

Modification Report
Extending Established Uniform Network Code governance arrangements to include the
Network Code Validation Rules document referenced in Section M1.5.3
Modification Reference Number 0059
Version 5.0

This Modification Report is made pursuant to Rule 8.9 of the Modification Rules and follows the format required under Rule 9.6.

1. The Modification Proposal

The Proposal, as amended by the Proposer, is as follows:

A number of procedural documents which set out how Transporters and Users implement Uniform Network Code (UNC) obligations are not currently subject to full joint industry governance arrangements. This is despite the fact that many of the matters outlined in these documents can and do have a significant impact on Users' commercial positions and the quality of service Shippers-Suppliers are able to provide to their customers.

Although many of these documents are referred to in the UNC they are typically managed by the Transporters outside the UNC governance processes with only the Transporters being allowed to propose changes to the documents. Greater visibility of these documents is also desirable. Although updated documents are circulated and consulted on from time-to-time, these are not readily available to users; indeed new users or potential entrants would not necessarily be aware the documents exist to ask for them in the first place.

This Modification Proposal builds on the principles established by Modification 730 to the Network Code and proposes replacing the existing UNC governance arrangements concerning the Network Code Validation Rules.

With respect to the Network Code Validation Rules, it is proposed that the UNC be modified:

- to require publication of the Network Code Validation Rules on a publicly accessible industry website, such as the Joint Office of Gas Transporters' website
- to require creation of a new version of the Network Code Validation Rules document following any revision, with each version numbered sequentially, and with earlier versions continuing to be made available by the Transporters on request
- to enable Transporters or Users to propose revisions to the Network Code Validation Rules by written notice to the Uniform Network Code Committee
- to prevent any revisions being made to the Network Code Validation Rules without approval by majority vote of the UNC Committee
- without fettering the discretion of the committee, to permit the UNC Committee if it considers it appropriate (again subject to a majority vote) to refer any proposed change to a relevant sub-committee, which would in turn be required to consider the matter and make recommendations to the UNC Committee

- in the event of the failure by the UNC Committee to come to a decision then the change should be subject to the UNC modification procedures unless the UNC Committee decides otherwise

Implementation of this Modification Proposal would allow Users as well as Transporters to instigate revisions to the Network Code Validation Rules. However the implementation of proposed revisions would only be allowed by first formally satisfying industry stakeholders. Such arrangements would be consistent with approval processes established in industry codes elsewhere. It is also consistent with Ofgem's principles of good governance set out in their June 2003 consultation document "Gas Retail Governance – Further Consultation" and in their decision letters regarding Modification 730 to the Network Code.

2. Extent to which implementation of the proposed modification would better facilitate the relevant objectives

The Proposer suggested that implementation of this Proposal would be expected to better facilitate the relevant objectives by improving transparency and accountability. It would be a means of ensuring efficient consultation which would increase the certainty and confidence of all UNC parties, thereby facilitating competition between shippers and suppliers. Further, increasing the efficiency and transparency of consultation would contribute to the promotion of efficiency in the implementation and administration of the UNC.

Implementation might also be expected to facilitate more efficient change management of processes associated with the UNC and therefore potentially facilitate the reduction of operating costs for the industry, consequently facilitating competition between shippers and between suppliers. Implementation might also reduce risk associated with insufficient visibility and governance of the Network Code Validation Rules, and any such reduction in risk would be expected to further facilitate the securing of effective competition.

BGT agreed "*that the implementation of this Modification Proposal would further relevant objectives:-*

(d) the securing of effective competition between Shippers and Suppliers and

(f) the promotion of efficiency in the implementation and administration of the Uniform Network Code by improving the visibility and transparency of these processes and by affording access by user to the process by which beneficial changes may be introduced".

EON also believes the proposal "*will better facilitate the relevant objectives (f) the promotion of efficiency in the implementation and administration of the network code and/or the uniform network code and relevant objective (d)the securing of effective competition between relevant shippers, suppliers and/or between DN Operators and relevant shippers through improving transparency and accountability and creating a more level playing field, enabling both Users and Transporters to propose changes to the relevant documents".*

SGN believes implementation of the Modification Proposal "*would better facilitate the relevant objectives"*

TGP concluded that *“the proposal clearly facilitates the Relevant Objectives specified within the Gas Transporters Licence by improving transparency and accountability”*.

