













UNC Final Modification Report		At what stage is this document in the process?
<h1>UNC 0674:</h1> <h2>Performance Assurance Techniques and Controls</h2>		<div>01 Modification</div> <div>02 Workgroup Report</div> <div>03 Draft Modification Report</div> <div>04 Final Modification Report</div>
Purpose of Modification: To provide an effective framework for the governance of industry performance that gives industry participants mutual assurance in the accuracy of settlement volume allocation.		
	Panel consideration is due on 16 December 2021	
	High Impact:	
	Medium Impact: Shippers	
	Low Impact: Transporters	

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Note: Following the Performance Assurance Committee on 13 September 2021, an addendum has been added to this report on page 19.		 07884 113385
Timetable		
Modification timetable:		Systems Provider: Xoserve
Initial consideration by Workgroup	08 April 2019	 UKLink@xoserve.com
Workgroup Report presented to Panel	15 April 2021	
Draft Modification Report issued for consultation (<i>25 Business Day consultation period</i>)	15 April 2021	
Consultation Close-out for representations	24 May 2021	
Final Modification Report available for Panel	27 May 2021	
Modification Panel decision	17 June 2021	

1 Summary

This Modification is proposed by ScottishPower on behalf of the Performance Assurance Committee.

What

In operating the Performance Assurance Framework, (PAF), the Performance Assurance Committee, (PAC), have identified some weaknesses and limitations in the performance assurance regime which are impacting the effectiveness of the performance assurance model.

Why

The PAC have a number of examples where performance issues have been identified and have not been remedied over a prolonged period. This has resulted in settlement inaccuracy over extended periods.

PAC are keen to prevent such situations occurring (through new performance assurance principles, proportionate incentive mechanisms and a progressive series of escalating controls) and when performance issues occur, they are curtailed speedily.

How

The Proposer on behalf of PAC proposes to modify the UNC to define the following outcomes:

- I. Require UNC Parties to adhere to a basic principle that their negligence, poor performance or bad behaviours must not distort settlement even when such behaviours have not specifically proscribed within the UNC.
- II. Determine additional tools and processes available to the PAC in its work in the provision of performance assurance within the code.
- III. Allow the Performance Assurance regime to be more agile and responsive to the information it is receiving by empowering the PAC to determine and action an appropriate response at any time.
- IV. Provide PAC and PAF Administrator, (PAFA), access to any standard reports already being provided to individual UNC Parties within performance packs e.g. shipper performance packs.
- V. Allow PAFA access to such data as reasonably approved by PAC to allow PAFA and PAC to carry out performance assurance activities, (e.g. risk assessment and performance monitoring).
- VI. Require UNC Parties to take action to improve their performance and remedy issues if it is identified and requested by the PAC.
- VII. Require UNC Parties to provide and adhere to any plans of action they provide.
- VIII. Ensure that where it is proposed adding to or changing UNC performance standards within the UNC and performance monitoring is required, the report requirement must be added to the modification.

The CDSP will be required to provide a ROM (rough order of magnitude) for the production of the monitoring reports needed for that proposal, for the modification workgroup to determine if the cost of a report is not deemed prohibitive.
- IX. Specify the tools available to the PAC to incentivise, drive and require performance behaviours and to document these in a new ancillary document under PAC (UNC sub-Committee) governance.
- X. Suitably empower the PAC, as an elected, independent body, to make decisions for and on behalf of the UNC Parties in respect of Performance Assurance matters.

- XI. Ensure that the PAC budget does not act to constrain the duties and requirements of the PAC.
- XII. Provide clarity that UNC parties (Gas Transporters (GTs), Independent GTs (IGTs), Shippers etc.) and CDSP fall under the remit of the PAC and performance assurance measures to be applied.

2 Governance

Justification for Authority Direction

The modification will impact the performance assurance regime, which ultimately seeks to have a positive material impact on parties and therefore competition between them. It also seeks to increase the authority of the PAC, to allow it more decision-making powers which is likely to materially impact specific parties.

The modification:

- i. is likely to have a material effect on:
 - a. 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; and
 - b. the uniform network code governance procedures and the network code modification procedures;
- ii. is likely to discriminate between different classes of, or individual, parties to the Uniform Network Code where their individual performance fails to meet UNC requirements or otherwise adversely impacts on settlement accuracy .
- iii. Is likely to impact consumers through improved competition (e.g. in tariffs, services, etc), due to the anticipated improvements to settlement processes where they are otherwise not fair and equitable across parties.

Requested Next Steps

This modification should be considered a material change and not subject to self-governance.

The detailed business rules in this modification should be reviewed by a workgroup to ensure there are no unintended consequences or loopholes in the governance requirements that would thwart the performance assurance intent of this modification. Additionally, the modification should act as an incentive to meet the required UNC performance levels and a disincentive to make commercial decisions that detrimentally impact competing parties.

This is a complex Modification Proposal and will require stakeholder engagement. The contractual requirements of the PAFA may also be impacted. The ancillary documents must also be drafted for initial adoption.

Existing Affected Related and Ancillary Documents:

- [Performance Assurance Framework Document \(PAFD\) v2.0](#) (to be re-drafted)
- [Performance Assurance Committee Document: Terms of Reference v5.0](#) (to be withdrawn)
- [Performance Assurance Committee Document: PAFA Scope \(Document 4 v2.0\)](#) (to be withdrawn)
- [Performance Assurance Reports Register \(PARR\) v3.01](#) (to be appended to PAFD)
- [Performance Assurance Committee Document: Letter of Confirmation \(Document 5 v2.0\)](#) (to be re-drafted by the PAC in due course)

3 Why Change?

The electricity performance assurance regime in the Balancing and Settlement Code (BSC) costs approximately £3m to provide the regime.¹ This modification does not advocate this level of expenditure nor the more prescriptive style of this regime, but it does advocate that the Code supports some additional investment to deliver a 'harder-hitting' assurance that parties anecdotally indicate they require and which are expected will deliver better returns and competitive efficiencies from improved performance, less settlement uncertainty and likely attendant improvements in customer service.

The existing Performance Assurance Reports do not provide context and the potential impact of performance behaviours on settlement accuracy. The PAC has an annual budget of £50k for reports from the CDSP (Central Data Services Provider). To put this in context – the PAC explored amending one of the existing PARR reports and the CDSP indicated that one option for doing so would use £45k of the annual budget (Ref: [PAC minutes 20 November 2018 ROM](#)). Such a budget limitation can constrain the PAC's ability to identify, assess and bring to account poor behaviour.

Since the implementation of Project Nexus on 01 June 2017, a number of issues have impacted settlement allocations. These and the length of time issues have been endured have had a direct effect on the financial and commercial health of market participants and ultimately customers. The absence of a stronger PAF, is likely to have prolonged settlement distortion and therefore, in part, high and volatile UIG.

To date performance remedies are limited to PAC instructing the CDSP or PAFA to engage with the failing participant proactively and asking the PAFA to write a formal letter requesting the issue be resolved.

This is having limited effect in some instances but is simply ignored in others.

Three examples were cited in the Modification as instances that would have benefited from a more robust performance assurance regime:

- There have been significant issues with the reconciliation of mandatory DM (daily metered) sites since the implementation of Nexus in June 2017. As of November 2018, there were still 32 sites that have not had a retrospective consumption adjustment since June 2017. Actions taken to remedy this situation have included direct engagement by the CDSP (Xoserve) and a letter from Ofgem to involved parties. It took nearly a year to resolve the root causes for 177 DM meters.
- Product Class 3 read performance, despite Xoserve's engagement with the involved Shippers, is still well below the performance target.
- All shippers have access to shipper information packs and dashboards that highlight performance in many other areas. Where processes are failing and the shipper has the management information indicating that, there are no consequences of Shippers failing to act on these reports and no controls that PAC can employ to support Shippers in improving their performance.

Further, more contemporary, examples are listed below:

- Since the inception of UNC0674 the work of PAC has highlighted that this current informal approach to PAF has had some limited success improving read performance for a handful of the worst performing shippers. However the Code standards are still not being met by many shippers and by a considerable margin.

¹ [Annual BSC Report 2017/18](#) (see page 42)

- Additional risks to settlement accuracy have been identified in all Product Classes and with varying materiality (e.g. AQ correction, Correction Factors, meter asset data, no meter, meter by-pass valves, consumption adjustments, LDZ error, no reads up to 4 years)
- It is increasingly clear that there are many process failures that cause settlement error and therefore UIG (positive or negative). These same issues cause settlement uncertainty as well as inefficiency.

Ofgem, the PAC and the industry have discussed the benefits of incentives to improve settlement accuracy and reduce risk. For example, in the level of reads accepted into settlement.

Ofgem has on a number of occasions advised that they want to see improvements to the performance assurance scheme developed in the gas market – including in their determination on Modifications 0473/A and 0506V.

Additionally, Ofgem, in their decision letters on Modifications 0619/A/B, requested that industry parties increase “the frequency and quality of meter read data being submitted to the Central Data Services Provider” and in their decision letter on Urgent Modifications 0642/0642A/0643 they requested that “To the extent that Xoserve depends on data provided by third parties, including the provision of frequent and accurate meter readings, it is expect to work with those parties and the PAC to ensure that these requirements are identified and being met.” Improved read performance was also a recommendation of CMA. There is currently no effective mechanism for meeting these challenges, aside from relying on Shippers best intentions, which is not currently delivering adequate read performance or settlement certainty.

Despite introducing a risk based PAF, the PAF is currently limited to monitoring performance reports and writing letters to the Market Participants displaying poor performance.

The UNC obligations provide no consequences for failing to meet obligations or target measures where they exist and no incentives to meet them. There is no mechanism to hold to account the performance of failing parties; and target measures provide no indication of how they might impact settlement quality nor is there evidence that impact on settlement is considered in making decisions to modify UNC obligations.

4 Code Specific Matters

Reference Documents

Relevant UNC Sections and UNC Related Documents:

- [UNC TPD Section V](#)
- [UNC General Terms Section B](#)
- [UNC Modification Rules, \(MR\), \(Section 6.1.1\)](#)
- Performance Assurance Framework Document v2.0

Knowledge/Skills

Knowledge of settlement risk or other performance regimes would be an advantage.

5 Solution

The current Performance Assurance regime is represented diagrammatically below:

As Is

UNC – V Section 16

PAF (Performance Assurance Framework)

- Scope
- PAFA appointment procedure
- Functions of PAFA

PAC (Performance Assurance Committee)

- Decision making
- ToR (under UNCC but not in section 12)

PAFA (Performance Assurance Administrator)

- How and who to appoint PAFA
- Monthly reports

UNCC – V Section 12

Ancillary Documents

- PAF
- PARR (Performance Assurance Reports Register)

The modification will move Performance Assurance to a new regime represented diagrammatically here:

TPD V16

Governance – OFGEM
(via UNC Mod process)

Parties subject to new Performance Assurance Objective & Principles

Provision of authorities to the PAC (with protections)

Defines new UNC terms for PAC constitution (per 'GT D4' for DSC)

Performance Assurance Committee section

- One-stop section with all necessary references
- Definitions, PAC Terms of Reference, Constitution, Appeals, etc

Performance Assurance Framework Document

- Defines this PAC governed document (does not duplicate its contents)

GT B4

Governance – OFGEM
(via UNC Mod process)

PAC carve-out from 4.3.1 and 4.4.2

- PAC cannot 'cease to be established' by UNCC vote alone.
- Parties are obliged to provide information requested by PAC for PA purposes

PAF Document

Governance – PAC

Performance Assurance Framework Document incorporating:

- PAFA scope, schedule of services, appointment, risk approach
- PATs (Performance Assurance Techniques), PARR, procurement
- Annual PAF Budget, Review, Plan and Consultation

In summary the solution is to oblige UNC Parties (transporters, shippers) and CDSP (via DSC 3.5) to comply with an objective of equitable settlement and to cooperate with other Parties to further this objective.

