

Record of Determinations: Panel Meeting, 15 December 2011

Modification	Vote Outcome	Shipper Voting Members					Transporter Voting Members					Determination Sought
		AG (PB)	CH	CWr	PB	RF	CWa	JF	JM	PH	ST	
0406S - Changes to the Measurement Provisions of the px (TGPP) Limited Network Entry Agreement (NEA)	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 a Self-Governance Modification - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Modification should follow Self-Governance Procedures
	Proposed self-governance determination date is 16 February 2012 - Unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Proposed self-governance determination date to be 16 February 2012
	Issued to consultation - 9 votes in favour and 1 against	✓	✓	✓	✓	X	✓	✓	✓	✓	✓	Should proceed to consultation
	Legal Text not required - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Legal Text is not required for inclusion in the DMR
	Cost estimate not required - 9 votes in favour and 1 abstention	✓	✓	✓	✓	✓	✓	✓	✓	✓	NV	Cost estimate is not required for inclusion in the DMR
	Consultation to close on 03 February - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Consultation to close on 03 February
0407 - Standardisation of notice periods for offtake rate changes for all National Grid NTS Exit Users	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 - 8 votes against and 2 abstentions	X	X	X	X	X	NV	X	X	X	NV	Modification should follow Self-Governance Procedures
	Issued to Workgroup 0407 - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Should be referred to Workgroup
	Workgroup to report by the June 2012 Panel - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Workgroup to report by the June 2012 Panel
	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 a Self-Governance Modification - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Modification should follow Self-Governance Procedures

0408S - Moffat and Bacton Interconnectors: Changes to Agreements to Align to UNC Modification 0195AV	Proposed self-governance determination date is 15 March 2012 - Unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Proposed self-governance determination date to be 15 March 2012
	Issued to Workgroup 0408S - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Should be referred to Workgroup
	Workgroup to report by the April 2012 Panel - 9 votes in favour and 1 against	✓	✓	✓	✓	X	✓	✓	✓	✓	✓	Workgroup to report by the April 2012 Panel
0409S - Removing the restriction on the Users' application quantity for Annual NTS Exit (Flat) Capacity	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 a Self-Governance Modification - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Modification should follow Self-Governance Procedures
	Proposed self-governance determination date is 16 February 2012 - Unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Proposed self-governance determination date to be February 2012
	Issued to Workgroup 0409 - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Should be referred to Workgroup
	Workgroup to report by the February 2012 Panel - 9 votes in favour and 1 abstention	✓	✓	✓	✓	NV	✓	✓	✓	✓	✓	Workgroup to report by the February 2012 Panel
0410 - Responsibility for gas off-taken at Unregistered Sites following New Network Connections	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	X	X	X	X	X	X	X	X	X	X	Modification should follow Self-Governance Procedures
	Issued to Workgroup 0410 - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	should be referred to Workgroup
	Workgroup to report by the June 2012 Panel - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Workgroup to report by the June 2012 Panel
0393 - Interruptible to Firm – NTS Supply Points Transition	Consultation to close on 03 February 2012 - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Extend consultation to 03 February 2012
0396 - EU Third package: Three week switching	Defer consideration - 8 votes in favour and 2 votes against	✓	✓	X	✓	X	✓	✓	✓	✓	✓	Defer consideration
0369 0369A - Re-establishment of Supply Meter Points – measures to address shipperless sites	Proceed to consultation - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Issue to Consultation
	Legal text not required - 9 votes in favour, 1 against	✓	✓	✓	✓	X	✓	✓	✓	✓	✓	Legal text not required for inclusion in DMR
	Cost estimate not required - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Cost estimate not required for inclusion in DMR