STUK believe that the proposal *“would better facilitate the relevant objectives specified in the Gas Transporters Licence by improving transparency and accountability and facilitate better change management and competition between shippers and suppliers”* adding *“ it would further facilitate the securing of effective competition”*

NG UKD believe *“the Proposal does not better facilitate the ‘relevant objectives’ specified within the Gas Transporters Licence, specifically it does not ‘facilitate the promotion of efficiency in the implementation and administration of the network code and or the uniform network code’*

NG NTS do not believe *“that the proposed change clearly demonstrates any improvement of the relevant objectives in the context of National Grid NTS's GT licence obligations, standard special condition A11 1 (a), (d) or (f)”*.

3. The implications of implementing the Modification Proposal on security of supply, operation of the Total System and industry fragmentation

The implementation of this proposal should not have any effect on security of supply or the operation of the Total System.

NG NTS agreed that, *“in some instances ensuring that documents are consistent across Transporters may mitigate perceived adverse affects of market fragmentation.”*

4. The implications for Transporters and each Transporter of implementing the Modification Proposal, including

a) implications for operation of the System:

Implementation of this Proposal would not affect the operation of the System.

TGP *“agree that there are no operational or systems impacts as a result of the implementation of the modification”*.

b) development and capital cost and operating cost implications:

No material development or capital cost implications have been identified.

TGP believe that *“ there should be no cost implications other than to provide the relevant facility to publish and version control the manual on a publicly accessible industry website. This is a concept that the Joint Office have already informally taken forward”*.

NG NTS states the proposer *“contends that the Proposal may provide a 'reduction of operating costs for the industry’”* NG NTS questions the merits of this assertion stating *“ The Proposal seeks to allow Users to make changes subject to the governance of the UNC committee. This in itself does not demonstrate that it better facilitates competition between shippers and suppliers or a reduction in operating costs. It should be noted that if implemented any subsequent changes to the NCVR might very well increase costs to some Users”*.

c) extent to which it is appropriate to recover the costs, and proposal for the most appropriate way to recover the costs:

No additional cost recovery mechanism is proposed.

d) analysis of the consequences (if any) this proposal would have on price regulation:

No such consequences on price regulation have been identified.

5. The consequence of implementing the Modification Proposal on the level of contractual risk of each Transporter under the Code as modified by the Modification Proposal

The Proposer suggested that implementation may help reduce the level of contractual risk for each Transporter by improving transparency and governance.

NG UKD disagrees “*Section 5 of the Draft Modification Report suggests that a Transporter’s level of contractual risk may reduce if the Proposal were implemented. We would question the validity of this statement given that the Proposal allows non-Transporter parties to instigate change to the Network Code Validation Rules whereas currently only Transporters have this ability*”.

NG NTS highlights that “*The Proposer states that implementation of the Proposal 'may reduce contractual risk'.*” NG NTS questions the merit of this assertion.

6. The high level indication of the areas of the UK Link System likely to be affected, together with the development implications and other implications for the UK Link Systems and related computer systems of each Transporter and Users

No systems implications have been identified.

7. The implications of implementing the Modification Proposal for Users, including administrative and operational costs and level of contractual risk

Implementation could help reduce administrative costs and contractual risks for Users by increasing visibility and awareness of arrangements and introducing more robust governance arrangements. This could in turn facilitate competition between shippers and between suppliers.

STUK believes that “*this proposal would reduce the risks associated with insufficient visibility of the Network Code Validation Rules*”.

TGP “*support the statement that implementation could help reduce administrative costs and contractual risk for users by providing a clear and transparent mechanism to help ensure that the Network Code Validation Rules are relevant to the needs of both Transporters and Users*”.

8. The implications of implementing the Modification Proposal for Terminal Operators, Consumers, Connected System Operators, Suppliers, producers and, any Non Code Party

Implementation would provide an opportunity for Users other than Transporters to sponsor changes put forward by non UNC parties, ensuring wider industry involvement or participation.

9. Consequences on the legislative and regulatory obligations and contractual relationships of each Transporter and each User and Non Code Party of implementing the Modification Proposal

No implications have been identified.

