as proposed by BGE (NI) should be included for completeness.

The relevant sections of the Phoenix Transmission Code requiring amendment are Section J7.2 and Appendix 3 clause 1.1 (b)

(ii) Phoenix Transmission further agrees that the proposed amendment of the definition of 'Gas Supplier' adds clarity and proposes to amend its Code to ensure consistency between all three Operator Codes.

The relevant section of the Phoenix Transmission Code requiring amendment is Section K Interpretation

The full text amendments proposed are included in Appendix One.

#### **4.Likely Implementation Date:**

Phoenix Transmission has now received approval from the Utility Regulator for this modification and an implementation date of Tuesday 27<sup>th</sup> November is proposed.

#### **5.Impact on other Designated Pipeline Operator's Network Codes:**

The Phoenix Transmission proposal has been developed to reflect proposed changes to the PTL Transportation Code in Modification Proposal 14 and is consistent with Modification Proposal 5 issued by BGE (NI) on the 25<sup>th</sup> May 2007.

Phoenix, PTL and BGE (NI) have undertaken extensive discussions throughout this modification process to ensure consistency between all three DPO codes.

#### **6.Operator's justification for implementation of proposal**

As this modification proposal will amend the Phoenix Transmission Network Code to allow Phoenix Distribution to continue to hold capacity on the Postalised Network for all Suppliers operating in Greater Belfast without holding a valid Gas Supply Licence and also maintains consistency between the Phoenix Transmission and the other DPO's Transportation codes we believe the proposal achieves the Relevant Objective as set out in condition 2A.7 of the Phoenix Licence.

#### **7.Further Consultation on Modification Proposal 5**

Although additional changes are to be incorporated in to this Code Modification it has been agreed with the Regulator that no further consultation with industry is required as the further changes proposed simply ensure consistency throughout the Phoenix Transmission Code and between all three DPO's Codes.

## Appendix One:

### Proposed Text Amendments to the Transmission Network Code

#### SECTION J7: TERMINATION

7.2 Phoenix shall declare a "**Termination Default**", if the Shipper:

(e) ceases to hold a valid Gas Supply Licence unless that Shipper has prior written consent from the Authority to either

(i) hold Firm 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 Phoenix a copy of such consent from the Authority;

(f) without a valid Gas Supply Licence but who has prior written consent from the Authority to either

(i) hold Firm 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

(f) (g) is in LPC default

#### SECTION K1: DEFINITIONS

Additional definition required:

**"NI Network"** means the BGE (NI) System, the Phoenix System and the PTL System;

Detailed below are all relevant sections of the Phoenix Code where the use of the term 'Postalised System' requiring amendment to 'NI Network':

## Section G 5.2

If any of Phoenix, any other Designated Pipe-line Operator or a PS Gas Supplier reasonably believes that a Shipper or Prospective Shipper should be disallowed from providing or continuing to provide any or all of its Provided Level of Credit Support by way of Unsecured Credit Support on the basis that allowing such support by such means would result in an unacceptable material increase in risk to the economic security of the ~~Postalised System NI Network~~, it may, at any time, call a Credit Committee meeting to propose that the Credit Committee give a Direction disallowing the Shipper or Prospective Shipper from being able to provide all or any of its Provided Level of Credit Support by way of Unsecured Credit Support (a "US Default").

## SECTION G5.3

5.3 If any of Phoenix or a PS Gas Supplier reasonably believes that failure by Phoenix or another Designated Pipe-line Operator to reassess a PS Gas Supplier's Required Level of Credit Support and/or PS Gas Supplier's Provided Level of Credit Support would result in an unacceptable material increase in risk to the security of the ~~Postalised System NI Network~~, it may, at any time, call a Credit Committee meeting to propose that the Credit Committee give a Direction requiring such reassessment

**SECTION K1 DEFINITIONS:** The following definitions require amendment

"**Designated Pipe-line Operator**" means a person licensed to convey gas under Article 8(1)(a) of the Order through the ~~Postalised System NI Network~~;

"**Transit Shipper**" means a Shipper which only ships gas through the Phoenix System for exit into another part of the ~~Postalised System NI Network~~ (and which does not exit gas from the Phoenix System into a pipe-line outside of the ~~Postalised System NI Network~~);

## APPENDIX 3 CREDIT COMMITTEE TERMS OF REFERENCE CLAUSE 1.1 (b) (vii)

### 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~~:

- (b) a "**Termination Default**" which shall occur in any of the following circumstances:

(viii) 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 prior written consent from the Authority to either

(1) hold Firm Capacity; or

(2) has 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;

(ix) 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 prior written consent from the Authority to either

(1) hold Firm Capacity; or

(2) 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.

~~(viii)~~ (x) if there is a breach as referred to in Section J7.6 of the Code and such breach is referred to the Credit Committee in accordance with Section J7.6 of the Code

## **Interpretation 2.2**

“Shipper” has the meaning given to it in Section K Interpretation of the Code

## **SECTION K INTERPRETATION**

“Gas Supplier” has the meaning given to it in the Phoenix Licence Section 2A.1.1 Definitions