Final Modification Report
For Modification Proposal No.8

Introduction

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

PTL has made a modification proposal to change various sections of its Transportation Code (the Code) in order to correct typographical and other minor drafting required to introduce postalisation (particularly in respect of the Credit Committee Terms of Reference), which were not picked up in Code Modifications 6 and 7. Since postalisation was introduced, it has also become apparent that there is no mechanism in the Code for a Shipper to retire from the Code. Accordingly, such a mechanism is proposed in new section 17.8. Premier Transmission has further amended the Code drafting of the definition of the “License”. This amendment does not alter the intention of the original change under this Code Modification 8 but seeks to make the definition more apparent.

This proposal is attached and is also available on www.premier-transmission.com (Code Modifications).

Premier Transmission’s Opinion

PTL supports the proposal as amended in this Final Modification Report. The typographical and minor drafting changes do not alter the nature or overall intent of the Transportation Code, but aid in clarification. The addition of the retirement mechanism enhances the scope and comprehensiveness of the Code. The changes made further facilitate achieving the Relevant Objective, as set out in condition 2A.7.2 of the Licence to Convey Gas.

Third Party Representations Made

PTL has received one comment on the modification proposal from interested parties. The comment was received from BGE (NI) and the main observations are as follows:

BGE (NI)

Clause 2.13.2 (a)

BGE(NI) note that this clause requires that a Profile Nomination submitted by a Downstream System Operator specifies the Phoenix Exit Point No.2 Nomination or Phoenix Exit Point No.3 Nomination to which it relates.
Clause 5 of the NINOA provides for BGE(NI) to submit a profile for the aggregate offtake at the Carrickfergus Connected Systems Point (Phoenix Exit Point No.2 and Phoenix Exit Point No.3). BGE(NI) feel that it may be beneficial to have consistency between the Shipper – Transporter arrangements under the Code, and the Transporter – Transporter arrangements in the NINOA, i.e. an aggregate profile is provided by the Downstream Operator.

*PTL has amended its Code drafting to maintain consistency between the Code and NINOA*

Clause 2.13.2 (f)

BGE(NI) note that this clause now includes new sub-clause (f). BGE(NI) had proposed a similar modification in Code Modification Proposal No.10, (submitted by BGE(NI) on 9th May 2005). BGE(NI) support the proposed change which reflects the arrangements implemented at Carrickfergus, i.e. a profile request may deviate by 20% from one twenty-fourth of the aggregate end of day quantity. The existing drafting in the Code could have been interpreted to restrict the profile to a maximum of 20% of one twenty fourth of the Aggregate Nominated Quantity, whereas the intent was to allow a deviation of 20% from one twenty fourth of the Aggregate Nominated Quantity.

BGE(NI) have withdrawn Code Modification Proposal No.10 and support the implementation of this change as part of Code Modification Proposal No. 8.

*No further drafting change is required.*

Clause 16.5.2 (a)

We note the inclusion of Capacity Reconciliation Payments and Commodity Reconciliation Payments in sub clauses (iii) and (iv) respectively. The Definitions section in Appendix 1 of the Code does not include definitions of Capacity Reconciliation Payments or Commodity Reconciliation Payments. Appendix 1 does include a definition of Reconciliation Payments, which in turn refers to a definition in the Licence.

We suggest that the definitions of Capacity Reconciliation Payments and Commodity Reconciliation Payments be included in Appendix 1 of the Code.

*Premier Transmission has looked again at the introduction of the sub-clauses of 16.5.2(a), (iii) and (iv). We appreciate that Capacity and Commodity Reconciliation Payments are covered by PS Transmission amounts in section 12.5.2 of the Transportation Code and the subsequent definition of Reconciliation Payments is defined in the License. Any change to the Reconciliation Payments in the License will not require a respective Code change. Therefore the code has been redrafted to remove Sub-clauses (iii) and (iv) and subsequently no definitions are required*
Clause 17.2.2 (d)

BGE(NI) support the inclusion of a Prospective Shipper's address for notices.

*No further drafting change is required.*

Clause 17.8

BGE(NI) note the introduction of a new provision to the Code to allow a Shipper who has acceded to the Code to retire and terminate their Accession Agreement. This raises the query as to whether a termination provision will be included in the Accession Agreement also.

BGE(NI) support the introduction of a mechanism to allow a party to de-accede/retire from the Code where this is appropriate, and are looking at the merit of introducing a similar provision in the BGE(NI) Transportation Network Code.

We suggest, however, that a Shipper should remain bound to the Code until all payments have been made, including:

- PS Transmission Amounts
- Code Charges
- Capacity Reconciliation Payments
- Commodity Reconciliation Payments
- Supplemental Payments
- Auxiliary Payments
- Any other payments due pursuant to the Code.

