

## Record of Determinations: Panel Meeting, 20 October 2011

Modification	Vote Outcome	Shipper Voting Members					Transporter Voting Members					Consumer Representative	Determination Sought
		AG	CH	CWr	PB	RF	AR	JF	JM	RHe	ST		
0402 - Allocated Volume and AQ Comparison	Not related to the Significant Code Review - unanimous vote against	X	X	X	X	X	X	X	X	X	X		Modification is related to Significant Code Review
	Is not a Self-Governance Modification - five votes in favour, five votes against. Chair's casting vote against casting vote - against	✓	✓	X	✓	X	X	✓	X	X	✓		Modification should follow Self-Governance Procedures
	Issued to Workgroup 0402 - unanimous vote	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		Issue to Workgroup for Assessment
	Workgroup to report by January Panel - unanimous vote	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		Report by January Panel
0403 - EU Third Package: 21 day switching with flexible objection period	Not related to the Significant Code Review - unanimous vote against	X	X	X	X	X	X	X	X	X	X		Modification is related to Significant Code Review
	Is not a Self-Governance Modification - unanimous vote against	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		Modification should follow Self-Governance Procedures
	Issued to Workgroup 0403 - unanimous vote	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		Issue to Workgroup for Assessment
	Workgroup to report by January Panel - unanimous vote	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		Report by January Panel
0335(A) - Offtake Metering Error - Payment Timescales	Consultation to close on 02 December - unanimous vote	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		Extend consultation to 02 December
0338 - Remove the UNC requirement for a 'gas trader' User to hold a Gas Shipper Licence	Consideration deferred - unanimous vote	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		Defer consideration until November Panel
0363V - Commercial Arrangements for NTS Commingling Facilities	Consultation to close on 04 November - unanimous vote	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		Shorten consultation to 04 November
0372V - Code Governance Review Licence Compliance Changes	Consultation to close on 04 November - unanimous vote	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		Shorten consultation to 04 November

0326VV - Allocation of unidentified gas following the appointment of the Allocation of Unidentified Gas Expert (AUGE)	Proceed to consultation - unanimous vote	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		Issue to Consultation
0373 - Governance of NTS connection processes	Return to Workgroup for further assessment	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		Return to Workgroup for further assessment
	Workgroup to report by January Panel - unanimous vote	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		Report by January Panel
0376(A) - Increased Choice when Applying for NTS Exit Capacity	Proceed to consultation - unanimous vote	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		Issue to Consultation
0387 - Removal of Anonymity from Annual Quantity Appeal and Amendment Reports	Proceed to consultation - unanimous vote	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		Issue to Consultation
0390 - Introduction of a Supply point Offtake Rate Review and Monitoring Process	Proceed to consultation - unanimous vote	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		Issue to Consultation
0392 - Proposal to amend Annex A of the CSEP NExA table, by replacing the current version of the AQ table	Proceed to consultation - unanimous vote	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		Issue to Consultation
	Legal text not required - 9 votes in favour	✓	✓	✓	✓	✓	NV	✓	✓	✓	✓		Legal text not required for inclusion in DMR
	Cost estimate not required - unanimous vote	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		Cost estimate not required for inclusion in DMR
0378 - Greater Transparency over AQ Appeal Performance	Consider at short notice - 8 votes in favour, 2 against	✓	✓	✓	✓	X	✓	✓	✓	✓	✓	X	Consider at short notice
	Proceed to consultation - 8 votes in favour	✓	✓	✓	✓	NV	✓	✓	✓	✓	✓	NV	Issue to Consultation
0358 - I&C Compensation for Emergency Interruption	Workgroup to report by January Panel - unanimous vote	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		Extend Workgroup Report Date to January 2012
0396 - EU Third package: Three week switching	Workgroup to report by January Panel - unanimous vote	✓	✓	✓	✓	NP	✓	✓	✓	✓	✓		Extend Workgroup Report Date to January 2012
0383 - Profiling payment of LDZ transportation charges	Workgroup to report by February Panel - unanimous vote	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		Extend Workgroup Report Date to February 2012