It will also give PAC some additional authority to identify those areas of performance (whether in Code or not) which impact the objective, to require UNC Parties to improve in those areas and to impose sanctions where performance is below the required level, and to engage in discussion with relevant non-Parties where it is reasonably considered that they are impacting the objective. It will also require Proposer of a modification which adds or changes UNC performance standards or might impact a Party's performance against such standards to specify an appropriate monitoring report. The CDSP will be required to provide a ROM (rough order of magnitude) for workgroup consideration.

The requirements below will be incorporated into the UNC.

(Associated changes will be made to the Performance Assurance Framework documents).

- 1) Introduce a new objective to the UNC, the Performance Assurance Objective (PAO)

The Performance Assurance Objective is:

- a. To ensure in relation to a Day accurate and timely Settlement for the Day.

- 2) Introduce a new overarching principle to the UNC.

- a. The Modification Panel, UNCC, sub-committees and Parties must always ensure that acts (or omissions) contribute to, and do not prejudice, the achievement of the Performance Assurance Objective even when such acts or omissions are not explicitly proscribed under UNC.
- b. The acts or omissions of any other Party (such as another shipper, supplier, or their agent) do not absolve any other Party of their obligations under the UNC.
- c. Parties acknowledge that reports provided by PAFA or PAC shall constitute evidence of a Party's performance with regard to UNC compliance, and shall be accepted as such unless evidenced to the contrary.
- d. Parties will use these reports to self-monitor performance.
- e. Parties will also respond to PAFA/PAC enquiries with the requested information, timeously and in accordance with such process as may be specified in PAF Document from time to time.

- 3) Introduce a new overarching principle to the UNC of collective co-operation towards the specified objective.

- a. All UNC Parties acknowledge that each is dependent on the others for the achievement of the PAO and will cooperate wherever is necessary (whether explicitly required in UNC or not) to achieve the PAO.

- 4) Responsibility for updating the PAF Document to PAC (and upon notice to Parties and publication of the revised document).

- 5) Define the PAC in V16, as an autonomous UNC sub-Committee following the principle used in General Terms D4 for DSC sub-Committees. PAC and PAFD will no longer be governed under Section V12 of UNC.

To facilitate comparison the following terms to be incorporated into V16 are shown under each main heading of General Terms Section D 4.1 – 4.5 (mutual mutandis).

PAC COMMITTEE

a) Establishment and functions of the Performance Assurance Committee

In connection with the requirement to operate the UNC Performance Assurance Regime the following Network Code Sub-committee is established:

The Performance Assurance Committee (PAC)

The Performance Assurance Committee shall perform the functions and have the powers and duties provided in this section UNC V16, and the Performance Assurance Framework Document

The Performance Assurance Committee shall have control of the following documents:

- Document 1: Performance Assurance Reports Register (PARR)
- Document 2: The Risk Register
- Document 3: PAC letters of confirmation and company agreement
- Document 4: PAFA scope
- Document 5: PAF Document

A PAC Committee may establish a sub-committee for such purposes (within the scope of its functions, powers, and duties) and comprising such members and on such terms as it decides; and references to a PAC Committee include any such sub-committee.

The PAC Committee is autonomous, and the UNC Committee has no power to overrule a decision of the PAC or its sub-committees or reduce or qualify the scope of its functions, powers.

No decision of the PAC shall be made or (if made) shall be effective if the decision would cause a party to be or act in breach of the UNC.

b. Constitution of the PAC

The PAC shall comprise representatives ("Committee Representatives") of each Customer Class as follows:

- (a) 9 individuals appointed as representatives of Shipper Users ("Shipper User Representatives"); and
- (b) 3 individuals appointed as representatives of Transporters and IGTs, of which:
 - (i) 2 shall be appointed by DN Operators ("DNO Representatives"); and
 - (ii) 1 shall be appointed by IGTs ("IGT Representatives").

For the avoidance of doubt NTS shall not have membership rights

For PAC to fulfil its role under the PAF, its Shipper members shall be appointed using the guidelines as defined in the UNC governed document:

[Uniform Network Code Panel, Uniform Network code committee \(UNCC\), Sub-Committees and Data Services Contract \(DSC\) Committees - Guidelines for the User Representative Appointment Process](#)

For PAC to fulfil its role under the PAF, its membership must behave in a manner that is consistent with the principles of the PAF and the duties of the PAC.

PAC Members are representatives in their own right and do not represent the company by which they are employed.

All PAC Members and their alternates will be required to sign the following documents to assure that the Member will be attending and voting at the PAC in the interests of the GB gas industry and not representing any commercial interest or commercial body or interest group:

- Letter of Confirmation, which includes:
 - Member impartiality,
 - Non-Disclosure Agreement,
 - Declaration of interest.
- Letter of agreement from Company Employing a committee member.
- And if applicable, Letter of Agreement from company nominating a committee member.

The documents listed above are controlled by the PAC and can be found in the PAC Framework Document.

c. Committee members and alternates

A list of all PAC Members and standing alternates is published on the Joint Office website.

Alternates need not necessarily come from the same company as the PAC Member. It will be for the PAC Member to consider the suitability of their alternate, in respect of experience and understanding of the issues that the PAC will deal with. For the avoidance of doubt a PAC Member can act as Alternate for another PAC Member

A single alternate may not represent more than one (1) other PAC Member.

d. Voting Arrangements

This Modification does not seek to make any changes to the extant voting arrangements for PAC as agreed by UNCC. The latest position on which is that UNC0732 has been approved and effective from 14 September 2020. TPD V16.2.1 has been footnoted as follows:

- Implementation of Modification 0732FT² effective 05:00hrs on 14/09/2020 will amend paragraph 16.2.1.

UNC0674 will be updated to reflect the legal text arising from UNC0732 for PAC voting majority.

e. Proceedings of PAC Committee meetings

The meeting will be quorate where there are at least four Shipper User PAC Members and two Transporters (DNO and/or IGT) PAC Members present with a minimum of six PAC Members in attendance. For the avoidance of doubt Alternates do not count towards quoracy (as per Mod Panel)

The Code Administration Code of Practice shall apply to the conduct of the meetings.

² [Modification 0732FT - Performance Assurance Committee voting arrangements](#)

Information to be used within meetings will be provided to PAC Members, the Joint Office and the Ofgem representative via a secure web portal. Such information shall not be downloaded.

PAC members, the Joint Office and Ofgem shall treat all information as confidential unless it is clearly marked otherwise.

The default is PAC meetings are 'closed' to non-Members. PAC Members can agree to hold 'open' meetings.

With agreement of the Chairperson, and for example for the purposes of but no limited to developing the PAC arrangements or carrying out investigations into performance, PAC Members can invite 3rd parties and non-members to the meeting.

The CDSP may be required to attend (by one or more representatives) meetings of the PAC.

OFGEM shall have the right for up to 3 representatives to attend as observers.

6 Appeal

- a. To enable it to deliver upon its purpose of identifying and mitigating gas Settlement inaccuracy, the UNC gives PAC the power to apply Performance Assurance Techniques (PATs) specified in the PAFD to various industry roles.
- b. The parties to whom the PATs are applied (the subject of a PAT) can be materially affected, financially, operationally or reputationally, by their application.
- c. The party subject to a PAT may believe that the accuracy of the information underpinning PAC's use of a PAT is materially and demonstrably incorrect. It may also believe that the procedure surrounding use of the PAT, as set out in the PAT technical document, has demonstrably not been followed, resulting in a material impact on them.
- d. Where PAC determines that a party is to be referred to OFGEM the subject of the PAT is entitled to appeal the PAC's decision, initially to the PAC and potentially to UNCC. The decision of the PAC, having considered any new information that might arise from any subsequent UNCC appeal, is final.
- e. The criteria for a valid appeal, is as follows:
 - i. The inaccuracy of fact or irregularity of procedure can be demonstrated.
 - ii. A material inaccuracy of fact or irregularity of procedure has occurred, such that the outcome would be different if the correct information or procedure were used instead.
 - iii. The appeal must be raised with the PAC within 1 month of the relevant PAC decision.
- f. Procedure;
 - a) The gas PAFA will assess any appeal in respect of whether the criteria for the appeal has been met, before presenting the appeal to PAC at the next practicable opportunity.
 - b) The PAFA's initial views on the validity of the appeal and the appropriate rectification will be presented to the PAC alongside the appellant's representations.
 - c) PAC's original reasons for applying the PAT will form part of the material PAFA reviews and provides to PAC to aid its decision on the appeal.

- d) During the period between an appeal being raised and the PAC hearing the appeal, any obligations on the appellant, PAC and PAFA pursuant to a PAT which is wholly or partly the subject of the appeal will be suspended. The PAC's decision on the appeal will include guidance for resumption or termination of timescales for action under any of the PATs at issue.
- e) The PAC will treat the matter as confidential. All meetings to hear the appeal will be closed and the meeting and the material presented for consideration during an appeal will not be published.
- f) The appellant may be invited to present their case and their supporting evidence. Notice of the meeting will be not less than 14 Business Days.
- g) The PAC will determine the extent to which it accepts the appeal. This could be wholly, partially, or not accepted. The PAC may recommend or provide guidance on how or whether the application of the original PAC decision resumes or continues.

g. Appeal Decision

- a) Any communications from PAC, PAFA or JO in regard to the Appeal shall be directed to the Performance Assurance Party's, (PAP), Company Secretary (and cc'd to the PA Representative)
- b) The PAC will respond in writing to the appellant within 10 Business Days of making their decision with the reasons for its decision.
- c) Where, following the decision of the Performance Assurance Committee in respect of an appeal, the Appellant Party considers that the grounds of appeal in paragraph continue to be met the Appellant Party may, within five (5) Business Days after the publication of the Performance Assurance Committee's appeal decision, appeal to the UNC Committee, by notice given to the PAC Secretary setting out the basis on which it considers the grounds of appeal are met.
- d) The UNCC will advise PAC of its observations and/or recommendations for PAC consideration.
- e) PAC will then either amend or uphold its original decision, justifying any departure from UNCC's view and notifying the PAP within 15 Business Days. UNCC cannot however overturn or amend PAC's decision.

Although UNCC cannot override a PAC decision, this process creates 'administrative tension' which incentivises PAC to ensure that its determinations are robust, proportionate, and fair, in order to avoid UNCC casting an alternative view of the appeal.