With regard to the timings and process for a Shipper to retire from the Code, BGE(NI) feel that a Shipper should apply to the Transporter, giving at least 35 business days notice, and the Transporter should reply within 25 business days of receiving the application to retire.

A Shipper should not be eligible to retire from the Code if they are a party to another agreement between the Transporter and the Shipper which incorporates the Code. Please note that these comments are subject to further BGE(NI) comment as any modifications to the BGE(NI) Transportation Network Code to incorporate provisions for retirement will be subject to BGE(NI) legal review.

BGE(NI) feel also that it would be of benefit to discuss the proposed retirement provision with the interested parties prior to it being incorporated into the PTL Code.

Premier Transmission believe that the Accession agreement incorporates the code which includes the retirement provisions and therefore does not need to be altered.

Premier Transmission believe the BGE(NI) comments above regarding retirement from the Code further enhances and supports Premier Transmission original proposal and the Code drafting has been amended to reflect the additional points.
Definitions – Appendix 1
Due Date - BGE(NI) note that the definition of the Due Date refers only to a PS Transmission Payment. BGE(NI) suggest the definition of the Due Date be expanded to include Code Charges.

Premier Transmission support the BGE(NI) comments above and the Code drafting has been amended to reflect the addition of Code Charges.

Proposed Text Amending the Code

The following text amendments to the code reflect the relevant comments above and any changes to make the Code more apparent. The original changes made in the Initial Modification Report remain unchanged, unless otherwise identified and will be implemented with NIAERs approval.

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2 Nominations
   | 2.14 Offtake Profile

2.13.2 A Profile Nomination submitted in accordance with section 2.12.1 (d) shall:
   (a) be submitted no later than 25 minutes past the start of the next hour after which each Phoenix Exit Point No 2 Nomination and Phoenix Exit Point No 3 Nomination was submitted and specify the aggregate profile nomination at Carrickfergus Connected Systems Point. the Downstream System Operator may revise any such Profile Nomination submitted on Day D by submitting a further Profile Nomination to PTL no later than 80 minutes past the start of the next hour after which the relevant Phoenix Exit Point No 2 Nomination or Phoenix Exit Point No 3 Nomination was submitted;

2.14 Offtake profile

16.5.2 Upon termination by Premier Transmission under section 16.2, 16.3 or 16.4 the following payments shall immediately fall due and payable by the Shipper (and the “Due Date” in relation to such payments shall for the purposes of this Code be the date of termination):

Deleted: Uniform
Deleted: Rate
Deleted: c
Deleted: s
Deleted: p
Deleted: Uniform
Deleted: Rate
(a) all of the following which are due, accrued or outstanding to Premier Transmission under this Code in respect of the period up to and including [the date of termination]:

(i) all PS Transmission Amounts;
(ii) all Code Charges;

17.2.2 (d) shall provide to Premier Transmission its postal address and email address for notices in accordance with paragraph 3.4 of the Terms of Reference.

Retirement from the Code

17.8 Retirement from the Code

17.8.1 A Shipper (a “Retiring Shipper”) may, make an application to, terminate its Accession Agreement by giving the Transporter not less than thirty-five (35) Business Days written notice at any time.

17.8.2 The Transporter shall respond to the Retiring Shipper, within twenty-five (25) Business Days of receiving the application referred to in Clause 17.8.1, indicating the requirements with which the Shipper must comply before the termination of its Accession Agreement may take effect and these requirements shall include (but not be limited to) the requirements that the Retiring Shipper:

(a) has ceased to be a party to any agreement between the Transporter and the Shipper which incorporates the Code; and/or
(b) has ceased to hold any [Firm] Reserved Capacity; and/or
(c.) has made a full payment for all;

(i) PS Transmission Amounts;
(ii) Code Charges;
(iii) Supplemental Payments;
(iv) Auxiliary Payments; and
(vii) other amount due pursuant to the Code

17.8.3 Within ten (10) Business Days of the Retired Shipper confirming to the Transporter in writing (together with supporting documentation) that it has complied with the requirements of the Transporter under Section 17.8.2, the Transporter shall confirm to the Retiring Shipper that it either:

(a) agrees that the Retiring Shipper has appropriately complied with each of its requirements under Clause 17.8.2, in which case, the Retiring Shipper shall be entitled to terminate the Accession Agreement forthwith on notice to the Transporter [copied to the Authority]; or

(b) does not accept that the Retiring Shipper has appropriately complied with all of its requirements under Clause 17.8.2 and giving reasons for its decision, in which case, the Retiring Shipper shall be required to comply with the outstanding requirements before being entitled to terminate the Accession Agreement in accordance with this Section 17.8.

17.8.4 Upon the termination of the Retiring Shipper’s Accession Agreement in accordance with this Section 17.8, a Retiring Shipper shall cease to be a Shipper for the purposes of the Code and the Retiring Shipper and the Transporter shall no longer be bound in relation to each other by this Code except to the extent set out in section 17.8.5 and 17.8.6.

