










UNC Final Modification Report	At what stage is this document in the process?
<h1 data-bbox="132 320 659 412">UNC 0800:</h1> <h2 data-bbox="132 450 1114 734">Introducing the concept of a derogation framework into Uniform Network Code (UNC) (Authority Direction)</h2>	<div data-bbox="1209 315 1474 636"> <div>01 Modification</div> <div>02 Workgroup Report</div> <div>03 Draft Modification Report</div> <div>04 Final Modification Report</div> </div>
<p>Purpose of Modification:</p> <p>This Modification seeks to introduce a framework for derogation as a concept in the Uniform Network Code (UNC), defining when and how these can be requested (Use Cases), as well as the process around consideration and approval or rejection of derogation requests. Also includes a Use Case for 'Net Zero Innovation' including the parameters, and evidence required. <i>This includes changes from Modification 0760 in accordance with Ofgem's rejection letter.</i></p>	
<p>Next Steps:</p> <p>Panel consideration is due on 21 April 2022</p>	
<p>Impacted Parties:</p> <p>High: Gas Transporters (including National Transmission System), Shippers, Central Data Service Provider (CDSP), & 3rd parties involved in innovation projects may be consequentially impacted by any derogation requests approved by this framework</p> <p>Low: Suppliers, end consumers</p> <p>None:</p>	
<p>Impacted Codes:</p> <p><i>IGT UNC will require a Modification Proposal (as was the case for 0760). IGT160 was raised 16/2/22 and is intended to follow this timeline as closely as practicable</i></p>	

Contents		 Any questions?
1	Summary	3
2	Governance	5
3	Why Change?	5
4	Code Specific Matters	8
5	Solution	9
6	Impacts & Other Considerations	12
7	Relevant Objectives	17
8	Implementation	18
9	Legal Text	18
10	Consultation	18
11	Panel Discussions	18
12	Recommendations	19
13	Appended Representations	19
Timetable		
Modification timetable:		Contact: Joint Office of Gas Transporters
Date Modification Raised	03 February 2022	 enquiries@gasgovernance.co.uk
New Modification to be considered by Panel	17 February 2022	 0121 288 2107
Workgroup Report to be presented to Panel	17 March 2022	Proposer: Tracey Saunders
Draft Modification Report issued for consultation	21 March 2022	 trsaunders@northerngas.co.uk
Consultation Close-out for representations	07 April 2022	 07580 215743
Final Modification Report available for Panel	08 April 2022	Transporter: Tracey Saunders Northern Gas Networks
Modification Panel decision	21 April 2022	 trsaunders@northerngas.co.uk
		 07580 215743
		Systems Provider: Xoserve
		 UKLink@xoserve.com

1 Summary

Background

Modification Proposal 0760 received unanimous support from UNC Panel last year. Ofgem however rejected the proposal due to two specific areas: Governance relating to approval and appeals, & Derogations from other codes and standards. Changes to these areas, especially the governance process, meant that whilst they preferred to send back, rather than reject the proposal, after legal advice, they were left with the only option being rejection, in line with their own procedures.

In their rejection letter, Ofgem advised that they 'welcome the proposal to include a new section of the UNC that would allow derogation requests' specifically mentioning this in relation to 'Net Zero innovation projects to be made', and in calls with Ofgem they have also advised that they think it is in general a good proposal, with the exceptions being, as stated in their rejection letter, regards to Approval and Appeals, and Safety. Ofgem are keen to receive a new proposal as soon as possible and have asked is there is any way that this can be treated as if it is a send back (they note that this decision is ultimately up to the Joint Office and Panel members). Therefore, in the interest of efficiency, I have lifted the text from the original 0760 proposal and guidance document into this, new proposal. I will only be updating text that relates to:

- Approval and/or Appeals, including other non-UNC derogations,
- Safety
- Additional changes/information due to new modification template being introduced since 0760 was raised

The ask is that this will allow Panel, Workgroup (and Ofgem once a recommendation has been sent to them) to focus on these areas, rather than the entire process (which had already received unanimous approval).

From this point on the document will only contain original Modification 0760 text, with easy identification where changes have been made.

The Proposer has looked to take the best practices from other energy Codes, and Ofgem's derogation process, and has discussed this proposal with a representative from Ofgem. The Proposer has also sought the opinion of the current Uniform Network Code (UNC) Panel Chair, who chairs many other industry Panels, including ones in the financial sector. The Chair has been able to offer valuable guidance based on her experience as to how derogation works in these other sectors.

What

Currently there is no concept of derogation within the UNC, which means that where, for example, an innovation project needs to be trialled there either needs to be a Modification to amend the relevant part of the UNC, which changes this for all on a non-time limited basis, or the trial needs to be amended or have additional unnecessary parameters to allow it to proceed.

The concept of derogations exists within Ofgem's Licence Conditions and other Codes (such as Distribution Connection and Use of System Agreement (DCUSA), Balancing & Settlement Code (BSC) & Retail Energy Code (REC) and therefore it would seem logical that this principle should also exist within the UNC.

Why

There are different scenarios, where there may be a need for a UNC Party to request a derogation. Currently this concept exists in other codes, with each code having specific cases where a party is eligible to apply. Without the concept of derogation, and a framework that lays out how this works, within UNC, there is no opportunity for

derogation for any reason. Creation of the derogation framework should allow for different types of derogation categories 'Use Cases' to be defined as they are required by industry.

