

Record of Determinations: Panel Meeting 273 20 May 2021

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

Note definition of Defined Term "Panel Majority" in the Mod Rules 2.1.

FMR implementation votes should record either in favour or not present (or be blank) Mod Rules 9.4(b)

|           |             |
|-----------|-------------|
| In favour | Not Present |
|-----------|-------------|

| Mod Type | Modification  | Vote Outcome   | Shipper Voting Members |    |       |    |    |    | Transporter Voting Members |    |    |    |    | IGT Voting Member | Consumer Voting Member | Non-Domestic Consumer Voting Member | Determination Sought   |  |
|----------|---|--|------------------------|----|-------|----|----|----|----------------------------|----|----|----|----|-------------------|------------------------|-------------------------------------|--|--|
|          |   |  | AG                     | DF | RK/MB | MJ | RF | SM | DL                         | GD | HC | RP | TS |                   |                        |                                     |  |  |
| FMR      | 0756S - Changes to Offtake Profile Notice Submission Requirements | No new issues were identified during the consultation - unanimous vote against           | X                      | X  | X     | X  | X  | X  | X                          | X  | X  | X  | X  | X                 | X                      | X                                   | NP   | Were any new issues identified during the Consultation?    |
|          |   | This Modification is not related to the Significant Code Review - unanimous vote against | X                      | X  | X     | X  | X  | X  | X                          | X  | X  | X  | X  | X                 | X                      | X                                   | NP   | Does this Modification impact a Significant Code Review?   |
|          |   | Modification implemented - unanimous vote in favour                                      | ✓                      | ✓  | ✓     | ✓  | ✓  | ✓  | ✓                          | ✓  | ✓  | ✓  | ✓  | ✓                 | ✓                      | ✓                                   | NP   | Should this Modification be implemented? (Yes, votes only) |
| FMR      | 0752S - Introduction of Weekly Entry Capacity Auction             | No new issues were identified during the consultation - unanimous vote against           | X                      | X  | X     | X  | X  | X  | X                          | X  | X  | X  | X  | X                 | X                      | NP                                  | Were any new issues identified during the Consultation?                        |  |
|          |   | This Modification is not related to the Significant Code Review - unanimous vote against | X                      | X  | X     | X  | X  | X  | X                          | X  | X  | X  | X  | X                 | X                      | NP                                  | Does this Modification impact a Significant Code Review?                       |  |
|          |   | Is a Self-Governance Modification - unanimous vote in favour                             | ✓                      | ✓  | ✓     | ✓  | ✓  | ✓  | ✓                          | ✓  | ✓  | ✓  | ✓  | ✓                 | ✓                      | NP                                  | Provide a recommendation on Authority Direction as set out in the Modification |  |
|          |   | Modification implemented - unanimous vote in favour                                      | ✓                      | ✓  | ✓     | ✓  | ✓  | ✓  | ✓                          | ✓  | ✓  | ✓  | ✓  | ✓                 | ✓                      | NP                                  | Should this Modification be implemented? (Yes, votes only)                     |  |
| FMR      | 0741S - Updating specific gender references to neutral terms      | No new issues were identified during the consultation - unanimous vote against           | X                      | X  | X     | X  | X  | X  | X                          | X  | X  | X  | X  | X                 | X                      | NP                                  | Were any new issues identified during the Consultation?                        |  |
|          |   | This Modification is not related to the Significant Code Review - unanimous vote against | X                      | X  | X     | X  | X  | X  | X                          | X  | X  | X  | X  | X                 | X                      | NP                                  | Does this Modification impact a Significant Code Review?                       |  |
|          |   | Modification implemented - unanimous vote in favour                                      | ✓                      | ✓  | ✓     | ✓  | ✓  | ✓  | ✓                          | ✓  | ✓  | ✓  | ✓  | ✓                 | ✓                      | NP                                  | Should this Modification be implemented? (Yes, votes only)                     |  |