7) Section V16 will include amongst other things the following:

- i. The UNC Performance Assurance Objective and other terms pertaining to PAC
- ii. the composition of the Performance Assurance Committee membership, (as per the present Terms of Reference v2.2);
- iii. the basis on which Performance Assurance Committee members are to be appointed and from time to time removed and/or replaced. This to include that each User and its Affiliates holding more than one Gas Transporters Licence may submit up to one nomination for the purposes of the appointment process.

- iv. the basis on which a person (not being a committee member) will be appointed to chair each meeting of the Performance Assurance Committee; to include a PAC-appointed PAFA employee if necessary.
- v. the basis on which a person (not being a committee member) will be appointed as secretary to the Performance Assurance Committee; to include a PAC-appointed PAFA employee if necessary.
- vi. the basis on which decisions of the Performance Assurance Committee may be appealed to the Authority, (see section 6 above).
- vii. Definition of the Performance Assurance Framework Document and its purpose and governance, (removing it from V12 and moving it to a PAC-governed document).
- viii. UNCC will have no power to overrule a decision of the PAC or its sub-committees, or to reduce or to qualify the scope of PAC's functions, powers, and duties (per GT D4 treatment for DSC).
- ix. No decision of PAC shall be made if the decision would cause a party to breach UNC.
- x. Specify PAC controlled documents as being Performance Assurance Reports Register (PARR), The Risk Register, PAC letters of confirmation and company agreement, PAFA scope, PAFD.
- xi. Definition of the Performance Assurance Party being a party who will be subject to Performance Assurance Objective (either a Party to UNC, CDSP or any other party whose performance or non-performance of activities governed directly or indirectly under UNC) and whose acts or omissions could impact another PAP's contribution to the Performance Assurance Objective.

8) Give PAC authority in the UNC, with relevant protections noted below, to include:

- a) To determine the performance and applicable assurance monitoring and incentive tools to be applied to a Party, consistent with those defined in the PAFD, as amended by PAC from time to time.
- b) PAC will be added to "UNC – Modification Rules 6.1.1" as a Proposer to raise performance-related modifications. This has the benefit that the proposal is non-partisan, and in the interests of the industry not in the interests of a single UNC Party proposing a modification. In particular if PAC considered that a modification was in the interests of industry performance assurance it might be difficult to get an individual shipper to act as proposer. Controls over this power will be that the proposal is;
 - i. subject to agreement by a majority of PAC members, and
 - ii. restricted to changes reasonably considered to impact on the achievement of the Performance Assurance Objective (for example where rules on process or performance are proven to be unnecessary / ineffective).
 - iii. Subject to the same process as for any other modification through UNC Mod Panel.

Such mods could be drafted by (but not limited to) CDSP (include this as a Direct Function) or PAFA (include as per PAFD Scope of PAFA). (This will make industry

change more agile, for example UNC Modifications 721 & 722 could have been raised by PAC and drafted by Xoserve or PAFA immediately following the 24 March 2020 PAC meeting when the prospect of overstated allocation was first raised) This also codifies a practice that has developed over the last couple of years in which certain modifications have been developed with contributions from, or raised on behalf of, PAC such as UNC 0664 and UNC 0674.

- c) PAC will define those areas of a Party's or of Parties' performance which impact the PA Objective. PAC will set the tolerance threshold and determine those levels at which Performance Assurance Techniques will apply. PAC will require UNC Parties to improve in those areas and will have powers to impose sanctions where performance is below the required level, provided the thresholds, areas and sanctions/techniques are consistent with what is defined from time to time in the PAFD.
- d) Require parties to respond to and meet PAC requests reasonably made in the context of performance matters and in pursuit of the Performance Assurance Objective. This requires a carve-out under GT B4.4.2.
- e) Deploy Performance Assurance Techniques (PATs) described in the PAFD as they deem appropriate, including applying derogations where reasonable and appropriate (for example where performance is impacted by pandemic, events of force majeure or industry developments).
- f) Parties acknowledge that:
 - i. such techniques could include publishing on the Joint Office website the company names and performance (only) of Parties to allow peer comparison. Such information will be limited to the performance measures outlined in PAFD from time to time. In so doing, PAC will not divulge any information on the Parties' specific commercial or operational arrangements, the reasons for the level of performance or any details of the improvement plans.
 - ii. PAC and/or PAFA and/or CDSP will engage with the PAP in a manner reasonably intended to support and encourage improved performance, This could require the PAP to describe, under confidentiality terms, its operational processes and commercial arrangements, with the sole objective of identifying where changes might be proposed that could improve achievement of the PAO.
- g) The Proposer of a modification will be required to seek a ROM from Xoserve for workgroup consideration of the impact of their modification proposal where such proposal:
 - i. adds or changes UNC performance standards or
 - ii. impacts a Party's performance against such standards to specify an appropriate monitoring report.
- h) Definition of the Performance Assurance Framework Document and its purpose and governance, (including PAC authority to make changes to the document));
- i) Remove the UNC requirements for UNC approval of changes to PARR (remove PARR from UNC Related Documents and UNCC governance, delete V12.1(h) and

V16.5.2). PARR becomes an Annex to PAFD subject to PAC Governance. The principle here is to remove unnecessary barriers to data access for PAC which reduce the effectiveness of performance assurance;

- j) Request reports or data that it deems required to understand performance issues, causes and materiality of impact on the Performance Assurance Objective.

PAC will advise UNCC of any changes to data access rights.

- k) Remove references to PARR Schedule 1 which is now obsolete.
 - l) Clarify that both PAC and PAFA may see all data requested un-anonymised, so including shipper names; this is not limited to PARR 'B' schedules as Xoserve interprets V16.5.3. PAC members have signed confidentiality provisions and acknowledged that they are acting on behalf of GB Gas industry. PAFA are bound by confidentiality terms in their agreement with CDSP. There should be no reason to bar PAC from access to information that it reasonably requires for performance assurance;
 - m) Such un-anonymised data or information to include anything that PAC reasonably requests in pursuit of their duties under UNC and at least but not limited to:
 - i. all data identified in DPM.
 - ii. all data available in DDP.
 - iii. all such other data items or information held by CDSP.
 - iv. anything else that CDSP can reasonably obtain subject to DSC approval.
 - n) PAC may establish a sub-committee for such purposes (within the scope of its functions, powers, and duties) and comprising such members and on such terms as it decides.
 - o) PAC may submit DSC Change Proposals which may include internal and/or external costs. Such requests are:
 - i. limited to investigations and analysis of settlement, performance of PAPs and related matters reasonably considered to impact on the achievement of the Performance Assurance Objective (for example where rules on process or performance are proven to be unnecessary / ineffective), and
 - ii. subject to agreement by a majority of PAC members, and
 - iii. Subject to the same process as for any other proposals through DSC Change Management.
 - p) Requesting the remedy of performance issues, even where there is no explicit prescriptive performance standard specified in the code, where that performance issue is limiting or preventing the achievement of the Performance Assurance Objective (PAO)
- 9) PAF Protections
- a) All shippers shall be required to nominate a person, (and appropriate delegate), in their organisation to act in capacity as First Point of Contact in relation to all PAC correspondence (the "PA Representative"), such person to have appropriate seniority with suitable knowledge and authority so as to understand and instruct

action to be taken in regard to such communication, including attending PAC if required and providing suitably informed escalation contacts up to director level should PAC require it.

- b) PAC, PAFA, JO and CDSP personnel and any other party attending closed PAC meetings may not reveal the workings or the decision-making process in reaching any decisions, save when required by law or due to an appeal from any affected party.
 - c) PAC, PAFA, JO and CDSP personnel and any other party attending closed PAC meeting are required to sign and adhere to undying non-disclosure agreements and any confidential material downloaded must be deleted when no longer required and when ceasing to attend the PAC (for whatever reason), whichever is sooner.
 - d) Using an approach similar to Section X for EBCC (which **avoids the need for each and every Party to provide separate indemnities**), Members (being persons) of PAC, PAFA and CDSP connected with a performance assurance decision should be protected from any litigation connected with the operation of the performance assurance regime.
 - e) Performance Assurance Techniques shall be limited to those specified in the PAFD and as amended from time to time in accordance with 9. g) below.
 - f) PAC shall be prohibited from levying direct costs on PAPs (i.e. directly invoicing PAPs for charges of any kind) unless and until and only if such are specified in a modification approved for implementation by the Authority.
 - g) For the avoidance of doubt this does not preclude PAC from using PATs which involve the PAP incurring costs or resourcing activity that might reasonably be required to comply with PATs and with the Party's obligations under UNC.
 - h) PAC will conduct an **Annual PAF Review** by industry consultation, following which PAC will publish an **Annual PAF Delivery Plan and update the PAFD** by 1 month prior to the new Gas Year.
 - i. The process for this is outlined in the PAFD. It is intended to determine how effective the PAF has been, what changes are required (e.g. to the PAFD, to Code, to PAFA, etc) and what performance management actions will be taken during the upcoming year.
 - ii. The consultation will commence 3 months before the start of the Gas Year.
 - iii. Following the consultation PAC will determine The PAF Delivery Plan and revise the PAFD.
 - iv. Both will be published simultaneously 1 month before the start of the Gas Year.
- 10) PAC will be an elected and impartial committee with appropriate expertise to make assessments and judgements using the tools and evidence provided to inform actions in pursuit of the Performance Assurance Objective.

Individuals with an interest in any matter being discussed will declare it; PAFA will advise PAC if it becomes aware of potential conflict of interest. PAC members will apply their expertise without discrimination, as representatives in their own right and vote at the PAC in the interests

of the GB gas industry and not representing any commercial interest or commercial body or interest group or the company by which they are employed.

- 11) Where PAC requests an interview with a party, the party is required to attend and send an individual(s) with the required expertise and authority.
- 12) PAC is a UNC sub-committee, established under TPD V16 and cannot be amended without Authority approval; and it cannot under GT B4.3.1 'cease to be established' by UNCC.

6 Impacts & Other Considerations

Does this modification impact a Significant Code Review (SCR) or other significant industry change projects, if so, how?

None identified.

Consumer Impacts

No direct impacts identified, although as referenced in Section 2(iii), the intention of the modification is that there should be general raising of performance standards which could improve some customer service levels (e.g. one key focus of the Performance Assurance Framework is greater performance in terms of providing meter reads into settlement. The view was expressed that the greater the number of meter reads being provided for settlement purposes, the greater the number of actual meter reads that would be included on consumer invoices, and therefore, consumers should see a reduction in estimated reads. It was noted that some reads might be used in billing and not used in settlement due to processing issues.

There was some discussion in the Workgroup regarding the documentation of Consumer Impacts in the revised, CACoP-developed Modification Template and the group was asked to consider this approach.

For reference the key headings are set out below and the Workgroup considered the topics, summarised below:

- Improved safety and reliability; The Workgroup could see no clear connection between implementation and this aspect.
- Lower bills than would otherwise be the case; The Workgroup considered this point and concluded that due to competing forces in terms of costs versus performance, it was unable to conclude a definitive effect on customer invoices bills but the Workgroup did agree that accuracy should be improved.
- Reduced environmental damage; The Workgroup could see no clear connection between implementation and this aspect.
- Improved quality of service; It was acknowledged that there should be improvements in this area, (see above)
- Benefits for society as a whole: The Workgroup could see no clear connection between implementation and this aspect.

