

UNIFORM NETWORK CODE

MODIFICATION 0800

INTRODUCING CONCEPT OF A DEROGATION FRAMEWORK INTO UNIFORM NETWORK CODE ALONG WITH A USE CASE OF NET ZERO

[Proposed] legal text

TRANSPORTATION PRINCIPAL DOCUMENT

SECTION V – GENERAL

Amend paragraph 12.1 as shown below:

12.1 Purpose

The purpose of this Section ...

...

- (g) the Performance Assurance Framework Document references in paragraph 16.1.1(d); ~~and~~
- (h) the Performance Assurance Reports Registers referred to in paragraph 16.5.1; and
- (i) the Derogation Guidance Document referred to in GT Section B7.

GENERAL TERMS

SECTION B – GENERAL

Add new paragraph 7 to read as follows:

7 DEROGATIONS

7.1 UNC Derogations

7.1.1 Subject to paragraph 7.4.3, the Authority may, in accordance with this paragraph 7, grant a Derogation Party a derogation from one or more provisions of the Code in which case paragraph 7.3 will apply ("**UNC Derogation**").

7.1.2 For the purposes of this paragraph 7:

- (a) "**Derogation Guidance Document**" is the document prepared and maintained by UNC Committee containing guidance in relation to UNC Derogation Applications;
- (b) "**Derogation Party**" means the applicant Party, and where the scope of the proposed UNC Derogation relates to the delivery of gas, and acceptance of gas for delivery, at

specific System Entry Points or the making available of gas for offtake, or the offtaking of gas, at specific System Exit Points, in addition any Party undertaking such activity at any such points as described in the UNC Derogation Application;

- (c) **"Excluded Code Provision"** means:
- (i) the provisions of GT Section A;
 - (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;
 - (iv) any provision of the Code which facilitates a consumer changing supplier or shipper and which (in the opinion of the Modification Panel) may be adversely impacted by a proposed UNC Derogation; and
 - (v) the terms of a Network Code Ancillary Agreement.
- (d) **"Industry Code"** means a multilateral code or agreement created and maintained pursuant to a licence granted by the Authority under sections 7, 7ZA or 7A of the Gas Act 1986 or section 6 of the Electricity Act 1989, including the Independent Gas Transporter's Network Code, the Retail Energy Code and the Smart Energy Code;
- (e) **"Relevant Day"** means in relation to a Derogation Period, a Day in such period when a conditional derogation (if any) is also in force;
- (f) **"Relevant Person"** means all Parties, all Third Party Participants, such Non-Code Parties as the Code Administrator considers appropriate in the context of a UNC Derogation Application and the CDSP;
- (g) **"UNC Derogation Use Case"** means a use case specified in Annex B-1.

7.2 UNC Derogation Application

7.2.1 A Party may make a written application for a UNC Derogation to the Code Administrator ("**UNC Derogation Application**").

7.2.2 A UNC Derogation Application shall be in the form specified in the Derogation Guidance Document and shall include (inter alia) the following details:

- (a) the identity of the Party making the application ("**applicant Party**");
- (b) the applicable UNC Derogation Use Case;
- (c) the provisions of the Code (and for the purposes of this paragraph 7 a reference to the Code shall be deemed to include a reference to each UNC Related Document) from which a UNC Derogation is required;
- (d) the period in respect of which the applicant Party proposes the UNC Derogation should be in force, being either:

- (i) a period commencing on a specified date and ending on a later specified date (a "**fixed date period**"); or
- (ii) a specified number of consecutive days (not commencing or ending on a specified date) (an "**unspecified period**")
- (e) the date after which the UNC Derogation (if implemented) is no longer to apply ("**backstop date**");
- (f) whether the implementation of the proposed UNC Derogation is conditional on the approval and coming into force of another derogation in respect of any other Legal Requirement ("**conditional**" derogation);
- (g) the basis on which applicant Party demonstrates compliance with the health and safety requirements described in the Derogation Guidance Document; and
- (h) such other matters as required by the Derogation Guidance Document.

7.2.3 Following receipt of a UNC Derogation Application the Code Administrator shall:

- (a) send a copy of the application to each Relevant Person, each Member and the Authority;
- (b) provide such guidance at the Modification Panel may request in relation to the applicable Derogation Use Case;
- (c) schedule consideration of the UNC Derogation Application a meeting of the Modification Panel occurring not less than ten (10) days after receipt of the application by the Code Administrator.

7.2.4 At least seven (7) days before the Modification Panel meeting referred to in paragraph 7.2.3(c) the Code Administrator shall give notice to all Relevant Persons, each Member and the Authority of the date on which the Modification Panel will first consider the UNC Derogation Application.