10. Analysis of any advantages or disadvantages of implementation of the Modification Proposal

Advantages

- allows Users as well as Transporters to propose changes to any of the Code Validation Rules, introducing more balanced governance arrangements and ensuring they are more relevant to User Requirements
- prevents changes being made to the reports without either approval of the UNC Committee or the Modification Procedures being followed
- improved transparency and confidence in arrangements as the current version of the Code Validation Rules would be published and available on the industry website and subject to formal change control
- facilitates efficient consultation which will increase the certainty and confidence of UNC parties leading to the securing of effective competition between shippers and suppliers
- contributes to the promotion of efficiency in the implementation and administration of the UNC

RWE in support of the modification proposal considers *“that the incorporation of these documents under the UNC will assist transparency and accountability, which will help to increase Users confidence as the consultation process will be inclusive and efficient”*.

STUK agreed, *“that the Network Code Validation Rules would benefit from full joint industry governance so that all Transporters and Users can propose revisions, with changes only being made by majority vote of the UNC committee”*.

TGP believes *“the Draft Modification Report clearly sets out the advantages that implementing this proposal will bring”*.

Disadvantages

- gives responsibility for decisions to the UNC Committee rather than a neutral party, such as Ofgem

TGP *“do not believe that the disadvantage highlighted in the report, such that responsibility for the administration of change being given to the Uniform Network Code (UNC) Committee rather than Ofgem, warrants concern with respect to the*

Network Code Validation Rules. The arrangements proposed by the Modification, such that the UNC Committee has open to it the option to refer any proposed change to a relevant sub-committee, should provide a route to ensure full transparency and discussion by the industry should any proposed change be unclear or contentious”.

11. Summary of representations received (to the extent that the import of those representations are not reflected elsewhere in the Modification Report)

<u>Organisation</u>	<u>Abbreviation</u>	<u>Position</u>
British Gas Trading	BGT	For
E.ON UK	EON	For
National Grid Distribution	NG UKD	Against
National Grid Transmission	NG NTS	Against
RWE Npower Plc	RWE	For
Scotia Gas Networks	SGN	For
Scottish and Southern Energy	SSE	For
Statoil UK	Statoil	For
Total Gas & Power Limited	TGP	For

EON states that *“The proposed arrangements would also ensure consistency with Ofgem’s principles of good governance set out in their June 2003 consultation document, ‘Gas Retail Governance – Further Consultation”.*

SGN commented *“Whilst the ...proposals seek to amend governance arrangements and involve the UNC Committee in decision making, we note that this does not in any way prevent a party from seeking to implement changes through the UNC formal modification process, requiring Authority approval.”*

SSE believes *“The proposed changes to the governance arrangements to extend the established Network Code arrangements to include Code Validation Rules is a pragmatic solution usefully developed via the Workstream”.*

STUK agree *“that the Network Code Validation Rules Document would benefit from full joint industry governance so that all Transporters and Users can propose revisions, with changes only being made by majority vote of the UNC committee”.*

TGP having agreed the proposal clearly facilitates the relevant objectives added that it is also *“consistent with Ofgem’s principles of good governance set out in their June 2003 consultation document “Gas Retail Governance – Further Consultation”.*

NG UKD stated *“Currently, where Transporters provide an appropriate notice of a change to the UNC Validation Rules, a User may request that Ofgem disapproves the change and hence the change does not take place (TPD Section M1.5.3). Thus this gives the User an appropriate degree of protection that a change may not be unilaterally implemented without recourse to challenge”.*

NG UKD added *“The Proposal effectively removes this ability. We do not believe it is appropriate to remove Ofgem from being the arbiter in the change process for this document. We are of the view that this Proposal would reduce the independence of the decision where this is alternatively undertaken by the UNC Committee”.*

The SME would observe that the Proposal does not include any reference to removal of the existing requirements in the UNC with respect to the giving of notice and Ofgem's subsequent role. The Proposal is limited to modifying the process by which proposed changes to the Network Code Validation Rules are initiated and developed. The SME understands the Authority could still "upon application by any User", give Condition A11(18) Disapproval to the Transporters.

Although not in support of this proposal, NG NTS "agree that for the purposes of providing greater transparency there is merit in ensuring that such documents and any updated versions are available through one common website" noting "that the Network Code Validation Rules document is available on the Gas Governance website".

Legal Text

The Proposer has not provided draft text.

When the legal text is drawn up, the Proposer suggested that consideration be given to the creation of common governance arrangements for such documents. A list of similar documents and governance arrangements could be set out in a general section of the UNC. This would be consistent with the promotion of efficiency in the administration of the Uniform Network Code.

TGP supported this suggestion stating "*this would add clarity to the UNC and would promote efficiency in the administration of the Codes*".

