

Uniform Network Code Modification Panel

Minutes of the 102nd Meeting

Held on Thursday 18 November 2010

Members Present:

Transporter Representatives: R Hewitt (National Grid NTS), C Warner (National Grid Distribution), J Martin (Scotia Gas Networks), J Ferguson (Northern Gas Networks) and S Trivella (Wales & West Utilities)

User Representatives: C Wright (British Gas Trading), P Broom (GDF Suez), R Fairholme (E.ON UK) and S Leedham (EDF Energy)

Consumer Representative: R Hall (Consumer Focus)

Independent Suppliers' Representative: C Hill (First Utility)

Ofgem Representative: C Cameron

Joint Office: T Davis (Chair) and B Fletcher (Secretary)

Observers Present: A Raper (National Grid Distribution), A Ross (Northern Gas Networks), D Burrows (Ofgem), D Watson (British Gas), F Healey (National Grid NTS), L Kerr (Scottish Power) by teleconference, M Dalton (BG Group) and S Pearce (RWE npower)

102.1 Note of any alternates attending meeting

P Broom for A Bal (Shell) and J Martin for A Gibson (Scotia Gas Networks)

102.2 Record of Invitees to the meeting

None

102.3 Record of apologies for absence

A Bal and A Gibson

102.4 Receive report on status of Urgent Modification Proposals

None

102.5 Consider New, Non-Urgent Modification Proposals

- a) Proposal 0339 - Clarification of the AUG Year in respect of UNC Modification 0229

Following a presentation by C Warner, Panel Members determined UNANIMOUSLY that the Proposal should be sent to the Distribution Workstream for consideration and development. The Distribution Workstream was requested to report by the February Panel.

C Warner explained that, following the decision for Proposals 0317, 0317A and 0327, the UNC text was potentially unclear without implementation of a further Proposal - clarity is required on what happens should the AUG report later than 1 April 2012. R Hewitt suggested clarity was required regarding the dates set out in the Proposal, which may not achieve what was intended.

- b) Proposal 0340 - Clarification of the AUG Year in respect of UNC Modification 0229 (alternative)

Following a presentation by C Warner, Panel Members determined UNANIMOUSLY that the Proposal should be sent to the Distribution Workstream for consideration and development. The Distribution Workstream was requested to report by the February Panel.

- c) Proposal 0343 - The ability and requirement for Users and Transporters to raise issues to be considered by the Allocation of Unidentified Gas Expert as "known" issues

Following a presentation by L Kerr, Panel Members determined UNANIMOUSLY that the Proposal should be sent to the Distribution Workstream for consideration and development. The Distribution Workstream was requested to report by the February Panel.

L Kerr introduced the Proposal and its aims, explaining there should be no costs associated with implementing the Proposal, which adds clarity to the AUG process and the role of the AUG E.

P Broom asked if there should be deadlines for issues to be raised and whether these dates should be considered based on the annual AUG process. L Kerr considered these were already set as part of the AUG guidelines process, so no additional deadlines were needed.

C Warner asked if the Proposal envisaged validation that parties were bringing forward issues. L Kerr advised there is no policing inherent in the Proposal. C Wright asked if issues raised would be made public by the AUG E. L Kerr believed issues should be made public, although this is not set out in the Proposal.

S Trivella suggested that it might be more appropriate for the proposed change to be taken forward through a change to the AUG E Guidelines rather than modification of the UNC. L Kerr indicated that this had been considered but discounted. A Raper advised that the current contract drafting for the AUG E may not allow for the process detailed in the Proposal – this may impact the contract at a late stage and delay the process.

R Hewitt asked for the definition of User to be clarified. In addition, he suggested an explanation of the warranting process and possible sanctions would merit consideration.

- d) Proposal 0344 - Removal of the D+1 11am meter read liabilities regime for DM voluntary (DMV) Supply Points

Panel Members determined by PANEL MAJORITY that the Proposal should proceed to the Consultation Phase, with the following Members voting in favour: C Wright, R Hewitt, C Warner, J Ferguson, J Martin and S Trivella. Panel Members did not determine that legal text was required for inclusion in the Draft Modification Report with R Hall and S Leedham voting in favour. The Panel determined UNANIMOUSLY to extend the Consultation close out to 07 January.

S Trivella introduced the Proposal and its aims. P Broom suggested consideration be given to adjusting the DME regime in the same way. S Trivella indicated that he would not wish to amend the Proposal in this way, as the incentive is for different reasons.

S Leedham sought clarification that the Proposal would retain the obligation to provide reads, and only remove the associated liability – this was confirmed. S Leedham also suggested that it would help to inform responses if the aggregate energy value for DMV sites could be indicated. S Trivella agreed to consider what could be provided to support the consultation. In addition, S Trivella agreed to endeavour to provide legal text during the consultation period.

e) Proposal 0345 - Removal of Daily Metered voluntary regime

Panel Members determined by PANEL MAJORITY that the Proposal should proceed to the Consultation phase, with the following Members voting in favour: C Wright, R Hewitt, C Warner, J Ferguson, J Martin and S Trivella. Panel Members did not determine that legal text was required for inclusion in the Draft Modification Report with R Hall and S Leedham voting in favour. The Panel determined UNANIMOUSLY to extend Consultation close out to 07 January.

S Trivella introduced the Proposal that sets out examples of how sites may be moved out of the DMV regime and the timeframe, which is linked to the dates of each DME phase.

S Leedham was unclear of the impact should a Shipper not nominate a DMV site to NDM or DME since the Proposal says that the Transporters could, as opposed to would, make a nomination on the Shipper's behalf. S Trivella confirmed the intention was to allow some flexibility. For example, removal from DMV may not be enforced if the Shipper is taking steps to change a site's status.

R Fairholme suggested that, given the potential impact, the Proposal be considered by a Workstream. S Leedham suggested that legal text would assist in understanding what was proposed. S Trivella confirmed that the Distribution Workstream had discussed the concept, and that he would endeavour to provide text during the consultation period.

f) Proposal 0346 - An Alternative to the Supplier Energy Theft Scheme Based on Throughput

Panel Members determined by PANEL MAJORITY that the Proposal should proceed to the Consultation Phase, with the following voting in favour: R Hall, P Broom (also for A Bal), C Wright, R Fairholme, S Leedham, C Warner, J Ferguson, J Martin and S Trivella. Panel Members determined UNANIMOUSLY that a further cost estimate was not required. Panel Members did not determine that legal text was required for inclusion in the Draft Modification Report with S Leedham voting in favour. The Panel determined UNANIMOUSLY to extend Consultation close out to 07 January.

D Watson introduced the Proposal, explaining it was the same as 0277 but with costs apportioned on throughput rather than portfolio size. S Trivella asked if throughput should be defined as aggregate AQ, i.e. market share of AQ, and D Watson agreed to amend the Proposal with an additional footnote clarifying this.

S Trivella asked why the scheme value is different to 0277, and D Watson

explained that this reflects an assessment of BGT's share of the scheme costs based on throughput as opposed to portfolio size.

g) Proposal 0347 – Amend NTS Exit Capacity Assignment Start Date

Panel Members determined by PANEL MAJORITY that the Proposal should proceed to the Consultation phase, with the following voting in favour: R Hall, P Broom (also for A Bal), C Wright, R Fairholme, R Hewitt, C Warner, J Ferguson, J Martin and S Trivella. Panel Members determined UNANIMOUSLY that a further cost estimate was not required. Panel Members did not determine that legal text was required for inclusion in the Draft Modification Report with R Hall voting in favour. The Panel determined UNANIMOUSLY to shorten Consultation close out to 07 December.

C Wright introduced the Proposal and its aims. R Hewitt sought clarification that the proposal envisaged costs being allocated as an equal share per applicant, which C Wright confirmed was the intention. S Leedham suggested allowing time to ensure implementation issues can be considered since a number of already agreed assignment contracts could be impacted. C Wright was unsure if the Proposal would impact these contracts and, since the topic had been discussed at a previous Workstream with no issues raised, he did not wish to see a delay.

- h) Proposal 0348 - NTS Optional Commodity tariff – update to application rules

Following a presentation by R Hewitt, Panel Members determined UNANIMOUSLY that the Proposal should be sent to the Transmission Workstream for consideration and development. The Transmission Workstream was requested to report by the February Panel.

- i) Proposal 0349 - Introduction of a Force Majeure Capacity Management Arrangement

Panel Members determined UNANIMOUSLY to consider the Proposal at short notice. Panel Members determined by PANEL MAJORITY that the Proposal should proceed to the Consultation phase, with the following voting in favour: P Broom (also for A Bal), C Wright, R Fairholme, C Warner, J Ferguson, J Martin and S Trivella. Panel Members did not determine that legal text was required for inclusion in the Draft Modification Report with R Hall, C Wright, R Fairholme and S Leedham voting in favour. The Panel determined UNANIMOUSLY for Consultation to close out on 09 December, and to consider the Modification Report at short notice at the December Panel meeting.

The Proposal was introduced by Mark Dalton. R Fairholme asked what financial implications were proposed if Force Majeure is challenged. M Dalton confirmed National Grid NTS would need to unwind the options and the money would flow back through neutrality. M Dalton also confirmed that the options being accepted would not affect any ability to challenge Force Majeure.

102.6 Consider Terms of Reference

Review Proposal 0334 - Post Implementation Review of Central Systems Funding and Governance Arrangements

Panel Members determined UNANIMOUSLY to approve the Terms of Reference.

102.7 Existing Modification Proposals for Reconsideration

None

102.8 Consider Legal Text

- a) Proposal 0296 - Facilitating a Supply Point Enquiry Service for Non-Domestic Supply Points

Panel Members noted that legal text had been provided for inclusion in the draft Modification Report. R Hall asked if Transporters would monitor consent in meeting the warrant. D Watson advised that the Proposal does not create a requirement for Transporters to monitor the process.

- b) Proposal 0342 - Amendment to the DN Adjustment Window

Panel Members determined UNANIMOUSLY to consider the Proposal at short notice and noted that legal text had been provided for inclusion in the draft Modification Report.

102.9 Consider Workstream Monthly Reports

Workstream Reports

- a) Proposal 0277 - Creation of Incentives for the Detection of Theft of Gas (Supplier Energy Theft Scheme)

Panel Members accepted the Development Work Group Report and determined UNANIMOUSLY that the Proposal should proceed to the Consultation phase. Panel Members determined UNANIMOUSLY that a further cost estimate was not required. Panel Members did not determine that legal text was required for inclusion in the draft Modification Report with S Leedham voting in favour. The Panel determined UNANIMOUSLY for Consultation to close out on 07 January.

T Davis summarised that the Development Work Group considered the Proposal was sufficiently developed to proceed to consultation and that some Work Group Members considered legal text should be provided for consultation.

S Leedham queried the suggested use of RPI figures, and whether they met the definition in the Proposal since they are 2 months out of date when published. D Watson believed that the present wording in the Proposal is appropriate.

- b) Proposal 0312 - Introduction of Two-Thirds Majority Voting to the UNC Modification Panel

Panel Members determined by PANEL MAJORITY to defer consideration of the Report, with the following voting in favour: P Broom (also for A Bal), C Wright, C Warner, J Ferguson, J Martin and S Trivella.

C Cameron indicated that the BSC Panel had commissioned a legal opinion on a similar modification and suggested the Panel may wish to review that opinion before considering the Workstream Report. It was believed this would be available in January 2011.

- c) Proposal 0314 - The provision of a "Data Update" to Non Code Parties

Panel Members determined UNANIMOUSLY to defer consideration of the Report.

C Warner advised that, as drafted, it is unlikely the Proposal could be implemented. He suggested consideration be deferred to allow a discussion with the Proposer.

- d) Proposal 0336 - The Introduction of a Balancing Neutrality Adjustment Charge for Cost Recovery Associated with Rating Services

Panel Members accepted the Workstream Report and determined by PANEL MAJORITY that the Proposal proceed to the Consultation Phase, with the following voting in favour: R Hall, C Wright, P Broom (also for A Bal), R Fairholme, S Leedham and R Hewitt. The Panel did not determine that legal text was required, with no votes cast in favour. The Panel determined by PANEL MAJORITY for Consultation to close out on 07 December with the following voting in favour: R Hall, C Wright, R Fairholme, R Hewitt, C Warner, J Ferguson, J Martin and S Trivella.

S Trivella questioned whether the Proposal was necessary given the existing UNC provisions for additional cost recovery. R Hewitt confirmed the National Grid NTS view that a Modification is required to recover these costs.

S Leedham questioned why a shortened consultation was proposed, and the reasons for seeking an early decision. R Hewitt explained the next payment is due in January 2011, and implementation prior to that was sought.

Extensions Requested

- a) Proposal 0292 - Proposed change to the AQ Review Amendment Tolerance for SSP sites

Following a request, the Panel voted UNANIMOUSLY to extend the time for the Workstream to report until February 2011.

C Cameron suggested the Workstream should conclude its work ahead of this in light of the implementation timetable should the Proposal be directed for implementation.

- b) Proposal 0333 - Update of the default System Marginal Buy Price and System Marginal Sell Price

Following a request, the Panel voted UNANIMOUSLY to extend the time for the Workstream to report until February 2011.

102.10 Consider Final Modification Reports

- a) Proposal 0315 - To Enhance Section X of the UNC Transportation Principal Document to improve the Energy Balancing Further Security Process

Members considered the report was in the correct form and discussed whether or not to recommend implementation of the Proposal. They did not determine that new issues had been raised that justified seeking further views from a Workstream or Development Work Group, with no votes cast in favour.

The Panel failed to determine to recommend implementation of the Proposal with the following voting in favour: P Broom (for A Bal only), C Wright, R Fairholme, and J Martin.

T Davis summarised that the Proposal sought to tighten the credit requirements when repeated cash calls are issued. This could be seen as introducing more appropriate credit arrangements that would reduce risk and so facilitate competition. However, it could also be argued that this is a step too far and that it will deter entry and not further competition. In particular, it had been argued that implementation would be more likely to disadvantage smaller players.

R Fairholme explained that the EBCC had concluded implementation of this Proposal would be expected to lead to less notices being issued and therefore would reduce risk. C Hill confirmed on behalf of smaller players that there would be a possibility of having to provide additional cash, which would be a barrier to competition. He did not believe this was clearly justified by the change in risk – the market impact of a small player failing is not comparable to that of a large player.

S Leedham asked if it would be possible to ask for further information from EBCC. C Cameron suggested that Ofgem would find it helpful to see the correlation between notices and Shippers defaulting - would parties who have failed been identified sooner if the Proposal had been in place. R Fairholme advised that the EBCC would need some clear questions if it

were to undertake any further analysis. In addition it was felt that there are not enough failures to support the kind of statistical evidence suggested by Ofgem. P Broom was concerned that parties have responded to the consultation so it should proceed through the process and there would be no benefit from further analysis and consultation.

b) Proposal 0319V – Code Governance Review: Role of Code Administrators and Code Administration Code of Practice

Members considered the report was in the correct form and discussed whether or not to recommend implementation of the Proposal. They did not determine that new issues had been raised that justified seeking further views from a Workstream or Development Work Group, with no votes cast in favour.

The Panel determined UNANIMOUSLY to recommend implementation of the Proposal.

T Davis summarised that the Proposal seeks to introduce a suite of changes to bring the modification process in line with best practice, as specified in the Code Administration Code of Practice. This would, therefore, facilitate the relevant objective of efficient administration of the UNC. R Fairholme raised a concern that the Proposal does not include rules should a Proposal be sent back by the Authority – the Proposal appears to envisage an amended Report being agreed by Panel and sent back to Ofgem. However, a variation or new round of consultation may be required. R Hewitt believed the drafting provided the required flexibility and gave the Panel discretion. S Leedham advised that EDF had difficulties with the legal drafting - it was not the approach used in CUSC, and the drafting should be consistent given an identical provision is being introduced. These inconsistencies are not consistent with facilitating efficient administration of the UNC.

Being a change to the Modification Rules, Members also recognised that implementation of the Proposal should be judged against Para 9 of Condition A12, and it was suggested that the same case could be made as for facilitating, or harming, the efficient administration of the UNC.

The Proposal also includes transitional rules such that the new approach would only apply to Proposals raised subsequent to implementation of this Proposal. It could be questioned how, if implementation facilitated the relevant objectives, it could be considered that not applying the approach to existing Proposals could be justified. However having a clean cut off would ensure that each Proposal would follow a holistic process throughout its life cycle, and this would be consistent with efficient administration of the UNC.

R Hewitt raised how to insert legal text for whichever Codes Governance Review Modifications are implemented - should this be on a consolidated basis or individually. J Ferguson advised that a staggered approach was used for the credit modifications, with each building on the text implemented by others.

C Cameron advised Ofgem consider and decide on each Proposal individually. They are happy for Transporters to adopt the consolidated text if that reflects each of the Proposals as directed and the final consolidated text is the same as if the text of each individual Modification was inserted into the Code.

c) Proposal 0322V – Code Governance Review: Inclusion of the NTS Transportation and Connection Charging Methodologies within the UNC

Members considered the report was in the correct form and discussed whether or not to recommend implementation of the Proposal. They did not determine that new issues had been raised that justified seeking further views from a Workstream or Development Work Group, with no votes cast in favour.

The Panel determined UNANIMOUSLY to recommend implementation of the Proposal.

T Davis summarised that the Proposal seeks to introduce a new section into the UNC, which would contain the NTS Transportation and Connection Charging Methodologies. These would then become subject to the modification procedures rather than the existing change process as set out in the GT Licence. Since the Licence based approach is to be removed, this would be consistent with achievement of Licence obligations and facilitation of competition since otherwise there would be no mechanism to enable change to the methodologies. In addition, allowing parties other than National Grid NTS to raise proposals to change the charging methodologies may encourage innovation and encourage greater focus on appropriate allocation of costs between Shippers. Implementation would therefore facilitate effective competition.

P Broom questioned whether in-flight charging methodology changes are impacted by this Proposal. S Trivella advised that any changes that had followed the existing process prior to implementation of the Proposal would form part of the charging methodology and be incorporated within the UNC. J Ferguson confirmed the methodologies had been appended to the Proposal and would form the next UNC text.

S Leedham raised a concern that changes may be required because of project Transmit. This could create a duplicate consultation process that would be inconsistent with efficient administration of the UNC.

d) Proposal 0323V – Code Governance Review: Self Governance

Members considered the report was in the correct form and discussed whether or not to recommend implementation of the Proposal. They did not determine that new issues had been raised that justified seeking further views from a Workstream or Development Work Group, with no votes cast in favour.

The Panel determined UNANIMOUSLY to recommend implementation of the Proposal.

T Davis summarised that the Proposal seeks to introduce self-governance, thereby streamlining the process for taking forward some Modifications. This would, therefore, simplify the process and reduce the administrative processes for some modifications, facilitating the relevant objective of efficient administration of the UNC.

Being a change to the Modification Rules, Members also recognised that implementation of the Proposal should be judged against Para 9 of Condition A12, and it was suggested that the same case could be made as for facilitating, or harming, the efficient administration of the UNC.

The Proposal also includes transitional rules such that the new approach would only apply to Proposals raised subsequent to implementation of this Proposal. It could be questioned how, if implementation facilitated the relevant objectives, it could be considered that not applying the approach

to existing Proposals could be justified. However, having a clean cut off would ensure that each Proposal would follow a holistic process throughout its life cycle, and this would be consistent with efficient administration of the UNC.

e) Proposal 0324V - Code Governance Review: Significant Code Reviews

Members considered the report was in the correct form and discussed whether or not to recommend implementation of the Proposal. They did not determine that new issues had been raised that justified seeking further views from a Workstream or Development Work Group, with no votes cast in favour.

The Panel determined by PANEL MAJORITY to recommend implementation of the Proposal with the following voting in favour: C Wright, P Broom (also for A Bal), R Hewitt, C Warner, J Ferguson, J Martin and S Trivella.

T Davis summarised that the Proposal seeks to introduce processes in support of the Significant Code Review process. This creates clarity about the processes to be followed and avoids Modifications being taken forward which would otherwise duplicate effort expended on a Significant Code Review, and potentially reach a conflicting conclusion such that resources may be wasted. This would, therefore, facilitate the relevant objective of efficient administration of the UNC. However, S Leedham suggested the SCR process as defined could not be considered independent, and therefore it is not facilitating efficient administration of the UNC which currently has an impartial administrator.

Being a change to the Modification Rules, Members also recognised that implementation of the Proposal should be judged against Para 9 of Condition A12, and it was suggested that the same case could be made as for facilitating, or harming, the efficient administration of the UNC.

The Proposal also includes transitional rules such that the new approach would only apply to Proposals raised subsequent to implementation of this Proposal. It could be questioned how, if implementation facilitated the relevant objectives, it could be considered that not applying the approach to existing Proposals could be justified. However, having a clean cut off would ensure that each Proposal would follow a holistic process throughout its life cycle, and this would be consistent with efficient administration of the UNC.

f) Proposal 0325V – Code Governance Review: DN Transportation Charging Methodology and Change

Members considered the report was in the correct form and discussed whether or not to recommend implementation of the Proposal. They did not determine that new issues had been raised that justified seeking further views from a Workstream or Development Work Group, with no votes cast in favour.

The Panel determined UNANIMOUSLY to recommend implementation of the Proposal.

T Davis summarised that the Proposal seeks to introduce a new section into the UNC which would contain the DN Transportation Charging Methodologies. These would then become subject to the modification procedures rather than the existing change process as set out in the GT Licence. Since the Licence based approach is to be removed, this would be consistent with achievement of Licence obligations and facilitation of

competition since otherwise there would be no mechanism to enable change to the methodologies. In addition, allowing parties other than DNs to raise proposals to change the charging methodologies may encourage innovation and encourage greater focus on appropriate allocation of costs between Shippers. Implementation would therefore facilitate effective competition.

100.12 Receive report on status of Consents

- a) Consent 038 - Revision to the legal text associated with the implementation of UNC Modification 0224
T Davis advised Ofgem had rejected the consent and the decision letter would be published soon.

102.11 Any Other Business

T Davis asked if initial experiences with the new templates were positive. A number of members considered them an improvement. R Fairholme suggested the Proposing organisation should be identified.

102.12 Conclude Meeting and Agree Date of Next Meeting

The Panel noted that the next meeting is planned for 10.00 on 16 December 2010 at the Energy Networks Association.