

**Record of Determinations: Panel Meeting 21 April 2016**

Modification	Vote Outcome	Shipper Voting Members					Transporter Voting Members					Consumer Voting Member	Determination Sought	
		AG	AM	CB	PB	SM	CW	FH	HC	ARS	RP	SMo		
0579 - Updating code to reflect the correct 'Designated Person'	Not related to the Significant Code Review - <i>unanimous vote against</i>	X	X	X	X	X	X	X	X	X	X	X	X	Modification is related to Significant Code Review
	Is a Self-Governance Modification - <i>unanimous vote in favour</i>	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Does Modification satisfy the Self-Governance criteria
	Is suitable for Fast Track Self-Governance and should be implemented - <i>unanimous vote in favour</i>	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Does Modification satisfy the Fast Track Self-Governance criteria and should be implemented
0580 - Implementation of Non Effective Days to enable Annual AQ Review (independent of Nexus transition)	Not related to the Significant Code Review - <i>unanimous vote against</i>	X	X	X	X	X	X	X	X	X	X	X	X	Modification is related to Significant Code Review
	Is a Self-Governance Modification - <i>unanimous vote in favour</i>	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Does Modification satisfy the Self-Governance criteria
	Issued to Workgroup 0580S with a report presented by the May 2016 Panel - <i>unanimous vote in favour</i>	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Should be issued to Workgroup with a report by the May Panel
0581 – Amending the Oxygen content limit specified in the Network Entry Agreements at Grain LNG	Not related to the Significant Code Review - <i>unanimous vote against</i>	X	X	X	X	X	X	X	X	X	X	X	X	Modification is related to Significant Code Review
	Is a Self-Governance Modification - <i>unanimous vote in favour</i>	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Does Modification satisfy the Self-Governance criteria
	Proceed to Consultation - <i>unanimous vote in favour</i>	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Should DMR be Issued to Consultation
	Legal text not required - <i>unanimous vote against</i>	X	X	X	X	X	X	X	X	X	X	X	X	Is further Legal text required for inclusion in DMR

	Cost estimate not required - <i>unanimous vote against</i>	X	X	X	X	X	X	X	X	X	X	X	Is a Cost estimate required for inclusion in DMR
	Consultation to close out on 13 May 2016 - <i>unanimous vote in favour</i>	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Should 0581 consultation end on 13 May 2016 and the FMR considered at Short Notice at the May meeting?
0532 - Implementation of Non-Effective Days (Project Nexus transitional modification)	Consideration deferred to the May meeting - <i>unanimous vote in favour</i>	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Defer consideration
Xoserve Funding and Governance Arrangements	An FGO Workgroup is to be established - <i>unanimous vote in favour</i>	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Should an FGO workgroup be established
0526 - Identification of Supply Meter Point pressure tier	Legal Text requested - <i>unanimous vote in favour</i>	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Request Legal Text
0531 - Provision of an Industry User Test System	Legal Text requested - <i>unanimous vote in favour</i>	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Request Legal Text
0576 - Generation of an estimated Meter Reading at the Code Cut Off Date in the absence of an actual Meter Reading	Legal Text requested - <i>unanimous vote in favour</i>	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Request Legal Text
0578 - Implementation of Retrospective Invoice Adjustment arrangements (Project Nexus transitional modification)	Legal Text requested - <i>unanimous vote in favour</i>	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Request Legal Text
0541A – Removal of uncontrollable UNC charges at ASEPs which include sub-terminals operating on a 06:00 to 06:00 Gas Day	No new issues identified - <i>unanimous vote against</i>	X	X	X	X	X	X	X	X	X	X	X	Did consultation raise new issues
	Implementation recommended - <i>with a majority vote in favour</i>	✓	✓	✓	✓	✓						✓	Should Modification be implemented (only votes in favour recorded)