The Ofgem Sandbox exists in relation to licence derogations, and needs individual codes to also grant derogation where any project in the Sandbox impacts code. This is therefore restricted to codes that have the concept of Derogation. Ofgem have stated that the sandbox is currently aimed at electricity, and this is being addressed, however any changes are at least a number of years away, and therefore they can see there is a current and future need for derogations to be a concept within the UNC

The first Use Case, included in this proposal, would be in relation to Net Zero Innovation. Industry Codes are seen by many to prevent or restrict innovation. The process of requesting change can be lengthy and for new concepts, where there is no proof of benefit, it can be almost impossible to get positive decisions in a timely manner, if at all.

A large number of innovation projects and trials relate to facilitating the path to net zero. This is aligned with the Government's 10 Point Plan as well as Licence Conditions in place in RIIO (Revenue=Incentives+Innovation+Outputs) - 2.

Gas Transporters have obligations in the RIIO - 2 Licence amendments and their price control in relation to net zero, and innovation relating to net zero. Currently the innovation projects are hampered by the need to find solutions within the existing Code to allow for trials to take place. This not only restricts the solutions, but causes additional time and cost to the project, whilst not able to trial a complete solution (including changes to Code).

Facilitating innovation projects that further net zero is not only in line with Ofgem's, but also the United Kingdom's, strategic direction.

How

This will be done via two separate, but associated elements within this modification request, both of which we expect to be implemented concurrently.

Firstly, to introduce the concept of derogation as a framework within the UNC including the parameters around how this can be applied for, evidence required, restrictions, and decision-making criteria, into the UNC. There will be separate use cases for derogation, with each use case being defined within the UNC, the idea is to allow UNC parties to apply for a derogation, under the relevant Use Case which the derogation request qualifies under, for their organisation.

Derogation requests may be for one, or a combination, of:

- a limited time or specific outcome goal,
- a specific area of code, and or
- a regional exclusion.

Derogations may be applied against the majority of sections of UNC and its related documents, except the following:

- Modification Rules,
- General Terms A (Dispute Process),
- any part of the UNC covered by a live Significant Code Review (SCR),
- any part of the UNC that impacts the ability of Suppliers or end consumers to switch

Secondly, will be to introduce the concept / principle of Use Cases under the derogation framework, with the introduction of Net Zero Innovation being the first Use Case.

2 Governance

Justification for Authority Direction

The Proposer believes that the modification will cause a material change to the UNC governance procedures or modification procedures by introduction of the concept of derogation throughout the UNC. This, under the Self-Governance criteria, as defined in the Gas Transporters Licence Standard Special Condition A11, *'excludes a proposal that, if implemented is likely to have a material affect on the Uniform Network Code governance procedures or the Network Code modification procedures'*.

In addition, whilst this modification does not have a material impact on competition or operation of the pipeline system, should this modification be approved then derogations of material impact may be requested for consideration, therefore the Proposer believes this consequential impact supports the proposal that this modification should be sent for Authority Direction.

Requested Next Steps

This modification should:

- be considered a material change and not subject to Self-Governance
- proceed to Consultation.

3 Why Change?

Derogation Framework

Currently there is no concept of derogation within the UNC, which means that where, for example, an innovation project needs to be trialled there either needs to be a modification to amend the relevant part of the UNC, which changes this for all on a non-time limited basis, or the trial needs to be amended or have additional unnecessary parameters to allow it to proceed, which in turn may hamper the ability for an accurate assessment of the validity of the outcomes.

Derogations already exist as a mechanism within Ofgem's Licence Conditions and other Codes (e.g DCUSA, BSC & REC) and therefore it would seem logical that this principle should also exist within UNC. The Ofgem Sandbox exists in relation to licence derogations, and needs individual codes to also grant derogation where any project in the Sandbox impacts code, This is therefore restricted to codes that have the concept of Derogation, Ofgem have stated that the sandbox is currently aimed at electricity, and this is being addressed, however any changes are at least a number of years away, and therefore they can see there is a current and future need for derogations to be a concept within the UNC.

Derogations may be applied against the majority of sections of UNC and its related documents, except the following:

- Modification Rules, including rules around derogations (once added)
- General Terms A (Dispute Process),
- any part of the UNC covered by a live Significant Code Review (SCR), or
- any part of the UNC that by derogation being granted, would impact the ability of Suppliers or end consumers to switch

Before a derogation application can be submitted to Panel it must include evidence that all necessary interactions with HSE have taken place and been satisfactorily concluded.

This must include the applicant's safety assessment which must, at a minimum, demonstrate that the derogation does not adversely impact on (in relation to (a) through (d) below, gas means as defined in the Gas Act) :

- (a) the safe management of gas flow through a network;
- (b) the arrangements to minimise the risk of a gas supply emergency;
- (c) the arrangements for dealing with supply emergencies; and
- (d) the arrangements for dealing with reported gas escapes and gas incidents.

Non-UNC derogation applications must have been submitted to the relevant body, and not have been rejected, prior to Panel sending a derogation request for consultation, or before they make a recommendation to Ofgem for the UNC derogation. For the avoidance of doubt any UNC derogation approved would be deemed to only be valid where the other relevant derogations have also been granted, unless specifically instructed otherwise by The Authority

All UNC derogations will need to have supporting evidence provided, **which includes evidence of safety impacts, or lack thereof**, as per *Derogation Guidance Document*, further changes to which will fall under Uniform Network Code Committee (UNCC) control.

Below is a brief outline of how the derogation framework would work in code and the guidance document.

Derogation requests would need to be submitted to the Joint Office in accordance with the Derogation Guidance Document, to be circulated to UNC Panel members. Panel members will discuss the request at the first available UNC Panel, following a period of at least ten 10 Business days after submission to the Joint Office. Derogation requests must be submitted using the derogation application form with all sections completed, along with appropriate accompanying evidence.