Cross Code Impacts

The Proposer intends that the arrangements outlined herein should apply to IGT sites and for that reason will pursue the appropriate IGT UNC changes, and accordingly, IGT138, has been raised and is in development.

While discussing the cross code-impacts, Workgroup was advised of a technical point relating to cross-code governance. The IGT UNC equivalent modification, IGT 138, points across to the UNC drafting in its entirety and this would include the Appeals process under the UNC. The rationale for this is that all IGT UNC parties (IGTs and shippers) are also parties to the UNC, all data in Performance Assurance Reports is blended data relating to UNC and IGT UNC sites and issues, poor performance relating to any sites would impact settlement accuracy and that all impacts on settlement accuracy would be of interest to the PAC and the UNCC in the appeals process.

It was identified that, there could be an instance, where a continuing performance issue, relating to a shipper shipping solely to IGT meter points, could be referred to the Authority and that that referral could be appealed. In this case, the appeal would be heard by the UNCC. It noted that it would be highly unlikely that a performance issue could be ring-fenced to IGT UNC jurisdiction so distinctly. as all IGT-located issues would also impact UNC settlement, (which would be a matter for the UNCC). It was also noted that an IGT representative sits on the PAC and the UNCC. The upshot was that in the highly unlikely circumstances such a matter arose, given the composition of the UNCC, it should be capable of dealing with a referral.

EU Code Impacts

None identified.

Central Systems Impacts

The CDSP has confirmed that a ROM has not been requested for this Modification for the following reasons:

- There are no changes to reports as a result of the Modification: governance of the PARR (Performance Assurance Report Registers) moves under the PAC, but this Modification is not proposing any new reports: new PARR reports would follow existing industry governance.
- References to the CDSP's Customer Relationship Managers (currently known as the Customer Advocate Managers – CAMs) describe an existing DSC service line which is already funded by industry parties, and there are no material changes to that service line as a result of this Modification.
- Many of the Performance Assurance Techniques (PATs) which the Modification describes are being applied informally by the PAFA anyway, so there should be little impact to ongoing costs of the PAFA service.
- New PATs which might require CDSP engagement (e.g. Training or Audits) would be chargeable to the Performance Assurance Party to which they were applied.

Workgroup Notes & Comments

Workgroup Note #1: PAC's statement of support for Modification 0674 and PAFD.

At the PAC meeting on 14 September 2020, the Committee were asked to consider the progress made by the Workgroup and provide a degree of pre-approval of the proposed changes, in order to provide consultation respondents with a degree of assurance that it would be comfortable adopting the new governance and operating framework.

As part of the discussion at PAC it was noted that:

- A number of PAC members have attended Workgroup 0674 and have contributed towards the development of the Modification and the PAFD,

- The PAFD should not be amended directly as a result of Committee discussion and any comments should be fed back into Workgroup 0674, where further development of the documentation could take place,
- While it was not normal for committees to pre-approve development documentation, this could be viewed as a special case, given that the Committee would have to adopt the new operational provisions relatively quickly, should the modification be implemented. As such the Committee unanimously agreed to provide a statement of support for the intention Modification.

While the documentation was not the subject of a formal approval vote, the Committee did formally endorse the following statement, (the statement):

PAC Members support the intention of Modification 0674 and have been active in supporting the Workgroup Assessment of the Modification since it was raised. This includes the documents created and modified as part of the Modification, for example the Performance Assurance Framework Document v4.3.

The expression of support for the statement was conducted as a vote and provided an affirmative result, given a majority of members in both constituencies expressed support, which under the Terms of Reference for Committee constitutes approval. As such, it is hoped that the Workgroup can take this vote as reassurance that the PAC would be comfortable in adopting the output from this Modification as their new working practices. For reference, the minutes of the PAC meeting³ can be found at the above link. In summary, of the 9 members that formed the quorate meeting, seven voted in favour, one abstained and one was excluded from the vote due to temporary absence.

In order to acknowledge that a number of changes have been made to the Modification and PAFD since the September meeting a further endorsement of the statement from the PAC was sought after the Workgroup in March. This was undertaken via email and at the April meeting of PAC.

Addendum: 13 April 2021 PAC Meeting Note.

Further to the exercise undertaken in September, Committee Members were again requested to express a level of support for a statement that would serve to endorse the work of Workgroup 674 during the forthcoming consultation.

The statement that members were requested to support read:

- PAC Members support Modification UNC0674 v15 and the revised Performance Assurance Framework Document v4.5 (created as part of the Modification).
- PAC has been kept up to date on developments during the modification process and noting that some members have actively contributed to the Workgroup development since it was raised.
- PAC are aware that they would be operating under the proposed arrangements and framework.

This statement was supported by 5 members of the Committee.

Following some discussion regarding the wording, and drawing on the positive endorsement received September, an amended version of first element of the statement was drafted, which read: "PAC Members support **the intent of** Modification UNC 0674". Subsequently, this statement was supported by the remaining 4 members of the Committee.

For clarity, when members were asked if they could support at least one version of the statement, all 9 members present confirmed that they could.

³ [PAC Minutes: 14 September 2020](#)

Workgroup Note #2: UNCC Appeal Referrals

At the July 2020 Workgroup, given that the 'Referral to Ofgem Appeal' is a process new to the PAC arrangements, it was decided to refer the matter to the UNCC for their consideration, as it is proposed that it would have a defined role in governance process (V16.8.6 to V16.8.9). The matter was discussed at the August meeting of the UNCC and the UNCC were subsequently provided with the relevant parts of the proposed legal text and draft PAFD.

At the August 2020 Workgroup, two UNCC members present requested further detail regarding the role of UNCC in the appeal process. Once the process was explained in more detail, such that it was made clear that the UNCC would be reviewing PAC's application of the process and procedural thoroughness, and that the UNCC would not be required to become experts in data analysis, concerns were to a large extent allayed.

Workgroup Note #3: Workgroup's views on re-drafting of Document 5

At the Workgroup Meeting on 24 September 2020, it was noted that the PAC Letter of Confirmation, (Document 5), would need to be reviewed and revised, should the Modification be implemented. It was agreed that, given the document is only required for mid-year new starters, and the time of committee elections, the Workgroup view was that the document should be redrafted post implementation, although no later than the commencement of Gas Year 2021/22).

Workgroup Note #4: Ability to Raise Modifications

As set out in the Section 5 (Solution: Business Rule 8b, Line 222), the vires for the PAC, as a collective, to raise Performance Assurance Objective-related Modifications is included in the Modification. The view of the Workgroup is that this would be a positive move as it would demonstrate to industry participants in the development and consultation phases of the governance process that, from the outset, a proposal had broad support from the custodians of the assurance framework.

It should also signal that a proposal raised in such a way is non-partisan, that is to say it serves the interests of the industry, not the narrow interests of a single UNC Party proposer.

Also, given the nature of some performance improvement measures, it was viewed as potentially unfair that an individual shipper should bear solely the responsibility for raising and developing a proposal throughout the governance process.

There was some discussion at the Workgroup over potential disadvantages of allowing Mods to be raised by committee, such as being able to accommodate a potential spectrum of views and being able to ensure that activities normally undertaken by the proposer during the Modification process, such as presenting to the Panel, could be allocated. The view was that for certain key tasks, an individual would need to take the lead, but that would not undermine the essence of a PAC-endorsed Modification being a collective proposal.

Given the relative significance of the pros and cons, on balance the view was that permitting PAC-endorsed Modifications would be beneficial, although at the final meeting due to the of the Workgroup two participants expressed a degree of concern in relation to the ability to raise modifications, largely due to the PAC's proposed high level of autonomy and the nature of qualifying proposals as they would be drafted in the context of having to better facilitate the achievement of the Performance Assurance Objective. During the discussion it was noted that PAC could only raise a Modification where the majority of both Shipper and Transporter members of the PAC approved, and that any proposal so raised would still be fully bound by the Modification Rules under UNC Mod Panel governance.

A Workgroup member also noted that this was consistent with Retail Energy Code, (REC) Performance Assurance Board who will have the ability to raise a REC Modification.

7 Relevant Objectives

Impact of the modification on the Relevant Objectives:	
Relevant Objective	Identified impact
a) Efficient and economic operation of the pipe-line system.	None
b) Coordinated, efficient and economic operation of (i) the combined pipe-line system, and/ or (ii) the pipe-line system of one or more other relevant gas transporters.	None
c) Efficient discharge of the licensee's obligations.	None
d) Securing of effective competition: (i) between relevant shippers; (ii) between relevant suppliers; and/or (iii) between DN operators (who have entered into transportation arrangements with other relevant gas transporters) and relevant shippers.	Positive
e) Provision of reasonable economic incentives for relevant suppliers to secure that the domestic customer supply security standards... are satisfied as respects the availability of gas to their domestic customers.	None
f) Promotion of efficiency in the implementation and administration of the Code.	Positive
g) 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.	None

- d) It is believed that these proposals will reduce settlement costs by reducing volume uncertainty at nomination and allocation, thereby reducing the likelihood of Shippers building in risk premiums into budgets and customer contracts. It should also level the playing field between shippers in the costs of meeting UNC obligations and ensure that one party's commercial decisions do not adversely impact other parties. Together these will improve competition between Shippers (and potentially Suppliers) and reduce a potential barrier to entry for new Shippers. The Workgroup noted that the absolute benefit would be difficult to quantify. The Proposer also noted that the Modification provides PAC with the powers to increase settlement accuracy through compliance and performance improvements at no up-front system or process costs.
- f) The current PAF is having limited effect and therefore the value from associated expenditure is sub-optimal. It is believed that these proposals will improve the effectiveness of PAF and therefore promote more efficient implementation and administration of the Code.

In terms of the second objective, at the March Workgroup a counterpoint was made that, given the lack of oversight, the PAC may make sub-optimal operational decisions, which could result in less efficient operation of the Code. However, the Proposer believes that for any Committee of industry-elected members, legitimate decisions are made in accordance with the ToR that best meet its objectives and that this is not generally subjected at every step to ratification by another committee.

8 Implementation

At the March meeting of the Workgroup, to align provide an implementation window to the new arrangements, it is proposed that the implementation should be no less than 3 months after an Authority decision,

It was suggested, if the proposal were directed on 01 July 2021, an implementation of 01 October 2021 would be feasible, and similarly, a direction by 01 August 2021 would facilitate a 01 November 2021 implementation date. Should those direction dates not be realised, there would generally be a circa 3-month interval between a decision and effective implementation.

It was also noted that this would need to align with the IGT UNC implementation date.

There was some discussion regarding transition from one regime to another, with some support for an arrangement that allowed an existing remedial action plan to continue under the new framework rather than restarting a plan by applying a new PAT. After implementation, new performance failures would be addressed using the PATs set out in the PAFD and not less than 6 weeks after implementation.

It was previously noted that implementation would benefit from a statement on transition and the March WG were advised that this was in PAFD at Section 20.12. The Proposer noted that this included proposals for an industry awareness exercise to be carried out before any new PATs were applied.

