

UNC Governance Workgroup Minutes

Monday 05 January 2022

via Microsoft Teams

Attendees		
Kate Elleman (Chair)	(KE)	Joint Office
Maitrayee Bhowmick-Jewkes (Secretary)	(MBJ)	Joint Office
Andy Clasper	(AC)	Cadent
Clare Manning	(CM)	EON
Darren Lond	(DL)	National Grid
David Mitchell	(DM)	SGN
Guv Dosanjh	(GD)	Cadent
Kundai Matiringe	(KM)	BU-UK
Marion Joste	(MJ)	ENI
Richard Fairholme	(RF)	Uniper Energy
Ellie Rogers	(ER)	Xoserve
Tom Stuart	(TS)	Wales & West Utilities
Tracey Saunders	(TSa)	Northern Gas Networks

Copies of all papers are available at: <https://www.gasgovernance.co.uk/gov/050122>

1. Introduction and Status Review

Kate Elleman (KE) welcomed everyone to the meeting.

1.1. Approval of Minutes

The minutes from 11 October 2021 were approved.

1.2. Approval of Late Papers

None to approve.

1.3. Review of outstanding Actions & Issues Log

Action 1104: Joint Office (PG) to review the use of pre-meeting briefs by Joint Office meeting Chairs.

Update: KE advised that the Joint Office have reviewed this proposal and it is unlikely that pre-meeting briefs will be produced for all meetings. However, KE noted this action could remain on the Agenda for further consideration. **Carried Forward.**

1.4. Modification(s) with Ofgem

KE advised that at the December 2021 UNC Modification Panel, considerable discussion had been generated in regards to Modification 0687V - Creation of new charge to recover Last Resort Supply Payments because of the time taken by Ofgem to make a decision on it and the impact of this delay on the industry.

KE asked the Workgroup to consider this and provide any views or feedback they had on how the delay had impacted their own organisations before the January 2022 Modification Panel.

New Action 0101: Joint Office (KE) to email the Workgroup requesting views on how the delay by Ofgem to make a decision on Modification 0687V had impacted their organisation with responses due back before 20 January 2022 UNC Modification Panel.

1.5. Pre-Modification Discussions

None to discuss.

2. BEIS/Ofgem Energy Codes Governance Review

KE advised that the BEIS/Ofgem Code Governance consultation closed on 28 September 2021 and an update would be available when Ofgem/BEIS have reviewed the representations received.

3. Workgroups

None.

4. Any Other Business

4.1. Modification Panel Voting Arrangements

2. KE presented an overview of the Modification Panel Voting Arrangements, including the following topics:
 - Problem Statement
 - Areas of Ambiguity
 - Current Interpretation
 - Implementation Votes

The Workgroup considered the information presented and key points of discussion are captured below:

- There was some discussion around the role of an Alternate in Panel Meetings. Guv Dosanjh (GD) noted his Standing Alternate was free to make a decision on voting decisions.
- Tracey Saunders (TS) highlighted that under the Modification Rules appointed Alternates should not have a conflict of interest, but this is difficult in reality when an Alternate may not have instructions on voting.
- The Committee discussed 'silence' being recorded for voting could be misinterpreted as not supporting a Modification whilst it may just be that the voting Member or Alternate are unsure of what the vote should be.
- Richard Fairholme (RF) noted that the CUSC (Connection and Use of System Code) allowed Panel Members to vote independently from their commercial obligations and a similar approach may address any conflicts of interest. RF added this approach would also raise the legitimacy of the Panel as representing the industry.
- The Workgroup discussed whether Panel Members should be representing their constituency or the entire industry and whether this should be better defined.
- RF noted that when appointing an Alternate, a Voting Member was subject to the decisions they take and there should be no impact on the Voting Member.
- TS highlighted that this could be a potential issue as any vote taken is publicly recorded and a 'silence' from an Alternate, where they are unsure of what vote to take, could be interpreted as them not being in support of a proposal.

- KE suggested that if Panel Members are not able to attend Panel, they should discuss their voting preferences with their Alternates to ensure the right vote is taken.
- KE suggested that Panel Members should discuss the 'silent' vote further at Panel to identify if there was anything fundamentally divisive about it.
- Darren Lond (DL) asked how would voting be carried out when voting for a Modification with Alternate Modifications.
- KE noted the Modification Rules state that Panel Members can vote in favour of and against a Modification. RF noted all Panel Votes used to be in favour and against previously.
- RF noted that the criteria for the appeals process also needed to be reviewed.