	Consultation to close on 03 February 2012 - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Extend consultation to 03 February 2012
0395 - Limitation on Retrospective Invoicing and Invoice Correction	Proceed to consultation - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Issue to Consultation
	Legal text not required - 9 votes in favour, 1 against	✓	✓	✓	✓	X	✓	✓	✓	✓	✓	✓	Legal text not required for inclusion in DMR
	Cost estimate not required - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Cost estimate not required for inclusion in DMR
	Consultation to close on 03 February 2012 - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Extend consultation to 03 February 2012
0397 - Amendments to Section I of the OAD to reflect Offtake Profile Notice rules & recognition of different NTS/LDZ Offtake	Proceed to consultation - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Issue to Consultation
0399 - Transparency of Theft Detection Performance	Proceed to consultation - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Issue to Consultation
0379 0379A - Provision for an AQ Review Audit	Workgroup to report by March Panel - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Extension to March requested
0394 - Legal Text for UNC Modification Proposals	Workgroup to report by March Panel - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Extension to March requested
0401 - Amendments to the provisions for agreeing pressures at the Offtakes from the National Transmission System to Distribution Networks.	Workgroup to report by March Panel - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Extension to March requested
0345 - Removal of Daily Metered voluntary regime	Consideration deferred - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Defer Consideration
0335 - Offtake Metering Error - Payment Timescales	Not returned to Workgroup - no votes in favour												Did consultation raise new issues
	Implementation not recommended - 5 votes in favour	✓	✓	✓	✓	✓							Whether to recommend implementation
0335A - Significant Offtake Metering Error - Small Shipper Payment Timescales	Not returned to Workgroup - no votes in favour												Did consultation raise new issues
	Implementation not recommended - 3 votes in favour	✓	✓		✓				NP				Whether to recommend implementation

	Prefer 0335		✓	✓		✓				✓		Which of the two better facilitates the Relevant Objectives
	Prefer 0335A	✓			✓		✓		✓		✓	
0385 - Inclusion of DNOs as Users in User Pays Arrangements	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 majority vote to implement Self-Governance Modification 0385 - with 8 votes in favour and 2 abstentions	NV	✓	✓	NV	✓	✓	✓	✓	✓	✓	Whether to implement self-governance Modification
0389 - Simplification of points of telemetry	Returned to Workgroup - with 9 votes in favour and 1 against	✓	✓	✓	✓	✓	✓	✓	✓	X	✓	Did consultation raise new issues
	Workgroup to report by the 16 February Panel - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Workgroup to report by the 16 February Panel
0392 - Proposal to amend Annex A of the CSEP NExA table, by replacing the current version of the AQ table	Not returned to Workgroup - unanimous vote against	X	X	X	X	X	X	X	X	X	X	Did consultation raise new issues
	Implementation recommended - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	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
C Hill (CH), First Utility C Wright (CWr), British Gas P Broom (PB), GDF Suez and alternate for A Green, Total R Fairholme (RF), E.ON UK	C Warner (CWa), National Grid Distribution J Ferguson (JF), Northern Gas Networks J Martin (JM), Scotia Gas Networks Phil Hobbins (PH) alternate for R Hewitt, 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, B Fletcher (BF), Panel Secretary, D Ianora (DI), Ofgem and E Melen (EM), Scotia Gas Networks.

By teleconference:

G Evans (GE), WatersWye, S Pearce (SP) RWE npower and S Leedham (SL) EDF Energy

Record of Discussions

Minutes from previous meeting

DI requested an amendment to the Panel Minutes from 17 November 2011, to item 118.6 (b) first paragraph as follows:

“DI suggested that the modification should clearly state that parties should either be Shippers, hold FSA registration or warrant that they will only undertake activities which require no FSA registration.”

The Panel agreed to the amendment.

120.1 Note of any alternates attending meeting

J Martin for A Gibson (Scotia Gas Networks), P Broom for A Green (Total) and P Hobbins for R Hewitt (National Grid NTS)

120.2 Record of Apologies for absence

A Gibson, A Green, R Hall (Consumer Focus) and R Hewitt

120.3 Voting Process

TD explained that a query had been raised concerning the way in which a Panel Majority is defined and has been interpreted since the implementation of changes as a result of the Codes Governance Review. He had sought a view from National Grid NTS since they had provided the Modification Rules text. A view has been obtained which suggested that, particularly in the case of determinations under 9.3.3 (recommendation whether or not to implement) the test should be whether a majority of the votes available had been cast in favour – as opposed to more voting in favour than against i.e. abstentions should be considered as not supporting implementation of the modification.