0384 - UNC Modification Rules; housekeeping, clarity and minor drafting changes	Workgroup to report by February Panel - unanimous vote	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		Extend Workgroup Report Date to February 2012
0394 - Legal Text for UNC Modification Proposals	Workgroup to report by January Panel - unanimous vote	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		Extend Workgroup Report Date to January 2012
0345 - Removal of Daily Metered voluntary regime	Consideration deferred - unanimous vote	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		Defer Consideration
0381 - Removal of the NTS Exit (Flat) Capacity “deemed application” process	Not returned to Workgroup - unanimous vote against	X	X	X	X	X	X	X	X	X	X		Did consultation raise new issues
	Panel determined by Panel Majority to implement Self-Governance Modification 0381	✓	✓	✓	✓	✓	✓	✓	✓	X	✓		Whether to implement Self Governance Modification
0382 - Reducing the capacity element of LDZ system charges for SSPs	Not returned to Workgroup - five votes against	NV	X	NV	NV	NV	X	X	X	NV	X		Did consultation raise new issues
	Implementation not recommended - 1 vote in favour, 9 against	X	✓	X	X	X	X	X	X	X	X		Whether to recommend implementation
0388 - Fixed parameters for determining Shipper contribution to Unidentified Gas	Not returned to Workgroup - 1 vote in favour, 7 against	X	X	✓	X	NV	X	X	X	NV	X		Did consultation raise new issues
	Implementation recommended - 5 votes in favour, 2 against	✓	✓	X	✓	X	NV	NV	✓	NV	✓		Whether to recommend implementation

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

## Attendees

### Voting Members:

Shipper Representatives	Transporter Representatives	Consumer Representative
A Green (AG), Total C Hill (CH), First Utility C Wright (CWr), British Gas P Broom (PB), GDF Suez R Fairholme (RF), E.ON UK	A Raper (AR), National Grid Distribution J Ferguson (JF), Northern Gas Networks J Martin (JM), Scotia Gas Networks R Hewitt (RHe), National Grid NTS S Trivella (ST), Wales & West Utilities	

### Non-Voting Members:

Independent Suppliers' Representative	Ofgem Representative	Chairman
		T Davis (TD), Joint Office

### Also in Attendance:

A Miller (AM), Xoserve, D Ianora (DI), Ofgem, D Moore (DM), Gas Forum, E Melen (EM), Scotia Gas Networks, K Boreham (KB), National Grid Transmission, P Rocke (PR), Gas Forum, R Dutton (RD), Total Gas & Power, L Charlesworth (LC), Ofgem and M Berrisford (MiB), Deputy Panel Secretary.

### By Teleconference:

M Brandt (MB), SSE and J Stewart (JS), RWE npower

## **Record of Discussions**

### **117.1 Note of any alternates attending meeting**

A Raper for C Warner (National Grid Distribution), J Martin for A Gibson (Scotia Gas Networks)

### **117.2 Record of Apologies for absence**

A Gibson, C Warner, R Hall (Consumer Focus)

### **117.3 Introduction**

TD welcomed the new Shipper Members to the Panel.

### **117.4 Consider New, Non-Urgent Modifications**

#### **a) Modification 0402 - Allocated Volume and AQ Comparison**

JS introduced the modification and its aims.

AM indicated that Xoserve implementation costs were expected to be in the small, under £100k, less than 6 months development time, category.

Members debated whether or not self-governance procedures should apply. CWr voiced slight concern over views raised against similar modifications whereby Shippers could be identified by their performance within the reports, and noted that at least one shipper would be identifiable. AR noted that any reports published on a monthly basis could highlight market share movements and so have a material impact. JS acknowledged the concerns, but pointed out that proposed information would be available for all to see and that the electricity market has provided this type of information for several years. PB believed that, as the modification primarily supports invoice validation, it meets the self-governance criteria.

Votes were cast equally in favour of and against Self-Governance, and the Chair used his casting vote against this being a Self-Governance Modification.

Members determined that Modification 0402:

- is not related to the Significant Code Review as it is not a related subject;
- does not meet the Self-Governance criteria;
- should be issued to a Workgroup for assessment, with a report presented to Panel by 19 January 2012.

- b) Modification 0403 - EU Third Package: 21 day switching with flexible objection period

MB introduced the modification and its aims.

AM indicated that Xoserve implementation costs were expected to be in the medium, £100k to £500k, up to 12 months development time, category

Members debated the merits of referring the Modification to Workgroup 0396 (EU Third package: Three week switching) such that it would be treated as an alternative modification. Given the progress already made towards completing the assessment of 0396, it was concluded that it would be preferable to keep the two modifications separate.

Members determined that Modification 00403:

- is not related to the Significant Code Review as it is not a related subject;
- does not meet the criteria for Self-Governance;
- should be issued to a Workgroup for assessment, with a report presented to Panel by 19 January 2012.