Should the submitted evidence meet the minimum criteria as stated in the guidance document, the panel will vote to send the derogation out for industry consultation. The derogation, along with consultation responses will then be brought to the next available UNC Panel.

Panel members have discretion [based on majority] to defer derogation to a future Panel or specifically convened Panel for any application/s with a large volume of supporting documentation, or more complex applications.

Following receipt and discussion of consultation responses, panel have the ability, at their discretion to request additional information, and/or request a new, additional, consultation. Panel discussions and any consultation responses will form part of the final derogation report that is sent to Ofgem. For information: The intent of these discussions and this report is to provide additional industry knowledge and consideration which may aid The Authority in reaching their decision.

~~Derogation requests require a [unanimous] Panel vote in support of implementation to be approved Panel will then vote on a recommendation to The Authority, the details of which will be included in a Final Derogation Report.~~

~~Interested Parties have the ability to raise an appeal to The Authority within 15 days of the Panel decision. The Authority have the ability to overrule any Panel decision as the outcome of any appeal The Authority will then make their decision and advise the Panel.~~

The derogation will take effect from the agreed date ~~(no earlier than 16 days from following of decision), subject to no appeal raised being upheld, or remain outstanding with The Authority.).~~

Should a derogation request not be approved by ~~Panel~~ **The Authority**, the application can only re-submit **to the Code Administrator** if there is a material change to the proposed derogation request or reasons for rejection have been addressed.

Once a derogation has been approved the derogation details, containing name and type of party that applied, the areas of code that the derogation applies to, length of derogation, and any other specific conditions (eg location), will be published on the Joint Office website.

Whilst a derogation is live, any specific Meter Point Reference Numbers (MPRNs) that are included in the trial will have a flag in Data Enquiry Service (DES), **or similar**, to indicate that they are part of an Innovation Trial. For the avoidance of doubt, should a derogation be granted that covers an MPRN, but the MPRN is not actually part of the trial, the flag will not be active.

All derogations are either time or goal bound and should the derogation result in demonstrated feasibility then a code modification will be required to be raised, and go through standard UNC modification proposal governance to request enduring changes to the UNC. The evidence from the trial should be included as part of the modification proposal justification, to aid industries, UNC Modification Panel and, where applicable, Ofgem's assessment.

Derogation Use Cases will be clearly defined in code and the qualifying parameters defined within the Guidance documents. Should a new Use Case be requested this will require a UNC modification to approve it to be added to code, with UNCC approval of the guidance document amendment to include the relevant parameters. Any approved Use Case will not be deemed live until the relevant parameters have also been approved by UNCC. It is expected that the proposed changes to the guidance document will be developed in UNC workgroup as part of the workgroup discussions and development of the Use Case modification proposal.

Variations to approved (whether started or not) derogations may be requested by submission of a new derogation request via Joint office clearly showing it is intended to supersede the original derogation. This application should include clear change marking of differences to the already **submitted** derogation application, along with explanation and justification of the reason for the variation. It should be noted that an approved derogation does not need to be used in its entirety (eg 4500 MPRNs approved, only 2300 actually using derogation in reality,) and in these instances the proposer does not need to (but retains the option to) request a variation.

For example, a variation would be expected to be requested where evidence is unable to be provided to support a UNC modification proposal until late within the derogation, or the UNC modification proposal is taking longer than originally anticipated. In this case the proposer has the ability to request an extension to the derogation as a variation based on the raising and timeline of the modification proposal.

Net Zero Innovation Use Case

The Ofgem Sandbox exists in relation to licence derogations, and needs individual codes to also grant derogation where any project in the Sandbox impacts code, This is therefore restricted to codes that have the concept of Derogation, Ofgem have stated that the sandbox is currently aimed at electricity, and this is being addressed, however any changes are at least a number of years away, and therefore they can see there is a current and future need for derogations to be a concept within the UNC.

Currently, Innovation projects need to come up with ways to ensure that they stay within the existing Code framework. However for more challenging items, e.g. net zero, this may not always be possible. This 'restriction' can cause lengthy delays to innovation projects whilst they come up with alternative solutions to ensure Code compliance. The other option available to them is to raise a modification to change existing Code, this is then done without fully knowing whether these changes work to fully facilitate the innovation project's intended outcomes. If any changes needed to be reversed a further new modification would then be required.

Without the concept of derogations within the UNC, multiple innovation projects could be delayed or abandoned as there could be no effective way to trial the benefits without needing Code changes. Gas Transporters have obligations in the RIIO - 2 licence amendments and their price control in relation to net zero, and innovation relating to net zero. Currently the innovation projects are hampered by the need to find solutions within existing code to allow for trials to take place. This not only restricts the solutions, but causes additional time and cost to the project, whilst not able to trial a complete solution (including changes to Code). These potential innovation projects and trials relate to facilitating the path to net zero and could be considered of national importance.

Facilitating Innovation projects that further net zero is not only in line with Ofgem's, but the United Kingdom's strategic direction. With the Prime Minister including in The Ten Point Plan for a Green Industrial Revolution *'Hydrogen: Working alongside partners in industry aiming to generate 5GW of low carbon hydrogen production capacity by 2030 Together this will develop resilient supply chains, support jobs and position UK companies at the forefront of an exciting growing global market, as well help things like industrial processes, industrial heat, power, shipping and trucking to make the shift to net zero.'* His pledge in support of Hydrogen as a green energy *'by a range of measures, including a £240 million net zero Hydrogen Fund'* can only be achieved by industry working together to facilitate the associated innovation projects that would allow targets including a hydrogen heating trials by 2023, and a hydrogen town by the end of the decade, to be met.