0541B – Removal of uncontrollable UNC charges at ASEPs which include sub-terminals operating on a 06:00 to 06:00 Gas Day	No new issues identified - unanimous vote against	X	X	X	X	X	X	X	X	X	X	X	Did consultation raise new issues
	Implementation recommended - with a majority vote in favour	✓	✓	✓	✓	✓						✓	Should Modification be implemented (only votes in favour recorded)
	Prefer 0541A	✓	✓	✓		✓						✓	
	Prefer 0541B							✓		✓	✓		
0572 – Amendment to the definition of AUG Year within UNC TPD Section E	No new issues identified - unanimous vote against	X	X	X	X	X	X	X	X	X	X	X	Did consultation raise new issues
	Implementation recommended - with a majority vote in favour		✓	✓			✓	✓	✓	✓	✓	✓	Should Modification be implemented (only votes in favour recorded)
0577S - Aligning UNC to the indirect clearing model operated by ICE Endex	No new issues identified - unanimous vote against	X	X	X	X	X	X	X	X	X	X	X	Did consultation raise new issues
	Implemented - with a unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Should Modification be implemented (only votes in favour recorded)

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

**UNC Modification Panel**

**Minutes of the 188<sup>th</sup> Meeting held on Thursday 21 April 2016 at Elexon 350 Euston Road, London NW1 3AW**

**Attendees**

**Voting Members:**

<b>Shipper Representatives</b>	<b>Transporter Representatives</b>	<b>Consumer Representative</b>
A Green (AG), Total A Margan (AMa), British Gas C Baldwin (CB), E.ON UK P Broom (PB), Engie S Mulinganie* (SM), Gazprom	C Warner (CW), National Grid Distribution F Healy (FH), National Grid NTS H Chapman (HC), Scotia Gas Networks A Ross-Shaw (ARS), Northern Gas Networks R Pomroy (RP), Wales & West Utilities	S Moore (SMo), Citizens Advice

**Non-Voting Members:**

<b>Chairman</b>	<b>Ofgem Representative</b>
A Plant (AP), Chair	R Elliott (JT)

**Also in Attendance:**

G Jack (GJ), British Gas; K Elliott-Smith (KES), Cornwall Energy; L Heather (LH), Ofgem; L Jenkins (LJ), Joint Office; R Fletcher (RF), Secretary and R Hinsley (RH), Xoserve.

*\* via teleconference*

## **Record of Discussions**

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

A Ross-Shaw for J Ferguson (Northern Gas Networks)

C Baldwin for R Fairholme (Uniper)

### **188.2 Record of Apologies for absence**

J Ferguson and R Fairholme

### **188.3 Minutes and Actions of the Last Meeting(s)-**

Members approved the minutes from the previous meeting (19 March 2016).

### **188.4 Consider Urgent Modifications**

None

### **188.5 Consider New Non-Urgent Modifications**

- a) Modification 0579 - Updating code to reflect the correct 'Designated Person'

AM introduced the modification and its aims.

CW confirmed the Legal Text is suitable for insertion into the Modification Rules.

For Modification 0579, Members determined:

- Is not related to the Significant Code Review;
- The criteria for Self-Governance are met as this modification is not expected to have a material impact on competition and consumers as it is a simple identification change in the Modification Rules;
- That Modification 0579S meets the criteria for Fast Track Self-Governance and should be implemented.

- b) Modification 0580 - Implementation of Non Effective Days to enable Annual AQ Review (independent of Nexus transition)

HC introduced the modification and its aims. PB asked if there is an overlap with Nexus non-effective days. RH advised that this is a contingency arrangement modification as these non effective days are required whether Nexus is implemented or not.

For Modification 0580, Members determined:

- Is not related to the Significant Code Review;
- The criteria for Self-Governance are met as this modification is not expected to have a material impact on competition, consumers or the transportation of gas through pipes;

- That Modification 0580S is issued to Workgroup 0580S for assessment, with a report to be presented no later than the May 2016 Panel.

c) Modification 0581 – Amending the Oxygen content limit specified in the Network Entry Agreements at Grain LNG

GJ introduced the modification and its aims. RP asked why the level is not being changed to the GMSR limits. GJ advised the change is proportionate to the limit required by the impacted parties.

For Modification 0581, Members determined:

- Is not related to the Significant Code Review;
- The criteria for Self-Governance are met as this modification is not expected to have a material impact on consumers or the transportation of gas through pipes;
- Should proceed to Consultation;
- Further legal text is not required for inclusion in the draft Modification Report;
- A cost estimate is not required for inclusion in the draft Modification Report; and
- Consultation should close on 13 May 2016 and the Final Modification Report be consider at Short Notice at the May meeting.