9 Legal Text and Supporting Documentation

Text Commentary

[Link to Text Commentary](#) – drafted to reference v15.0 of the Modification.

Text

[Link to Legal Text v12.0](#) – drafted to reference v15.0 of the Modification.

Supporting Documentation:

- [Link to Performance Assurance Framework Document v4.5, \(which now includes the PARR\)](#)

Having reviewed the legal text a number of times, in line with the incremental development of the proposal, at the meeting on 24 March 2021, the Workgroup made no final comments or requests to amend version 12 of the legal text or version 4.5 of the PAFD.

10 Consultation

Panel invited representations from interested parties on 15 April 2021. The summaries in the following table are provided for reference on a reasonable endeavours' basis only. This includes specific questions/considerations from Modification Panel Members:

Question 1: Provide a view on whether respondents think it is appropriate to impact non-UNC parties with this proposal?

Question 2: 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.

It is recommended that all representations are read in full when considering this Report. Representations are published alongside this Final Modification Report.

Of the 12 representations received 4 supported implementation, 4 provided comments and 4 were not in support.

Representations were received from the following parties:

Organisation	Response	Relevant Objectives	Key Points
Cadent	Comments	d) - positive f) - negative	<ul style="list-style-type: none"> • Cadent supports the overarching intent of the modification which seeks to put in place more robust performance assurance arrangements which include additional formal techniques PAC can utilise to fully carry out its duties. • Cadent believes that Relevant Objective f) is negatively impacted due to the potential lack of UNCC oversight or control over PAC and the potential for meetings to be chaired by parties other than the Joint Office. • Noted the following observations: <ul style="list-style-type: none"> ○ By ensuring that PAC is autonomous and able to amend its own Performance Assurance Framework Document, governance of its activities may be weakened. The DSC model was used in the construction of the PAC governance arrangements within the modification, but the proposals did not include the additional constraints upon the DSC outlined within UNC General Terms D. Once the modification is implemented, and parties are not happy with PAC decisions or 'direction of travel', then the only routes to challenge would be an appeal to UNCC (which PAC are not obliged to adhere to anymore) or the raising of another modification. ○ In the rare circumstances in which the Joint Office are not able to provide either a Chair or a Secretary for a PAC meeting, the modification allows for the PAFA to provide such positions to ensure the meeting can go ahead. This situation would lead to a UNC meeting going ahead without the Joint Office being present. • Agrees that implementation timescales suggested within the modification as three months after Authority decision are appropriate.

			<ul style="list-style-type: none"> Notes that concerns have been raised regarding whether the legal text matches the intent of the business rules, specifically BR 2a. <p>Acknowledges that Panel and UNCC are not specifically mentioned within the legal text as the entities are not specific parties to the UNC although the constituent members are. It would therefore seem sensible, if required, to amend the wording of the modification as opposed to the legal text.</p> <p>Believes that, besides this, the legal text delivers the intent of the modification.</p> <p>Answers to Panel Questions:</p> <p>Q1: Believes that the legal text does not place specific obligations on 3rd parties but requires the Shipper to ensure it is fully accountable for 3rd party activity, which seems appropriate. This may well impact 3rd parties where Shippers need to include/enhance contract terms.</p> <p>Q2: As mentioned previously the Modification Panel, UNCC or other Sub-committees are not explicitly mentioned within the legal text.</p>
Corona Energy	Oppose	d) - negative f) - negative	<ul style="list-style-type: none"> Corona Energy does not support this modification for a number of reasons: <ul style="list-style-type: none"> Oversight: Removing the PAC from the oversight of the UNCC removes the escalation route for any PAC related issues within UNC governance. <p>Highlights the lack of confidence in the objectivity of the PAC in its current format , based on the issuing of PC4 performance letters to Shippers on 24 December 2020 relating to a drop in performance, even in light of the ongoing Covid-19 pandemic and the government mandated shutdown of a large percentage of the non-domestic sector.</p> <p>Strongly believes that UNCC oversight is required in order to allow UNC Parties to make appeals against decisions made by the PAC.</p> Smart Metering: With the continued smart metering programme and subsequent rollout, the expected workload of the PAC is likely to reduce over time as more accurate and automated meter readings should increase exponentially as the rollout continues. On this basis does not believe that providing PAC with additional vires is required as

			<p>individual Shipper performance is likely to increase in the next 5 years.</p> <ul style="list-style-type: none"> ○ Retail Energy Code Performance Assurance: Believes that with the performance assurance arm of the Retail Energy Code continuing to develop and being placed as a centralised location for retail performance assurance, these changes are not required under the UNC. Additionally, the additional vires being tabled as part of this modification appear to be sweeping and wide-ranging with insufficient rationale for this proposed change. ○ Non-Code Parties: This modification seeks to place requirements on non-UNC parties via commercial relationships with UNC parties. Does not believe that the UNC has the vires to place requirements or impose interaction on non-code parties or that it is appropriate to attempt to interact with these parties via private and confidential bilateral arrangements with UNC parties, as these are far outside of the scope of the UNC and may hinder commercially sensitive arrangements. ○ Performance Assurance Objective: Based on the drafting of the modification, it appears to introduce an overarching Performance Assurance Objective into the UNC. This objective seems to place Performance Assurance before any other aspects of the UNC, including placing it in primacy above even the existing Relevant and Charging Objectives. <p>Strongly believes that the suggested Performance Assurance Objective will be materially detrimental to the nature of the modification process and reduce the innovation that the UNC modification process currently enjoys, and it will negatively impact Relevant Objective F. Reduction of innovation will also have a detrimental impact on competition and have an overall negative impact on Relevant Objective D. The Relevant and Charging Objectives of the UNC must remain the primary drivers for code change and not be skewed for the secondary purpose of performance assurance. As with all industry codes, the UNC must remain an agreement which primarily addresses inter-party interactions and not merely a vehicle to monitor party settlement performance.</p>
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			<ul style="list-style-type: none"> The impact of these proposals will result in a material reduction to innovation in the UNC modification process. <p>Answers to Panel Questions:</p> <p>Q1: Does not believe that it is appropriate for this modification to introduce measures that may impact non-UNC parties. Additionally, these parties may not be aware of this consultation and as non-UNC parties, they have not had an opportunity to provide their views on this modification.</p> <p>Q2: The introduction of an overarching Performance Assurance principle to the UNC will stifle innovation in the current modification process.</p>
E.ON	Support	d) - positive f) - positive	<ul style="list-style-type: none"> E.ON supports the modification and its proposed evolution of the performance processes, including the introduction of clearer techniques. There are some parts of the Performance Assurance Framework Document which either require minor admin edits or further clarity provided. Believes these amendments are not required immediately but would need to be added to the PAC agenda or forward work plan to be addressed. Recognises the benefit of the PAC being able to raise modifications, (similar to the Code Manager in REC), but are concerned that the current drafting in PAFD does not ensure that modifications are raised in both the UNC and IGT UNC. This control can be outlined in the document post implementation and suggests the PAFA is responsible for being the PAC's conscience in raising modifications and working with the relevant code administrators. Supports implementation which sees UNC and IGT UNC changes, all delivered at a single point of time. The IGT UNC operates on a release basis, unlike the UNC, which is more adhoc, and because of this E.ON recommends a date no earlier than the November release to allow time for the Authority to decide on the proposal and to ensure there is adequate time to deliver training and engagement events as outlined in PAFD. E.ON recognise that a 6-week window has been written into PAFD and they would see that trigger from the November implementation date.

			<ul style="list-style-type: none"> • Notes that where a decision is not made in time for the November 2021 release, E.ON would then seek the February 2022 date for implementation. • Costs are mainly operational delivery costs and E.ON are unable to provide detailed quantification on this but estimate these to be small – medium. • E.ON have provided a number of points of feedback for the PAFD, these can be viewed in full in the representation published here: https://www.gasgovernance.co.uk/0674. In summary this includes: <ul style="list-style-type: none"> ○ Updating the bookmarks in the Content section ○ Questioning the definition of PA – Performance Audit (page5). ○ Section 7 – Would prefer to see the tender process as a formalised step rather than an assumption. ○ Section 15 – would like to see a step which ensures that modifications are raised in both the IGT UNC and UNC where necessary. ○ Page 19 – spacing/bullet needs removing – admin only. ○ Section 17 – unsure how the first annual review would be completed if the implementation was in November 2021 and questions whether the first review would continue in 2022 or would this be an extended review into 2023, especially considering a new PAFA is currently being procured. ○ Section 18 – notes it is unclear where changes to the PARR were outside of the annual review window, how the changes would be notified to parties. Believes there needs to be an appropriate implementation window e.g., no less than 10BD to allow for parties to review the changes and deploy updates within their business where necessary. ○ 20.3 – it is unclear for Day 1 who the PAFA will contact to obtain the information from. E.ON assumes it would be via the DSC Contract Manager who currently receive any communications. It was also not clear when an organisation needs to update the PA Representative who they should go to. ○ Section 20.9 – E.ON supports PAC having the option to explore audit at a market or individual level but are concerned this section could be contradictory and/or ambiguous because it refers to
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			<p>costs being for individuals but allows for a market audit and it is not clear how that would be paid for. It also is not clear what PAC would use as SLAs or the triggers for an audit.</p> <p>Answers to Panel Questions:</p> <p>Q1: Supports the recognition that some performance issues are linked to third parties, but it is key to remember they are not UNC acceded parties, and that any remediation is with the UNC party.</p> <p>Q2: In terms of escalation to the UNCC, it will only really be known to be a suitable process when it is utilised. It is through our review a pragmatic approach to have UNCC act in an impartial view, E.ON are not certain how the outcomes and recommendations work. It also is not clear where there is a referral to the Authority what sanctions might be considered. It would be good for outcomes to be clarified in PAFD but believes these will only be known when the process is tested.</p>
Gazprom	Oppose	<p>d) - negative</p> <p>f) - negative</p>	<ul style="list-style-type: none"> • Gazprom supports the introduction of appropriate and proportionate performance assurance techniques and controls in principle. • Believes this Modification is neither appropriate nor proportionate as it seeks to place the Performance Assurance Committee (PAC) above reasonable reproach and oversight and notes it is critical to ensure appropriate and transparent oversight of UNC Committees. • Notes the proposals, as set out, are not subject to either a reasonableness and/or a cost benefit test despite being able to generate substantial industry costs which may flow through to consumers. • Questions the value of this modification, at this time, considering that as part of the Switching Programme the Retail Energy Code (REC) is implementing its own Performance Assurance Board (PAB). • Accepts that when the modification was originally raised the REC was at an early stage of its development. However due to the time it has taken to get the modification in a fit state for consultation consideration should be given as to its ongoing value considering the status and timing of this other major industry initiative. • Interaction with non-Code Parties – believes the scope of the powers being proposed go beyond the