Below is a brief outline of how the Net Zero Innovation Use Case would work in code and the guidance document.

Net Zero Innovation derogations will be time, and possibly location, limited in nature to allow for a Net Zero project, trial or demonstration. The nature of these would usually be in relation to Innovation projects that have already been in place for a number of years and have met project related milestones before even considering a trial or demonstration.

The use case will be defined in code with clear qualifying criteria parameters, which will include it being for non-commercial innovation projects (i.e. open Intellectual Property)

The evidence threshold will be clearly laid out within the guidance document with clear detail as to the type of evidence required.

4 Code Specific Matters

Reference Documents

All areas of the Uniform Network Code and its related documents.

Data Services Contract

UNC Modification Proposal 0760 and the associated Ofgem rejection letter (see <https://www.gasgovernance.co.uk/0760>)

Knowledge/Skills

Comprehensive understanding of the Uniform Network Code and related documents.

An understanding of the concept of Derogation, within energy or other industries, would be helpful.

5 Solution

Business Rules

Derogation framework

Applications for derogations can only be made by valid UNC Parties defined in UNC General Terms A1.1.2(b) and *The derogation may only apply to the applicant party, or where the derogation is in relation to specific MPRNs, any downstream UNC Parties in relation to MPRNs within the scope of the derogation*

- 1.
2.
 - a, Applications for derogations must clearly state which Use Case/s the derogation is made under. Derogation requests not submitted under, or meeting criteria of, a Use Case will be rejected.
 - b, Applications that are not materially different, in the modification panels opinion, from an earlier application which the Authority directed should not be implemented will be rejected
 - c, Applications not specifying the mandatory required information as stated in the Guidance Document will be rejected
3. Applications for derogations will only be deemed valid applications when made in accordance with the *Derogation Guidance Document (see appendix 1) as implemented with this modification and published on the Joint Office of Gas Transporters website.*
4. The following areas are out of scope for derogation applications
 - a) Modification Rules
 - b) General Terms A (Dispute Process)
 - c) Live Significant Code Review
 - d) Any part of Code that should a derogation be granted, would impact a supplier's, or end consumer's, ability to switch
 - e) 3rd party documents (e.g NExA, NEA etc) cannot be derogated from under this process
5. In order for an application to be valid it must include evidence that all necessary interactions with HSE have taken place and been satisfactorily concluded. This includes, but is not limited to, the list as stated in the guidance document.
6. Derogation requests would need to be submitted to the Joint Office, to be circulated to each Transporter, each User, each Independent Gas Transporter, each Member, each Third-Party Participant and each Non-Code Party (if any), the CDSP and the Authority. Panel members will discuss the request at the first available UNC Panel, following a period of at least ten 10 days after submission to the Joint Office. Notice of this meeting will be advised to relevant UNC Parties at least 7 days prior
7. Initial Panel meeting will be to approve, by Panel majority, the Derogation request to be sent for industry consultation, with a second standard panel meeting to discuss responses received to consultation and vote on approving, ~~by Panels unanimous consensus a recommendation to The Authority in accordance with the definition of 'Panel Majority' as defined in UNC Modification Rules 2.1~~ ~~the derogation request.~~ The standard consultation period is 15 days, ending no more than 10 days before the scheduled Panel meeting where the Derogation is to be considered, however Panel have the discretion (by majority) to shorten or lengthen either or both of these this on a case-by-case basis.
 - a. Panel have the ability, to request additional consultation questions to be included on a case-by-case basis.

- b. Panel have 'send back' abilities aligned to UNC MR 9.3.1 & 9.3.2 (Consultation) as well as the ability to send for an additional consultation which will defer any vote ~~in relation to support of implementation of recommendation~~ until the next Panel, or 1st Panel no less than 5 Business Days after the Joint Office has received the relevant responses as requested by Panel.
8. A representative of the submitting party must be present at each of the relevant Panels to present a summary of the request and answer any questions Panel may have.
9. Panel members have discretion based on Panel majority to defer the vote to ~~approve-recommend~~ a derogation to a future Panel (excluding extraordinary Panel) for any applications with a large volume or of supporting nature, or more complex applications.
10. ~~Derogation requests require a unanimous Panel vote in support of implementation to be approved~~ The Authority is the deciding body in relation to Derogation requests, with Panel voting to make a recommendation to them. The Authority can approve, reject, or send back a derogation request that has been sent to them by the Panel.
11. ~~The~~ An approved derogation will take effect from the agreed date (no earlier than ~~16 days from date of decision~~ the date of decision from The Authority), ~~unless overruled by the Authority, or subject to an active appeal to the Authority,~~ and subject to any conditions imposed
12. Should a derogation request be rejected by ~~Panel~~ the Authority, ~~then there is no right of appeal to Panel, nor can~~ A new application for the same derogation ~~cannot~~ be submitted without it containing material changes from, ~~or having addressed the reason for the rejection of,~~ the original application.
~~Authority appeal process is aligned with Modification Rules (MR) 13.5 – 13.11~~
13. Before Panel is able to make a recommendation to The Authority, all other required and relevant licence, or mandated body, derogation requests must be evidenced as being applied for Approved UNC derogation requests will only be deemed to be valid once any other required and relevant licence, or mandated body, derogations have also been granted, unless otherwise instructed by The Authority. ~~Safety related matters, as stated in, but not limited to, the derogation guidance document must be satisfactorily concluded before Panel is able to make a recommendation to The Authority~~
14. A derogation must contain either a fixed end date or contain a backstop date: at either point the derogation will cease to be valid. The Authority have the ability to impose their own backstop date, in which case this will supersede any stipulated end or backstop date provided by the proposer.
15. Where a derogation is subject to additional approvals being granted in order to be valid, or does not have a fixed start date in the application: Once the confirmed derogation start date is known (at which point the derogation must be a valid) the proposer shall provide at least 16 working days' notice of the start date
16. ~~Should the derogation have either a fixed start or end date, or a backstop date be imposed as per BR14 or BR15, and the derogation remain unable to be implemented, the derogation will be deemed to have fallen away at this point and therefore may no longer be used. Where a derogation is approved for a stated length, with an unfixed start date, or is dependent on items as per the above business rule, this will be granted with a backstop date. The start date of the actual derogation within this period will be confirmed by the UNC Panel following consultation with the applicant and Code Administrator after the granting of the derogation has occurred. This date will be communication to all relevant parties, including Ofgem, and published on the website no later than 16 working days before it is due to commence.~~
17. A notice of approval or rejection of Derogation will be issued to the applying party as soon as practicable.