#### **188.6 Existing Modifications for Reconsideration**

a) Modification 0532 - Implementation of Non-Effective Days (Project Nexus transitional modification)

RE confirmed that Ofgem's aim is to get the modification approved by July. CW was concerned that the modification decision is not being progressed quickly given its aim was to provide certainty around the transition process for Nexus. After a Panel discussion, AP proposed that he write to Ofcom expressing the Panel's views on the need for this modification to be progressed, as Panel was concerned the delay could unintentionally send the wrong message to the industry and to consumers.

For Modification 0532, Members determined:

- To defer consideration to the May meeting.

#### **188.7 Consider Workgroup Issues**

a) Modification 0565 - Central Data Service Provider: General framework and obligations

CW advised that the Workgroup was concerned about the lack of consistent attendance by Ofgem and that few Shipper organisations appeared to be represented at meetings.

RE advised that Ofgem has recognised the concerns being raised about attendance in general at UNC meetings and more specifically around the FGO programme, this is being considered further in Ofgem and should be addressed soon.

AMa is concerned that without Ofgem participation, decisions and approaches to the modification may be delayed in what is already a challenging work schedule. CB agreed with this view and also noted the issues or clarifications required for licence changes were not being communicated quickly.

PB asked members to note that there were a lot of changes going on in the industry so workloads were high. It could also be the case that some organisations may rationally only want to engage on particular aspects of the process or change programme, so some reduced attendance should be expected.

BF requested that a Workgroup be established to discuss overarching FGO issues that were being raised about the FGO programme, which were not directly included in Modification 0565.

Members determined:

- To establish an FGO Workgroup.

### 188.8 Workgroup Reports for Consideration

None

### Consideration of Workgroup Reporting Dates and Legal Text Requests

Members determined unanimously to extend the following Workgroup reporting date(s):

<b>Workgroup</b>	<b>New Reporting Date</b>
None	

Members determined unanimously to request Legal text for the following modification(s):

<b>Modification</b>
0526 - Identification of Supply Meter Point pressure tier
0531 - Provision of an Industry User Test System

0576 - Generation of an estimated Meter Reading at the Code Cut Off Date in the absence of an actual Meter Reading
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0578 - Implementation of Retrospective Invoice Adjustment arrangements (Project Nexus transitional modification)
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## 188.9 Consideration of Variation Requests

None for discussion.

### 188.10 Final Modification Reports

- a) Modification 0541A – Removal of uncontrollable UNC charges at ASEPs which include sub-terminals operating on a 06:00 to 06:00 Gas Day

For Panel discussion see the Final Modification Report published at [www.gasgovernance.co.uk/0541](http://www.gasgovernance.co.uk/0541).

Members determined by majority vote to recommend implementation of Modification 0541A.

- b) Modification 0541B – Removal of uncontrollable UNC charges at ASEPs which include sub-terminals operating on a 06:00 to 06:00 Gas Day

For Panel discussion see the Final Modification Report published at [www.gasgovernance.co.uk/0541](http://www.gasgovernance.co.uk/0541).

Members determined by majority vote to recommend implementation of Modification 0541B.

When considering that should either Modification 0541A or 0541B be implemented, which one better facilitated the Relevant Objectives. Members identified a preference for Modification 0541A.

- c) Modification 0572 – Amendment to the definition of AUG Year within UNC TPD Section E

For Panel discussion see the Final Modification Report published at [www.gasgovernance.co.uk/0572](http://www.gasgovernance.co.uk/0572).

Members determined by majority vote to recommend implementation of Modification 0572.

- d) Modification 0577S - Aligning UNC to the indirect clearing model operated by ICE Endex

For Panel discussion see the Final Modification Report published at [www.gasgovernance.co.uk/0577](http://www.gasgovernance.co.uk/0577).

Members determined by unanimous vote to implement Modification 0577S.

## 188.11 Any Other Business

- a) Code Governance Review 3 Final Proposals and CMA's Code Governance proposals

### Code Governance Review

RE provided an overview of the recent CGR Phase 3 proposals and the timeline for the process. This included a summary of the main changes being proposed and where these have licence impacts.