7.2.5 At the meeting referred to in paragraph 7.2.3(c) the Modification Panel will either:

- (a) reject the UNC Derogation Application in accordance with paragraph 7.2.6; or
- (b) make a determination in respect the UNC Derogation Application in accordance with paragraph 7.2.7,

provided the Modification 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.

7.2.6 The Modification Panel will reject the UNC Derogation Application where:

- (a) any of the requirements of paragraph 7.2.2 are not complied with or the application relates to an Excluded Code Provision;
- (b) the Modification Panel is of the opinion the UNC Derogation Application is not in accordance with the applicable UNC Derogation Use Case;

- (c) the UNC Derogation Application is not materially different from an earlier application which the Authority directed should not to implemented.

7.2.7 In respect of a UNC Derogation Application which is not rejected in accordance with paragraph 7.2.6 the Modification Panel will make a determination under paragraph 7.2.8 having:

- (a) discussed the UNC Derogation Application and considered whether or not the application complies with the UNC Derogation Use Case;
- (b) considered all the information submitted by the applicant Party in support of the UNC Derogation Application; and
- (c) considered the representations of the applicant Party's representative and the responses to any questions raised by the Modification Panel relating to the UNC Derogation Proposal.

7.2.8 The Modification Panel may determine (by Panel Majority):

- (a) the UNC Derogation Application does not comply with the Derogation Use Case, in which case the UNC Derogation Application shall lapse and have no further effect;
- (b) additional steps need to be undertaken, or additional analysis or information is required, before the UNC Derogation Application can proceed to consultation, in which case the applicant Party shall be invited to revise and re-submit the UNC Derogation Application;
- (c) the UNC Derogation Application should proceed to consultation, in which case the Code Administrator shall invite each Relevant Person to make representations in respect of the UNC Derogation Application to the Code Administrator within fifteen (15) Business Days (or such other period as the Modification Panel may determine) of the Code Administrator's invitation;
- (d) consideration of the UNC Derogation Application should be deferred to a subsequent meeting of the Modification Panel.

7.2.9 Where the Modification Panel has determined the UNC Derogation Application should proceed to consultation:

- (a) the Code Administrator shall schedule consideration of the UNC Derogation Application and all representations received following consultation at the meeting of the Modification Panel taking place no earlier than ten (10) days following the end of the referred to in paragraph 7.2.8(c) (or as the Modification Panel may otherwise agree);
- (b) at the meeting referred to in paragraph (a) the Modification Panel shall :
 - (i) decide (by Panel Majority) whether or not to recommend implementation of the UNC Derogation;
 - (ii) instruct the Code Administrator to submit to the Authority the UNC Derogation Application, its decision under paragraph (a), the factors which the Modification Panel took into account in making its decision and details of all consultation responses.

- 7.2.10 Following the Modification Panel's decision under paragraph 7.2.9(b) in relation to a UNC Derogation Application, the Code Administrator shall promptly notify the applicant Party and all other Relevant Persons of the Modification Panel's decision to approve or not approve implementation of the UNC Derogation together with the reasons for its decision.
- 7.2.11 Where the Authority receives a UNC Derogation Application and the Modification Panel's recommendation pursuant to paragraph 7.2.10 or this paragraph 7.2.11, the Authority:
- (a) may direct whether or not the proposed UNC Derogation should be implemented (and whether a different backstop date should apply to that proposed by the applicant Party ("**Authority backstop date**") and the Code Administrator shall circulate to each Relevant Person and each Member notice of:
 - (i) the Authority's direction;
 - (ii) where directed, any Authority backstop date;
 - (iii) details of any conditional derogation for which approval is a condition of the coming into force of the UNC Derogation.
 - (b) may direct the UNC Derogation Application should be amended and re-submitted, and where it makes such a direction it shall give notice of its decision to the Code Administrator and:
 - (i) the Code Administrator shall notify each Relevant Person and each Member of the Authority's direction;
 - (ii) the Modification Panel will discuss the UNC Derogation at the next meeting of the Modification Panel and re-submit the UNC Derogation Application in accordance with the Authority's direction;
 - (iii) the Code Administrator shall send the revised UNC Derogation Application to the Authority as soon as practicable.
- 7.2.12 An applicant Party may withdraw an UNC Derogation Application by notice to the Code Administrator at any time prior to the UNC Derogation coming into force, in which case the UNC Derogation Application (or if already approved but not yet in force, the UNC Derogation) shall lapse and have no further effect.
- 7.2.13 A Party may submit a UNC Derogation Application notwithstanding any other UNC Derogation submitted by such Party remains under consideration by the Modification Panel or the Authority.
- 7.2.14 Where a Party submits a UNC Derogation Application ("**second application**") which is intended to replace an earlier application ("**first application**") submitted by the same Party:
- (a) where the Modification Panel has yet to make a decision under paragraph 7.2.9(b) in respect of the first application, the first application shall lapse and have no further effect;
 - (b) where the Modification Panel has made a decision regarding the first application under paragraph 7.2.9(b), the first application and the second application shall each be considered by the Modification Panel and the Authority in accordance with the provisions of this paragraph 7 .