18. Once a derogation request has been approved, or rejected, the derogation details, containing name and type of party that applied, the areas of code that the derogation applies to, length of derogation, and any other specific conditions (e.g location), will be published on the Joint Office website no sooner than the business day following the business day in which the notice in BRs 15 or 17 has been sent.
19. An approved Derogation may be used in its entirety or used in a limited capacity by the application party (e.g a derogation may be approved for 4500-meter points, however only 2500 meter points may actually be part of the trial).
20. An approved derogation may be requested to be varied by submission of a new derogation request via Joint office clearly showing it is intended to supersede the original derogation, along with clear change marking of differences to approved derogation.
 - a. Where the panel has yet to make a recommendation to The Authority (final vote) in relation to the original this new application will supersede the original which will then lapse
 - b. Where the panel has provided a recommendation to The Authority (final vote) the new request will progress in accordance with the procedure, it will be sent to The Authority for them to make a decision in relation to both applications as they deem appropriate.
21. At the end of the derogation period/milestone the proposer must issue a statement to the Code Administrator confirming that they have now reverted back to standard UNC, including any system changes. This should be submitted on (or before) the date the derogation ends. (Should this not be received it will be assumed that the party is in breach of code).
22. An application may withdraw an application by notice to the Code Administrator at any time prior to the derogation being implemented. At which point it will no longer be able to be used.
23. An applicant can submit more than one derogation request at any time as long as these can be independently introduced and are mutually exclusive

For the avoidance of doubt: Should it be brought to the code administrators attention that a User be thought to be in breach of A derogation, the code administrator may choose to bring this to the attention of The Authority

For the avoidance of doubt, it is up to the proposer to confirm that it has complied with all relevant safety requirements. The UNC Panel shall not be required to independently verify any statement or representation made by the applicant Party regarding health and safety matters contained in the UNC Derogation Application.

Use Cases

For the avoidance of doubt

1. Use Cases, are defined in UNC, with additional information provided in the guidance documents
2. Removal or ~~Updating~~-updating (UNC text) or adding of further Use Cases needs to be requested via UNC standard modification process. (For the avoidance of doubt, changes to additional text in the Guidance Document, including the addition of information for new Use Cases, are required to follow the standard UNCC process for Code Related Documents).

Net Zero Innovation Use Case

1. A derogation request may only be submitted where is related to a project, trial or demonstration that is directly relating to net zero, as defined in the Gas Transporters Licence Special Condition 1.1 , and in accordance with the required evidence including minimum required safety related information, and parameters as stated in the Derogations Guidance Document, both under general guidance and under specific use case guidance.

6 Impacts & Other Considerations

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

This modification proposal itself does not impact the current SCR. The modification proposal, should it be implemented, excludes any areas of Code relating to any live SCR from being included in a derogation request.

Consumer Impacts

Derogation allows for temporary changes to specific parts of code under set parameters, this should cause less impact to the market, and therefore consumers, than a full modification change that affects all parties, allowing for more controlled and monitored temporary change.

In relation to the Net Zero Innovation Use Case, facilitating innovation should benefit end consumers of all types, as innovation projects are in general about either improving the end consumer experience, or at least facilitating this through the supply chain. Innovation directly relating to net zero, has long term benefits for not only industry as a whole and the end consumer, but also the environment.

Allowing derogation for Gas Transporter or Shipper net zero innovation projects would also facilitate improvements that could then be built upon by the Supplier and rest of the energy supply chain, which should result in further improvements for the end consumer.

What is the current consumer experience and what would the new consumer experience be?

Impact of the change on Consumer Benefit Areas:

Area	Identified impact
<p>Improved safety and reliability</p> <p>Derogations may be used in the future to trial new ways of working that could include improvements to safety. By allowing derogation this allows for projects to be trialled under limited circumstance, with potential to identify improvements, including safety related, before these are updated in a full modification proposal.</p> <p>Derogations may result in changes that improve safety and reliability; however the framework is neutral on this as it will be dependant of the Use Cases, and the actual derogations granted.</p> <p>Net Zero innovation trials have the potential to improve the reliability of the gas and network in the long term.</p>	<p>Framework - Neutral</p> <p>Net Zero Innovation Use Case - Positive</p>