LJ asked members to note that it is proposed that Self-Governance materiality criteria be developed and provided by Code Panels. RP suggested that the existing rules should be used as an initial basis for further development.

RP challenged why Transporters have the obligation for Code and Suppliers SPAA – each of these agreements have other industry parties, why they haven't they got similar obligations. RE advised the licence provisions were based on the party most likely to be the one taking the changes forward.

FH asked if the SPAA obligations were for all Transporters, LJ advised they are for UNC but it is unlikely that SPAA would place an obligation on NTS.

AM asked when the changes would be made, would it before the licence is changed? LJ felt that changes could be developed or made ahead of the licence changes so that Code is prepared subject to a level of certainty around the changes.

### CMA Code Governance Proposals

LH then provided an overview of the CMA's Code Governance proposals. LH confirmed that Ofgem were committed to implementing the proposals by the CMA as quickly as possible and this would be in line with an implementation plan - this would not be overnight, particularly as some of the remedies need legislative changes.

AP asked if primary legislation is required, is there a guaranteed parliamentary spot for this to be managed? LH advised that discussions are on going with DECC and the date would be advised when confirmed.

LH advised that Ofgem would prioritise the changes with a possible focus on retail Codes. He also confirmed that strategic changes to be

incumbent on system owners/operators and not just the Code administrators facilitating the change process, this would be based on the strategic objectives set by Ofgem.

SM asked if a cost benefit analysis been provided as this was moving costs currently borne by Ofgem on to the industry. LH advised that the CMA had considered this issue and that Ofgem would review in more detail as it is recognised as being a significant change in the way the industry operates now.

SM was concerned that as Ofgem had needed to step into the delivery of Nexus, there may be limited confidence as to whether these roles could be delivered by the industry? LH said that responsibilities would change and incentives would be placed to ensure focus on delivery is maintained.

CB asked how these incentives would be applied; she was concerned that consumers would ultimately be paying? LH agreed it was a step change and rules would need to define who would pay for failure to deliver and how it was funded.

FH challenged that the process does not appear to review the changes being made once completed to ensure they meet the strategic objective/direction goals set by Ofgem? LH agreed to review the change process to ensure feedback is considered in the change process.

RP asked if a list of organisations could be provided that would need to be licenced to manage the strategic change and delivery process being proposed. LH agreed this would be useful to consider and take forward.

SM asked if incumbent bodies will be given this role or will it be open to other parties through a tender process. LH noted that the CMA recommendations consider competitive tendering an important feature for inclusion in the process, however Ofgem need to consider this carefully to ensure the process is meaningful and works effectively.

PB asked if the strategic group that sets out in the proposals could set out a reasonable framework could for Code consolidation so the industry had a clear view of how the change process was going to change.

AM asked if Ofgem would be effectively resourced to undertake the strategic direction role. LH advised that Ofgem would be reviewing their obligations under these arrangements. It is likely the Switching model becomes the model for the delivery of other arrangements going forward.

CB asked that where the Joint Office manages the change process and Xoserve the delivery, how would they interact in future under this model. LH advised that one or both of these bodies could be licenced to fulfill the role.

AG asked when the plan or road map is to be made available? LH advised that this would be later in the Summer following publication of the CMA final report. AP suggested, and Ofgem agreed, that these issues should be considered again at Panel during the Summer.

b) Access to the Panel Chair

SM wanted to understand how parties could contact the Panel Chair should there be a relevant issue they wish to discuss? LJ confirmed that the Joint Office should be used as an initial contact point and that matters should be related to Panel meetings and not general governance which is the remit of the Joint Office.

c) Independent Panel Chair (closed discussion)

There was a general discussion on the proposed term extension for the incumbent Panel Chair and a report on Panel views was presented.

CB asked why only Panel members were consulted? LJ explained that this was consistent with the process adopted by other Codes. There was general support for this approach, although consideration should be given to ensure wider industry communications.

LJ advised that the report and JGAC recommendation to Ofgem to extend the term of appointment until December 2017 is to be published on the Joint Office website.

d) Request Workgroup 0575R

Workgroup is requested to keep the scope of the Request in consideration as meetings progress to ensure the topics are relevant to the review.

**188.12 Conclusion of Meeting and agreed Date of Next Meeting**

10:30, Thursday 19 May 2016, at the Elexon.