

Modification proposal:	Independent Gas Transporter Uniform Network Code (iGT UNC): Aligning UNC with Licence conditions relating to European legislative change (iGT066)		
Decision:	The Authority ¹ directs ² that this modification be made		
Target audience:	iGT UNC Panel, Parties to the iGT UNC and other interested parties		
Date of publication:	4 February 2015	Implementation date:	26 June 2015

Background

The EU Third Energy Package³ (the Third Package) was implemented in Great Britain (GB) on 10 November 2011 by making amendments to relevant domestic legislation. The Electricity and Gas (Internal Markets) Regulations 2011 (the Regulations) gave effect to these changes. The Regulations made numerous changes to gas and electricity licences once they came into force.⁴

The licence changes included changes to Standard Licence Condition (SLC) 9 'Network Code and Uniform Network Code' of the Gas Transporter licence. These changes enable us to make or direct a licensee to make an iGT UNC or individual network code modification proposal which we reasonably consider is necessary to comply with or implement the Gas Regulation and/or any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators (ACER). They also enable us to direct or amend the timetable for relevant modifications, and that such modifications cannot be withdrawn without our consent. The iGT UNC does not currently fully reflect these provisions.

At the iGT UNC Panel meeting in June 2014, we noted that the Panel should consider how to fully align the iGT UNC with the licence changes above, in particular, to reflect that modifications we direct a licensee to raise cannot be withdrawn without our consent and should proceed in accordance with any timetable we may direct. A previously approved iGT UNC modification proposal, iGT046, only partly aligned the iGT UNC with these licence changes.⁵

¹ References to the "Authority", "Ofgem", "we" and "our" are used interchangeably in this document. The Authority refers to GEMA, the Gas and Electricity Markets Authority. The Office of Gas and Electricity Markets (Ofgem) supports GEMA in its day to day work. This decision is made by or on behalf of GEMA.

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

³ Here the term 'Third Package' refers to: Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC (Gas Directive); Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005 (Gas Regulation); and Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators (ACER).

⁴ SI 2011/2704 which can be found here: <http://www.legislation.gov.uk/ukSI/2011/2704/part/1/made>. We made further consequential licence changes relevant to implementation of the Third Package (see our licence modification decision here: <https://www.ofgem.gov.uk/publications-and-updates/decision-modify-gas-and-electricity-licence-conditions-following-implementation-third-package-and-other-house-keeping-changes>)

⁵ Our decision on iGT046 can be found here: <https://www.ofgem.gov.uk/publications-and-updates/independent-gas-transporter-uniform-network-code-igt-unc-revision-modification-rules-igt046>

The modification proposal

In July 2014, ES Pipelines Limited raised iGT066 to further align the iGT UNC with the licence changes. The proposal seeks to amend the iGT UNC Modification Rules (in Part L) to provide that:

- the Authority may direct and/or amend a timetable for modification proposals in respect of relevant European legislation (defined in the proposed legal text as 'European Modification Proposal') including the implementation date, and
- such modification proposals are not to be withdrawn without Authority consent.

Such modification proposals may be made by us or by a relevant licensee on our direction. Following Workgroup assessment of iGT066, the proposed legal text also reflects that the iGT UNC Panel must accept a European Modification Proposal into the iGT UNC modification process and ensure that any timetable directed by us is followed, including any amendments to existing modification procedures if required.

iGT UNC Panel⁶ recommendation

At the iGT UNC Panel meeting on 17 December 2014, the iGT UNC Panel unanimously considered that iGT066 would better facilitate the iGT UNC relevant objectives and the Panel therefore recommended its approval. In particular, the Panel considered that it better facilitates objective (c) (efficient discharge of the licensee's obligations). The Panel recommended implementation in the first scheduled release at least two months following our decision to approve.

Our decision

We have considered the issues raised by the modification proposal and the Final Modification Report (FMR) dated 19 December 2014. We have considered and taken into account the responses to the industry consultation on the modification proposal which are attached to the FMR.⁷ We have concluded that:

- implementation of the modification proposal will better facilitate the achievement of the relevant objectives of the iGT UNC;⁸ and
- directing that the modification be made is consistent with our principal objective and statutory duties.⁹

Reasons for our decision

We consider this modification proposal will better facilitate iGT UNC objective (c) and has no impact on the other relevant objectives.

⁶ The iGT UNC Panel is established and constituted from time to time pursuant to and in accordance with the iGT UNC Modification Rules.

⁷ iGT UNC modification proposals, modification reports and representations can be viewed on the iGT UNC website at <http://www.igt-unc.co.uk/>

⁸ As set out in Standard Condition 9 Gas Transporters Licence, available at: <http://epr.ofgem.gov.uk>

⁹ The Authority's statutory duties are wider than matters which the Panel must take into consideration and are detailed mainly in the Gas Act 1986 as amended.

(c) so far as is consistent with sub-paragraphs (a) and (b), the efficient discharge of the licensee's obligations under this licence

We agree with the consultation respondents and the Panel that iGT066 further aligns the iGT UNC Modification Rules with the intent of the Third Package licence changes. In particular, it clarifies the modification process to be followed should the Authority direct and/or amend a timetable in respect of European Modification Proposals and that such proposals cannot be withdrawn without our consent.

We also consider that the proposed legal text aligns with the licence changes in respect of the Panel accepting European Modification Proposals into the iGT UNC modification process and establishes appropriate modification procedures in order to progress such proposals in line with any Authority-directed timetable.

For these reasons, we consider that the proposed changes to the Modification Rules allow licensees to more efficiently discharge their obligations in line with Standard Condition 9 of the Gas Transporter licence and better facilitate Relevant Objective (c).

Decision notice

In accordance with Standard Condition 9 of the Gas Transporter Licence, the Authority hereby directs that modification proposal iGT066: *'Aligning UNC with Licence conditions relating to European legislative change'* be made.

Lesley Nugent

Head of Industry Codes and Licensing

Signed on behalf of the Authority and authorised for that purpose