			<p>vires of the UNC and proposes to impose sanctions in such circumstances. It is unclear on what basis and vires the PAC, (not a Board as per REC), would be able to undertake such interventions with non-code parties.</p> <ul style="list-style-type: none"> • Interaction with the UNC Modification Panel – It is unclear how the introducing a new Objective (The Performance Assurance Objective which is also unclear) interacts with the current Relevant Objectives in terms of primacy and the operation of the UNC. • Disagrees that this modification is positive in respect of Relevant Objective (d) as a reduction of innovation will also have a detrimental impact on competition and (f) as the Relevant Objectives of the UNC must remain the primary drivers for code change and not be undermined solely for the purpose of performance assurance. • Believes the proposal has the potential to create additional significant ongoing costs as it is not subject to a cost/benefit test. • Does not believe the modification is implementable within the proposed 3 months' notice period. • Legal Text provided has not been reviewed. <p>Additional Analysis/Information</p> <p>Gazprom provided detailed comments on the Modification in Pages 3 to 10 of their representation in relation to:</p> <ul style="list-style-type: none"> • Interaction with non-Code Parties. • Reporting. • Interactions with the UNC Modification Panel. • The Performance Assurance Objective (PAO). • Exception Circumstances. • Reporting as prima facie evidence of performance. • Provision of Information. • The role of the Committee. • Appeals and the role of Ofgem, and, • Role of the PAC <p>It is recommended that the detail within this representation is read in full at:</p> <p>Link to: Gazprom's Representation.</p>
ICoSS	Oppose	d) negative f) negative	<ul style="list-style-type: none"> • States the intention of this proposal seems to be to make the PAC unaccountable in its actions to the UNC or any other regulatory body. Notes that although the UNCC is referenced multiple times, in reality it does not have the ability to effectively challenge its own sub-committee. As has been recently demonstrated by the

			<p>concerns raised by industry parties over the AUGÉ process, it is important that the UNC Committee can ensure effective oversight of its sub-committees as concerns otherwise have to be escalated to the authority via UNC modifications.</p> <ul style="list-style-type: none"> • Raises significant concerns about the powers PAC will receive, which will give it the ability to require substantial outlay by industry for comparatively little improvement in settlement accuracy. This could ultimately result in higher costs for consumers. • Supports an effective and proportionate UNC performance assurance regime. This proposal does provide some marginal improvement to the performance assurance regime, but at the cost of removing any effective oversight of the PAC and giving it disproportionate powers. • Questions the value of this proposal considering that as part of the Switching Programme the REC will be developing its own performance assurance regime. It therefore seems to be little value to implement a radically revised regime into the UNC a few months before it will need to be revised. • Believes that, notwithstanding their opposition to this proposal, the suggested 3-month notice period is unrealistic owing to the level of change that is required to be delivered by industry parties and the PAC in that timescale. • The potential costs for ICoSS members are significant from this change if they are required to engage with the PAC, owing to the wide-sweeping power the PAC will have to require demand detailed information. • Legal text has not been reviewed. <p>Answers to Panel Questions:</p> <p>Q1: There is no value in placing obligations on organisations that are not code parties. PAC has no ability to influence these organisations, or their behaviour and does not believe it would be a useful exercise in either tracking or engaging with such parties.</p> <p>Q2: It is unclear in the proposal how the overarching principles interacts with the overriding objectives within the UNC for the UNC Panel or the UNCC. This could cause an issue with conflicting actions by UNC code parties. It is also unclear as to what the objective is, as it is defined differently throughout the document.</p>
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			<p>Additional Analysis/Information</p> <ul style="list-style-type: none"> • The modification seeks to go beyond the scope of the UNC, for example giving the PAC the ability to engage with 3rd parties. This is ultra vires of the UNC and it would represent a waste of time and resources from the PAC engaging with such parties as no improvement to the UNC processes can be achieved. • The proposals give the PAC unlimited powers to treat any submission to it as a “report” on industry party compliance with the UNC, irrespective of its robustness. • Notes there is no effective mechanism for parties to challenge the contents of these reports and it is unclear as to what level of access the affected parties will have to this information though they are expected to have regard for it. • There appears to be no restrictions as to the information that PAC can request from parties or any grounds for the party to contest the provision of this information. Expects some limits for PAC to request information and for parties to refuse to supply information (in accordance with a civil court standard for example). This proposal gives the PAC greater information gathering powers than the regulator currently enjoys. • There is no concept of proportionality to the requirements of the PAC to achieve its goal, which could potentially mean extremely expensive actions required by suppliers to achieve modest improvements, ultimately costing the consumer more. • Parties who are suspected of breaching UNC rules are not given the right to answer the concerns raised regarding their conduct. • The concept of publishing anonymised data on shipper performance will not incentive performance, but it likely to be taken out of context by non-industry parties to the detriment of that party.
Northern Gas Networks	Comments	d) - positive f) - negative	<ul style="list-style-type: none"> • Whilst NGN supports the aim of this modification, which is to introduce a more robust and accountable regime in relation to settlement accuracy, it raises concerns as to the changes to some of the Performance Assurance Committee (PAC) governance. The proposal, as drafted, has 2 main areas of concern:

			<ul style="list-style-type: none"> ○ Firstly, it looks to remove PAC from the current governance arrangements under the UNCC. ○ Secondly it allows the Performance Assurance Framework Administrator (PAFA) who are a non-code party, to chair and provide secretariat at 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. <ul style="list-style-type: none"> • 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 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. • Believes the modification, due to the settlement accuracy improvements that it introduces, is positive for Relevant Objective d) Securing of effective competition. • Strongly feels 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 UNC. • Agrees that this modification proposal could be implemented 3 months after direction from the Authority. • NGN have not carried out a full detailed assessment of the legal text but raises concerns as to the legal text delivering the intent of the solution as detailed in their answer to Panel question 2 below.
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			<p>Also notes that as drafted, 16.1.2 (c) <i>Each Party agrees to conduct its relevant business at all times in a manner which facilitates the achievement of the Performance Assurance Objective</i> 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.</p> <ul style="list-style-type: none"> • Believes 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. <p>Answers to Panel Questions:</p> <p>Q1: The UNC is a contract, and as such cannot place obligations on 3rd parties. Notes that the legal text states <i>Each Party agrees to take all reasonable steps available to it to ensure a Relevant Third Party undertakes the relevant activity...</i> 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.</p> <p>Q2: 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 the legal text, this would seem to be a misalignment between solution and legal text.</p> <p>As such, expects 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 cannot see how this could be effectively implemented if so.</p> <p>Believes 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.</p> <p>NGN feels that once these issues have been addressed, this modification brings an improvement to the PAC regime and should result in real improvement to settlement</p>
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			accuracy and as such NGN would be happy to support its implementation once amended.
Scottish Power	Support	d) - positive f) - positive	<ul style="list-style-type: none"> • In support of the implementation of this modification as it seeks to address Settlement inaccuracies that have been identified. • Accuracy of Rolling AQs, Formula Year AQs and therefore cash-out and transportation charges, reducing uncertainty and therefore lowering bills is potentially improved by more reads entering Settlement. • The next scheduled industry release date is November 2021. If a decision has not been reached by the Authority in time to achieve this date, ScottishPower recommends for implementation to be the next available release date which would be February 2022. • Notes that IGT138 has a dependency on implementation of UNC0674 and would like them to be delivered at the same time. • Impacts and Costs would be minimal. <p>Answers to Panel Questions:</p> <p>Q1: Believes it is appropriate. The modification does not confer any obligations on non-parties outside of the code. It requires PAC to investigate any potential impacts that non-parties are having on parties' ability to comply or otherwise on settlement accuracy.</p> <p>It is expected this is likely to apply to metering agents, but there may be other non- parties.</p> <p>PAC needs to be made aware when a party signatory to UNC is being impacted by non-UNC parties. This will allow PAC to make a judgment when dealing with a UNC party where Settlement risk has been identified and is out of their control to remedy.</p> <p>This is similar to the practice by Balancing and Settlement Code, (BSC), Performance Assurance Board, (PAB), who engage with third party meter agents on performance despite them not being party to BSC. However, under BSC a Supplier's agents are required to qualify in the agent role and this gives PAB vires to investigate their performance. As no such qualification is required by UNC the proposed provisions ensure that parties acknowledge that PAC may investigate non-parties' impact on Settlement.</p> <p>Q2: The legal text has been drafted in a manner that ensures the PAO applies only to performance assurance</p>

			<p>parties which as defined does not include the UNC Modification Panel, UNCC or sub-committee.</p> <p>ScottishPower believes that this legal drafting is to provide clarity to Performance Assurance Parties of one key desired outcome from UNC compliance. While the UNC obligation does not apply to the Modification Panel, UNCC or sub-committees, the effect of this is to inform their decisions.</p> <p>Additional Analysis/Information</p> <p>PAC Reports – level of compliance with various UNC obligations, in particular Read Submission.</p> <p>PAC Risk register which has been developed and highlights areas of risk to settlement.</p>
SGN	Comments	d) - positive f) - negative	<ul style="list-style-type: none"> • SGN supports the intent of Modification 0674 to facilitate the implementation of a robust framework for the Performance Assurance Committee (PAC) to utilise and ultimately improve its duties in relation to the settlement of gas. • Raises concerns regarding the solution as proposed in the modification, specifically in relation to the status and autonomy of PAC as a UNC sub-committee and the transparency and accountability this provides the industry. • As written in the modification, there are conflicting references to the status of PAC, specifically in relation to its autonomy and sub-committee status under UNC. The proposer indicates that PAC will no longer be accountable to UNCC however on multiple occasions references its obligations as a sub-committee. • The modification uses the industry model set out for the committees under the Data Services Contract (DSC) which, although independent of UNCC, are constrained by UNC General Terms D. DSC Committees do not have the ability to unilaterally change those powers, and there is a degree of transparency through the publishing of meeting minutes. • However, this modification proposes to provide full autonomy to PAC, removing its status as a UNC sub-committee and maintaining the closed status of the meetings and minutes. This is a deviation from the DSC model. • While SGN supports the intention that PAC is unfettered in its empowerment to act in the best interests of the industry, including placing Performance

			<p>Assurance Techniques upon participants where required, it is not appropriate for a committee to be fully autonomous from a governance structure and also maintain a closed status.</p> <ul style="list-style-type: none"> • Supports the proposed 3 months between Authority approval and implementation as this will provide sufficient period to communicate the changes to impacted industry parties. • No impacts of costs identified at this time however could ultimately impact UNC party contracts with third parties. • In addition, SGN have highlighted their concerns with the legal text, insofar as it does not believe the legal text in its present form delivers the intent of Business Rule 2a as it would implement an overarching obligation on UNC Panel and UNCC which may be contrary to parties' other obligations. • In addition, the legal text does not reflect Business Rule 5e. Proceedings of PAC Committee meetings which states <i>"The meeting will be quorate where there are at least four Shipper User PAC Members and two Transporters (DNO and/or IGT) PAC Members present with a minimum of six PAC Members in attendance. For the avoidance of doubt Alternates do not count towards quoracy (as per Mod Panel)"</i>. The legal text reflects the UNC Modification Panel rules as they stand which are contrary to Business Rule 5e. <p>Answers to Panel Questions:</p> <p>Q1: Believes that the UNC is unable to impose obligations on third parties who are not directly party or subject to UNC rules.</p> <p>Q2: Based on their response in relation the Legal text SGN believes that Business Rule 2a. seeks to place the PAC obligation beyond that of UNC, specifically where these may satisfy a Licence obligation.</p> <p>Additional Analysis/Information</p> <p>SGN believe that with further workgroup development the items highlighted within their response could be resolved.</p>
Shell Energy	Support	d) - positive f) - positive	<ul style="list-style-type: none"> • The implementation of the Performance Assurance Framework and Governance Arrangements under UNC 0506V in 2016 was effectively what the gas industry required due to not having any ways of monitoring shipper performance. It is abundantly clear that updates to the governance are required for the