ST was not convinced this interpretation is correct. In his view, the vote should be a majority of those voting either for or against and abstentions should not be taken into account. PB agreed with this view. CWa suggested that the Modification Rules say it should be a majority of the possible votes in the room, and this would only apply if, rather than abstaining, those wishing to abstain left the meeting such that their vote is not exercisable. It was noted, however, that avoiding the need to leave the room in order to abstain had been identified as a benefit of the changes proposed following the Codes Governance Review.

CWr was concerned that the process is still unclear two years after the Codes Review was started and after implementation of new rules that were intended to simplify processes and encourage participation.

Following discussion, Panel Members agreed that votes should continue to be conducted as at previous Panel meetings – a simple majority of the votes cast for or against should be the test of whether or not a Panel Majority had been

achieved. This would amount to treating the test as the majority of votes exercised as opposed to exercisable, and would avoid those wishing to abstain leaving the meeting in order to achieve the same result.

120.4 Consider New, Non-Urgent Modifications

- a) Modification 0406S - Changes to the Measurement Provisions of the px (TGPP) Limited Network Entry Agreement (NEA)

PH introduced the modification, its aims and why the modification is required on behalf, requesting that it proceed to consultation.

RF asked if there were any other parties impacted by the modification. PH advised that no other parties were impacted as it relates to metering at a specific site.

For Modification 0406S, Members determined:

- the modification is not related to the Significant Code Review as it is not a related subject;
- meets the Self-Governance criteria as it is a facilitating modification which allows changes to be made to the Network Entry Agreement (NEA). This would facilitate the NEA being amended to reflect revised metering arrangements and, as such, would have no material impact on competition nor on consumers.
- the Proposed Self-Governance determination date is 16 February 2012;
- the Modification should be issued to consultation, with a close out date of 03 February 2012;
- that Legal text is not required for inclusion in the DMR;
- that a cost estimate is not required for inclusion in the DMR.

- b) Modification 0407 - Standardisation of notice periods for offtake rate changes for all National Grid NTS Exit Users

ST introduced the modification and its aims. PB suggested it would be helpful if the modification were to be discussed at the Transmission Workgroup. PB also suggested that, to better understand the impact of removing the restrictions as proposed, the Workgroup be asked to establish why the arrangements were introduced in the first place. ST advised that the modification emerged following the review of Section I of OAD, which challenged whether the existing obligations are appropriate. PH agreed that the impact of removal should be considered in the Workgroup.

ST advised that he did not believe the modification meets the Self-Governance criteria as it could have a material impact on Users and possibly National Grid NTS.

For Modification 0407, Members determined:

- the modification is not related to the Significant Code Review as it is not a related subject;
- the Self-Governance criteria are not met;
- Workgroup Assessment is required, with a report presented to Panel by June 2012.

c) Modification 0408S - Moffat and Bacton Interconnectors: Changes to Agreements to Align to UNC Modification 0195AV

PH introduced the modification and its aims. PB questioned consistency between the modification and proposed changes in EU regulations, and was concerned the modification may take a short term view. PH accepted the modification is short term and does not look to reflect future EU changes.

CWa noted that the modification contradicts itself since it explains this change both can and cannot be progressed via a UNC modification proposal. PH agreed to seek a legal view to clarify the situation.

For Modification 0408S, Members determined:

- The modification is not related to the Significant Code Review as it is not a related subject;
- does meet the Self-Governance criteria as it is a facilitating modification which allows changes to be made to other agreements. This would facilitate the agreements being amended to reflect UNC changes, and hence would have no material impact on competition nor on consumers..
- the Proposed Self-Governance determination date is 15 March 2012,
- Workgroup Assessment is required, with a report presented to Panel by April 2012.

d) Modification 0409S - Removing the restriction on the Users' application quantity for Annual NTS Exit (Flat) Capacity

PH introduced the modification and its aims.

For Modification 0409S, Members determined that:

- is not related to the Significant Code Review as it is not a related subject;
- does meet the Self-Governance criteria as it removes an obligation which should have been deleted by an earlier Modification and is not applied in practice.
- the Proposed Self Governance determination date is 16 February 2012.
- Workgroup Assessment is required, with a report presented to Panel by February 2012.

