

UNC Final Modification Report	At what stage is this document in the process?
<h1 data-bbox="134 324 655 414">UNC 0839:</h1> <h2 data-bbox="134 452 1098 589">Revision of the Modification Panel Membership Cessation Provisions</h2>	<div data-bbox="1209 318 1477 640"> <div data-bbox="1209 318 1477 398">01 Modification</div> <div data-bbox="1209 398 1477 479">02 Workgroup Report</div> <div data-bbox="1209 479 1477 560">03 Draft Modification Report</div> <div data-bbox="1209 560 1477 640">04 Final Modification Report</div> </div>
<p>Purpose of Modification:</p> <p>To revise the Modification Rules to mandate that where a Member of the Modification Panel ceases to be employed or engaged by the same specified entity as at the time of nomination, that Member will cease to be a Member of the UNC Modification Panel</p>	
<p>Next Steps:</p> <p>The Panel recommends implementation.</p>	
<p>Impacted Parties:</p> <p>High: Current and prospective Members of the Modification Panel and the entity, or constituency, which that Member represents, or will represent.</p> <p>Low: None</p> <p>None: All parties other than those identified above</p>	
<p>Impacted Codes:</p> <p>None</p>	

1 Summary

What

The UNC Modification Panel comprises up to fourteen Voting Members and four non-voting Members. All but one of these eighteen Members (i.e. fourteen Voting Members and three non-voting Members) are required to represent an entity (or entity type as part of a constituency).

These entities/constituencies are:

- Transporters
- Users (Relevant Shipper or Trader User)
- Ofgem
- Terminal Operators
- Consumers
- Independent Suppliers
- Independent Gas Transporters.

Why

Whilst the Modification Rules set out the entity or constituency that each Member is required to represent (Modification Rules Paragraph 3.2.1), *within a period of appointment* there are no explicit rules setting out the consequence for an existing Member who, due to a change in circumstances, is no longer employed or engaged by the same specified entity as at the time of nomination.

How

It is proposed that, within a period of appointment, where a Member of the Modification Panel no longer represents the same specified entity as at the time of nomination, the Member is required (as soon as is practicable) to inform the Secretary of such change in circumstances and the date from which this change took, or will, take effect.

It is proposed that as a consequence of this (or where the Secretary is otherwise made aware of such change in circumstances), that Member shall cease to be a Member of the Modification Panel with effect from the latter of:

- a) the date from which that Member will no longer be employed or engaged by the relevant entity; and
- b) the day following the date the Secretary is informed, or made aware, of such change in circumstances.

2 Governance

Justification for Self-Governance, Authority Direction or Urgency

Application of Self-Governance procedures is sought because the changes proposed are unlikely to have a material effect on the Uniform Network Code governance procedures (nor any of the other aspects described in the Self-Governance criteria).

This is because the nature of the proposed change is to provide for the resolution of a scenario that is not currently explicitly addressed in the Modification Rules. The proposed resolution is entirely consistent with the

existing ‘representative’ requirement for relevant individual Members and therefore represents a non-material impact on the governance procedures.

The ‘[UNC – Self Governance Modifications: Guidance for Proposers](#)’ sets out that proposed changes to the UNC modification procedures will only be sufficiently material (such as to require Authority Direction) where the change:

- affects the rights of the industry to be engaged in proposed changes to the UNC; or
- changes the User or Transporter representation obligations; or
- changes any Authority decision-making capacity.

We believe that as the Proposal seeks to effectively **maintain** the existing User and Transporter representation obligations and the existing rights of the industry to be engaged in proposed changes to the UNC, the application of self-governance procedures is appropriate.

Workgroup’s Assessment

Following discussion at Workgroup in March 2023 the consensus was that this Modification should be considered a material change and subject to Authority Direction due to it introducing changes to the User or Transporter representation obligations. This was also the decision reached by Panel when the Modification was introduced at the March 2023 UNC Modification Panel with there being no overall majority in favour of Self Governance.

3 Why Change?

As set out in section 3.2 of the Modification Rules, the Modification Panel comprises up to fourteen Voting Members and four non-voting Members as follows:

Voting Members

Representative	Quantity	Appointed by
Transporters	5	Transporters
Users	If appointed, up to 6	Designated Person
Consumers	If appointed, up to 2	Citizens Advice or Citizens Advice Scotland (the appointee being an employee, representative, officer or contractor of the Citizens Advice or Citizens Advice Scotland) (1); and the Authority (the appointee being an individual, or an employee, representative or officer of a corporate entity or other organisation, other than the Authority) (1)
Independent Gas Transporters	If appointed, 1	Independent Networks Association

Non-voting Members

The Panel Chairperson, and the following Representatives:

Representative	Quantity	Appointed by
Ofgem	if appointed, 1	The Authority
Terminal Operators	if appointed, 1	Terminal Operators
Independent Suppliers	if appointed, 1	Designated Person

Therefore, all Members (aside from the Chairperson) are required to represent a specific entity (or entity type, as part of a constituency).