			<p>Performance Assurance Committee (PAC) to further fulfil the requirements of the role. Further, the concurrent development of the new REC PAB governance arrangements have proposed similar techniques during their recent consultation.</p> <ul style="list-style-type: none"> • The proposals in this modification will ensure that the PAC have the requisite tools in place to effectively manage settlement performance by identifying deficiencies and implementing controls to improve performance. In particular, providing PAC additional authority to impose sanctions on underperforming UNC parties. • Supports the implementation in line with the scheduled IGT UNC release. • No significant costs will be incurred as a result of this modification. • The legal text has not been scrutinised in any great detail. <p>Answers to Panel Questions:</p> <p>Q1: It is imperative that if improvements are made to assurance controls of the governance framework, then an underperforming party should be accountable for their actions. This monitoring should equally apply to non-UNC parties. The UNC party should not be able to use excuses for poor third-party performance. Understands it would be difficult in practice to administer performance related charges to non-UNC parties as they do not accede to the code.</p> <p>Q2: The overarching principle set out in business rule 2a should apply to those committees mentioned.</p>
SSE	Oppose	d) - negative f) – negative	<ul style="list-style-type: none"> • Supports settlements performance being improved and of the PAC being given more discretion to help it achieve this aim. However, this modification gives too much power to the PAC, who could place onerous requirements on parties to the UNC. • Does not support the governance structure being proposed, as it would result in the PAC not being accountable to the UNCC and so no other committee would have oversight of its actions. The PAC could, in theory, spend significant amounts of money for little benefit without any recourse or accountability. The PAC will also be able to change its own terms of reference and membership criteria without agreement with any other body, including the UNCC.

			<ul style="list-style-type: none"> Without oversight on the PAC from the UNCC, it is not clear how parties who feel that they have been treated unfairly and had a dispute rejected against a PAC decision would have any independent adjudication, as the modification specifically states that the UNCC cannot overturn a PAC decision on a dispute. The PAC would not be accountable to any other committees despite being set up as a UNC Sub-committee. It must also be recognised that PAC meetings are closed meetings with minutes often censored for confidentiality reasons. Whilst other committees are elected, including the UNC Panel and Committee, parties are generally able to attend as observers and the minutes are accepted by members as a fair and accurate reflection of decisions and discussions at these committees. The PAC could make decisions that have major consequences without the necessary information on the decision-making process being available to the industry. SSE does not support this modification being implemented. However, if it is implemented it could take parties significant amount of time to put in place any consequential changes due to new demands being made by the PAC on them, which could be ongoing and be required at seemingly random times. Has not identified any direct costs with the implementation of this modification. However, given the powers proposed to be given to the PAC by this modification, it could lead to shippers and suppliers having significant costs to meet the demands of the PAC in the future. Legal text has not been reviewed <p>Answers to Panel Questions:</p> <p>Q1: Does not believe it is appropriate to impact non-UNC parties with this proposal and believes that this cannot be enforced. Whilst the PAC monitors the performance of UNC parties, if there is non-performance as a result of the actions of a service provider appointed by a party, then it is the party under the UNC that must put in place appropriate remedies with its service provider.</p> <p>Q2: SSE believes this proposal is too vague, and parties cannot be held responsible for doing something that is not explicitly prohibited under the UNC. This is open to too much interpretation, and if there are any loopholes in the</p>
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			<p>UNC they should be closed via an appropriate modification to the UNC.</p> <p>Additional Analysis/Information</p> <p>A performance assurance regime will soon be introduced into the REC and it is probably an appropriate time to consider the whole performance assurance regime structure within the electricity and gas industries' governance arrangements, as streamlining may be able to make the regime more efficient and lower overall industry costs. There could also be instances of similar targets being in place under two performance regimes, potentially leading to shipper and suppliers facing a double jeopardy for a single settlement performance failure.</p>
Utilita	Support	<p>d) - positive</p> <p>f) - positive</p>	<ul style="list-style-type: none"> • Supports this modification. • It has been the case (and outlined in the modification report) that performance issues which directly lead to settlement inaccuracy, and such under performance being a direct contributor to high levels of Unidentified Gas, have been sustained for too long a period. Under the current framework, the Performance Assurance Committee are limited in the powers it can utilise to address such underperformance, and the effect is that these performance issues are prolonged and negatively impact other UNC Parties. • Suitably empowering the PAC with the ability to address underperformance with UNC parties through varying Performance Assurance Techniques should provide industry with confidence that identified issues contributing to settlement inaccuracy can, and will be, adequately addressed. • Supports the responsibility of updating the PAF Document moving to the PAC as this should provide the PAC with the flexibility required to adapt the framework if and where necessary to facilitate achievement of the Performance Assurance Objective. • Would like to see this modification implemented in time for the start of the Gas Year 2021. • Believes the impacts and costs would be minimal, and any associated cost is far outweighed by the benefits from this modification. <p>Answers to Panel Questions:</p> <p>Q1: Whilst a non-UNC party cannot be directly managed under the code, if such a company is impacting settlement performance, then appropriate action should be taken</p>

			<p>against the UNC Party. If this leads to indirect impacts on non-UNC companies, that is for the UNC Party to manage.</p> <p>Q2: Have considered the impact for the overarching principle to apply to all mentioned in 2a and believes this should indeed be applicable to all. A considerate approach will be required across the board in order to facilitate the Performance Assurance Objective.</p>
Wales & West Utilities	Comments	<p>d) - positive</p> <p>f) - negative</p>	<ul style="list-style-type: none"> • Supports the aims of this modification to improve settlement accuracy. However, raises significant concerns regarding this modification due to the lack of proper governance over the Performance Assurance Committee. • The modification removes PAC from any governance under the UNC Committee while giving it scope to amend the Performance Assurance Framework Document that defines the scope of its activities and the actions and sanctions it may take. • The model used for this modification is that of the committees under the Data Services Contract (DSC). Although we acknowledge that the DSC Change and Contract Committees are also independent of the UNC Committee, there is a crucial difference in that the scope of their powers is carefully constrained by UNC General Terms D and they are not able to unilaterally amend them. This is the key difference compared to what is being proposed for PAC. There are also proposals to allow the chair and secretary of PAC to be PAFA employees. This means that PAC would be entirely separate from normal UNC and Joint Office governance except for the elections. • Notes the lack of governance over PAC proposed in this modification is a critical failing and therefore the modification should not proceed in its current form. Believes that the best way forward would be to return this modification to workgroup for about 3 months to rectify the governance deficiencies so as not to waste the work put into this modification by the proposers and members of the workgroup. As it stands the modification sets up the Performance Assurance Committee as outside any form of effective governance, able to decide its own scope and rules and able to involve itself in any aspect of activity covered by the UNC that it determines as within its scope. • Believes the following changes are required:

			<ul style="list-style-type: none"> ○ Either <ul style="list-style-type: none"> ▪ PAC is a UNCC committee and that UNCC controls its existence and terms of reference and PAC controls the document that determines its scope and operating regime; or ▪ PAC is autonomous along the lines of the DSC Change and Contract committees but PAFD document has to be approved by UNCC and amendments to PAFD can be proposed by PAC or any UNC Party. <p>Notes (b) is WWU's preference and believes this would need the least change to the proposed business rules and legal text. Suggest that the necessary changes required would be to amending TPD V 16.7.2 (Performance Assurance Framework Document) and 16.7.3 (Performance Assurance Techniques) and 12.1 to make the PAFD and PAT subject to UNCC approval.</p> ○ Business Rule 2a is amended to remove a very high-level obligation affecting the UNCC and UNC Modification Panel and imposing absolute obligations on Parties that ignores other obligations. This would require amendment to TPD V 16.1.2. <p>Believes that the issues raised under this point are new issues raised in consultation.</p> <ul style="list-style-type: none"> ○ The Chair and Secretary of the PAC must be Joint Office employees. <p>Should this modification be implemented as it stands there is clearly scope for a party to raise a further modification to improve PAC governance along the lines described above.</p> <ul style="list-style-type: none"> • Agrees that 3 months between Authority Direction and implementation is appropriate as long as there is an adequate communication plan. Expects the PAFA to table this at the first PAC meeting following the Authority Direction to implement, if this is not possible then a further month should be added to the implementation period. • No impact or cost identified at present but risk that some business costs could rise due to TPD V 16.1.2 (d) as this obligation would probably need to be put into contracts. • Does not believe that the text delivers the intent of Modification, particularly in relation to Business Rule 2a
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			<p>because it does not address the implications for the Modification Rules or other UNCC sub-committees (as described in our answer to Panel question 2 below). Notwithstanding this, WWU does not believe that Business Rule 2a is implementable as written as, in their view, it effectively seeks to introduce a new relevant objective for UNC modifications.</p> <ul style="list-style-type: none"> On this point, WWU express specific concerns over the drafting of TPD V 16.1.2(c) and (d) and go on to provide detailed comments on the interaction of the Business Rule and the associated legal drafting. The full extent of the comments on this legal text point may be accessed using the link below. <p>Answers to Panel Questions:</p> <p>Q1: Note that the UNC legally being a contract, cannot impose obligations on third persons that are not a party to the contract. The most it can do is impose an obligation on a party to the contract and that party backs off as it sees fit in its contract with the relevant third person. This means that PAC cannot compel a meter reading service provider to attend PAC meetings although they may choose to attend if invited.</p> <p>Q2: Provided detailed comments regarding Business rule 2a which may be summarised as follows:</p> <ul style="list-style-type: none"> Business Rule 2a seeks to put the Performance Assurance Objective above other UNC obligations, this cannot be the allowed particularly where other UNC obligations fulfil or help fulfil higher licence or statutory obligations. while acknowledging that the legal text for TPD V16.1.2 (c) and (d) probably delivers the implication of Business Rule 2a, it believes that these are unreasonable obligations. See above legal text section; and the legal text does not deliver our understanding of the plain reading of Business Rule 2a. <p>It is recommended that the detail within the representation is read in full by accessing the link below.</p> <p>Additional Analysis/Information</p> <ul style="list-style-type: none"> There is no analysis of the impact of Business Rule 2a on the Terms of Reference of UNCC and any other UNC sub-committees including the DSC Committees. We think that there could be a conflict between this new obligation and their existing obligations in some cases.
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			<ul style="list-style-type: none"> • WWU have copied Section 5 of the Draft Modification Report into their representation and have provided comment, in red, against some of the business rules. <p>Their representation can be read in full at:</p> <p>Link to: WWU's Representation.</p>
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Please note that late submitted representations will not be included or referred to in this Final Modification Report. However, all representations received in response to this consultation (including late submissions) are published in full alongside this Report and will be taken into account when the UNC Modification Panel makes its assessment and recommendation.