#### **117.5 Consider Legal Text**

- a) Modification 0335(A) - Offtake Metering Error - Payment Timescales  
Significant Offtake Metering Error - Small Shipper Payment Timescales)

Members noted that legal text had been provided for inclusion in the Draft Modification Report, which would now proceed to consultation.

Members voted unanimously to extend the consultation, with an end date of 02 December.

- b) Modification 0338 - Remove the UNC requirement for a 'gas trader' User to hold a Gas Shipper Licence

Following a discussion of the potential link to Ofgem consultations, it was agreed that there could be merit in aligning various consultation periods. Members therefore voted unanimously to defer consideration, in the expectation that the Ofgem position would be clearer by the November Panel meeting.

- c) Modification 0363V - Commercial Arrangements for NTS Commingling Facilities

Members noted that legal text had been provided for inclusion in the Draft Modification Report, which would now proceed to consultation.

Members voted unanimously to shorten the consultation, with an end date of 04 November.

- d) Modification 0372V - Code Governance Review Licence Compliance Changes

Members noted that legal text had been provided for inclusion in the Draft Modification Report, which would now proceed to consultation.

Members voted unanimously to shorten the consultation, with an end date of 04 November.

- e) Modification 0385 - Inclusion of DNOs as Users in User Pays Arrangements

Members noted that legal text had been provided for inclusion in the Draft Modification Report, which would now proceed to consultation.

- f) Modification 0389 - Simplification of points of telemetry

Members noted that legal text had been provided for inclusion in the Draft Modification Report, which would now proceed to consultation.

## **117.6 Consider Workgroup Issues**

### **Workgroup Reports for Consideration**

- a) Modification 0326VV - Allocation of unidentified gas following the appointment of the Allocation of Unidentified Gas Expert (AUGE)

Members accepted the Workgroup Report and determined unanimously that Modification 0326VV should proceed to consultation.

- b) Modification 0373 - Governance of NTS connection processes

Following discussion, Members accepted the Workgroup recommendation that further assessment would be beneficial and determined unanimously to refer Modification 0373 back to the Workgroup, with a report requested by 19 January 2012.

- c) Modification 0376(A) - Increased Choice when Applying for NTS Exit Capacity

Members accepted the Workgroup Report and determined unanimously that Modifications 0376(A) should proceed to consultation.

- d) Modification 0387 - Removal of Anonymity from Annual Quantity Appeal and Amendment Reports

Members accepted the Workgroup Report and determined unanimously that Modification 0387 should proceed to consultation.

- e) Modification 0390 - Introduction of a Supply point Offtake Rate Review and Monitoring Process

Members accepted the Workgroup Report and determined unanimously that Modification 0390 should proceed to consultation.

- f) Modification 0392 - Proposal to amend Annex A of the CSEP NExA table, by replacing the current version of the AQ table

Members accepted the Workgroup Report and determined that Modification 0392:

- should proceed to consultation;
- does not require a cost estimate to be prepared for inclusion in the draft Modification Report; and
- does not require legal text to be prepared for inclusion in the draft Modification Report.

- g) Modification 0378 - Greater Transparency over AQ Appeal Performance

Members determined to consider Modification 0378 at short notice. Members then accepted the Workgroup Report and determined that Modification 0378 should proceed to consultation.

### **Consider Workgroup Report Dates**

The Panel reviewed the workplan for modifications currently under assessment and unanimously agreed to extend the following Workgroup reporting dates:

- a) Modification 0358 – I&C Compensation for Emergency Interruption: report by January 2012 Panel.
- b) Modification 0394 –Legal Text for UNC Modification Proposals: report by January 2012 Panel.
- c) Modification 0383 – Profiling payment of LDZ transportation charges: report by February 2012 Panel.
- d) Modification 0384 – UNC Modification Rules; housekeeping, clarity and minor drafting changes: report by February 2012 Panel.
- e) Modification 0396 – EU Third package: Three week switching: report by January 2012 Panel.

### **117.7 Existing Modification Proposals for Reconsideration**

- a) Modification 0345 - Removal of Daily Metered voluntary regime

ST advised that there are some outstanding issues relating to the legal text, which was previously revised following formal consultation. However, in the intervening time, some of the dates contained within the text have now elapsed. The legal text will therefore be amended again and a revised Final Modification Report created.