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| Mod Type     | Modification   | Vote Outcome   | Shipper Voting Members |    |       |    |    | Transporter Voting Members |    |    |    |    | IGT Voting Member | Consumer Voting Member | Non-Domestic Consumer Voting Member | Determination Sought |   |  |
|--------------|--|--|------------------------|----|-------|----|----|----------------------------|----|----|----|----|-------------------|------------------------|-------------------------------------|----------------------|---|--|
|              |  |  | AG                     | DF | RK/MB | MJ | RF | SM                         | DL | GD | HC | RP |                   |                        |                                     |                      | TS  |  |
| New Mod      | 0767 - Incorporation of AUGE Framework Document into the UNC main body                                 | This Modification is not related to the Significant Code Review - unanimous vote against | X                      | X  | X     | X  | X  | X                          | X  | X  | X  | X  | X                 | X                      | X                                   | X                    | NP  | Does this Modification impact a Significant Code Review? |
|              |  | Is not a Self-Governance Modification - majority vote against                            | ✓                      | ✓  | X     | ✓  | X  | ✓                          | X  | X  | X  | ✓  | ✓                 | X                      | X                                   | NP                   | Does this Modification meet the Self-Governance Criteria?   |  |
|              |  | Modification is to be issued to Workgroup 0767 - unanimous vote in favour                | ✓                      | ✓  | ✓     | ✓  | ✓  | ✓                          | ✓  | ✓  | ✓  | ✓  | ✓                 | ✓                      | ✓                                   | NP                   | Should this Modification be issued to Workgroup with a report to be presented to the 18 November 2021 Panel?  |  |
| New Mod      | 0768 - Retail Code Consolidation Significant Code Review   | Is not a Self-Governance Modification - unanimous vote against                           | X                      | X  | X     | X  | X  | X                          | X  | X  | X  | X  | X                 | X                      | X                                   | NP                   | Provide a recommendation on Authority Direction as set out in the Modification  |  |
|              |  | Modification to be issued to consultation - unanimous vote in favour                     | ✓                      | ✓  | ✓     | ✓  | ✓  | ✓                          | ✓  | ✓  | ✓  | ✓  | ✓                 | ✓                      | ✓                                   | NP                   | Should this Modification be issued for Consultation with a 10 day consultation period (closing on 04 June 2021)?  |  |
| WG Reporting | 0762S - Adding the Retail Energy Code Company as a new User type to the Data Permissions Matrix        | Modification to be issued to consultation - unanimous vote in favour                     | ✓                      | ✓  | ✓     | ✓  | ✓  | ✓                          | ✓  | ✓  | ✓  | ✓  | ✓                 | ✓                      | ✓                                   | NP                   | Should this Modification be issued for Consultation with a 10 day consultation period (closing on 04 June 2021)?  |  |
| WG Reporting | 0759S - Enhancements to NTS Within-Day Firm Entry and Exit Capacity Allocations                        | Modification to be issued to consultation - unanimous vote in favour                     | ✓                      | ✓  | ✓     | ✓  | ✓  | ✓                          | ✓  | ✓  | ✓  | ✓  | ✓                 | ✓                      | ✓                                   | NP                   | Should this Modification be issued to Consultation with a 15 day consultation period (closing on 11 June 2021) and be considered at Short Notice at the 17 June 2021 Panel meeting? |  |
| WG Reporting | 0758 - Temporary extension of AUG Statement creation process   | Modification to be issued to consultation - majority vote in favour                      | ✓                      | ✓  | X     | NP | ✓  | ✓                          | ✓  | ✓  | ✓  | X  | X                 | ✓                      | X                                   | NP                   | Should this Modification be issued for Consultation with a 10 day consultation period (closing on 04 June 2021)? Please note 4 Panel Questions to be included in consultation       |  |
| WG Reporting | 0753 - Removal of Pricing Disincentives for Secondary Trading of Fixed Price NTS System Entry Capacity | Modification to be issued to consultation - unanimous vote in favour                     | ✓                      | ✓  | ✓     | NP | ✓  | ✓                          | ✓  | ✓  | ✓  | ✓  | ✓                 | ✓                      | ✓                                   | NP                   | Should this Modification be issued to Consultation with a 15 day consultation period (closing on 11 June 2021) and be considered at Short Notice at the 17 June 2021 Panel meeting? |  |

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| Mod Type     | Modification   | Vote Outcome  | Shipper Voting Members |    |       |    |    |    | Transporter Voting Members |    |    |    |    | IGT Voting Member | Consumer Voting Member | Non-Domestic Consumer Voting Member | Determination Sought |   |
|--------------|--|---|------------------------|----|-------|----|----|----|----------------------------|----|----|----|----|-------------------|------------------------|-------------------------------------|----------------------|---|
|              |  |   | AG                     | DF | RK/MB | MJ | RF | SM | DL                         | GD | HC | RP | TS |                   |                        |                                     |                      | HW  |
| WG Reporting | 0751 - Capping price increases for Long-Term Entry Capacity  | Modification to be issued to consultation - unanimous vote in favour  | ✓                      | ✓  | ✓     | ✓  | ✓  | ✓  | ✓                          | ✓  | ✓  | ✓  | ✓  | ✓                 | ✓                      | ✓                                   | NP                   | Should this Modification be issued to Consultation with a 15 day consultation period (closing on 11 June 2021) and be considered at Short Notice at the 17 June 2021 Panel meeting? |
| WG Reporting | 0705R - NTS Capacity Access Review   | NO VOTE REQUIRED  |                        |    |       |    |    |    |                            |    |    |    |    |                   |                        |                                     |                      | NO VOTE REQUIRED - Interim report for update only   |
| WG Reporting | 0664V - Transfer of Sites with Low Read Submission Performance from Class 2 and 3 into Class 4 (adopted)   | Modification to be returned to Workgroup with a report presented to the June 2021 Panel - unanimous vote in favour    | ✓                      | ✓  | ✓     | ✓  | ✓  | ✓  | ✓                          | ✓  | ✓  | ✓  | ✓  | ✓                 | ✓                      | ✓                                   | NP                   | Should this Modification be returned to Workgroup for further assessment?   |
| WG Extension | 0734 - Reporting Valid Confirmed Theft of Gas into Central Systems   | Reporting date for Workgroup to be extended to the August Panel - unanimous vote in favour                            | ✓                      | ✓  | ✓     | ✓  | ✓  | ✓  | ✓                          | ✓  | ✓  | ✓  | ✓  | ✓                 | ✓                      | ✓                                   | NP                   | Should the reporting date for this Workgroup be extended to August 2021 Panel?  |
| LT Request   | 0755 - Enhancement of Exit Capacity Assignments  | Legal Text requested - unanimous vote in favour   | ✓                      | ✓  | ✓     | ✓  | ✓  | ✓  | ✓                          | ✓  | ✓  | ✓  | ✓  | ✓                 | ✓                      | ✓                                   | NP                   | Should Legal Text be requested for this Modification?   |
| LT Request   | 0746 - Application of Clarificatory change to the AQ amendment process within TPD G2.3 from 1st April 2020 | Legal Text requested - unanimous vote in favour   | ✓                      | ✓  | ✓     | ✓  | ✓  | ✓  | ✓                          | ✓  | ✓  | ✓  | ✓  | ✓                 | ✓                      | ✓                                   | NP                   | Should Legal Text be requested for this Modification?   |
| AOB c)       | Appointment of a Non-domestic consumer representative  | Nominations invited for an interim and full term Non-domestic representative appointment, by unanimous vote in favour | ✓                      | ✓  | ✓     | ✓  | ✓  | ✓  | ✓                          | ✓  | ✓  | ✓  | ✓  | ✓                 | ✓                      | ✓                                   | NP                   | Should the Non Consumer representative be offered and interim appointment and full appointment for 2 years from 01 October 2021   |

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Note definition of Defined Term "Panel Majority" in the Mod Rules 2.1.

FMR implementation votes should record either in favour or not present (or be blank) Mod Rules 9.4(b)

|           |             |
|-----------|-------------|
| In favour | Not Present |
| ✓         | NP          |

| Mod Type | Modification   | Vote Outcome  | Shipper Voting Members |    |       |    |    |    | Transporter Voting Members |    |    |    |    | IGT Voting Member | Consumer Voting Member | Non-Domestic Consumer Voting Member | Determination Sought  |
|----------|--|---|------------------------|----|-------|----|----|----|----------------------------|----|----|----|----|-------------------|------------------------|-------------------------------------|---|
|          |  |   | AG                     | DF | RK/MB | MJ | RF | SM | DL                         | GD | HC | RP | TS |                   |                        |                                     |   |
| AOB d)   | Legal Text Guidance Document                                   | Consideration deferred, by unanimous vote if favour | ✓                      | ✓  | ✓     | ✓  | ✓  | ✓  | ✓                          | ✓  | ✓  | ✓  | ✓  | ✓                 | ✓                      | NP                                  | Should be deferred subject to review at the Governance Workgroup? |
| AOB e)   | UNC Modification Guidance for Proposers                        | Changes Approved, by unanimous vote if favour       | ✓                      | ✓  | ✓     | ✓  | ✓  | ✓  | ✓                          | ✓  | ✓  | ✓  | ✓  | ✓                 | ✓                      | NP                                  | Should the recommended changes be implemented?                    |
| AOB e)   | NEW Modification Template (expanded consumer benefits section) | Changes Approved, by unanimous vote if favour       | ✓                      | ✓  | ✓     | ✓  | ✓  | ✓  | ✓                          | ✓  | ✓  | ✓  | ✓  | ✓                 | ✓                      | NP                                  | Should the recommended changes be implemented?                    |
| AOB f)   | Self Governance Guidance Criteria                              | Changes Approved, by unanimous vote if favour       | ✓                      | ✓  | ✓     | ✓  | ✓  | ✓  | ✓                          | ✓  | ✓  | ✓  | ✓  | ✓                 | ✓                      | NP                                  | Should the recommended changes be implemented?                    |

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

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FMR implementation votes should record either in favour or not present (or be blank) Mod Rules 9.4(b)

|           |             |
|-----------|-------------|
| In favour | Not Present |
| ✓         | NP          |

**UNC Modification Panel**  
**Minutes of Meeting 273 held on**  
**Thursday 20 May 2021**  
**via teleconference**

**Attendees**

**Voting Panel Members:**

| <b>Shipper<br/>Representatives</b>  | <b>Transporter<br/>Representatives</b>  | <b>Consumer<br/>Representatives</b> |
|---|---|-------------------------------------|
| A Green (AG), Total Gas and Power<br>D Fittock (DF), Corona Energy<br>M Bellman (MB), ScottishPower from 12.15<br>R Kealley (RK), British Gas alternate until 12.15<br>M Jones (MJ), SSE<br>R Fairholme (RF), Uniper<br>S Mulinganie (SM), Gazprom Energy | D Lond (DL), National Grid<br>G Dosanjh (GD), Cadent<br>H Chapman (HC), SGN<br>H Ward (HW), Energy Assets Pipelines & Networks<br>R Pomroy (RP), Wales & West Utilities<br>T Saunders (TS), Northern Gas Networks | S Hughes (SH), Citizens Advice      |

**Non-Voting Panel Members:**

| <b>Chairperson</b>    | <b>Ofgem<br/>Representative</b> | <b>Independent Supplier<br/>Representative</b> |
|-----------------------|---------------------------------|--|
| W Goldwag (WG), Chair | R Fernie (RFe)                  | (None)   |

**Also, in Attendance:**

- A Bates (AB), South Hook Gas
- A Jackson (AJ), Gemserv
- A Love (AL), Elexon
- B Fletcher (BF), Joint Office
- C Aguirre (AC), Pavilionenergy

C Cantle-Jones (CCJ), SSE  
C Manning (CM), EON UK  
D Turpin (DT), Xoserve  
E Rogers (ER), Xoserve - CDSP Representative  
H Higgins (HH), Ofgem  
J Cox (JC), Energy UK  
J Ferguson (JF), NGN  
J Mcglone (JMG), Xoserve  
K Elleman (KE), Joint Office  
K Morley-Hurst (KMH), Cornwall Insight  
L Stone (LS), EON  
O Chapman (OC), British Gas  
P Garner (PG), Joint Office  
P Rogers (PR), Cadent  
R Easton (RE), Total Gas and Power  
R Kealley (RK), British Gas – alternate for M Bellman from 10am to 12.15pm.  
R Hailes (RH), Panel Secretary  
S Blackler (SB), E.Org

## **Record of Discussions**

### **273.1 Introduction**

The UNC Modification Panel Chair (WG) welcomed all attendees.

WG noted that R Fernie (RFe) was attending the meeting as the Ofgem representative.

### **273.2 Note of any alternates attending the meeting**

R Kealley on behalf of M Bellman, ScottishPower until 12.15pm

H Ward on behalf of R Cailles, BUUK

### **273.3 Record of apologies for absence**

R Cailles, BUUK

### **273.4 Minutes of the last meetings (15 April and 13 May 2021)**

Panel Members noted some requests to amend the minutes from 15 April and 13 May 2021 had been made.

Panel Members approved the amended minutes.

H Ward (HW) requested that the organisation she is identified with in the 13 May minutes is wrong and that it should be changed from BUUK to Energy Assets Pipelines & Networks. The amended minutes were republished as requested.

### 273.5 Review of Outstanding Action(s)

**Action PAN 11/02:** The Panel Chair asked the Joint Office to review and provide clarification of workgroup assessment and quoracy to avoid future debates on this topic.

**Update:** K Elleman (KE) advised as agreed previously, this item will be discussed at the June meeting.

#### Carried Forward

**Action PAN 03/01:** The Joint Office to provide a guidance document including examples of what could constitute a material variation.

**Update:** KE advised as agreed previously, this item will be discussed at the June meeting.

#### Carried Forward

**Action PAN 04/01:** The Joint Office to include the graph presented by National Grid on 12 April 2021 showing amounts received and proposed reimbursements (page 3 of Retrospective Capacity Neutrality Assessment Initial Analysis slides) into the Workgroup Report for 0765.

**Update:** KE advised that the amendments requested have been included in the Workgroup Report. **Closed.**

**Action PAN 04/02:** PG to provide an update on resources and planning at the May 2021 Panel meeting and use reasonable endeavours to finalise items 271.15 a), b) & c).

**Update:** KE advised that an update is to be provided in the meeting. **Closed.**

### 273.6 Issues log

PG confirmed that the issue shown below is being covered by Action PAN 03/01

| Meeting Date | Minutes Ref. | Issue  | Issue Raised By | Status | Owner |
|--------------|--------------|--|-----------------|--------|-------|
| 1            | 268.8        | Lack of clarity around the definition of Materiality in respect of a Variation Request for a Modifications | JO              | Review | None  |

### 273.7 Consider Urgent Modifications

- a) None

**273.8 Consider Variation Request**

- a) None

**273.9 Final Modification Reports**

- a) **Modification 0756S - Changes to Offtake Profile Notice Submission Requirements**

Panel discussion: see the Final Modification Report published at:

<https://www.gasgovernance.co.uk/0756>

Panel Members then determined (13 Panel votes were available for the determinations):

- That there were no new issues requiring a view from Workgroup, by unanimous vote (13 out of 13).
- It is not related to the Significant Code Review, by unanimous vote (13 out of 13).
- Modification 0756S implemented, by unanimous vote in favour (13 out of 13).

- b) **Modification 0752 - Introduction of Weekly Entry Capacity Auction**

Panel discussion: see the Final Modification Report published at:

<https://www.gasgovernance.co.uk/0752>

Panel Members then determined (13 Panel votes were available for the determinations):

- That there were no new issues requiring a view from Workgroup, by unanimous vote (13 out of 13).
- It is not related to the Significant Code Review, by unanimous vote (13 out of 13).
- The criteria for Self-Governance are met, as this Modification is unlikely to have a material effect on competition in the shipping, transportation or supply of gas conveyed through pipes or any commercial activities connected with the shipping, transportation or supply of gas conveyed through pipes, by unanimous vote (13 out of 13).
- Modification 0752S implemented, by unanimous vote in favour (13 out of 13).

**c) Modification 0741S - Updating specific gender references to neutral terms**

Panel discussion: see the Final Modification Report published at:

<https://www.gasgovernance.co.uk/0741>

Panel Members then determined (13 Panel votes were available for the determinations):

- That there were no new issues requiring a view from Workgroup, by unanimous vote (13 out of 13).
- It is not related to the Significant Code Review, by unanimous vote (13 out of 13).
- Modification 0741S implemented, by unanimous vote in favour (13 out of 13).

**273.10 Consider New, Non-Urgent Modifications**

**a) Modification 0767 – Incorporation of AUGE Framework Document into the UNC main body**

S Mulinganie (SM) introduced the Modification 0767 explaining the aim is to establish a more robust governance process by incorporating framework document into the UNC. He noted that some development work is required meet this objective.

WG asked if the existing UNC dispute process is viable as suggested in this Modification or would a new process be required.

SM felt the dispute process might need further work as the current process has not used previously and therefore has not been tested to understand its suitability and that it would be prudent to review the arrangements.

SM was comfortable with a timeline that allowed development of the Modification but did not want the process elongated as Modification should be implemented in time for next year's AUGE process. Ideally this should be in place before the end of this calendar year.

R Pomroy (RP) noted that the disputes process as currently described in UNC General Terms Section A is between UNC parties and neither the AUGE or CDSP are UNC parties. Therefore, a new disputes process would need to be developed.

S Hughes (SH) asked if the Modification should be raised as a review due to the wide scope of the subject and what appeared to be the significant development required.

SM noted the point but advised the AUG process is reviewed each year by a process conducted by the CDSP. However, this Modification is ringfenced to the governance process for managing the framework and the scope clearly defined.

R Hailes (RH) advised the Modification Workgroup would need to be allowed sufficient time to develop and establish the new disputes process. SM noted this but was concerned the current process has no formal disputes process and this needs to be established prior to the next AUG Year.

WG challenged if it is an ideal subject for a disputes process. Should Workgroup be asked to provide a view.

SM agreed the Workgroup is key to the development and assessment of the Modification. However, it should not be difficult to establish Alternative Disputes Resolution (ADR) arrangements to manage any potential AUG process disputes.

R Kealley (RK) noted the core issue with the establishment of an independent party to manage the AUG process and ensuring their compliance with the framework. However, creating a process that allows challenges below the current high hurdle is likely to lead to parties utilising the process every year. This could lead to dual governance or dual AUGs. If an ADR process is required, then there should be a high test built in.

SM noted that this is about compliance with the process and not targeted at a commercial outcome. They had tried to use the existing process, but the framework does not allow resolution of issues related to compliance to be tested and corrective actions applied.

D Lond (DL) noted that the Modification requests Self-Governance to be followed but SM has advised that Authority direction might be required depending how the Modification develops, what is the recommendation to Panel.

SM felt that as written the Modification is Self-Governance but he would support changing to Authority Direction should the materiality of the change increase during Modification development.

SH asked if the Workgroup could develop an alternative disputes process. SM confirmed it would be an option, although this might lead to an alternative Modification being raised.

SH asked why the UNCC is not able to govern the process effectively now. SM advised that issues have been raised by parties but UNCC has no authority to manage the process and to establish corrective actions or sanctions.

RP noted that Transporters were responsible for providing the AUG service via a contract with Xoserve. However, FGO delinked the process by placing the contracting responsibility on Xoserve and this may have inadvertently created a gap in responsibilities and actions that can be taken.

WG asked if the Modification aims to remove the contracting responsibility from Xoserve. SM confirmed this is not the intention, but it aims to establish a governance process that gives the UNCC responsibility and authority to manage the process and its delivery.

RK asked if the process should allow the review of contracting parties and responsibilities. SM felt this was an option, but this should be considered in a wider strategic review of the AUG process.

#### Panel Questions

- Q1. Consider whether the existing UNC appeals process is appropriate for use with this Modification;
- Q2. Consider whether this Modification is suitable for Self-Governance;
- Q3. Consider the potential effect of this Modification on the contractual relationship between the CDSP and the AUGE.

For Modification 0767 Members determined (13 Panel votes were available for the determinations):

- It is not related to the Significant Code Review, by unanimous vote (13 out of 13).
- The criteria for Self-Governance are not met, as this Modification is likely to have a material effect on competition in the shipping, transportation or supply of gas conveyed through pipes or any commercial activities connected with the shipping, transportation or supply of gas conveyed through pipes, by majority vote against (6 out of 13).
- That Modification 0767 be issued to Workgroup 07676 with a report by the 18 November 2021 Panel, by unanimous vote (13 out of 13).

#### **b) Modification 0768 – Retail Code Consolidation Significant Code Review**

H Higgins (HH) provided a presentation explaining the process being directed by the Authority for this Significant Code Review Modification. The Modification has the following objectives:

- 1) A minor change to the data permissions matrix;
- 2) A material change to the UNC and Modification Rules to establish the Cross Code change process.

HH advised that they have directed the process which includes a short consultation period and a recommendation on implementation by Panel.

SM asked if an issue is identified during consultation in this or one of the other related Codes SCR Modifications, how will it be managed and how will Panels be able to coordinate assessments and recommendations.

HH noted the question and felt that sufficient time was allowed in the Ofgem decision process for anything fundamental to be notified to the respective Panels and views sought.

For Modification 0768 Members determined (13 Panel votes were available for the determinations):

- Panel agreed with the Authority that the criteria for Self-Governance are not met, as this Modification is likely to have a material effect on competition in the shipping, transportation or supply of gas conveyed through pipes or any commercial activities connected with the shipping, transportation or supply of gas conveyed through pipes, by unanimous vote (13 out of 13).
- That Modification 0768 be issued to consultation closing out on 04 June 2021 with a report presented to the 17 June 2021 Panel, by unanimous vote (13 out of 13).

#### **273.11 Existing Modifications for Reconsideration**

- a) None

#### **273.12 Workgroup Issues**

- b) None

#### **273.13 Workgroup Reports for Consideration**

- a) **Modification 0762S - Adding the Retail Energy Code Company as a new User type to the Data Permissions Matrix**

WG asked Members to note that M Bellman (MB) had joined the meeting and RK was no longer acting as his alternate.

Panel Members noted the Workgroup Report recommendations that this Modification should be issued to consultation.

G Dosanjh (GD) requested Members to note that Cadent are considering raising a similar Modification which would be adding Local Authorities as an additional user type to the data permissions matrix, although it would not be an alternate to this Modification.

For Modification 0762S, Members determined (13 Panel votes were available for the determinations):

- Modification 0762S be issued to consultation with a close out date of 04 June 2021 (this includes a deemed request for Legal Text), by unanimous vote (13 out of 13).

**b) Modification 0759S - Enhancements to NTS Within-Day Firm Entry and Exit Capacity Allocations**

Panel Members noted the Workgroup Report recommendations that this Modification should be issued to consultation.

It was noted that consultation would close on 11 June and would therefore be considered at Short Notice at June Panel.

For Modification 0759S, Members determined (13 Panel votes were available for the determinations):

- Modification 0759S be issued to consultation with a close out date of 11 June 2021 (this includes a deemed request for Legal Text) and considered at Short Notice at the June Panel, by unanimous vote (13 out of 13).

**c) Modification 0758 - Temporary extension of AUG Statement creation process**

Panel Members noted the Workgroup Report recommendations that this Modification should be issued to consultation.

WG asked if this Modification would impact the development work required for Modification 0767 discussed above.

P Garner (PG) confirmed it would not impact Modification 0767 as it had a different scope. PG asked that due to the complexity and likely volume of representations, should this Modification have 10 or 15 Days consultation allowed, if the later should it be considered at July Panel.

SM did not support an approach where other materially impacting Modifications were being issued for consultation for 15 Days with no corresponding deferral of Panel consideration to the July Panel meeting.

SH asked for a number of amendments to the questions, and these were considered and amended by Members.

RP requested that both AUG tables (years 20/21 and 21/22) should be published with the Draft Modification Report for consultation. He also expected the length of consultation should be sufficient to allow for the expected volume and content of representations, even if this requires prioritisation of Panel time to consider the Final Modification Reports.

D Fittock (DF) agreed with this view and that this Modification needs to be considered at the June Panel meeting.

SM was concerned that the questions were identified by consideration and consensus at workgroup and that Panel should look to add additional questions to support the consultation process and not remove questions due to their complexity.

WG was concerned at the Joint Office and Panels time to manage consultations within a short period of time when such complex answers were requested.

MB was sympathetic with the view of timeliness but wanted to see the questions address the scope of the Modification, the proposed Question 4 in the Workgroup Report seems to be asking for other solutions and might prevent the Modification from proceeding.

Panel Members agreed to not to use Q4 as set out in the Workgroup Report.

**Additional Consultation Questions:**

- Q1. Please provide your views on whether the 2021/22 AUG Statement production process has been robust.
- Q2. Please provide your views on whether the 2021/22 AUG Statement production process has delivered a robust result and provide an explanation to support your response.
- Q3. With reference to the existing governance arrangements, please provide your views regarding the effectiveness of the governance of the AUG Statement approval process, including, (but not limited to), the UNC and CDSP contracting arrangements, and the application of the Framework Document, including the UNC Committee stages.
- Q4. Please provide a reasoned opinion as to whether the request for a direction on this Modification could be seen as placing a validation role of the AUG Statement on the Authority.

For Modification 0758, Members determined (12 Panel votes were available for the determinations):

- Modification 0758 be issued to consultation with a close out date of 04 June 2021 (this includes a deemed request for Legal Text), by majority vote (8 out of 11).

**d) Modification 0753 - Removal of Pricing Disincentives for Secondary Trading of Fixed Price NTS System Entry Capacity**

Panel Members noted the Workgroup Report recommendations that this Modification should be issued to consultation.

RP was unclear on the legal basis of this transfer product. He is also concerned about the number of associated entry Modifications following implementation of Modification 0678A - Amendments to Gas Transmission Charging Regime (Postage Stamp), is this process efficient.

RH noted that some of the Modifications were due to the activities and outputs associated with Request 0705R - NTS Capacity Access Review which is on the agenda for discussion.

SM agreed that most of these related Modifications were due to Request 0705R. SM suggested a question is asked by Panel considering the legal status of the proposed transfer product.

WG asked if this is a question for consultation or should a view be requested from lawyers?

DL noted this is a secondary market transaction and not related to the original agreement in terms of its legal basis. This is a function of the system and not a legal change or a different type of product.

R Fairholme (RF) agreed the provision of a legal view would be useful, however, it is still a challenge for Members to use that view as non-legal representatives of the industry.

SH was concerned about the comments related to “significant unknowns” that Ofgem will need to make a decision on when considering the potential impacts or not. RH noted that this relates to commercially sensitive information which won't be made available to Panel by consultation respondents, although the information might be provided direct to Ofgem by industry parties.

For Modification 0753, Members determined (12 Panel votes were available for the determinations):

- Modification 0753 be issued to consultation with a close out date of 11 June 2021 (this includes a deemed request for Legal Text), by unanimous vote (12 out of 12).

**e) Modification 0751 - Capping price increases for Long-Term Entry Capacity**

Panel Members noted the Workgroup Report recommendations that this Modification should be issued to consultation.

R Fernie (RFe) noted that the recommendation by Workgroup is for Self-Governance but currently the Authority view is this Modification is a material change and for Authority direction.

**Additional Consultation Questions:**

1. Respondents views are requested on the suitability or not of Self-Governance for this Modification.
2. Respondents views are requested on any potential compliance issues should this Modification be implemented.

For Modification 0751, Members determined (13 Panel votes were available for the determinations):

- Modification 0751 be issued to consultation with a close out date of 11 June 2021 (this includes a deemed request for Legal Text), by unanimous vote (13 out of 13).

**f) Request 0705R - NTS Capacity Access Review**

Panel Members noted this interim Workgroup Report recommendations that this Request Workgroup Report should be submitted to the 21 October 2021 Panel meeting, to enable:

- Workgroups currently in flight to complete,
- a more principles-based view to be taken, particularly of the Exit regime, to develop more fundamental changes to the regime if required,
- consider and then incorporate the work-plan for development of the Capacity Access Regime once produced through the GMaP project

DL noted that this Workgroup had produced a number of related Modifications and the ambition is still to close the Workgroup in October when the final review is concluded, and any associated Modifications raised.

SM requested inclusion of a list of Modifications that have progressed out of this review. RP suggested the Workgroup Report includes this listing.

Members noted that as this is an interim report, no determination votes were required for this item.

**Modifications progressed from Request 0705R:**

Modification 0755 “Enhancement of Exit Capacity Assignments”

Modification 0755 is due to report to the Panel in June 2021.

<https://www.gasgovernance.co.uk/0755>

Modification 0759S “Enhancements to NTS Within-Day Firm Entry and Exit Capacity Allocations”.

Modification 0759S is due to report to the Panel in June 2021.

<https://www.gasgovernance.co.uk/0759>

Modification 0752S “Introduction of Weekly Entry Capacity Auction” raised by South Hook Gas.

This Modification was implemented at Panel in May 2021.

<https://www.gasgovernance.co.uk/0752>

**g) Modification 0664V - Transfer of Sites with Low Read Submission Performance from Class 2 and 3 into Class 4 (adopted)**

Panel Members noted the Workgroup Supplemental Report recommendations that this Modification should be returned to Workgroup to develop the Variation Request.

M Jones (MJ) advised that a number of minor changes were required to the Modification and the Legal Text which will require the submission of a Variation Request to the June Panel meeting.

For Modification 0664V, Members determined (13 Panel votes were available for the determinations):

- Modification 0664V be issued returned to Workgroup with a report presented to the 17 June 2021 Panel, by unanimous vote (13 out of 13).

**273.14 Consideration of Workgroup Reporting Dates and Legal Text Requests**

Panel Members determined unanimously to extend the following Workgroup reporting date(s), recorded here with some additional data:

| <b>Modification number and title</b>                                | <b>Current Panel reporting date</b> | <b>Requested Panel reporting date</b> | <b>Reason for request to change Panel reporting date/Comments</b> |
|---|-------------------------------------|---------------------------------------|---|
| 0734S - Reporting Valid Confirmed Theft of Gas into Central Systems | June 2021                           | August 2021                           | Issues require further consideration.                             |

Panel Members discussed Legal Text requests and determined unanimously to make a legal text request for the following Modification(s):

| <b>Legal Text Requests for Modifications</b>   |
|--|
| 0755 – Enhancement of Exit Capacity Assignments  |
| 0746 – Application of Clarificatory change to the AQ amendment process within TPD G2.3 from 1st April 2020 |

**273.15 AOB**

**a) Joint Office Futures Update**

J Ferguson (JF) and P Rogers (PR), on behalf of the Joint Governance Arrangements Committee (JGAC) provided an overview and background to the circulation of a letter concerning the future status of the Joint Office.

JGAC has been considering developments in the industry following the conclusion of the Xoserve FGO review and ongoing Code Governance Review. This should allow the consideration of different practices and the establishment of new ways of doing things, including the adoption of industry best practice which might not be possible if the current model continues.

The aim is to establish the Joint Office as a limited company and to do this with the minimum of disruption including limited or no changes to licence.

Some views have been provided by the industry and these will be considered as the organisation and structure evolves.

WG asked if the staff are subject to TUPE or will there be new contracted staff. PR confirmed that staff have been offered a number of options based on remaining with their current employment contracts and employing organisation or full TUPE to the new organisation – currently Joint Office Staff are seconded from Transporters.

SM wanted to understand the future arrangements and what support he needs to provide. He felt an FGO model does not work if selected stakeholders own the new company and he would like to see more openness in the decision-making process, with more clarity on the management of the organisation at board level.

DF agreed with this view. He wanted clarity on the articles of association, do they allow the Joint Office to make its own commercial arrangements particularly with resourcing. Will Shippers be involved in directorship of the company?. PG confirmed that the Joint Office will be able to make decisions concerning recruiting and therefore be more agile in responding to challenges based on the approved plan and budget.

SH highlighted that he had submitted questions, although he was still waiting for a response. He noted from the response to DF that his question concerning flexibility was in part answered. SH would also like to understand how new services will be funded if money is set based on a fixed allowance as Transporters don't have pass through costs for this activity.

L Stone (LS) requested clarity on any additional costs or charges being passed through to Shippers? O Chapman (OC) was concerned about funding and who pays and wanted a formal next steps process documented.

RK asked if there is anything in its establishment that limits the new company to the role as Code Administrator of the UNC, can it take on more roles in future.

PR advised the Joint Office annual budget is approved by JGAC based on a robust challenge and review process. As previously noted, there are no pass-through costs for Transporters as they have been given an allowance for managing the joint governance arrangements. This proposed change in status is not related to cost issues as the Joint Office is considered to be good value for money but is to ensure the service is agile and responsive to future changes.

The aim is to set up the organisation to gain quick wins with a longer-term strategy being based on the likely changes to the industry, particularly those required to the Industry Codes review.

WG asked if JGAC have considered open or closed share holding. PR noted that FGO model has been considered and that at some stage other directors might be considered where this offers good value for customers.

SH noted that the Joint Office can currently ask for resources and funding, so why will this be different going forward. PR advised that as the Joint Office is not currently a limited company, all services and funding is managed via Transporters processes. However, the new company once established, will be able to utilise its own budget to manage both employees and services much quicker than using Transporter processes. SH still wanted to understand that if the Joint Office is to expand, how can this be reconciled against a fixed allowance. PR advised that the funding is not the issue should the new company identify a clear business case for additional funding.

SM asked if the Joint Office needs additional money does it ask its shareholders. PR confirmed that is correct, but this still leaves it the scope to operate more effectively and to target its resources.

J Cox (JC) asked if the Joint Office will procure its own services such as HR or will it use Transporter services through a managed service. PG confirmed this will reside with the Joint Office and this includes budget provision for these services from day 1.

SH noted that the new company and its budget is set from day 1, what happens for future service changes, where does that money come from – is it Transporters. PG advised additional services for example Legal Text provision could be offered and, in this example, would be funded by Transporters by the potential reallocation of Transporter legal text funds. JF noted that additional funding would be supported by JGAC subject to business case development and reallocation of funding. Good value for money needs to be demonstrated.

SM asked if the review process is by Transporters as the only board members. SM is not clear on the additional funding and the assumptions that the budget funding is correct and tested and he is still not sure the proposed structure will deliver the required future changes needed. What happens from 1<sup>st</sup> July, is this going to happen anyway. PR noted that Ofgem consent is required due to licence requirements and the situation might need to change based on the Code Governance review. The aim is for minimum disruption at this time.

Angela Love (AL) noted the Codes review objectives for consolidating services. When considering additional back-office services, wouldn't it be better to establish the new company as part of Xoserve as the back-office services are already established. PR advised that this had been considered but based on some views provided around the complexities of FGO had initially been discounted. However, this view may change following the implementation of Project Mercury and it could be an option for reconsideration in future as with a number of options based on the wider Codes review and consolidation of industry Codes.

WG summed up the session and noted that a submission to Ofgem is to be provided and would include views provided to Transporters concerning the proposed changes to the Joint Office structure.

**b) Open letter regarding the SCR modifications for RCC**

RH advised that Panel has discussed the SCR Modification earlier in the meeting and no additional discussion was proposed.

**c) Non Domestic Consumer Representative Update**

PG advised that N Bradbury is no longer taking his seat at Panel and is considered to have resigned. The Joint Office has approached Ofgem on the merits of an appointment from asap until 30 September 2023. Ofgem have advised that the Panel guidance document concerning the appoint of the Non-Domestic Consumer Representative is issued by Panel and any deviations from the documented process should be considered by the Panel.

PG advised that there were a number of options that Panel could consider as follows:

Options :

1. Defer appointment until October when all other Committee and Panel appointments will be made. Panel were not supportive of this approach as it would mean the seat was vacant for 5 months.
2. Arrange an interim appoint from now until 30 September 2021. Members were not supportive of this approach as the process is just commencing for all UNC appointments from 01 October this would mean running parallel appointments which would be confusing.

3. Appoint now but on condition that appointment runs from (date when appointed) to September 2023 – when the next Panel will be re-appointed for a further 2 years. There was support for this option, however, RFe challenged if the Panel could disregard the appointment period stated in the Modification Rules.
4. Dual application for appointment from now to 30 September 2021 and then from 01 October 2021 to 30 September 2023. Members were supportive of this approach as it would remove any confusion with running parallel processes.

SM suggested a change to the rules to allow an appointment to meet the criteria for 3 above as it will be more efficient than running a process in parallel or a short-term appointment.

RFe noted the guidance for mid-term appointments is to run a shorter nomination process and asked how would a 2 years plus term impact the UNC process which specifies an appointment for a 2 year period?

SM feels its difficult to run a process for 3 months plus the same process for 2 years even over a shorter nomination period without the process causing some confusion.

Members agreed that the Joint Office should invite nominations for the non-domestic consumer representative from industry parties for submission to Panel – this should be based on a combined invitation letter that sets out the nominations is for the remainder of the current appoint period and includes an appoint from 01 October 2021 for 2 years.

For Non-domestic consumer representative appointment, Members determined (13 Panel votes were available for the determinations):

- The Joint Office should invite nominations for the non-domestic consumer representative from industry parties, this should be based on a combined invitation letter that sets out the nominations is for the remainder of the current appoint period and includes an appoint from 01 October 2021 for 2 years, by unanimous vote (13 out of 13).

**d) Legal Text Guidance Document – Annual Review**

K Elleman (KE) advised that a number of comments have been received following provision of the document for review.

KE presented the comments and these were reviewed on screen by Members and additional comments were captured in the document.

Members agreed to refer the document for review at the Governance Workgroup meeting on 02 June 2021.

**e) Proposed update to UNC Modification Guidance for Proposers & Template**

KE advised that these documents have been presented previously and following deferral at the previous meeting, a further iteration is being presented. Noting that the main change is a CACoP recommended change that other industry Codes have adopted in terms of identifying consumer impacts.

A number of other minor changes have been identified and included for approval.

The documents were presented on screen and the proposed changes were discussed.

Members determined (13 Panel votes were available for the determinations):

- Panel Members unanimously voted to approve the UNC Modification Guidance for Proposers
- Panel Members unanimously voted to approve the Stage 1 Modification Template

**f) Self- Governance Criteria - Guidance**

KE advised that this is the annual review of document. Some slight changes have been proposed although these are not significant. Panel will be asked to vote to approve changes.

Members determined (13 Panel votes were available for the determinations):

- Panel Members unanimously voted to approve the Self- Governance Criteria document.

**g) IGT UNC Cross Code Working Report**

A Jackson (AJ) provided a presentation that in the view of IGT UNC members, highlighting that Cross Code coordination is not working as well as it should be.

AJ suggested that digitisation of Code would benefit Cross Code working arrangements as it would flag changes in one Code which would then have corresponding impacts on another's Code.

RP was unsure how it would work in practice as the online system alerts would only work once the legal text has been updated and this would be too late for the analysis of Modifications as this is usually just prior to consultation and therefore too late in the process.

AJ noted the concern but not all changes to iGTUNC require substantial workgroup development and the flagging would enable the Code Administrator to get a view of the impacts for the actual code provisions. In addition, there can be conflicts related to the implementation of Modifications as the iGTUNC uses a Code Release process whereas UNC can be immediate, and this can cause a tension and temporary misalignment if not monitored.

SM noted the system suggested for digitisation, although also noting there are numerous other packages that could be considered. He was also concerned that this was not the only issue, why don't the IGT representatives, including the Code Administrators join the UNC meetings, allowing the development of Modifications and associated impacts together.

AJ agreed this would be beneficial but this does not seem to be happening in terms of joint workgroups.

DF was aware of the platform that could be used to manage the process, why not use it if it would help with cross code working.

PG agreed but wanted a more informed view from what is happening elsewhere in the industry such as what is being established with REC and how this impacts BEIS review of Codes and wider consolidation.

HW noted the comments and was surprised there are no joint working groups as this would be a benefit and improve the overall process. PG advised that all parties are welcome to attend meetings and that joint workgroups can be arranged to support cross code working.

DF asked why there are no meetings arranged as this happens in other Codes. SM agreed but noted that in part it's around funding and that it shouldn't be for one constituency to fund the process for the benefit of others.

TS agreed the benefits of joint working, but Transporters are not signatories to iGTUNC and if they raise a modification with cross code implications, they need another party to raise a corresponding modification in the iGTUNC.

WG noted that the aim of regulators is to reduce Codes and that a consolidation process would be beneficial. However, when considering the issues around cooperation and closer working, we need to work together to reduce the friction with aligned processes with the aim of improving the experience of our customers. Although there needs to be careful evaluation of all digitisation systems before adopting a specific version.

**h) Ofgem Cross Code Survey**

RFe advised a letter commencing the cross code survey has been on the Ofgem website and all parties are invited to take part.

<https://www.ofgem.gov.uk/publications-and-updates/invitation-participate-code-administrators-performance-survey-2>

**l) Ofgem Website update**

RFe advised the Panel that Ofgem is working to replace their current website and this will mean a moratorium will be in place for a period of time, expected to be in June.

**273.16 Date of Next Meeting(s)**

10:00, Thursday 17 June 2021, by teleconference.

**Action Table (20 May 2021)**

| <b>Action Ref</b> | <b>Meeting Date</b> | <b>Minute Ref</b> | <b>Action</b>   | <b>Owner</b>      | <b>Status Update</b>   | <b>Date of Expected update</b> |
|-------------------|---------------------|-------------------|---|-------------------|------------------------|--------------------------------|
| <b>PAN 11/02</b>  | 19/11/20            | 265.8             | The Panel Chair asked the Joint Office to review and provide clarification of Workgroup assessment and quoracy to avoid future debates on this topic.   | Joint Office      | <b>Carried Forward</b> | <b>June 2021</b>               |
| <b>PAN 03/01</b>  | 18/03/21            | 270.6             | The Joint Office to provide a guidance document including examples of what could constitute a material variation.   | Joint Office (KE) | <b>Carried Forward</b> | <b>June 2021</b>               |
| <b>PAN 04/01</b>  | 15/04/21            | 271.10 d)         | The Joint Office to include the graph presented by National Grid on 12 April 2021 showing amounts received and proposed reimbursements (page 3 of Retrospective Capacity Neutrality Assessment Initial Analysis slides) into the Workgroup Report for 0765. | Joint Office (RH) |                        | <b>Closed</b>                  |
| <b>PAN 04/02</b>  | 15/04/21            | 271.15 c)         | PG to provide an update on resources and planning at the May 2021 Panel meeting and use reasonable endeavours to finalise items 271.15 a), b) & c).   | Joint Office (PG) |                        | <b>Closed</b>                  |