

Joint Office

Enquiries@gasgovernance.co.uk

21st May 2021

Dear Sir or Madam,

Re: 0674 Performance Assurance Techniques and Controls

Thank you for the opportunity to provide representation on the above noted Modification Proposal. Please find below Northern Gas Network's (NGN) comments in respect of this change.

NGN offers comments in relation to this Modification Proposal.

Reason for Support/Opposition:

Whilst NGN supports the aim of this modification which is to introduce a more robust and accountable regime in relation to settlement accuracy, we have concerns as to the changes to some of the Performance Assurance Committee (PAC) governance.

The proposal, as drafted, has 2 main areas of concern: Firstly it looks to remove PAC from the current governance arrangements under the Uniform Network Code Committee (UNCC). Secondly it allows the Performance Assurance Framework Administrator (PAFA) who are a non code party, to chair & secretariat meetings in the absence of availability from the Joint Office. This latter point would introduce the concept of a UNC meeting being held in the absence of the Uniform Network Code (UNC) code administrator.

The removal of PAC from UNCC governance would result in a UNC sub committee not having any oversight within the UNC structure. The reasoning for removing PAC from UNCC oversight seems to be based on the Data Services Contract (DSC) committees, however it should be noted that the DSC committees powers and scope is clearly defined in UNC (General Terms D), so these committees do not have the ability to amend these without modification, and therefore input, consultation, and agreement from wider industry. This modification does not seek to add these definitions in relation to PAC in their entirety (only extract some elements) into UNC, which leaves it as a fully autonomous committee with the powers to amend its own scope and powers independently of any other UNC or wider industry oversight.

Whilst we believe the modification, due to the settlement accuracy improvements that it introduces, is positive for Relevant Objective d) *Securing of effective competition*. We strongly feel that this is outweighed by the concerns raised in relation to governance. These concerns mean that the modification is negative against Relevant Objective f) *Promotion of efficiency in the implementation and administration of the Code*.

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Implementation:

What lead-time do you wish to see prior to implementation and why?

We agree that this modification proposal could be implemented 3 months after direction from the Authority.

Impacts and Costs:

What analysis, development and ongoing costs would you face?

None identified

Legal Text:

Are you satisfied that the legal text will deliver the intent of the Solution?

We have not carried out a full detailed assessment of the legal text, but raise concern as to the legal text delivering the intent of the solution as detailed in our answer to Panel question 2 below.

We also note that, as drafted, 16.1.2 (c) *Each Party agrees to conduct its relevant business at all times in a manner which facilitates the achievement of the Performance Assurance Objective* seems to place an obligation on code parties without any caveat to this having the potential to conflict with other UNC, other relevant code, or Licence obligations.

Are there any errors or omissions in this Modification Report that you think should be taken into account?

Include details of any impacts/costs to your organisation that are directly related to this.

We believe that the change of governance resulting in the absolute autonomy of PAC is an unintended omission in the modification report, and as such would encourage this modification to be returned to workgroup for this aspect to be considered and appropriately addressed.

Panel Questions:

Q1: Provide a view on whether respondents think it is appropriate to impact non-UNC parties with this proposal?

The UNC is a contract, and as such cannot place obligations on 3rd parties. We note that the legal text states *Each Party agrees to take all reasonable steps available to it to ensure a Relevant Third Party undertakes the relevant activity...* which seems to appropriately manage this without introducing this as an absolute obligation. It should also be noted that PAC can only request that 3rd Parties provide information and attendance at meetings, and has no ability to enforce these requests.

Q2: Consider impact of proposal for the overarching principle to apply to Modification Panel, UNCC, Sub Committees and Parties as set out in business rule 2a.

As written in the solution, this business rule appears to introduce the concept of a new Relevant Objective, which a modification proposal does not have the ability to do. The Relevant Objectives are in the Transporters Licence, and as such can only be amended or expanded by the Authority. Whilst it appears that this has not been interpreted as such into

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the legal text, this would seem to be a misalignment between solution and legal text. As such we would expect the proposer to clarify that they are happy that the legal text, as drafted, meets the intent of the modification, and should this be the case, amend the business rule. Should this not be the case, then the legal text would need to be amended, however we cannot see how this could be effectively implemented if so.

Please provide below any additional analysis or information to support your representation

We believe that due to a number of issues, including the alignment of the business rules with the legal text as well as the concerns over the lack of governance, warrant that this modification is returned to workgroup for a further period so that these items can be addressed. We feel that once these issues have been addressed, that this modification brings an improvement to the PAC regime and should result in real improvement to settlement accuracy, as such NGN would be happy to support its implementation once amended.

I hope these comments will be of assistance and please contact me should you require any further information in respect of this response.

Yours sincerely,

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