

## Governance Workstream Minutes

### Thursday 17 December 2009

### 350 Euston Road, London

#### Attendees

Tim Davis (Chair)	TD	Joint Office
Bob Fletcher (Secretary)	BF	Joint Office
Amtrak Bal	AB	Shell
Bali Dohel	BD	SGN
Chris Warner	CW	National Grid Distribution
David Moore	DM	Gas Forum
Jean-Raymond Rastoul	JR	Gaselys
Joanna Ferguson	JF	Northern Gas Networks
Joel Martin	JM	Scotia Gas Networks
John Bradley	JB	Joint Office
Jon Dixon	JD	Ofgem
Mike Young	MY	British Gas
Richard Fairholme	RF	E.ON UK
Richard Hall	RcH	Consumer Focus
Ritchard Hewitt	RtH	National Grid NTS
Shelly Rouse	SR	Statoil
Simon Trivella	ST	Wales and West Utilities
Stefan Leedham	SL	EDF Energy

#### 1.0 Introduction and Status Review

##### 1.1. Minutes from Previous Workstream

Accepted without amendment.

##### 1.2. Review of Actions

**GOV1042** Provide a matrix of issues for the Governance Review for discussion at the next meeting. **Update:** TD confirmed a matrix of issues had been published and was on the agenda for discussion. **Completed**

**GOV1043** Provide a User Pays guidance paper for the December Workstream. **Update:** JD advised he is still working on the guidance paper and hopes to present the paper at the next meeting. **Carried Forward**

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**GOV1044** Develop the Draft templates for discussion at the next meeting. **Update:** TD confirmed the draft templates were available for discussion. The Workstream agreed to defer discussion until the next meeting. **Completed.**

### 1.3. Review of Live Modifications Proposals and Topics

None

## 2.0 Modifications

### 2.1 Review Proposal 0267 “Review of UNC Governance Arrangements”

TD introduced the issues matrix and the elements currently listed and drew attention to the suggestion that consumer Panel representatives should be allowed as voting members. The rules could be amended to simply delete the word “non” before “voting” and this would then give the Consumer Representative(s) a vote.

ST thought allowing a consumer vote was reasonable in principle, but he had concerns how appeal rights could be affected as the balance of the Panel could be jeopardised and felt that the consumer vote should only be introduced with safeguards to retain the existing appeal position. PB did not think this was an issue and could not see it impacting the balance unduly when compared to the advantages gained. Rich was concerned this concern could be interpreted as meaning that consumer representatives should not be allowed a vote for fear of disrupting the existing Panel process. JD advised the Authority is not fettered by Panel decisions, and so could not see consumer representative votes as an issue which would prevent appeals. ST remained concerned the right of appeal would be impacted if the consumer vote changed the Panel recommendation and felt this should not be allowed to happen.

TD clarified that the Modification Rules allow two consumer representatives but do not define which market sectors they represent. SL felt it was easier to define a representative for domestic but this was not so clear cut for non domestic as there were many organisation which could be chosen. TD thought it could useful to allow flexibility in the modification rules by allowing, as now, the consumer council to appoint two representatives and not define that each needs to represent a particular market area.

Discussion moved to Panel constitution and the appointment of a Panel chair. JD advised that the Authority has moved from its initial proposals. Rather than the Authority appointing the chair, they proposed to approve the appointment and would like to see methods of appointment which demonstrate impartiality. TD asked if the Workstream wished to leave the Modifications Rules as they are, with Transporters appointing the chair. SL thought there was merit in gaining Panel approval for any appointment. MY raised a more general concern about the appropriateness of the Panel chair having a casting vote, and whether this should be defined to require voting in a particular way i.e. vote for as is on the grounds that the case for change had not been made.

JD explained the casting vote had been proposed as there needed to be a way to remove deadlock for Proposals subject to self-governance. A process should be developed with safeguards to support this, such as when it is appropriate to allow a casting vote. ST felt self-governance should need unanimous or significant majority decisions for proposals to move forward and should not be down to a casting vote.

