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Guidance Note on Best Practice for Urgent Uniform Network Code Modification Proposals

Audience

This note is intended for:

- Proposers of Urgent Uniform Network Code (UNC) Modification Proposals
- Modification Panel Members
- Joint Office of Gas Transporters
- Consultation respondents
- Ofgem/Gas and Electricity Markets Authority

Background and Introduction

Section 10 of the UNC General Document provides for any proposer of a UNC modification proposal to request that their proposal be treated as Urgent. Any such request is made to the Secretary of the UNC Modification Panel, who will pass that proposal and the associated request for Urgent status to the Gas and Electricity Markets Authority (the “Authority”).

The role of the Authority is:

1. To decide whether or not to grant Urgent status to the proposal; and
2. If it decides that Urgency is required, to also decide, after consulting with the Transporters, on a procedure and timetable to be followed in progressing that Urgent proposal. (Typically, the party raising the Urgent proposal will set out within the proposal its preferred timetable).

The decision on Urgency is taken by the Authority following consideration against three criteria, these being:

1. There is a real likelihood of significant commercial impact upon Gas Transporters (GT’s), Shippers or Customers if a proposed modification is not urgent;
2. Safety and security of the network is likely to be impacted if a proposed modification is not urgent; and
3. The proposal is linked to an imminent date related event.

Where the Authority considers that the proposal meets the criteria for Urgency it will, through the Secretary of the UNC Modification Panel, advise all relevant parties of its decision, and of the timetable/procedures that the proposal will follow.

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For clarity, the UNC Modification Panel has no formal role in recommending that a proposal be granted Urgent status, or in deciding upon the timetable and procedures to be followed. However, Licence Condition A11 15 (a) iv requires that a modification proposal has a Modification Panel decision on implementation prior to it being referred to Ofgem for a decision. Further, the Authority has stated that it values a Panel decision when considering modification proposals. It is therefore extremely unlikely that any Urgent timetable would seek to by-pass the Panel recommendation stage.

Notwithstanding the Authority's desire for Urgent modification proposals to receive a Panel consideration and decision, a view has in the past been expressed that a higher quality outcome might be achieved by foregoing the Panel decision, thereby allowing more time for consultation responses.

Purpose of this Guidance Note

The purpose of this Guidance Note is twofold:

- to try and ensure that the Urgent proposal process is only adopted where an Authority decision within the required timescale is not possible by following established non-urgent procedures (which may be compressed by agreement with the Panel). A methodology setting out where Urgent procedures may or may not be appropriate is included below. Where there is no option but to follow an Urgent procedure, this Guidance Note seeks to deliver the highest quality process and outcome that is possible in the time available before the specific date related event.
- to provide advice to Modification Panel members on their role and responsibilities during the passage of an Urgent Proposal through the relevant procedure. This, in turn, will inform the proposer of an Urgent proposal about what to expect from any involvement of the Modification Panel.

Best Practice Guidelines for Proposers

1. When considering whether or not a UNC Modification Proposal requires Urgent treatment, the proposer must ensure that an Authority determination on implementation of the proposal by the required deadline is not possible by following a non-urgent process. Where the proposer is unsure about the extent to which non-urgent procedures can be compressed to accommodate the desired timetable, or is uncertain about the likelihood of a specific date being met by following non-urgent procedures, advice should be sought from the Joint Office of Gas Transporters.

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2. Where a proposer has ascertained that an Urgent procedure is unavoidable, the preferred timetable, as set out in their proposal, should seek to allocate the maximum realistically available time to the most valuable aspects of the process. Having allowed minimum (but sufficient) time for the essential process elements, the remaining time should then be divided equally between the more critical aspects of the proposal. The preferred approach is set out in the following table.

<u>Activity</u>	<u>Timescale</u>
Out for representations	Time available /3
Producing FMR	[3] business days
Consult on FMR (where possible)	Time available /3
Panel consideration	[5] business days
Panel recommendation	E.g. 1 hr teleconference or meeting
Authority decision	Time available /3

For example:

An Authority decision on implementation is required within 14 business days. 8 days are required for producing an FMR and Panel consideration, leaving 6 days for the remaining activities. These should therefore be allocated 2 days each.

3. In order to avoid, as far as possible, any perception that the Urgent procedure is being sought in preference to a non-Urgent procedure for tactical reasons, it is suggested that the proposer sets out in the proposal the background and timetable leading up to the development of the proposal.
4. Proposers of Urgent Proposals are reminded that by seeking Urgent status, their proposal is by-passing an important stage of the non-urgent process – that being a Modification Panel decision on whether the proposal is fully developed and contains sufficient clarity so as to facilitate meaningful consultation and be capable of implementation. The first occasion that Panel members will formally have in order to assess the proposal's clarity and state of development is at the Panel decision stage. It is therefore possible that the Panel may determine that a proposal should be sent to a workstream for further development.

Best Practice Guidelines for UNC Modification Panel Members

1. Panel members should make every effort to comply with any role they might be asked to take in an Urgent proposal. This is most likely to involve attending a Panel meeting (in person or remotely) to arrive at a decision on whether to recommend implementation.

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2. Where a Panel member, in particular a Shipper representative, considers that insufficient time has been allowed for consideration of the issues and receiving views of other code signatories as the case may be, that representative may decide not to cast a vote. However, it should be noted that under current UNC rules, a Panel member who wishes to abstain from a vote is required to not take any part in the proceedings. If this is the case, the Panel should be mindful of the effects that this might have on voting, and the Panel being quorate.
3. Where a shipper representative Panel member feels able to cast a vote based on their own views, but does not feel that they have had sufficient time to adequately represent their shipper constituency, they may ask that their vote is recorded to this effect.
4. Notwithstanding the above, Panel members may, after initially reviewing the Authority's proposed timetable, decide that a Panel decision is simply not going to be possible. Where the majority of Panel members consider this to be the case, the Authority should be informed forthwith via the Modification Panel Secretary, with a request that a revised timetable is produced that allows more time to the consultation phase.

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Appendix 1

D0 = Day urgent status requested
DNP = Next main Panel meeting date after D0
DG = Day urgent status granted
DD = Day by when Ofgem decision requested
DP = Main Panel meeting date prior to DD

Provided $DNP - D0 =$ at least 5 business days,
And DP not equal to DNP
Then presumption should be that urgency is not granted

If DG is 13 business days or more before DP, then
 schedule recommendation for DP
 Issue FMR on DP-5
 Consultation closes on DP-7
 Consultation opens on DG+1

If DG less than 13 business days before DP, then
 DP = 1st Thursday in DD month

If DG 13 business days or more before revised DP, then proceed as before.

If DP – DG is at least 20 business days, then add additional consultation – go straight to consultation on proposal, produce draft FMR, invite comments on draft FMR, produce final FMR for Panel recommendation.