- e) Modification 0410 - Responsibility for gas off-taken at Unregistered Sites following New Network Connections

GE introduced the modification and its aims. CWa asked if a Transporter identifies that a Supplier has a relationship with the customer, whether the intention was for the Transporter to remain responsible for gas offtaken where the site is not registered. GE felt this was an example of an aspect that would merit discussion in a Workgroup - there are likely to be a number of scenarios that need to be clarified.

AM advised that the modification would require changes to Xoserve systems. While the impacts are not known at this stage, he would expect the impact to fall in the medium range.

For Modification 0410, Members determined that:

- the Modification is not related to the Significant Code Review as it is not a related subject;
- the Self-Governance criteria are not met.
- Workgroup Assessment is required, with a report presented to Panel by June 2012.

120.5 Consider Legal Text

- a) Modification 0393 - Interruptible to Firm – NTS Supply Points Transition

Members voted unanimously to extend the consultation, with an end date of 03 February 2012.

- b) Modification 0396 - EU Third package: Three week switching

Members considered it may be helpful if Modification 0396 is issued to consultation alongside Modification 0403, bearing in mind that Ofgem had indicated they would wish to consider these Modifications in the same timescale and that a Workgroup Report on 0403 is anticipated in January. However, members wished to be clear that Ofgem supported any delay and that it would be accepted that reasonable endeavours were being made to implement EU requirements regarding switching timescales. DI confirmed that Ofgem would regard deferment as acceptable, and members then voted to defer consideration of Modification 0396.

120.6 Consider Workgroup Issues

Workgroup Reports for Consideration

- a) Modification 0369 0369A - Re-establishment of Supply Meter Points – measures to address shipperless sites

Members accepted the Workgroup Report and, following discussion, Members determined Modification 0369 0369A:

- should proceed to consultation with a close out date of 03 February 2012;
- did not require further legal text for inclusion in the draft Modification Report; and
- did not require a further cost estimate for inclusion in the draft Modification Report.

b) Modification 0395 - Limitation on Retrospective Invoicing and Invoice Correction

Members accepted the Workgroup Report. PH asked if the close out date should be aligned with Modification 0398. JF advised the implementation impacts of this modification are significantly greater and the two are not Alternatives. She felt more time for comments should be allowed than would be the case if aligned with 0398.

Following discussion, Members determined for Modification 0395:

- should proceed to consultation with a close out date of 03 February 2012;
- that legal text is not required for inclusion in the draft Modification Report; and
- that a cost estimate is not required for inclusion in the draft Modification Report.

c) Modification 0397 - Amendments to Section I of the OAD to reflect Offtake Profile Notice rules & recognition of different NTS/LDZ Offtake sensitivities

Members accepted the Workgroup Report. PH questioned the text and whether this was suitable for consultation as he believed it did not match the latest version of the modification. ST supported formal legal text being prepared for inclusion in the DMR.

Members then determined Modification 0397 should proceed to consultation.

d) Modification 0399 - Transparency of Theft Detection Performance

Members accepted the Workgroup Report and, following discussion, determined Modification 0399 should proceed to consultation.

Workgroup Request for Consideration

a) Modifications 0396 & 0403 EU Third package: Three week switching & EU Third Package: 21 day switching with flexible objection period

TD advised that Workgroups 0396 and 0403 had requested the Panel to raise a question with Ofgem regarding the funding of these modifications as follows:

How does Ofgem consider these modifications should be funded if implemented?

The Workgroup understands the need for Modifications 0396 and 0403, as they are driven by European Regulations. Two options appear to be available for funding as follows:

- 1. User Pays mechanism;*
- 2. Cost pass through by use of GT licence Special Condition E3.*

It would be helpful if Ofgem could provide a preference and the reasons why. If option 1 is preferred, do Ofgem have any views on how the costs should be shared across the industry?

In response, DI provided an update from an email sent by J Dixon to the Joint Office:

“Whilst Ofgem can see that it may be simpler for shippers to bundle such externally imposed and universal changes in with transportation changes, they do not feel that these reductions in switching lead times can properly be considered to be a change in transportation activities and therefore warrant a change to their allowed costs and revenues. If such an additional pass through is ruled out then this change must be funded through User Pays, as no allowance has been made in the current price control, as previously mentioned in Workgroup 0396.