11 Panel Discussions

Discussion

The Panel Chair summarised that Modification 0674 would provide an effective framework for the governance of industry performance that gives industry participants mutual assurance in the accuracy of settlement volume allocation.

Panel Members considered the representations made noting that, of the 12 representations received, 4 supported implementation, 4 provided comments and 4 were not in support.

All Panel Members agreed in principle with the introduction of appropriate and proportionate performance assurance techniques and controls.

The Proposer clarified that the problem which this Modification is trying to address is the notion that PAC does not “have any teeth”. The Modification aims to provide PAC with a series of techniques, controls and powers and to ensure UNC Parties acknowledge that the role of PAC is important. This is where the PAO comes in. The PAO is intended to say that settlement should be accurate. This new objective is not intended to usurp the Relevant Objectives. It does however aim to ensure all activities carried out under the UNC are done in a manner which does not prejudice settlement.

Panel Members discussed whether an overarching PAO means that the impact on settlement needs to be considered over and above the Relevant Objectives. Some Panel Members believed this poses a risk to innovation in the Modification process.

The Proposer highlighted that in the Legal Text it does not give the PAO primacy over the Relevant Objectives. He went on to say that any innovation pursued through the Modification process should not make settlement less accurate.

A Panel Member suggested the Modification should be sent back to Workgroup and Workgroup should ensure the Business Rules are reflected in the Legal Text. He asserted that the Business Rules appear to try to trump the Relevant Objectives.

A Panel Member agreed but stated that the question of PAO primacy is only one issue amongst many. The Modification appears to give PAC unfettered discretion as to their activities. He believed the Modification needs more development.

A Panel Member believed that the Modification does not require a cost benefit assessment to be done on any innovation coming through the Modification process.

A Panel Member highlighted that there had been a point of concern over PAC/PAFA actions in December 2020 which had been noted at UNCC.

Panel Members agreed that there are enough questions to suggest the Modification should go back to Workgroup.

The Independent UNC Modification Panel Chair asked a PAC Member (who was attending Panel as an Observer) for her input. She confirmed that accurate settlement is surely an aim of everyone in the industry. If Modification 0674 goes back to workgroup, there needs to be suitable Workgroup participation to ensure adequate cross representation, including those who have expressed concern as to the detail of the Modification. She also clarified that the PAC budget is intended to enable PAC to delve into the detail of the data and that it is spent on reporting.

The Proposer confirmed that there is constraint in the budget and that this is stated in the Modification, though not in the legal text. He agreed that for efficient progress, the Workgroup needed more representatives, potentially including further Panel Members.

It was agreed that in addition to the usual UNC invitees, everyone who submitted responses and all Panel Members will be specifically invited to participate.

Panel Members discussed how long the Supplemental Report should take, discussing whether 3 or 6 months was adequate.

Panel Members noted the broad number of issues and that some of these appeared to be new issues, therefore the FMR should be sent back to Workgroup to address the issues identified through a Supplemental Report.

It was agreed that the JO would work with the Proposer to set out a project plan as to which topics would be covered in each monthly meeting and come back to July panel with the plan, which would start as soon as possible.

Panel Members noted there appeared to be Cross Code impact for the IGT-UNC.

The following topics were suggested to be addressed by the Supplemental Report

- Relationship with the UNCC and changes to the regulatory oversight and accountability / transparency of PAC activities and authorship of PAFD
- The role of the UNCC in the Appeals Process
- The unbounded right for PAC to request information from a party
- The potential for chairing of meetings by non-JO personnel
- The ability of the PAC to raise Modifications
- Interactions with IGT UNC suggested in E.On's representation?
- Apparent discrepancies between the wording in BR2a and the proposed legal text.
- An apparent discrepancy in quoracy rules
- Views on the Performance Assurance Objective (PAO), the legal drafting proposed and its effects on:
 - Code Parties
 - Non-code Parties
 - Its primacy position in terms of its relative position appearing to be above the Relevant Objectives
 - Its lack of proportionality to cost and interaction with other UNC obligations.
- Several representations referred to REC and potential interactions between its performance framework and that being proposed here.
- Several representations drew reference to the adoption of GTD-like arrangements while noting that these could only be changed by way of modification
- Cost impacts of the Modification and its implementation

Determinations 18 June 2021

Panel Members voted unanimously that new issues were identified as part of consultation and that Modification 0674 should be issued to Workgroup for a Supplemental Report back to Panel by December 2021.

12 Legal Text Navigator

This Modification represents a significant change to the authority, powers, and governance of the PAC.

In order to assess and comment on this wide-ranging Modification, 5 thematic areas have been formed to the group the proposed changes into assessable sections. The 5 themes are described below:

1. The introduction of a Performance Assurance Objective against which all relevant Party's actions, in relation to settlement, would be assessed.
2. The Codification of the PAC Terms of Reference⁴ and other constitutional matters.
3. An overhaul of the authority invested in PAC and of the governance relationship with the UNCC, amended in order to provide the PAC with a greater degree of autonomy.
4. The introduction of the ability to address performance failings of Parties using a number of techniques and remedies, which are set out in the Performance Assurance Framework Document
5. Supporting Provisions.

In terms of the themes, further detail is included below to capture Workgroup views & comments:

1. Performance Assurance Objective, (PAO)

A POA would be established and relation to a Parties obligation and commitments to facilitating timely & accurate settlement.

2. Codification of the Terms of Reference

In conjunction with the changes to the governance and powers of the PAC, certain aspects of the PAC's constitutional arrangements would be drafted into the Code and accordingly, the existing Terms of Reference would be withdrawn. The Code would therefore contain the rules for the following aspects for establishing and functioning of the Committee, such as:

- The composition of the Committee: including the number of members from each of the industry User groups.
(V16.3.1)
- The shipper member appointment process, with reference to the relevant guidelines document⁵.
(V16.3.2)

⁴ [Performance Assurance Committee Terms of Reference v5.0 \(14 December 2020\)](#)

⁵ [Guidelines for the User Representatives Appointment Process](#)

- The use of Alternates.
(V16.6.1 pointing to MR4.5)
- The voting and quoracy arrangements.
(V16.5 & V16.6.2)
- The Secretariat arrangements.
(V16.3.3 & V16.3.4)
- Some further cross-references the Modification Rules⁶ and the application certain provisions covering the arrangement of meetings, etc.
(V16.6.1 pointing to parts of MR5)
- The attendance, and conditions of attendance, by persons other than Committee Members.
(V16.6.3 to V16.6.6)
- A requirement for an attendee to sign certain document(s) before receiving PAC material.
(V16.6.7)
- The provisions to cover occasions where a member may have a conflict of interest.
(V16.6.8 & V16.6.9)
- An obligation on a member not to disclose confidential PAC information to their employer and more generally.
(V16.6.10 & V16.6.11)

3. Governance, Functions and Powers

As part of the amendment to PACs constitutional arrangements, it is also proposed that the oversight and over-reach of the UNCC is revised, along with the governance of other PAC related documentation. The changes include:

- Establishing PAC autonomy from the UNCC with clarification that the UNCC would neither be able to overrule a Committee decision, reduce the scope of the Committee, nor dissolve the Committee.
(V16.2 & GT B4.3.1)
- Amending UNC GT B covering the provision on request of information to PAC.
(GT B4.4.2)
- Amending the Modification Rules so that the PAC could, in specific circumstances, raise a Modification.
(MR 6.1.1)
- With the exception of requesting a view on an Appeal relating to a decision to refer a Party to the Authority, the PAC would not refer any decisions or matters of governance to the UNCC.
(V16.8.6 to V16.8.9)

⁶ [UNC Modification Rules \(MR\)](#)

- Setting out the requirements for the CDSP to procure and appoint a Performance Assurance Framework Administer (PAFA) by way of competitive tender.
(V16.9)
- Establishing the Committee's authority to delegate certain activities.
(V16.4.4)
- Confirming that the Committee would not be able to the impose costs on Parties.
(V16.4.5)
- The role & purpose of the Committee is set out in Section V16.4 and includes:
 - The basic functions of the Committee set out in terms of achieving the PAO.
(V16.4.1(b), V16.4.1(c) & V16.4.1(d))
 - Determining the scope of the PAFA and the approval of the PAFA contract.
(V16.4.1(f))
 - Determining the application & administration of the Performance Assurance Techniques, (PATs).
(V16.4.1(e))
 - Amending the governance of documents pertinent to PAC activities:
 - Committee member joining documentation.
(V16.4.1(h))
 - The Performance Assurance Framework Document would become a PAC Controlled Document as opposed to being a UNC Related Document.
(V16.4.1(a))
 - Including managing the process by which the PAFD may be modified.
(V.16.7.2)
 - The Performance Assurance Reports Register, (PARR), would become a PAC Controlled Document, effected by being appended to the Performance Assurance Framework Document, (PAFD).
(V16.4.1(g))
 - Production of an Annual Review documenting past activities and providing a Delivery Plan of future activities.
(V16.4.1(j), V16.4.2 & V16.4.3)
- The PAFD v4.5 would contain the elements specified in V16.7 to provide detailed operating procedures on matters such as:
 - The extent and the basis on which a party would be required to interact and participate in the PAC procedures.
(V16.7.1(a))
 - The information a Party could be required to provide to the PAC and the process for doing so.
(V16.7.1(b) & V16.7.1(c))
 - The scope & content of the PARR.

(V16.7.1(d))

- The PATs available to the PAC.

(V16.7.1(e))

- The procedure for the appointment of the PAFA, specifically, with respect to the appointment criteria, contract scope, management of contract variations and other matters relating to the PAFA Contract.

(V16.7.1(f), V16.7.1(g), V16.10 & PAFD 07)

- The content of the member joining documentation.

(V16.7.1(h))

4. Performance Assurance Techniques and Appeals

The description and operation of the PATs are set out in the PAFD and include:

- Monitoring,
- Party Communication,
- Training,
- Request for a Resolution Plan,
- Request for Attendance at PAC,
- Publication,
- Audit,
- Referral to the Authority,
- Dispute Procedures, and

(V16.4.1(e) & PAFD 20)

- setting out PAC's responsibility for developing and amending the PATs in line with achieving the PAO.

(V16.7.3)

Where a Party is referred to the Authority, additional provisions would be drafted into the Code setting out the basis and procedure for that Party to appeal a PAC decision to refer.

(V16.8 & PAFD 21)

5. Supporting Provisions

These include:

- The requirement for each Party to Appoint a Performance Assurance Representative, (PA Representative), to act as the principal point of contact between the PA Representative's organisation and the PAC.

(V16.11)

- UNC provisions to ensure Committee Members are individually provided with an indemnity covering them while operating as part of the PAC.

(V16.12)

- Responsibility for providing data and information to the PAC and for producing the reports defined in the PARR.

(V16.13)

- Disclosure of Information to PAC and Confidentiality Arrangements.

(V16.14)

Note:

This above breakdown is intended to be a summary of the key features of the Modification and grouped so to generate discussion and to assist with collation Workgroup comments.

Consultation respondents should refer to the Solution and Legal Drafting to establish the full extent and materiality of the changes being proposed.