

## Governance Workgroup Minutes

Thursday 19 September 2013

ENA, Dean Bradley House, 52 Horseferry Road, London SW1P 2AF

### Attendees

Tim Davis (Chair)	(TD)	Joint Office
Lorna Dupont (Secretary)	(LD)	Joint Office
Abid Sheikh*	(AS)	Ofgem
Alan Raper	(AR)	National Grid Distribution
Alex Barnes	(AB)	Gazprom
Amanda Rooney	(ARo)	Ofgem
Chris Hill	(CH)	Consumer Focus
Chris Warner	(CWa)	National Grid Distribution
Chris Wright	(CWr)	Centrica
David Mitchell	(DM)	Scotia Gas Networks
Hilary Chapman	(HC)	Xoserve
Joanna Ferguson	(JF)	Northern Gas Networks
Phil Broom	(PM)	GDF Suez
Richard Fairholme	(RF)	E.ON UK
Ritchard Hewitt	(RH)	National Grid NTS
Steve Edwards	(SE)	Wales & West Utilities
Sean McGoldrick	(SM)	National Grid NTS

\*via teleconference

### 1.0 Introduction and Status Review

- 1.1 The minutes from the previous meeting were approved.
- 1.2 There were no outstanding actions to review.

### 2.0 Workgroups

#### 2.1 Modification 0448 - Aligning UNC with Licence Conditions relating to European legislative change and Alternative Modification Proposals

The minutes are available at: [www.gasgovernance.co.uk/0448/190913](http://www.gasgovernance.co.uk/0448/190913)

#### 2.2 Modification 0462 - Introducing Fast Track Self Governance into the Uniform Network Code

The minutes are available at: [www.gasgovernance.co.uk/0462/190913](http://www.gasgovernance.co.uk/0462/190913)

### 3.0 Issues

#### 3.1 ISS 0034 - Review Group 0334 – Action Plan

Pending the outcome of the Xoserve review, there were no further updates.

#### 3.2 ISS 0053 Options for the provision of legal text

AR acknowledged that a range of parties had concerns about legal text provisions and suggested that a clearer understanding was required of what the specific problems were perceived to be and what might be the root causes.

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### *Poor development of modifications*

From a Transporter perspective, modifications whether capable of implementation or not, had to be worked up to the text stage. The effort involved is driven by factors over which there was no control and text production was costly, and often wasteful, in terms of time and resources, for whichever Transporter had been assigned to produce the text.

It was observed that there appeared to be a tendency to expect the legal text to work out what the ideal solution should be for the proposed modification. This was not necessarily the best approach, and a modification should be properly developed by the Workgroup to a point where it was suitably clear in its intent to facilitate the drafting of text. The formulation of 'good quality' Business Rules should be a main priority of the Workgroup.

The modification process allows the Panel to return modifications to Workgroups and perhaps this power should be exercised more assiduously - poorly developed modifications should be rejected back to the Workgroup for additional work.

It was commented that parties might need to be more professional in their approach to raising and progressing modifications.

### *Provision of text by a single provider*

It was understood that Gazprom had suggested that a single provider could produce text for all modifications centrally. This was potentially a different issue, ie procurement.

AB suggested that having one provider to draft text would have benefits of consistency and continuity, and acquired experience could also be drawn on in relation to the more complex modifications. Drafting text for modifications is time consuming and this could be more efficient for the industry in the long run. It would maintain a clear and single focus on the UNC and also provide economies of scale.

JF commented that the UNC was not in such a parlous state that consideration needed to be given to acquiring a full time legal resource to do this.

AB noted that UNC changes often come in cycles, eg the EU changes, driven by certain major external or internal factors, and that the UNC was very flexible in its ability, and robust in its processes, to deliver essential changes.

RH observed that central provision could be supported, but tendering annually for such provision might result in far more change and costs. Staff movements within service providers would also affect the anticipated degree of stability, knowledge and experience.

A number of complex issues could relate to many modifications that were interlinked/interactive in nature, eg Nexus: AB believed that using the same organisation to provide text could reduce these. CWa explained a single service provider had been appointed to address these and explained what was being done for the Nexus related modifications.

AS suggested that the attendance of lawyers at Workgroup meetings might help to minimise reiterations of text; CWa pointed out that the Transporter representatives attend and act as interfaces with the lawyers.

### *General*

AB reiterated that the perception was that improvements in the areas relating to the provision of legal text needed to be made, and that it should be incumbent on Transporters in Workgroup discussions to say why something was not clear, etc. CWa responded that Transporters always try to assist Proposers to recognise that changes to modifications are required, but Proposers are not always receptive to advice or suggestions and may continue to disregard the view expressed.

TD pointed out that issues raised regarding text were not indicative of a Transporter/Shipper split but applied to all modifications, whether raised by Shippers or Transporters. Under the Modification Rules the Panel requests the provision of legal text. This had to be supplied within 15 Business Days of the request, or a note had to be provided explaining why it could not be provided. To date, an explanatory note for non-provision had only been received on one occasion, which does not support a view that modifications are insufficiently clear to support text being written.

It may be that the chairing of Workgroups might have to be more overtly directive in approach, and underline the responsibility of all parties participating in the Workgroup in assuring that modifications are properly developed to an acceptable point.

A tendency was noted for Business Rules to be specifying systems and implementation issues rather than being contractually focused, and this can cause problems. There should be more awareness of operational and contractual focus and that should be addressed differently.

The cost of providing text was discussed. The actual cost of providing text for each modification could be exposed if carried out through a central provider. Should the Proposer, ie through User Pays, pay for the costs of providing text, providing an incentive to consider costs when raising modifications? It was suggested that this might be an increase in allowed revenue Transporters and this should be addressed with Ofgem.

Issues seem to be associated with perceived wastefulness of money/resources in drafting and redrafting for poorly/under developed modifications and patently flawed modifications for which it is recognised at a very early stage that have little prospect of being implemented but for which text still has to be provided and effectively 'binned'. Is there a better way to recognise and filter these so that all parties can reduce exposure to unnecessary costs in time and money? This was discussed but it was concluded that, under the existing process, these may remain frustrations but are perhaps costs that have to be accepted and borne.

It was suggested that if the Panel and Workgroup Chairs did not make the point that existing standards were not good enough then imperfections will not be recognised and time and resources will continue to be wasted.

SE asked if the Panel could usefully do anything to assist improvements before a modification was sent to the Workgroup? AB suggested that Panel could decide to only request legal text when it believes that a modification had been developed to an acceptable level. JF's perception was that the Panel had been gradually improving its decision making in that area.

Drawing attention to the fact that National Grid NTS produced all the legal text for transmission related modifications and was in effect a single service provider, TD asked if there was any noticeable difference in the quality of text produced by this route? Parties could not confirm there was any perceived difference such that there was no indication that central service provision is necessarily advantageous.

Referring to the User Pays suggestion, AB thought this might present issues of competition regarding service provision. If the Shipper was paying for the service, they might reasonably want to choose their own service provider It was also considered there might be problems in respect of allowed revenues since the Transporters have already received funding for their existing obligations, including text provision. However, AR questioned whether there should be a 'point of use' charge irrespective of where the revenue is allocated? TD suggested text provision could be paid for individually as a single Shipper per modification, but equally, if a different approach is supported and needs to be funded, this could be, say, a 50:50 Transporter/Shipper. For the Shipper part, this could be charged in line with transportation charges based on an annual budget and subsequent reconciliation. This would at least give visibility to costs and any change as a result of moving to a different model for provision.

JF pointed out that the change in timescales for the provision of legal text following the Code Governance Review has had a significant effect; previously what had been provided was seen to be for modifications that had had a good chance of getting through to implementation. Now the perception was one of increased and unnecessary waste.

TD observed that lawyers could often identify issues that the Workgroup has not recognised and that an element of circularity and reiteration might always be necessary. Was there anything to be learned from the other Codes? AS commented that producing legal text early in the process invites review, discussion and reassessment. The Panel and industry processes should ensure openness, transparency and robustness of any approach and encourage improvement.

It was concluded that the Panel should exercise its powers and return modifications to Workgroups with clear justification as to why this course had been taken, and clear direction as to what further work needed undertaking. The Panel needs to know if a Transporter is unable to produce text and why, eg because of poor modification development or lack of clarity in Business Rules, etc. The Panel should be forthright in exercising its powers at all levels, and bring any issues to the forefront, emphasising to the Workgroup the requirement to meet certain standards.

It was agreed that this Issue 0053 should remain open for monitoring purposes; and a reassessment of the position be made at the January meeting.

#### **4.0 Any Other Business**

##### **4.1 Modification 0440 - Project Nexus – iGT Single Service Provision**

CWa reported that Shippers had raised concerns about a potentially 'unbalanced' Panel constitution in the event that an iGT member voting position was approved and had indicated they would require either the appointment of a further Shipper member or that the DN's give up a member position to restore equilibrium.

This was briefly discussed. AR explained some of the ramifications of including an iGT member – for certain purposes of the UNC the iGTS will become signatories. CWr indicated that the preference was for an additional Shipper member to provide balance. RH believed that maintaining the balance of the Panel was the right thing to do, whether by increasing or decreasing the number of positions.

CWa will reflect on whether to propose increasing Panel representation to 6:6.

#### **5.0 Diary Planning for Workgroup**

The next meeting is planned for Thursday 17 October 2013, at the ENA (London), following the UNC Committee meeting.