<p>Lower bills than would otherwise be the case</p> <p>Derogations may result in changes that influence the customers end bill, however the framework is neutral on this as it will be dependant of the Use Cases, and the actual derogations granted.</p> <p>Net Zero Innovation Use Case could see different options available to the end consumer, as opposed to just the current gas mix used in GB. This has the potential to pass on savings to the end consumer, especially if the price of natural gas continues to be as high as it has been in 2021</p>	<p>Framework - Neutral</p> <p>Net Zero Innovation Use Case - Positive</p>
<p>Reduced environmental damage</p> <p>Derogations may result in changes that improve safety and reliability; however the framework is neutral on this as it will be dependant of the Use Cases, and the actual derogations granted.</p> <p>The Use Case for Net Zero Innovation, specifically allows for projects and trials that look to further the progress towards Net Zero, including Hydrogen Village Trials, which are part of the government's 10-point plan. Contributing to the country's path towards achieving Net Zero</p>	<p>Framework - Neutral</p> <p>Net Zero Innovation Use Case - Positive</p>
<p>Improved quality of service</p> <p>Derogations may result in changes that improve safety and reliability; however the framework is neutral on this as it will be dependant of the Use Cases, and the actual derogations granted.</p>	<p>Neutral</p>
<p>Benefits for society as a whole</p> <p>Derogations may result in changes that benefit society; however the framework is neutral on this as it will be dependant of the Use Cases, and the actual derogations granted.</p> <p>The Use Case for Net Zero Innovation, looks to allow for the viability of Hydrogen as a long terms solutions for the gas networks. This would ensure the continued survival of the gas industry, protecting countless jobs, as well as continuing to provide an alternative to electricity, as well as supporting the electricity network with gas powered electricity generation when they are not generating enough electricity to meet demand via other means,</p>	<p>Framework - Neutral</p> <p>Net Zero Innovation Use Case - Positive</p>

Cross-Code Impacts

Whilst this Modification does not directly impact any other Codes, derogation requests received may impact areas of Code that the Independent Gas Transporters (IGT) UNC points to, and/or derogations may be more effective if they do not have additional constraints of needing to specifically exclude IGT sites, therefore the IGT UNC may wish to consider a similar, aligned Modification, to allow derogation within the IGT UNC.

For information: ~~IGT Modification IGT154 has been raised~~ IGT Modification IGT160 has been raised and is expected to follow similar timelines to this Modification proposal. The initial drafting states that where a derogation is approved in the UNC this will also apply to any IGT where relevant.

Should this Modification be implemented, applications for derogation may need to be made across multiple Codes for the same project, any Cross Code impact across these derogation requests should be noted and managed on a case-by-case basis, and the proposer would be expected to identify these in their application.

EU Code Impacts

Whilst we do not believe that this proposal impacts any EU energy code, individual derogation requests raised, should this Modification be implemented, might. Any impacts would need to be identified by the proposer and stated in the derogation request.

Central Systems Impacts

Whilst this Modification itself does not have a direct impact on the CDSP, any individual derogations requested following the implementation of this Modification may have consequential impacts.

The CDSP may need to create a process for parties to enquire and receive information about the potential system impacts of any derogation request they are wishing to submit, as well as the CDSPs capability to facilitate required changes. The impact of each derogation request will depend on the area of Code and ultimately whether the derogation request is approved or not.

There is the potential ability for a flag to be utilised at MRPN level to indicate if a site is currently subject to a derogation applying.

At 04 August 2021 Workgroup, when discussing 0760, and the involvement of the CDSP in the derogation application process, it was recognised that they would need to assess individual derogation requests to understand any impacts to processes, systems, file formats etc. This still applies to 0800.

Joint Office Impacts

Creation and maintenance of page and register on the www.gasgovernance.co.uk website.

Administration of applications and decisions, including critical friend role.

Creation of new processes and documentation.

Performance Assurance Considerations

It is expected that PAC will need to assess each individual 'Use Case' on a case by case basis to understand the specific areas that may need to be monitored.

Workgroup Impact Assessment

Workgroup Impact Assessment for 0760 (for reference)

Panel Questions to be addressed in Workgroup:

Q1. Consider Ofgem's Energy Regulation Sandbox.

The Workgroup discussed the concept of Ofgem's Energy Regulation Sandbox and how it has been applied to other codes. It was also suggested that other industry codes such as the BSC (Balancing and Settlement Code), DCUSA (Distribution Connection and Use of System Agreement) and CUSC (Connection and Use of System Code) should be reviewed to gain a better understanding of how the Sandbox arrangements have been applied to them. The proposer confirmed that how derogations operate in other industry codes had been reviewed and also that they had discussed the sandbox with Ofgem and confirmed that it was more relevant to the electricity industry and therefore not suitable for this Modification.

Q2. Consider scope and whether restriction to the stated net zero type projects is appropriate.

A participant suggested broadening the scope of developing this Modification, which would be more beneficial for the industry and during discussions workgroup agreed that the scope of the Modification should be wider than just Net Zero. Following workgroup discussions between March 2021 and June 2021 the proposer agreed to amend the Modification to a framework agreement which would accommodate all derogations. The framework would then link to a specific 'use case' and in this case it would be for Net Zero. The revised Modification 0760 introduces the concept of derogation and the first 'use case'.

The Ofgem representative confirmed that Ofgem would prefer a narrow scope (Net Zero) for the moment but would consider broadening in the future.

Q3. Consider whether other areas of code in addition to those identified should also be ring fenced.

The workgroup discussed the ringfenced areas and particularly the section that facilitates a consumer changing supplier or shipper. It was agreed that this should be ringfenced to protect consumers from not being able to switch supplier or shipper. The proposer pointed out that as each derogation would be unique it was difficult to fully assess which areas of code should be ringfenced. They also explained that the derogation application process required that full details of the areas of code impacted are provided as mandatory:

- *A clear description of the non-compliance including reference and text of section or sections that the derogation from is required*

Following discussion at workgroup it was agreed that the following areas would be ringfenced. It was also noted that future Modifications could be raised if other areas of code were deemed to need ringfencing / excluded.