17.8.5 Termination of an Accession Agreement in accordance with this Section 17.8 shall not extinguish or relieve the Retiring Shipper from the performance of any obligation accrued under this Code as at the time of termination which it is agreed and acknowledged shall include payment of all or any of the following which are due, accrued or outstanding under this Code in respect of the period up to and including the date on which the Accession Agreement is terminated:

(a) PS Transmission Amounts;
(b) Code Charges;
(c) Supplemental Payments;
(d) Auxiliary Payments; and/or
(e) Any other payments due pursuant to the Code

17.8.6 The Retiring Shipper shall pay any sums due in accordance with Section 17.8.5 at the time by which and in the manner in which such payments would have been due and paid had the Retiring Shipper continued to be a Shipper. A Retiring Shipper that has ceased to be the Shipper at an Exit Point shall continue to be liable for all accrued payments or other amounts due to the Transporter notwithstanding that the Retired Shipper ceases to be the Shipper at that Exit Point and any payments due and owing in respect of any agreement at or in respect of such Exit Point shall become immediately due and payable. For the avoidance of doubt (i) the conditions of the Code continue to apply to a Retiring Shipper whose
application for retirement from the Code has been accepted by the Transporter until such time as that Retiring Shipper has met all its obligations under the Code (prior to and arising out of termination) and (ii) and any financial security which the Retiring Shipper was obligated to provide to the Transporter pursuant to the Code shall remain in place until all such payments have been discharged in full.

Appendix 1 – Definitions and Interpretation

“Due Date” means the date on which payment of an invoice in respect of any PS Transmission Payment and Code Changes falls due, being the tenth Business Day in the month next after the month in which the relevant invoice was issued;

Initial Modification Report Drafting;

"Licence" means the License to Convey Gas to Premier Transmission under article 8(1)(a) of the Gas (Northern Ireland) Order 1996 from time to time, as amended from time to time

Final Modification Report Drafting;

"Licence" means, at any time, the licence (as amended from time to time) to convey gas or participate in the conveyance of gas granted under Article 8(1)(a) of the Gas (Northern Ireland) Order 1996 (as amended) which is held by Premier Transmission at that time.

Likely Implementation Date

Premier Transmission suggests that the proposed implementation date is 1/10/05.

Conclusion

Premier Transmission supports the proposal.
17.8.1 A Shipper may, subject to section 17.8.2, terminate its Accession Agreement by giving Premier Transmission not less than 10 Business Days written notice at any time.

17.8.2 A Shipper may not terminate its Accession Agreement in accordance with section 17.8.1 if:

(a) it holds any Firm Capacity
(b) it may be liable to pay a Supplemental Payment at any time;
(c) it may be liable to pay an Auxiliary Payment at any time.

17.8.3 Upon the termination of a Shipper’s Accession Agreement in accordance with this section 17.8 it shall no longer be a Shipper and the Shipper and Premier Transmission shall no longer be bound in relation to each other by this Code except to the extent set out in section 17.8.4 and 17.8.5.

17.8.4 Termination of an Accession Agreement in accordance with section 17.8.1 shall not extinguish or relieve either party to that agreement from the performance of any obligation accrued under this Code as at the time of termination which it is agreed and acknowledged shall include payment of all of the following which are due, accrued or outstanding to Premier Transmission under this Code in respect of the period up to and including [the date of termination]:

(a) PS Transmission Amounts;
(b) Code Charges;
(c) Capacity Reconciliation Payments; and
(d) Commodity Reconciliation Payments.

17.8.5 The Shipper shall pay any sums due in accordance with clause 17.8.4 at the time by and in the manner in which such payments would have been due and paid had the Shipper continued to be a Shipper.

17.

ACCESSION TO THE CODE, EXIT POINT REGISTRATION AND DOWNSTREAM LOAD STATEMENTS AND RETIREMENT FROM THE CODE

17.8.3 Upon the termination of a Shipper’s Accession Agreement in accordance with this section 17.8 it shall no longer be a Shipper and the Shipper and Premier Transmission shall no longer be bound in relation to each other by this Code except to the extent set out in section 17.8.4 and 17.8.5.

17.8.4 Termination of an Accession Agreement in accordance with section 17.8.1 shall not extinguish or relieve either party to that agreement from the performance of any obligation accrued under this Code as at the time of termination which it is agreed and acknowledged shall include payment of all of the following which are due, accrued or outstanding to Premier Transmission under this Code in respect of the period up to and including [the date of termination]:

(a) PS Transmission Amounts;
(b) Code Charges;
(c) Capacity Reconciliation Payments; and
(d) Commodity Reconciliation Payments.
termination which it is agreed and acknowledged shall include payment of all of the following which are due, accrued or outstanding to Premier Transmission under this Code in respect of the period up to and including [the date of termination]: