

Record of Determinations: Panel Meeting, 15 March 2012

Modification	Vote Outcome	Shipper Voting Members					Transporter Voting Members					Determination Sought
		CH	CWr	GE	PBo	PBr	CWa	EM	JF	RCH	SF	
0416 - Extending the data provision permissions created by Modification 0279 regarding historic asset and read data provision	Not related to the Significant Code Review - unanimous vote against	X	X	X	X	X	X	X	X	X	X	Modification is related to Significant Code Review
	Is a Self-Governance Modification - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Modification should follow Self-Governance Procedures
	Proposed self-governance determination date is 21 June 2012 - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Proposed self-governance determination date to be 21 June 2012
	Issued to Workgroup 0416S - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Should be referred to Workgroup
	Workgroup to report by the June 2012 Panel - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Workgroup to report by the June 2012 Panel
0404 - Profiling payment of LDZ capacity transportation charges for Small Shipper Organisations	Proceed to consultation - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Issue to Consultation
	Legal text not required - 8 votes in favour and 2 votes against	✓	✓	✓	X	✓	✓	✓	✓	✓	X	Legal text not required for inclusion in DMR
	Cost estimate not required - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Cost estimate not required for inclusion in DMR
0411S - Removal of the Obligation to Publish Firm Gas Monitor from the UNC	Proceed to consultation - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Issue to Consultation
0413S - DN Adjustment of notices for the reduction of Enduring Annual NTS Exit (Flat) Capacity	Proceed to consultation - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Issue to Consultation
0379(A) - Provision for an AQ Review Audit	Workgroup to report by July Panel - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Extension to July requested

0384 - UNC Modification Rules; housekeeping, clarity and minor drafting	Workgroup to report by June Panel - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Extension to June requested
0394 - Legal Text for UNC Modification Proposals	Workgroup to report by June Panel - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Extension to June requested
0396 - EU Third package: Three week switching	Not returned to Workgroup - unanimous vote against	X	X	X	X	X	X	X	X	X	X	X	Did consultation raise new issues
	Implementation recommended - 9 votes in favour, 1 vote against	✓	X	✓	✓	✓	✓	✓	✓	✓	✓	✓	Whether to recommend implementation
0403 - EU Third Package: 21 day switching with flexible objection period	Not returned to Workgroup - unanimous vote against	X	X	X	X	X	X	X	X	X	X	X	Did consultation raise new issues
	Implementation recommended - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Whether to recommend implementation
	Prefer 0396 - 4 votes in favour	✓	X	✓	✓	✓	X	X	NV	NV	NV		Which of the two better facilitates the Relevant Objectives
	Prefer 0403 - 3 votes in favour	X	✓	X	X	X	✓	✓	NV	NV	NV		
0399 - Transparency of Theft Detection Performance	Not returned to Workgroup - unanimous vote against	X	X	X	X	X	X	X	X	X	X	X	Did consultation raise new issues
	Implementation not recommended - 1 vote in favour and 9 votes against	X	✓	X	X	X	X	X	X	X	X	X	Whether to implement
0395 - Limitation on Retrospective Invoicing and Invoice Correction	Issued to Workgroup 0395/0398 - unanimous vote in favour	NP	✓	NP	✓	✓	✓	✓	✓	NP	✓		Should be referred to Workgroup
	Workgroup to report by the June 2012 Panel - unanimous vote in favour	NP	✓	NP	✓	✓	✓	✓	✓	NP	✓		Workgroup to report by the June 2012 Panel
0398 - Limitation on Retrospective Invoicing and Invoice Correction (3 to 4 year solution)	Issued to Workgroup 0395/0398 - unanimous vote in favour	NP	✓	NP	✓	✓	✓	✓	✓	NP	✓		Should be referred to Workgroup
	Workgroup to report by the June 2012 Panel - unanimous vote in favour	NP	✓	NP	✓	✓	✓	✓	✓	NP	✓		Workgroup to report by the June 2012 Panel

KEY	In favour	Not in Favour	No Vote Cast	Not Present
	✓	X	NV	NP

Attendees

Voting Members:

Shipper Representatives	Transporter Representatives	Consumer Representative
C Hill (CH), First Utility C Wright (CWr), British Gas G Evans (GE), WatersWye P Bolitho (PBo), E.ON UK P Broom (PBr), GDF Suez	C Warner (CWa), National Grid Distribution E Melen (EM), Scotia Gas Networks J Ferguson (JF), Northern Gas Networks R Cameron-Higgs (RF), Wales & West Utilities S Fisher (SF), National Grid NTS	

Non-Voting Members:

Independent Suppliers' Representative	Ofgem Representative	Terminal Operators' Representative	Chairman
			T Davis (TD), Joint Office

Also in Attendance:

A Miller (AM), Xoserve, B Fletcher (BF), Panel Secretary, D Ianora (DI), Ofgem and D Mitchell (DM), Scotia Gas Networks

Record of Discussions

123.1 Note of any alternates attending meeting

E Melen for A Gibson (Scotia Gas Networks)
G Evans for A Green (Total)
P Bolitho for R Fairholme (E.ON UK)
S Fisher for R Hewitt (National Grid NTS)

123.2 Record of Apologies for absence

A Gibson, A Green, R Fairholme and R Hewitt

123.3 Minutes of the Last Meeting

TD advised that Centrica Storage had requested an amendment to the minutes in order to record that Xoserve had been asked to consider the changes that may be required to implement Modification 0417. It was agreed that that minutes for 16 February should be amended to include "AM was requested to start looking for any potential system changes".

123.4 Consider New, Non-Urgent Modifications

- a) Modification 0416 - Extending the data provision permissions created by Modification 0279 regarding historic asset and read data provision

RCH introduced the modification and its aims. PBr thought it was already possible to release the information/data on a commercial basis and hence questioned why is a modification required. AM advised that, given the UNC wording, the data can only be provided as part of an annual report process and not on a general basis - therefore a modification is required.

For Modification 0416, Members determined:

- The modification is not related to the Significant Code Review as it is not a related subject;
- The criteria for Self-Governance are met since this is a minor change to the existing provisions, extending an existing service and not creating a new one;
- The Proposed Self-Governance determination date is 21 June 2012; and
- Workgroup Assessment is required, with a report presented to Panel by June 2012.

123.5 Consider Legal Text

- a) Modification - 0389VS – Simplification of points of telemetry

No issues were raised regarding the text, and Modification 0389VS will therefore be issued to consultation.

- b) Modification 0409S - Removing the restriction on the Users' application quantity for Annual NTS Exit (Flat) Capacity

PB asked if this should be described as a low impact modification as it may impact capacity availability. TD clarified that the UNC contains potentially inconsistent drafting and, currently, the more restrictive rule is not being enforced. Hence implementing this modification would be expected to clarify the position but not alter behaviour or outcomes.

No issues were raised regarding the text, and Modification 0409S will therefore be issued to consultation.

123.6 Consider Workgroup Issues

Workgroup Reports for Consideration

- a) Modification 0404 - Profiling payment of LDZ capacity transportation charges for Small Shipper Organisations

SF asked if any outstanding credit could be tied up in the existing credit arrangements and contribute to determining termination. EM advised that this would be clarified in the legal text, which would be made available in the following week. DI expressed concern that text may not be provided and emphasised that Ofgem expect text to be available for consultation. EM advised that it is SGN's intention to produce the text, but she did not want the process delayed for another month in order to meet a possible May implementation timeframe. Members requested that the Joint Office notify the industry when draft text has been published.

DI advised that Ofgem would be encouraging views from smaller Shippers and seeking their participation in the consultation.

Members accepted the Workgroup Report and determined that Modification 0404:

- should proceed to consultation;
- that legal text is not required for inclusion in the draft Modification Report; and
- that a cost estimate is not required for inclusion in the draft Modification Report.

- b) Modification 0411S - Removal of the Obligation to Publish Firm Gas Monitor from the UNC

CWr asked if there were any safety case impacts and if the HSE had been consulted about the modification. SF was not aware of any such impacts nor whether the HSE had been consulted but agreed to ascertain the position.

Members accepted the Workgroup Report and determined that Modification 0411S should proceed to consultation.

- c) Modification 0413S - DN Adjustment of notices for the reduction of Enduring Annual NTS Exit (Flat) Capacity

Members accepted the Workgroup Report and determined that Modification 0413S should proceed to consultation.

Consider Workgroup Report Dates

The Panel reviewed the work plan for modifications currently under assessment and unanimously agreed to extend the following Workgroup reporting dates:

- a) Modification 0379(A) – Provision for an AQ Review Audit is to report by the July Panel.
- b) Modification 0384 - UNC Modification Rules; housekeeping, clarity and minor drafting changes is to report by the June Panel.
- c) Modification 0394 - Legal Text for UNC Modification Proposals is to report to the June Panel.

123.7 Consider Final Modification Reports

- a) Modification 0396 - EU Third package: Three week switching

The Panel Chair summarised that Supplier Licences have been amended to reflect EU requirements that customers should be able to switch supplier within 3 weeks. The UNC provides 8 business days for the incumbent Shipper to object to a transfer, followed by a 7 business day confirmation window. This exceeds three weeks when bank holidays are allowed for. To address this, Modification 0396 proposes a 3 day objection and 5 day confirmation window, which would apply at all times. The related Modification 0403 proposes a flexible approach - when a bank holiday occurs, the windows would be reduced as appropriate, but at other times the existing arrangements would continue.

Panel Members agreed that implementation of Modification 0396 would support compliance with regulatory requirements as a result of the Third Package, and would facilitate achievement of the Relevant Objective “compliance with the Regulation and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators” – although one Member noted that some theoretical scenarios could be identified where full compliance may not be achieved. Members also noted that reduced times to switch Supplier would be expected to benefit those consumers who benefit from switching – through the earlier delivery of benefits – and hence facilitate the securing of effective competition. However, there would also be an increased risk of erroneous transfers as a result of reduced timescales in which to identify and correct errors, which could counteract the benefit of faster switching for the securing of effective competition.

One Member was concerned that the costs of implementing the modification are expected to be high and that it had not been sufficiently demonstrated that the benefits would exceed the costs. Given this, it was felt hard to conclude that implementation would necessarily support the securing of effective competition – with the introduction of unjustified costs

into the market being inconsistent with the securing of effective competition. However, Members considered that the key issue was compliance and that it is therefore not a priority to look for a cost benefit justification.

Members then voted and, with nine votes in favour of implementation and one vote against, the Panel determined to recommend that that Modification 0396 be implemented.

b) Modification 0399 - Transparency of Theft Detection Performance

The Panel Chair summarised that this modification seeks to introduce three changes:

- Obligating the DNs to publish monthly statistics on Shipper theft detection performance, thereby formalising current practice;
- Extending the monthly theft detection performance report coverage to include DN performance; and
- Removing anonymity from theft detection reports.

By increasing the available information, the intention of the modification is to support best practice in theft detection. To the extent that theft detection improves, the allocation of costs between UNC parties should be more cost-reflective and hence the securing of effective competition should be facilitated. However, Panel Members noted that no clear evidence had been provided regarding how this might be achieved in practice, nor how removal of anonymity might be expected to contribute to this. Members also noted that interpretation of the information may not be straightforward such that false conclusions may be drawn about Shipper and/or DN performance with respect to theft detection. This could lead to inappropriate damage to reputations, and hence the removal of anonymity could be regarded as detrimental to the securing of effective competition. Some Members added that full information is provided to Ofgem on Shipper performance, facilitating appropriate action being taken if deemed necessary, and that publishing DN information would not offer any clear benefits.

Some Panel Members felt that introducing an obligation to the UNC for the DNs to continue making available Shipper related theft detection information would ensure valuable information is made available, and so be consistent with efficient administration and implementation of the UNC. However, other Members argued that other theft related initiatives are being taken forward outside the UNC – through SPAA, for example – and introducing requirements into the UNC potentially creates fragmentation and the possibility of dual governance, such that implementation would not be consistent with efficient administration and implementation of the UNC. Some members noted that a cooperative approach to theft detection is being developed and is expected to deliver benefits through best practice rather than through ‘naming and shaming’, which would detract from positive initiatives to reduce theft.

Members then voted and with one vote in favour of implementation and nine against, the Panel did not determine to recommend implementation of Modification 0399.

- c) Modification 0403 - EU Third Package: 21 day switching with flexible objection period

The Panel Chair summarised that Supplier Licences have been amended to reflect EU requirements that customers should be able to switch supplier within 3 weeks. The UNC provides 8 business days for the incumbent Shipper to object to a transfer, followed by a 7 business day confirmation window. This exceeds three weeks when bank holidays are allowed for. To address this, Modification 0396 proposes a 3 day objection and 5 day confirmation window, which would apply at all times. The related Modification 0403 proposes a flexible approach - when a bank holiday occurs, the windows would be reduced as appropriate, but at other times the existing arrangements would continue.

Panel Members agreed that implementation of Modification 0403 would support compliance with regulatory requirements as a result of the Third Package, and would facilitate achievement of the Relevant Objective “compliance with the Regulation and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators” – although one Member noted that some theoretical scenarios could be identified where full compliance may not be achieved, albeit that more scenarios could be accommodated by 0403 than 0396. Members also noted that reduced times to switch Supplier would be expected to benefit those consumers who benefit from switching – through the earlier delivery of benefits – and hence facilitate the securing of effective competition at the times when the reduced windows apply. However, there would also be an increased risk of erroneous transfers at these times as a result of reduced timescales in which to identify and correct errors, which could counteract the benefit of faster switching for the securing of effective competition.

Some members were concerned that, by introducing provisions that vary from time to time, there would be scope for confusion among both Suppliers and consumers. Introducing complexity could be expected to create costs and uncertainty, and this would be counter to the securing of effective competition.

Members then voted unanimously in favour of recommending that Modification 0403 be implemented.

123.8 Consents to Modify

- a) C047 - Removal of the restriction in UNC TPD Section O – System Planning which currently means that National Grid NTS can only publish nodal forecast demand data at the same time as the Ten Year Statement

TD explained the aim and intent of the consent. Some members did not consider a consent was appropriate and suggested that a Self-Governance modification should be raised. SF was concerned that the process for Self-Governance will be more complex and longer when considering the change required. PBo was concerned that a timeline for publication of information was not included and could be entirely decoupled from the Ten Year Statement if the Consent were to be accepted. CWr asked if the data is likely to be different if published at a different time – SF advised it is different as it is dependent on the information extracted at the time it is used.

Members recommended that the change should be pursued through the Self-Governance process. SF therefore withdrew the consent and anticipated National Grid NTS would raise a Self-Governance modification.

123.9 Any Other Business

a) Code Administration Code of Practice

DI provided an overview on the CACoP consultation and the recent review meeting between Ofgem and Code Administrators. A CAWG (Code Administrators Working Group) meeting, involving code users as well as administrators, is planned for 24 April.

PBo commented on the inconsistent approach to the adoption of the principles and templates by other code administrators and emphasised that there should be a focus on consistency. JF was in favour of the use of consistent templates but would like to see a reduction in the number of pages, with parts of the templates failing to contribute to the process as they do not contain any relevant information. The aim should be to remove sections that are not used.

b) Modifications 0395 - Limitation on Retrospective Invoicing and Invoice Correction and 0398 - Limitation on Retrospective Invoicing and Invoice Correction (3 to 4 year solution)

DI circulated a letter, which explained Ofgem's views on why they were sending back these modifications and also seeking views on Modifications 0335 and 0335A.

TD explained the modification rules that apply when Ofgem sends back modifications. The Panel is required to make a determination with respect to Modifications that are sent back based on the options that are available for newly raised modifications – e.g. issue to consultation or to a workgroup for assessment. The Modification Rules also require that the Panel should review the FMRs and seek to make amendments based on the comments received from Ofgem.

Members were concerned that the proposed reporting date set out in the letter potentially only allows time for one Workgroup discussion before a response is sent to Ofgem (assuming a formal consultation period following receipt of a Workgroup Report). DI agreed that the reporting date should be for the Workgroup to report to the Panel and that this should be set out in the terms of reference.

For Modifications 0395 and 0398, Members determined:

- that Workgroup Assessment is required, with a report presented to Panel by June 2012;
- that the Workgroup is to consider the issues raised in Ofgem's letter.

123.10 Conclude Meeting and Agree Date of Next Meeting

10:30 19 April 2012, at the ENA.