(a) **"Excluded Code Provision"** means:

- (i) the provisions of GT Section B;
- (ii) the Modification Rules;
- (iii) any provision of the Code which is, at the date the application is submitted, within the scope of a Significant Code Review or the subject of a Significant Code Review Modification Proposal; and
- (iv) any provision of the Code which facilitates a consumer changing supplier or shipper and which (in the opinion of the Modification Panel) could be adversely impacted by a proposed UNC Derogation;

Q4. Consider whether Panel is the correct place for these derogations to be discussed and if so, should any terms of reference be updated.

The Workgroup considered the role of the UNC Modification Panel and its powers to make decisions on derogation projects. Some participants suggested that the Modification Panel may be more suited to carrying out a check of administrative requirements rather than assessing the actual merit of a project. One participant mentioned other code Panels which had more stringent oversight and decision-making abilities including having a "kill switch" option.

Following review of the guidance document one workgroup participant agreed with the checklist but questioned as a UNC Panel member how they would consider consumer impacts v other parties v competition when there is a conflict, requesting that it is made as easy as possible for Panel to come to a decision. The Ofgem representative confirmed that Ofgem want most decisions to be made by Panel, therefore, UNC Panel need

clear guidance. The proposer clarified that the Guidance Document contained details of the minimum information required to satisfy the derogation application.

Following workgroup discussion, it was agreed that Panel were best placed to approve derogation requests and the proposer confirmed that derogation applications would only be approved if it was a unanimous decision by Panel.

The level of Ofgem's involvement in the process was also discussed, including their role in approving the final project and their role if an appeal was made. The proposer confirmed that any party, following a decision by Panel, could raise an appeal to Ofgem regardless of whether the Panel decision was approval or rejection.

Q5. Consider constraints in terms of size of project eligible.

Workgroup noted that for the UNC Modification Panel to approve or reject a project requesting derogation, it would need to see evidence of what work has been carried out and other relevant information with workgroup agreeing that it was difficult to determine the size and scope of a project before the project was sufficiently developed. The proposer confirmed that this would all form part of the application process as was detailed within the guidance document which had quite stringent conditions that needed to be met as defined within the legal text:

(b) "Derogation Eligibility Criteria" means the eligibility criteria set out in the Derogation Guidance Document;

Questions from PAC

Q1. Modification 0760 has the potential to impact PAC reporting and careful consideration should be given to how any solution would interact with PAC notification.

The CDSP representative explained that they would need a reasonable level of understanding in order to assess the impact of a derogation on (e.g. system, process, file formats, reporting etc) and suggested that they 'shall' be included as part of the impact assessment rather than 'should'. The proposer agreed with the suggestion and the process flow and application form would be amended to ensure any CDSP impact be reported. They also confirmed that, where appropriate, the start date of the derogation could be linked to other considerations (e.g. system changes, HSE approval etc).

Q2. Monitoring of Code obligations and settlement impacts is vital to PAC these should be carefully considered by the Workgroup

The concerns from PAC were noted by workgroup and as outlined above the individual reporting requirements and impacts of any derogation should be clearly outlined within the application process including any specific reporting requirements as identified.

Other Points Discussed:

A workgroup participant asked if a party must be fully licenced before they can put forward a request and the Workgroup discussed the merits of allowing non-UNC Parties to raise derogations. The proposer advised the User must be a valid licensed party acceded fully to the Uniform Network Code but did suggest that a later modification could be raised to add non-UNC Parties if required.

Following discussion at workgroup it was agreed to restrict the access to UNC Parties, noting that a change could be made at some point in the future if it needed to be widened.

Workgroup Impact Assessment for 0800

Workgroup noted the change between the two modifications around Panel responsibility, with all derogations now being Authority Direction.

Workgroup discussed the new modification now included downstream with a question around what information would be available as part of the JO derogation register.

Workgroup wanted to note that the industry had worked hard to get this back to Ofgem as quickly as possible, appreciating the Net Zero timelines including Hydrogen Village Trials. And therefore, having certainty around the available options and whether these include derogation, is needed urgently.

7 Relevant Objectives

Impact of the Modification on the Transporters' 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.	Positive
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.	None
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

Currently under UNC there is no ability to allow derogations from sections of Code, which often restricts, for example, innovation projects and related trials. A large number of innovation projects relate to working towards net zero, which Gas Transporters have specific Licence Conditions under RIIO2 to deliver. This Modification helps facilitate this and furthers Relevant Objective c) *efficient discharge of the licensee's obligations*.

This mechanism will allow parties to apply for derogations making non-compliance visible. It will allow the impacts on other parties to be known and considered, as well as the actions the applying party is taking to mitigate these. Therefore, by ensuring these are considered, and by adding transparency, this furthers f) *promotion of efficiency in the implementation and administration of the Code*.

8 Implementation

It is proposed that this Modification is implemented at the earliest opportunity upon the direction of the Authority.

9 Legal Text

Text

Legal Text has been provided by Northern gas Networks and is published alongside this report, here: <https://www.gasgovernance.co.uk/0800>

The Workgroup considered the Legal Text at its meeting on 01 March 2022 and is satisfied that it meets the intent of the Solution.

10 Consultation

Panel invited representations from interested parties on 17 March 2022. All representations are encompassed within the Appended Representations section.

The following table provides a high-level summary of the representations. Implementation was unanimously supported in the 2 representations received.