Members did not believe further consultation was justified and determined unanimously that consideration of the Modification should be deferred.

### 117.8 Consider Final Modification Reports

- a) Self-Governance Modification 0381 - Removal of the NTS Exit (Flat) Capacity “deemed application” process

The Chair summarised that the modification seeks to remove the arrangement by which any capacity overrun at an exit point is deemed to be an application for exit capacity. In the absence of the modification, a requirement for exit capacity could be inadvertently registered, despite there being no expectation nor intention to use additional capacity. This capacity signal would in turn be used for network planning purposes and could lead to inefficient investment and the sterilisation of capacity which others might wish to use.

By ensuring that capacity signals are better aligned with actual requirements implementation would be expected to facilitate efficient system investment, and hence facilitate the achievement of licence obligations. Avoiding sterilisation of capacity may also allow others to obtain and use exit capacity, consistent with facilitating the securing of effective competition. Effective competition would also be facilitated by ensuring that that exit capacity charges better reflect actual capacity requirements, increasing cost reflectivity – which supports development of a competitive market.

The National Grid Transmission Member disagreed, believing that the reduction in the incentive to book exit capacity in advance would be inappropriate and therefore investment signals would be weakened, such that implementation would not facilitate licence obligations with respect to economic and efficient investment.

With nine votes in favour and one against, the Panel determined that Self-Governance Modification 0381 be implemented.

Implementation will better facilitate the achievement of **Relevant Objectives a and d.**

The benefits against the Code Relevant Objectives	
Description of Relevant Objective	Identified impact
a) Efficient and economic operation of the pipe-line system.	Yes
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.	No
c) Efficient discharge of the licensee's obligations.	No
d) Securing of effective competition: (i) between relevant shippers; (ii) between relevant suppliers; and/or (iii) between DN operators (who have entered into	Yes

transportation arrangements with other relevant gas transporters) and relevant shippers.	
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.	No
f) Promotion of efficiency in the implementation and administration of the Code	No

b) Modification 0382 - Reducing the capacity element of LDZ system charges for SSPs

Members noted that Ofgem held a concern that the modification needed further assessment in order to make the case for change. However, Members did not believe that significant additional analysis and information could be delivered by the Workgroup, and Members suggested that this may be best taken forward by an Ofgem Impact Assessment if this was considered necessary to support their decision. Some Panel Members also considered that it may be more productive to focus on developing Modification 0383 rather than returning to 0382.

The Chair summarised that the modification is seeking to change the basis of LDZ system charges for smaller supply points, such that the split between capacity and commodity charges is amended from 95:5 to 50:50. This would mean a greater proportion of transportation charges being due in the winter than in the summer. In the case of primarily SSP Suppliers with revenue that is also in line with consumption, the change would therefore better align costs and revenues across the year.

Panel Members recognised that the basis of the capacity:commodity split had been moved from 50:50 to 95:5 following extensive consultation, including an Ofgem Impact Assessment. This had been supported on the basis that the majority of LDZ system costs do not vary with throughput, such that a capacity dominated charging structure is consistent with a charging methodology that results in charges which reflect the costs incurred by the licensee in its transportation business. Panel Members therefore accepted that returning to a 50:50 basis would be less reflective of costs incurred by Transporters.

Members were divided on whether implementation would be expected to better facilitate effective competition. It was noted that part of the justification for moving to 95:5 was to increase certainty. DN revenue which is throughput dependent is less certain than capacity based income since throughput is more variable than capacity, being driven in particular by the weather conditions experienced. This leads to a greater likelihood of allowed and collected revenue diverging, with subsequent adjustments to price levels in future years – creating charge volatility. Predictable charges support the securing of effective competition since they allow parties to set prices with greater confidence – reducing the risk of operating in the market. However, some Members did not feel that a significant benefit had accrued in practice with charges remaining difficult to predict with any confidence. By contrast, implementing the modification would better align costs and revenues for existing small domestic

Shippers and Suppliers, and potential new entrants. There was a risk at present that supply could be loss making in the Summer months, creating an incentive to avoid entering the market or growing a business in the summer months. There is also a cashflow effect that can significantly impair the ability of smaller participants to compete – with access to funds being a key issue for many small and new businesses. Implementation could therefore, be expected to facilitate the securing of competition.

Members held opposing views on whether the deleterious impacts on competition had been given insufficient weight when the decision to move to 95:5 had been taken, and hence whether implementation of Modification 0382 would or would not be expected to facilitate the securing of the relevant objectives.