Although the impact of this change is universal, and certainly all shippers will have the opportunity to ‘benefit’ from the reduced timescales, it could be argued that they only tangibly accrue to the gaining shipper. Therefore, in order to match the allocation of costs to one of the principles of User Pays, that costs should be borne by the beneficiaries of the change, we consider that a transaction based charge should be explored; i.e. the indicative costs recovered over a reasonable period of time based in the number of supply point ‘gained’ in a given quarter, for example. Ofgem would welcome discussion on the feasibility of such a basis for cost recovery, though we would also give due consideration to any alternative ACS proposal that may be submitted in relation to UNC396 and UNC403, or indeed any alternative modification proposal.”

PB was concerned that the funding proposal from Ofgem is taxing the competitive market. ST would prefer a pass through mechanism. However, he proposed Transporters prepare draft ACS submissions to support decisions on funding for these modifications.

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 0379 0379A - Provision for an AQ Review Audit – measures to address shipperless sites to report by March 2012 Panel.
- b) Modification 0394 - Legal Text for UNC Modification Proposals to report by March 2012 Panel.

- c) Modification 0401 - Amendments to the provisions for agreeing pressures at the Offtakes from the National Transmission System to Distribution Networks to report by March 2012 Panel.

120.8 Existing Modification Proposals for Reconsideration

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

DI indicated that an Ofgem decision was imminent. Members determined unanimously that consideration of the Modification should be deferred.

120.9 Consider Final Modification Reports

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

The Panel Chair summarised that this modification seeks to amend the profile of payments due following identification and quantification of significant offtake meter errors. At present, once corrections have been identified, these are invoiced in a single amount. It is proposed that this is instead profiled such that payments are spread across a number of months, with the invoicing period matching the period over which the error occurred. In the case of the alternative modification, larger Users would continue to be invoiced in a single amount, with the profiling approach restricted to smaller Users. By extending the time over which the DNs are able to reclaim any costs (or must make a repayment), there would be a cashflow impact. Given that the majority of errors tend to mean payments being due from Users, an adverse cashflow impact on the DNs is anticipated with, conversely, a cashflow benefit for Users.

As a cashflow cost would be introduced for the DNs, they would have an incentive to avoid that cost (in keeping with all other costs). To the extent that the DNs are able to identify actions which are expected to reduce the occurrence and/or duration of offtake meter errors, and to which the cost of those actions is less than the anticipated benefit through avoided cashflow costs, it may be expected that the value of gas impacted by offtake meter errors would be reduced as a result of implementing either modification. Some Members anticipated that this incentive effect would provide a real benefit such that implementation of either modification might be expected to further the relevant objectives. In particular, a reduction in the scale of offtake meter errors could be expected to lead to a more accurate allocation of costs to the parties responsible for those costs, with improved cost reflectivity facilitating the development of effective competition. An increase in the reliability of offtake meter information might also be expected to lead to more efficient and economic system operation, with superior information supporting appropriate decisions by the system operator. However, other Members did not believe that there would be any response to the potential cashflow benefit – behaviour would be unchanged and so there would be no impact on the relevant objectives as a result of implementation for either modification. Members accepted, however, that to the extent that any incentive effect would be introduced, this would be greater under Modification 0335 than under 0335A in light of the larger sums involved.

Some Members argued that the positive cashflow benefit for Shippers could be expected to facilitate effective competition to the extent that some Shippers may face difficulty paying any due amount in a single invoice. It was suggested that this may be particularly critical for the smallest Shippers, with cashflow issues often providing a barrier to entry or to growth. By changing the profile of payments, some Shippers may be able to compete more effectively and hence implementation would facilitate the achievement of the relevant objectives. However, other Members observed that this is dependent on specific circumstances and that profiling payments would have an impact on credit requirements. The existence of liabilities over a longer period may involve the need to post credit for a longer period, and hence implementation may increase rather than decrease the costs faced by some Users, such that the suggested competition benefits may not materialise in practice. In addition, notice of the error will have been given and Users will have had the opportunity to accrue for the costs, such that there should be no detrimental impact on competition.