Representations were received from the following parties:

Organisation	Response	Relevant Objectives
Energy Assets Pipelines	Support	c) positive f) positive
Norther Gas Networks	Support	c) positive f) positive

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

Consideration of the Relevant Objectives

Determinations

12 Recommendations

Panel Determination

Panel Members recommended that Modification 0800 [should [not] be implemented.

13 Appended Representations

Representation – Energy Assets Pipelines

Representation – Northern Gas Networks

Representation - Draft Modification Report UNC 0800

Introducing the concept of a derogation framework into Uniform Network Code (UNC) (Authority Direction)

Responses invited by: **5pm on 07 April 2021**

To: enquiries@gasgovernance.co.uk

Please note submission of your representation confirms your consent for publication/circulation.

Representative:	Heather Ward
Organisation:	Energy Assets Pipelines
Date of Representation:	07/04/2022
Support or oppose implementation?	Support
Relevant Objective:	c) Positive f) Positive
Relevant Charging Methodology Objective:	Not Applicable

You may like to note a previous Modification 0760 - *Introducing the concept of a derogation framework into Uniform Network Code (UNC)*, had been raised in this area, please refer to Ofgem's Decision Letter dated 21 January 2022, published at: <https://www.gasgovernance.co.uk/0760>

Reason for support/opposition: Please summarise (in one paragraph) the key reason(s)

We support this Modification as we consider it provides a simplified and efficient route to enabling innovation and should support the delivery of Net Zero.

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

This Modification can be implemented at any time as it does not have any direct impact on central systems.

Impacts and Costs: What analysis, development and ongoing costs would you face?

None as a result of this change, specific derogations approved following this change may have an impact.

Legal Text: *Are you satisfied that the legal text will deliver the intent of the Solution?*

I understand that the definition of 'Derogating Party' is intended to include Independent Gas Transporters, however I not sure that it does.

Are there any errors or omissions in this Modification Report that you think should be taken into account? *Include details of any impacts/costs to your organisation that are directly related to this.*

None (but see comments on Legal Text)

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

N/A

Joint Office
enquiries@gasgovernance.co.uk

06 April 2022

Dear Sir or Madam,

Re: 0800 Introducing the concept of a derogation framework into Uniform Network Code (UNC) (Authority Direction)

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

NGN supports this Modification Proposal.

Reason for support/opposition:

Please summarise (in one paragraph) the key reason(s)

We note that this proposal is based on 0760, with changes made in accordance with Ofgem's rejection letter of 0760, and believe that these changes satisfy the concerns raised by Ofgem.

We support this proposal as we believe the introduction to UNC of a derogation framework within UNC, along with a Use Case for Net Zero Innovation, will aid in the UK being able to achieve net zero targets. This modification will allow trials for solutions, that are on the pathways towards net zero (eg Hydeploy, H100, and H21), to be carried out in a controlled way. This will aid in assessing the feasibility of both the physical and regulatory solution without enduring code changes that would impact all and require costly system changes. In addition this should also aid in proof of concept, so that should a solution be deemed viable and beneficial, the evidence and analysis to justify an enduring UNC code change is available. For these reasons we believe this furthers Relevant Objective f) *the promotion of efficiency in the implementation and administration of the Code*.

Additionally, RIIO-2 has introduced obligations for Gas Transporters relating to progression towards net zero targets through innovation. The introduction of the Net Zero Innovation Use Case, to be used under the derogation framework therefore furthers Relevant Objective c) *Efficient discharge of the licensee's obligations*.

Implementation:

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

This proposal could be implemented upon receipt of approval from Ofgem. We note, however, that any timetable should take into account the Joint Offices timeline for setting up forms and process to support the application and other administrative processes required for derogation requests.

Smell gas?

Call the National Gas Emergency
Service on 0800 111 999



1100 Century Way
Thorpe Park Business Park
Colton, Leeds LS15 8TU



0113 397 5300



northerngasnetworks.co.uk

**we are
the network**

Impacts and Costs:

What analysis, development and ongoing costs would you face?

NGN has identified no analysis or development required and no ongoing costs incurred as a result of this proposal. However should this proposal not be implemented there is a risk of currently unquantifiable costs in relation to having to find alternative ways to test innovation solutions. There is also the additional risk that, due to enduring solutions not being able to be trialed, this could lead to extensive delays to the timelines of these projects.

Legal Text:

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

We agree that the legal text will deliver the solution, and the addition of the guidance document should aid parties to understand the process and what is required by applicants.

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

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

None identified.

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

As the proposer of this modification proposal, I confirm that this proposal is based on proposal 0760, with changes made in accordance with Ofgem's rejection letter of 0760. I believe that these changes satisfy the concerns raised by Ofgem in said letter.

I confirm that the original proposal had been discussed at length in industry workgroups. I also can confirm that the concerns raised in Ofgem's 0760 rejection letter have been addressed within this modification proposal, and have been discussed at workgroups, which were also attended by Ofgem.

Whilst this proposal introduces a framework for derogation, which should allow for additional Use Cases to be added in the future should parties so wish, the primary focus of this proposal has been to facilitate derogation within the UNC for net zero related innovation. This focus is due to the commitment that the United Kingdom, along with many other countries, have on reaching net zero in the coming decades, with the Prime Minister publishing his 10 point plan. This plan has placed specific timelines on the energy industry in relation to hydrogen trials and a hydrogen town, this proposal will better enable these objectives to be met.

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

Yours sincerely,

Tracey Saunders (via email)
Market Services Manager (Industry Codes)
Mobile: 07580 215 743

Smell gas?

Call the National Gas Emergency
Service on 0800 111 999



1100 Century Way
Thorpe Park Business Park
Colton, Leeds LS15 8TU



0113 397 5300



northerngasnetworks.co.uk

**we are
the network**