With one vote cast in favour and nine votes against, Panel Members determined not to recommend that Modification 0382 should be implemented.

Implementation will impact the achievement of **Relevant Objectives a and c.**

The benefits against the Code Relevant Objectives	
Description of Relevant Objective	Identified impact
a) save in so far as paragraphs (aa) or (d) apply, that compliance with the charging methodology results in charges which reflect the costs incurred by the licensee in its transportation business;	Negative
aa) that, in so far as prices in respect of transportation arrangements are established by auction, either: (i) no reserve price is applied, or (ii) that reserve price is set at a level - (I) best calculated to promote efficiency and avoid undue preference in the supply of transportation services; and (II) best calculated to promote competition between gas suppliers and between gas shippers;	
b) that, so far as is consistent with sub-paragraph (a), the charging methodology properly takes account of developments in the transportation business;	
c) that, so far as is consistent with sub-paragraphs (a) and (b), compliance with the charging methodology facilitates effective competition between gas shippers and between gas suppliers; and	Positive
d) that the charging methodology reflects any alternative arrangements put in place in accordance with a determination made by the Secretary of State under paragraph 2A(a) of Standard Special Condition A27 (Disposal	

of Assets).	
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c) Modification 0388 - Fixed parameters for determining Shipper contribution to Unidentified Gas

The Chair summarised that the AUGE will deliver a fixed volume of energy that is to be allocated to the LSP sector in an AUGE year. This modification seeks to additionally fix the unit price, such that a fixed value of energy is allocated to the LSP sector. This will enable contracts to be struck by LSP Shippers without the need to include an additional risk premium, nor to introduce a new reconciliation process for customers with cost pass-through contracts.

Some Panel Members considered that the increased certainty would facilitate effective competition when supplying LSP customers in particular, both by avoiding the need for an increased risk premium and also by avoiding the administrative costs associated with subsequent reconciliations. However, other Members considered that the case had been made, and accepted, that costs associated with unidentified gas should be reallocated. Changing the arrangement to a revenue rather than volume basis would leave risks and costs of varying gas prices with SSP Shippers, and so would undermine the principle of reducing cross subsidies and ensuring that costs are accurately allocated to the party responsible for those costs. Accurate cost allocation underpins effective competition and hence implementation would be counter to the relevant objective of securing effective competition.

With five votes cast in favour and two votes against, Panel Members determined to recommend that Modification 0388 should be implemented.

Implementation will impact the achievement of **Relevant Objective d.**

The benefits against the Code Relevant Objectives	
Description of 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.	Impacted
e) Provision of reasonable economic incentives for relevant	None

suppliers to secure that the domestic customer supply security standards... are satisfied as respects the availability of gas to their domestic customers.	
f) Promotion of efficiency in the implementation and administration of the Code	None

#### 117.9 Consents to Modify

- a) C041 - Revision to the legal text associated with the implementation of 0320V Code Governance Review: Appointment and Voting Rights for a Consumer Representative and Independent Panel Chair  
Ofgem still considering.
- b) C045 – Corrections to UNC TPD Section F – System Clearing, Balancing Charges and Neutrality  
RH provided a brief overview of the consent, advising that it seeks to amend an error in the formula for where Total System Demand (TWh) x  $10^6$  should read as  $10^9$ . He went on to advise that the error would not impact upon implementation of modification 0333A this year, since the modification included a fixed number to apply from October 2012. Members agreed that the Consent process is an appropriate route to correct this error.

#### 117.10 Any Other Business

##### Third Energy Package

DI informed Members that the first set of Regulations to implement the Third Energy Package were expected at the end of October, and a second set expected by the end of November – 21 days after the first set. The Regulations will introduce a new relevant objective, (g), to Licences and consequently all modifications will need to be assessed against this along with the existing Relevant Objectives.

AR questioned why Ofgem had not amend Condition A11 through the standard licence modification process rather than Regulations being laid in Parliament. PB wondered if the issue was one of EU visibility. DI offered to discuss this with her colleagues and report back.

Members supported TD's suggestion that the Joint Office amend the standard modification templates with immediate effect to include the new relevant objective, and for all Workgroups to consider the additional objective in future.

##### Code of Practice KPIs

TD presented the KPIs covering January to September 2011.

#### 117.11 Conclude Meeting and Agree Date of Next Meeting

10:30 17 November 2011, at the ENA.