The Workgroup discussed the rules further and agreed that Panel Members needed to review the points arising from these discussions and that a legal perspective may be required.

KE summarised that:

- KE will review how votes are recorded, as the silent vote needs reconsideration as a 'yes' or 'no' vote gives a better steer to Ofgem and shows Panel Member's views more clearly.
- KE to update Panel at the January UNC Modification Panel on the discussions arising out of this Workgroup and invite any comments.
- KE will seek clarity as why implementation votes are recorded as 'yes' votes only, particularly the point made around the appeals process.
- A legal opinion will be sought if necessary.

4.2. 4.2. Expedited Modification Process

KE explained that the recent suite of Urgent Modifications had led to the UNC Modification Panel wanting to explore other options of expediting the Modification process without resorting to Urgency procedures. It was noted that the Fast Track procedures would not be appropriate here as it is mostly used for housekeeping changes only.

KE highlighted that the biggest concerns around the current Urgency process was a lack of engagement with the industry, including shorter than usual Consultation period.

KE presented an overview of a proposed expedited Modification process, inviting views from the Workgroup.

The Workgroup discussed this, and the key points are noted below:

- RF suggested that any meetings under the proposed procedures should be held under the auspices of the Joint Office to ensure any comments are captured in the Final Modification Report (FMR).
- RF acknowledged that this process would be an additional tool for the UNC Panel, to be used at their discretion and the process should not be the norm.
- KE noted a criterion to assess the expedited process would be helpful and requested the Workgroup's views. RF suggested that defining the criteria may narrow the scope and it could potentially result in missing out issues.
- The Workgroup agreed that the main criteria for this process would be for Panel to agree unanimously that the standard Modification process did not apply.

- KE advised any views from the Workgroup would be presented at the January UNC Modification Panel for further views.
- RF suggested that in the recent past it has been unlikely that Ofgem seeks a view from the UNC Panel on whether a Modification should be considered as Urgent and perhaps this should be encouraged. RF added that it would be helpful for Panel to have this option when Ofgem sought a view on whether a Modification should follow Urgent procedures and that having some flexibility with a Modification whilst following an expedited timetable would possibly be met with Ofgem's approval.
- The Workgroup discussed the timetable the expedited Modification would follow and agreed that it would need to be discussed further at Workgroup.
- Dave Mitchell (DM) suggested that when a pre-Modification is brought to Workgroup for discussions it needed to be fairly polished as too much time could be spent in developing it, rather Workgroup should spend time finalising the Modification and seeking industry views.
- KE agreed with this view noting a thorough Critical Friend review and a developed CDSP solution would be required for pre-Modifications, suggesting Proposers would need to engage early with both the Joint Office and the CDSP to ensure this.
- Ellie Rogers (ER) agreed with this advising that early engagement would enable Xoserve to fully understand the impacts whilst working through the most appropriate solution.
- The Workgroup agreed that there was flexibility in the current Modification Rules to escalate the process dependent on resources / industry availability and Panel agreement. Also, Ofgem views would be welcomed and Workgroup discussion should be around a well developed Modification with early engagement with the CDSP.

5. Diary Planning

Further details of planned meetings are available at: <https://www.gasgovernance.co.uk/events-calendar/month>

Time / Date	Venue	Workgroup Programme
TBC	Via Microsoft Teams	<ul style="list-style-type: none"> • Ofgem/BEIS Code Reform Consultation Outputs (if published) • Any new Governance Modifications

Action Table (as at 11 October 2021)

Action Ref	Meeting Date	Minute Ref	Action	Owner	Status Update
1104	04/11/19	8.0	Joint Office (PG) to review the use of pre-meeting briefs by JO meeting Chairs (included as a Joint Office annual report point for consideration).	Joint Office (PG)	Carried Forward
0101	07/01/22	1.4	Joint Office (KE) to email the Workgroup requesting views on how the delay by Ofgem to make a decision on Modification 0687V had impacted their organisation with responses due back before 20 January 2022 UNC Modification Panel.	Joint Office (KE)	Pending