Members then voted and, of the ten possible votes:

- five were cast in favour of implementing Modification 0335; and
- three were cast in favour of implementing Modification 0335A.

The Panel therefore failed to determine to recommend implementation of either Modification 0335 or 0335A.

Members then considered which of Modification 0335 or 0335A would, if one were implemented, be most likely to facilitate achieving the relevant objectives. Of the ten possible votes:

- four were cast in favour of determining that 0335 better facilitates the Relevant Objectives than 0335A
- five were cast in favour of determining that 0335A better facilitates the Relevant Objectives than 0335.

The Panel therefore failed to determine by Panel Majority that, relative to the other, implementation of either 0335 or 0335A would better facilitate achievement of the relevant objectives.

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

The Panel Chair summarised that this modification seeks to include DNO Users as a category to whom charges can be attributed in a User Pays Modification. This would support modifications being transparent and explicit about how charges are to be allocated between parties, including DNO Users.

Some Members felt that, by increasing transparency and supporting allocations between Shipper users and DNO Users, implementation might be expected to help demonstrate that charges for User Pays Services do not unduly discriminate or unduly prefer any person or class of persons as required by Licence Condition A15(11) of the DN and NTS Licences. From this perspective this licence condition may be more efficiently (and transparently) discharged as a result of implementation.

Other Members did not believe there was any barrier to transparency nor to allocation of costs to DNOs as Users under the UNC as it stands, and noted that such allocations have been proposed and implemented. As such, they did not believe it could be demonstrated that implementation would have any impact on the Relevant Objectives.

Panel Members then voted and, with eight votes in favour and none against, determined that Modification 0385S should be implemented.

c) Modification 0389S - Simplification of points of telemetry

ST was concerned that consultation responses had identified that the legal text is not consistent with the intent of the modification, and suggested that the Workgroup should be requested to consider this new issue. PH agreed the text was not fully aligned though he did not agree it was significant issue and felt a decision should be made by the Panel based on the text as provided.

Members determined for Modification 0389S that:

- It should be returned to Workgroup 0389S to allow new issues raised in consultation responses to be considered;
- a Workgroup report should be presented to Panel by February 2012.

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

The Panel Chair summarised that this modification seeks to allow updating of a table in Annex A of the LDZ CSEP NExA. IGTs are required to adopt the AQ values present within this table for the purpose of calculating domestic transportation charges, and updating the values will make them more reflective of present consumption patterns, reflecting changes such as energy efficiency requirements under Building Regulations.

Increased accuracy of AQ values as a result of bringing them up to date will change the allocation of energy and transportation costs between Shippers. More appropriate targeting of costs is consistent with facilitating the securing of effective competition between Shippers.

Panel Members then voted unanimously in favour of recommending implementation.

120.10 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

DI confirmed that Ofgem is minded to reject this consent. The Transporters indicated that, in light of this, they wished to withdraw the consent.

- b) C045 – Corrections to UNC TPD Section F – System Clearing, Balancing Charges and Neutrality.

DI confirmed that Ofgem is minded to reject this consent as they consider it should be subject to a Self Governance modification.

120.11 Any Other Business

- a) European Regulations Update

DI asked if the Panel wished to receive a European update on a regular basis, bearing in mind that a full update is currently made to the Transmission Workgroup. Panel Members felt the update to the Transmission Workgroup was made to a wider audience and allowed a greater depth of debate. It was concluded that a separate Panel update could create unnecessary duplication and should not be pursued at the present time.

- b) Third Energy Package Letter from Ofgem

ST asked if Ofgem would be writing to all licensees confirming the Licence changes being made. DI advised they were not intending to do so at this stage, believing that the provisions had been circulated sufficiently and set out the changes being made. DI also noted that the Regulations provided for Ofgem to raise Code modifications, and asked whether a change to the Modification Rules was required to recognise this.

- c) Modification Numbering

TD asked if Members would find it helpful to have Self Governance modifications identified by use of a letter as such S following the number. Members agreed this would be an advantage and requested the Joint Office to implement this. The possibility of adding U to User Pays Modifications was also considered, but it was agreed that this should not be adopted at this stage.

120.12 Conclude Meeting and Agree Date of Next Meeting

10:30 19 January 2012, at the ENA.