Whilst the Modification Rules set out the entity, or entity type, that each Member is required to represent, within a period of appointment there are no explicit rules setting out the consequence for an existing Member who, due to a change in circumstances, is no longer employed or engaged by the same specified entity as at the time of nomination.

A Voting Member is any Transporters' Representative, any Users' Representative, the Independent Gas Transporters' Representative and any Consumers' Representative and are therefore expected to represent the views of either Transporters, Users (relevant Shipper or Trader User), Independent Transporter or Consumer. If a Voting Member is no longer employed or engaged by any of the entities listed above, they are no longer in a position to represent them.

The Modification Rules provide for 'Retirement' (section 4.2) which is principally concerned with arrangements at the conclusion of Appointment Periods. Section 4.4 deals with 'Ceasing to be a Member' and currently provides for cessation in the following circumstances:

- voluntary cessation by the Member; or
- where a Voting Member does not comply with certain meeting attendance requirements; or
- where a Voting Member holds a Conflicting Appointment

Accordingly, as the latter deals with 'mid-appointment term' issues, the Proposer is of the opinion that for Members other than the Chairperson the 'Ceasing to be a Member' provisions should be modified to explicitly deal with instances where due to a change in circumstances, a Member is no longer employed or engaged by the same specified entity as at the time of nomination.

Arguably, the arrangements *implicitly* deal with this in that all such Members must represent an entity or a constituency and therefore where such a Member ceases to be employed or engaged by the same specified entity as at the time of nomination (and therefore is no longer able to effectively represent the relevant entity or constituency), their Membership of the Modification Panel is 'outwith' the existing rules (even if this is only for a brief interim period pending employment/engagement with an alternative entity). However, as a requirement for consequential cessation of Membership is only implicit, we believe that there is a defect in the arrangements which would benefit from explicit additional rules to address this uncertainty.

It is worthy of note that arrangements for the Data Services Contract (DSC) Committees do provide an explicit outcome for such change of circumstances in the case of Shipper Users. In this case, General Terms D, Annex D-2 (Committee Representatives) Section 5.2 provides that "In the event a Shipper User Representative who when nominated was employed or engaged by a Shipper User ceases to be so employed or engaged by the Shipper User, the Shipper User Representative shall be deemed to retire, and it shall be the responsibility of the

relevant Shipper User to notify the Committee Secretary of the Shipper User Representative's effective date of retirement".

Accordingly, our proposed approach is to provide for an equivalent outcome for all Members of the Modification Panel who are required to represent an entity (or entity type as part of a constituency).

Re-Engagement / Re-Employment Within the Same Constituency

In the case of Membership to represent a constituency, whilst it is entirely plausible that a former Member may be subsequently engaged by an alternative entity within the same constituency (with no time gap between employments/engagements), it is nevertheless the case that each constituency has a specified person or entity responsible for the appointment of specified Members of the Modification Panel.

Accordingly, as opposed to making assumptions regarding the relevant persons ongoing suitability to remain a Member in these circumstances, in this event, we believe the optimal approach is to enforce cessation of membership and allow the person or entity responsible for appointment to identify a replacement (which may indeed be the same person, in this case, employed or engaged by a different entity).

4 Code Specific Matters

Reference Documents

[UNC Modification Rules](#)

Knowledge/Skills

Knowledge of the existing UNC governance arrangements would be beneficial.

5 Solution

It is proposed that the existing 'Ceasing to be a Member' provisions of the UNC Modification Rules (as set out in Section 4.4 of the Modification Rules) are revised to reflect the following:

- within a period of appointment, where (due to a change in circumstances) a Member of the Modification Panel (other than the Chairperson) is no longer employed or engaged by the same entity as at the time of nomination, the Member is required to inform the Secretary of such change in circumstances (and the date from which this change took, or will take, effect) as soon as practicable; and
- as a consequence of the above, (or where the Secretary is otherwise made aware of such change in circumstances), that Member shall cease to be a Member of the Modification Panel with effect from the latter of:
 - (a) the date from which that Member will no longer be employed or engaged by the specified entity; and
 - (b) the day following the date the Secretary is informed, or made aware, of such change in circumstances.

6 Impacts & Other Considerations

Does this Modification impact a Significant Code Review (SCR) or other significant industry change projects, if so, how?

No

Consumer Impacts

Implementation of the change will ensure that Consumer Representatives will continue to comply with the requirements set out section 3.8 of the Modification Rules i.e. that the two Representatives are (and continue to be):

- an employee, representative, officer or contractor of Citizens Advice or Citizens Advice Scotland (as appointed by Citizens Advice or Citizens Advice Scotland); and
- an individual, or an employee, representative or officer of a corporate entity or other organisation, other than the Authority (as appointed by the Authority).