EON "*support the creation of a list of the relevant documents, along with the creation of a section detailing common governance arrangements*" arguing this "*would better facilitate the administration of the network code and improve transparency*". They added that they "*would expect such changes to be developed within the Governance Workstream*".

12. The extent to which the implementation is required to enable each Transporter to facilitate compliance with safety or other legislation

Implementation is not required to enable each Transporter to facilitate compliance with safety or other legislation.

13. The extent to which the implementation is required having regard to any proposed change in the methodology established under paragraph 5 of Condition A4 or the statement furnished by each Transporter under paragraph 1 of Condition 4 of the Transporter's Licence

Implementation is not required having regard to any proposed change in the methodology established under paragraph 5 of Condition A4 or the statement furnished by each Transporter under paragraph 1 of Condition 4 of the Transporter's Licence.

14. Programme for works required as a consequence of implementing the Modification Proposal

No programme of works would be required as a consequence of implementing the Modification Proposal.

15. Proposed implementation timetable (including timetable for any necessary information systems changes)

It is proposed that implementation should be on the business day following receipt of direction from the Authority.

16. Implications of implementing this Modification Proposal upon existing Code Standards of Service

No implications of implementing this Modification Proposal upon existing Code Standards of Service have been identified.

17. Recommendation regarding implementation of this Modification Proposal and the number of votes of the Modification Panel

At the Modification Panel Meeting held on 16 March 2006, of the 10 Voting Members present, capable of casting 10 votes, 6 votes were cast in favour of implementing this Modification Proposal. Therefore the Panel recommend implementation of this Proposal.

18. Transporter's Proposal

This revised Modification Report contains the Transporter's proposal not to modify the Code but has been prepared following direction from the Gas & Electricity Markets Authority.

19. Text

UNIFORM NETWORK CODE - TRANSPORTATION PRINCIPAL DOCUMENT SECTION M - SUPPLY POINT METERING

Amend Section M1.5.3 TPD as follows:

- 1.5.3 The "**Uniform Network Code Validation Rules**" are the rules and procedures contained in the document issued by the Transporters at the UNC Implementation Date and so entitled and governed and amended in accordance with Section V12 unless, as from time to time amended, after consultation with the Uniform Network Code Committee or any relevant Sub-committee, by the Transporters upon notice of not less than 3 months to Users, unless the Authority shall, upon application by any User made within one month after such notice, ~~to~~ give Condition A11(18) Disapproval to the Transporters making any ~~particular such~~ amendment in accordance with the provisions of Section V12.

SECTION V - GENERAL

Insertion of a new Section V12 in the TPD

12 General Provisions Relating to UNC Related Documents

12.1 Purpose

The purpose of this Section is to establish generic governance arrangements in respect of the following UNC Related Documents (each a "**Document**" and collectively the "**Documents**"):-

- (a) Network Code Operations Reporting Manual as referenced in Section V9.4;
- (b) Network Code Validation Rules referenced in Section M1.5.3.

12.2 Publication Requirements

Each Document shall be kept up to date and published by the Transporters on the Joint Office of Gas Transporters website.

12.3 Modifications

Should a User or Transporter wish to propose modifications to any of the Documents, such proposed modifications shall be submitted to the Uniform Network Code Committee and considered by the Uniform Network ~~Committee~~ Committee or any relevant sub-committee where the Uniform Network Committee so decide by majority vote. in accordance with the [Uniform Network Code Modification Procedures].

12.4 Approved Modifications

- 12.4.1 If the event that the a proposed modification is approved ~~by~~ by a majority vote of the Uniform Network Code Committee, the modification ~~to the Document~~ shall be implemented ~~within the timescale set out in the proposed modification or as soon as is reasonably practicable and agreed by the Uniform Network Code Committee.~~ Where the Uniform Network Code Committee fails to achieve majority approval the proposed modification shall be considered in accordance with the provisions set out in Section 7 of the Uniform Network Code Modification Rules unless the Uniform Network Code Committee determines otherwise.
- 12.4.2 Each revised version of a Document shall be version controlled and retained by the Transporters. It shall be made available on the Joint Office of Gas Transporters website.

~~12.4.3~~

Subject Matter Expert sign off:

I confirm that I have prepared this modification report in accordance with the Modification Rules.

Signature:

Date :

Signed for and on behalf of Relevant Gas Transporters:

Tim Davis
Chief Executive, Joint Office of Gas Transporters

Signature:

Date :