7.2.15 An applicant Party shall ensure a representative attends each meeting of the Modification Panel at which the applicant Party's UNC Derogation Application is considered.

7.2.16 Notwithstanding any provision of this paragraph 7, the Modification Panel may determine, in its absolute discretion, the priority and timetable for any steps proposed to be undertaken by the Modification Panel in relation to a UNC Derogation Application.

7.3 Impact of UNC Derogation

7.3.1 Any UNC Derogation Application that has been approved by the Authority shall be a UNC Derogation and such UNC Derogation shall, subject to any conditional derogation coming into force, remain in force for each Relevant Day during the period relating to such UNC Derogation ("**Derogation Period**").

7.3.2 In relation to a UNC Derogation the Derogation Period shall be:

- (a) where the applicant Party specified a fixed date period in the UNC Derogation Application:
 - (i) and the Authority did not direct an Authority backstop date, the fixed date period:
 - (ii) and the Authority directed an Authority backstop date, (provided the fixed date period started before the Authority backstop date) the period :
 - (A) from the start of the fixed date period;
 - (B) ending on the earlier of the end of the fixed date period and the Authority backstop date;
- (b) where the applicant Party specified an unspecified period in the UNC Derogation Application, the period (provided such period commences before any Authority backstop date):
 - (i) commencing on the date, no earlier than sixteen (16) Business Days after that date by which:
 - (A) the applicant Party notifies the Code Administrator the UNC Derogation shall come into force; and
 - (B) the applicant Party or another Party notifies the Code Administrator a conditional derogation shall come into force;
 - (ii) ending on:
 - (A) the earlier of the end of the unspecified period and the applicant backstop date,
 - (B) where any Authority backstop date is earlier than the applicant backstop date, the earlier of the end of the unspecified period and the Authority backstop date; or
 - (C) where any Authority backstop date is later than the applicant backstop date, the later of the end of the unspecified period and the

Authority backstop date, and the Code Administrator shall notify each Relevant Person, each Member and the Authority of the Derogation Period in relation to a UNC Derogation.

7.3.3 Subject to paragraph 7.3.4, for the duration of the Derogation Period:

- (a) a Derogation Party shall be relieved of its obligation to comply with the Code to the extent permitted by the UNC Derogation;
- (b) no act or omission by a Derogation Party that would be a breach (or in the case of a User, a User Default) shall be deemed to be a breach (or User Default) of the Code to the extent only that such act or omission is permitted by a UNC Derogation.

7.3.4 In respect of a UNC Derogation:

- (a) a Derogation Party shall be required to comply with all provisions of the Code that are relevant to such Party and which are outside the scope of such UNC Derogation;
- (b) a Derogation Party shall be required to comply with any conditions included in such UNC Derogation;
- (c) such UNC Derogation shall have no effect to the extent that it purports to derogate from:
 - (i) any conditions of a gas transporters licence or a gas shippers licence;
 - (ii) any other Industry Code (but without prejudice to any other regulatory derogation arrangements);
 - (iii) any Legal Requirement; or
 - (iv) any provision of this paragraph 7,

and each Derogation Party acknowledges and agrees that it shall be responsible for its compliance with any such Code provision, licence condition or Legal Requirement.

7.3.5 With effect from 05:00 on the day following the end of the Derogation Period the UNC Derogation shall no longer be in force and each Derogation Party shall comply with the Code in full from such time and such date.

7.3.6 The approval of a UNC Derogation in respect of any Derogation Party shall not relieve any other Party of all or any of its obligations under the Code.

7.3.7 Once approved by the Authority no variation to a UNC Derogation shall be permitted.

Insert new Annex B-1 to read as follows:

Annex B-1

UNC Derogations

UNC Derogation Use Case(s)

Derogation Use Case A

The UNC Derogation Application relates to a project which is consistent with:

- (a) a change in national government policy (including policy of the national devolved parliaments);
- (b) a change in local government policy;
- (c) the trialling of new technologies or the making of technological advances;
- (d) facilitating the uptake of low carbon technologies;
- (e) any requirement contained in a local area energy plan or equivalent arrangement

the purpose of which is to facilitate net zero and the achievement of a 100% reduction of greenhouse gas emissions (compared to 1990 levels) in the UK by 2050.