

## Representation received by Email

### UNC Independent Panel Chair

**Date:** 10 February 2014

**Organisation:** ScottishPower Energy Management Ltd (Gerry Hoggan)

**Abstract:**

1) What criteria do you consider to constitute an independent Chair?

Our initial view is that we believe that the following are essential aspects for the appointment of an independent panel chairperson (chair): -

1. For the duration of the appointment the successful candidate should not be employed by any party who may have an interest in the UNC, or undertake any separate role, such that it could lead to a potential conflict of interest with the role of the chair. As a result, for example, employees of any UNC Party or Ofgem would not be eligible for appointment;
2. Industry experience would be highly desirable, and all but essential if part of the role is to provide appropriate control over the business of the Panel and to exercise a casting vote where allowed. However, that having been said, we would not want to preclude any candidate solely on that basis albeit we find it difficult to imagine circumstances where other attributes could outweigh such a lack of experience;
3. The appointment should be for a single rolling two year term, with the Panel, following on a brief industry consultation, having the option to recommend reappointment to the Authority. We would not wish to impose any limitation on the number of terms that could be served;
4. The appointment should be made at the conclusion of a selection process that would have been determined following on industry consultation. Whilst the consultation process should specify the necessary criteria for the position and provide an appropriate level of transparency, we would expect that the appointment process would be delegated to the Panel.

2.) Do you consider that the Joint Office Chief Executive, appointed from a Gas Transporter business, fulfils the Transporter's Licence obligation to appoint an independent chair, and why?

Primarily it is for the Licensee to be satisfied, and if necessary demonstrate, that their processes result in the appointment of an independent panel chair. However, to this point no justification has been advanced to substantiate that that independence has been secured and nor have any details been provided of what measures may be in place to preserve and protect any such independence. In those circumstances

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the appointment of a party who is otherwise a member of staff of a Gas Transporter Licensee appears on the face of it to be too close a connection, regardless of whatever other safeguards may be provided for elsewhere.

- 3.) Do you have any views on the *process* of appointing the Independent Chair in this way?

It is difficult to form a view or express an opinion on the process that was followed to appoint the current Panel Chair since no details of that process have been provided. It appears that such process as there is may merely have been a continuation of previous practice, which has not been adapted and does not take account of the licence requirement that the chair should be independent as introduced following on Ofgem's Code Governance Review. It is essential that the chair acts independently, which ultimately can only be assessed based on actual performance in office, although it is almost as important that that position is seen to be independent. That cannot be said to be the case with the current arrangements.

- 4.) Are there any further examples or evidence you can provide to support the points made?

Various other industry codes have now adopted robust, transparent and consultative processes with regard to the selection and appointment of an independent chair, with those of the Balancing and Settlement Code (BSC) and Connection and Use of System Code (CUSC), the other major codes, perhaps being the most immediately relevant. These provide valuable precedents to draw upon although that is not to say that they need to be slavishly followed.

The important aspect of each however is that they were adopted following an industry consultation such that parties had the opportunity to engage in the process and have a greater level of comfort that the arrangements were fit for purpose. We believe that a similar such consultation is necessary to develop the more detailed aspects of the selection and appointment process, such as the determination of eligibility criteria, the method whereby appropriate candidates would be identified and recommended for appointment, the duration of the appointment etc. We would propose that such a wider industry consultation should be initiated as soon as possible to ensure that that process is in place to allow for an appointment to be made to run from the end of the current interim arrangements.