SL asked if JD had an update on the definition of a self-governance proposal. JD drew attention to the draft licence conditions, but also presented Ofgem’s categorisation of a range of historic Proposals which could have been taken forward

under self-governance. SL felt the UNC examples discussed and highlighted as suitable for self-governance probably had unanimous decisions at Panel and would not have been controversial. ST considered a cut down version of the modification rules process could be developed for self-governance, for example to remove elements such as FMRs in some circumstances.

TD suggested that any modification proposal approved under self-governance should be deemed to be approved and directed to implementation by Ofgem, which JD confirmed is likely to be the outcome of changes to licences.

TD asked if the advent of consumer voting and self governance meant there would be merit in the modification rules being changed to allow votes against and abstentions. It was agreed that this should be considered further

TD asked if there were any immediate views on the constituency of the Panel, such as the balance between Transporters and Shippers, and the way in which shipper representatives are appointed. There was no clear view on whether the constituency of the Panel should be altered and it was agreed to defer discussion to a later meeting, with SL offering to provide a strawman.

**Action GOV1045:** SL to develop proposals on the constituency of Panel and present to the next Workstream.

### 3.0 Topics

#### 3.1 Review of User Pays Process

TD asked JD and RtH if there is merit in waiting for Ofgem's User Pays guidance paper before moving the topic forward. JD thought it was worth having a debate around User Pays to ensure the opportunity is taken to develop and understand the process. This should lead to the identification of benefits and hopefully improve the efficiency of the modification process.

RtH did not believe there was much confusion on User Pays as a process but more guidance was needed to help identify whether a modification proposal is User Pays to start with. AB asked why a modification proposal is User Pays when it changes a service but with very little cost difference. RtH thought this is determined by the licence conditions. RtH questioned this as where a modification proposal reduces cost, the benefit appears to stay with the Transporters and does not flow back to the user. ST thought this could be clarified in the guidance note.

SL considered the published guidance documents produced with modification proposal 0213V gave a route and a process for taking forward user pays proposals. However, there needs to be clearer guidance from Ofgem on how to apply the user pays process to ensure there is consistency when first defining a modification proposal as user pays or not. ST believed that there were very few modification proposals, which reduced costs for observe to a point where it would significantly change charges.

AB thought a number of modification proposals that collectively lead to savings for the Transporters should be balanced off against those modification proposals that lead to an increase in costs. JD considered the limited reductions in charges for core service were a result of the limited number of service lines that had been attributed to user pays – for the user pays services, efficiencies had emerged.. Should the number of service lines or scope be widened in future, this may well lead to more benefits.

PB felt the group needed to address the increasing number of chargeable services provided. He was concerned at the potential increase in minimal cost service lines

and how these will need to be validated, which will add significant cost to the industry. ST believed transporters were not tied to how the services were funded, whether by User Pays on service lines or through allowed revenues including de-minimis costs. TD suggested an example where a fixed amount to cover minor changes could be put into allowed revenues, which could be adjusted on an annual basis.

PB asked if it is possible to change the licence to reflect a change to the User Pays scheme earlier than the next price control. ST thought this is possible by Ofgem directing a change to licence at an earlier date to allow Transporters to fund minor changes based on allowed revenue during the current or following year.

**Action GOV1046:** ST to provide options on changing the existing licence to allow the recovery of marginal costs through different mechanisms to the current User Pays process.

JD emphasised that there is still benefit in using User Pays as a mechanism as it has proved to reduce costs and offer choice.

#### 4.0 Any Other Business

None raised.

#### 5.0 Next Meeting

21 January 2010, following the UNC Committee meeting.

Action Ref	Meeting Date(s)	Minute Ref	Action	Owner*	Status Update
GOV1042	19/11/09	2.1	Provide a matrix of issues for the Governance Review for discussion at the next meeting.	Joint Office	Completed
GOV1043	19/11/09	3.2	Provide a User Pays guidance paper for the December Workstream.	Ofgem (JD)	Pending
GOV1044	19/11/09	4.0	Develop the Draft templates for discussion at the next meeting.	Joint Office	Completed
GOV1045	17/12/09	2.1	Develop proposals on the constituency of Panel and present to the next Workstream.	EDF (SL)	Pending
GOV1046	17/12/09	3.2	Provide options on changing the existing licence to allow the recovery of marginal costs through different mechanisms to the current User Pays process.	WWU (ST)	Pending