

Governance Workgroup Minutes

Thursday 20 February 2014

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

Attendees

Les Jenkins (Chair)	(LJ)	Joint Office
Bob Fletcher (Secretary)	(BF)	Joint Office
Amanda Rooney	(ARo)	Ofgem
Chris Warner	(CWa)	National Grid Distribution
Erika Melen	(EM)	Scotia Gas Networks
Graham Jack	(GJ)	British Gas
Hilary Chapman	(HC)	Xoserve
Joanna Ferguson	(JF)	Northern Gas Networks
John Edwards	(JE)	Wales & West Utilities
Ritchard Hewitt	(RH)	National Grid NTS
Sean McGoldrick	(SMc)	National Grid NTS

1.0 Introduction and Status Review

LJ asked participants to note that the meeting was not quorate and that an informal meeting would be held.

1.1 The minutes from the previous meeting were deferred.

Action GOV/1101: Comments on the Guidelines for the Provision of Legal Text in Support of Uniform Network Code Modifications to be provided to GE by 04 December 2013. **Update:** Transporters advised that they had provided comments to Gazprom.
Carried Forward

Action GOV/0101: Produce a process out line of the actions that can be taken following Send Back. **Update:** LJ advised that a process diagram had been provided for discussion during the meeting. **Carried Forward**

2.0 Issues

2.1 ISS 0057 Options for the provision of legal text

Not discussed at this meeting, though it is likely that this issue could be closed as Modification 0484S had been raised.

2.2 New Issue – ISS0061 - Review of Modification Rules relating to the Variation of modifications sent back by Ofgem

LJ explained the send-back process and asked participants to consider how the rules should apply going forward, as it is likely that the intent of the process is not mirrored in the modification rules.

3.0 Any Other Business

a) Implementation of Modification 0448 - Aligning UNC with Licence Conditions relating to European legislative change and the potential impact on Alternative Modification Proposals.

SMc advised that they been in discussion with Ofgem following receipt of the implementation decision, advising that the modification had been implemented but that some aspects of the licence changes were not covered.

LJ advised that he had written to Ofgem seeking a number of clarifications. ARo explained the response sent back to LJ and this was displayed in the room (and is included at the end of these minutes for completeness).

SMc was still unclear what a European modification is, how it would apply going forward and how Ofgem will identify that this is being considered. ARo advised that Ofgem would issue direction on a modification to inform the industry that it is a European Modification. ARo agreed to consider those modifications in progress now and see if any should be declared as European modifications. ARo also agreed to see if any further guidance could be provided on how and when Ofgem might issue directions introduced by Modification 0448.

4.0 Diary Planning for Workgroup

The next meeting is planned for Tuesday 18 March 2014, at the 31 Homer Road, Solihull.

Action Table – Governance Workgroup

Action Ref	Meeting Date	Minute Ref	Action	Owner	Status Update
GOV/1101	21/11/12	3.2	Comments on the Guidelines for the Provision of Legal Text in Support of Uniform Network Code Modifications to be provided to GE by 04 December 2013.	All	Closed
GOV/0101	16/01/14	2.3	Produce a process out line of the actions that can be taken following Send Back.	Joint Office (BF)	Closed

Process Clarification following the Implementation of 0448

- How and when do Ofgem expect to direct timetables (after mod raised or after it's been sent to workgroup?)
When we direct a timetable will be dependent on the circumstances at the time so it's difficult to be definitive on this. In terms of how we direct a timetable, the Authority would issue a direction as appropriate at the relevant time. It's likely we would publish the direction to ensure transparency.
- How and when do Ofgem expect to direct 'no alternatives' and 'no withdrawal'
Again, this will be dependent on circumstances at the time. We would expect to make a direction and publish this. To date, we've not used the licence power to direct that alternatives are not raised (NB. this was not part of the 3rd Package licence changes but a separate licence power which has been in GTs' licences for some time and which NGG decided to include in

UNC448).

3. We believe that the restriction on withdrawals (by association) applies to variations since a variation introduces a withdrawal of the original mod - could you confirm your view on this please?

We can see that the UNC rules could be interpreted as requiring Authority consent for withdrawal of an original proposal where the proposal is being 'varied' and the proposal is one which Ofgem reasonably considers is necessary to comply with or implement the Gas Regulation and/or any relevant legally binding decisions of the European Commission and/or ACER. However, it's not clear to us this is in the spirit of the licence requirement, and appears to be an unintended consequence of the way the UNC variation process works. It's not clear it would be proportionate for us to have to grant consent when such a modification is varied, given the variation would be addressing the same defect as the original, so the modification 'solution' would not be getting withdrawn as such, just varied. We would recommend the UNC provisions are reviewed, and UNC changes proposed to address this issue.