What is the current consumer experience and what would the new consumer experience be?

Whilst no specific benefits are detailed below, the change is expected to ensure maintenance of the Consumers current experience in terms of ensuring appropriate consumer representation on the Modification Panel.

Impact of the change on Consumer Benefit Areas:	
Area	Identified impact
Improved safety and reliability No impact expected	None
Lower bills than would otherwise be the case No impact expected	None
Reduced environmental damage No impact expected	None
Improved quality of service No impact expected	None
Benefits for society as a whole No impact expected	None

Cross-Code Impacts

In addition to alignment with the arrangements for membership of DSC Committees, the approach advocated by this Proposal also reflects that adopted for the iGT UNC Modification Panel. The iGT Uniform Network Code, Part L – Modification Rules states:

5.9 A Member shall cease to be a Member if:

- (c) the Member ceases to be in the employment of the IGT UNC Operator or Pipeline User, or an affiliate of the IGT UNC Operator or Pipeline User, that they were employed by when appointed...

EU Code Impacts

None.

Central Systems Impacts

None.

Rough Order of Magnitude (ROM) Assessment *(Workgroup assessment of costs & lead times)*

Cost estimate from CDSP	N/A
Insert Subheading here	N/A

Performance Assurance Considerations

There are no performance assurance considerations

Initial Representations

None Received

Panel Questions

1. What happens if a representative changes company but still represents the same constituency?

The Proposer confirmed that under this Modification the representative would cease to be a UNC Panel Member once their employment/engagement came to an end regardless of whether they gained employment/engagement with another User in the same constituency. However, the individual could then be nominated again, under their new employer, on the condition that the nominating criteria were met as per the UNC Modification Rules (N.B. The nomination could occur in the same Gas Year).

Workgroup agreed with the proposer at the 22 May 2023 workgroup meeting.

2. Consider how this is covered in other Codes, particularly the iGT UNC

Both the DSC (GT section D Annex D-2) and IGT-UNC (part L 5.9) have specific clauses that address the scenario where a Shipper User Representative ceases to be employed or engaged by the User:

UNC GTD Annex D-2

(5.2) In the event a Shipper User Representative who when nominated was employed or engaged by a Shipper User ceases to be so employed or engaged by the Shipper User, the Shipper User Representative shall be deemed to retire, and it shall be the responsibility of the relevant Shipper User to notify the Committee Secretary of the Shipper User Representative's effective date of retirement.

IGT-UNC (Part L 5.9)

(c) the Member ceases to be in the employment of the IGT UNC Operator or Pipeline User, or an affiliate of the IGT UNC Operator or Pipeline User, that they were employed by when appointed under Clause 4.5 or 4.6 of Section L.

The Proposer pointed out that this Modification would bring the UNC in line with both of these Codes.

Workgroup had nothing further to add.

Workgroup Impact Assessment

A Workgroup Participant referred to *Modification 0656 - Changes to Modification Panel arrangements* which was implemented in 2018 and introduced a conflict of interest clause and asked what issue this Modification was attempting to solve that was different from Modification 0656. The Proposer explained that this Modification merely seeks to address the issue of a Member who is no longer employed/engaged by the entity as at the time of nomination.

The Workgroup discussed how employment status could equal/demonstrate competency and ability to represent their constituency. There was a debate around how a Panel representative could represent their constituency when a User (Shipper or Trader) no longer employs them, and whether it would be expected that they would have to demonstrate how they could do this. For fairness, would you have to 'test' the competency of all Panel members to be able to demonstrate they represent their constituency or is competency assumed as they are still employed/engaged by their nominating party.

A workgroup participant raised concern about linking employment to competency. The Proposer pointed out the following clause:

General Terms C – Interpretation

2 INTERPRETATION

2.9 Miscellaneous

2.9.5 *A reference in the context of any provision of the Code to a “representative” of any person is a reference to any director, officer or employee of that person or any agent, consultant or contractor appointed or engaged by that person for purposes connected with the subject matter of the relevant provision of the Code.*

It was noted that this Modification does not reference competency.

Some Workgroup Participants agreed that it would be difficult to represent your constituency if not employed by a User, whereas other Workgroup Participants disagreed and said that there are other ways of being able to demonstrate you represent your constituency.

The Proposer referred to section 3.2.2 of the Modification Rules:

It is expected that each Voting Member shall, as appropriate, represent and inform the Modification Panel of the views of that Member's appointor (or appointors) in relation to Modification Proposals and Requests.

Discussions around knowledge and access to information also took place, specifically questioning at what point someone's knowledge becomes “old” if they cease to be employed by a User and does their ability to represent their constituency and/or their appointor reduce over time. A question was raised around whether being a full-time, part-time or contract employee made a difference to the individual's ability to represent their constituency/appointor. It was noted that this would be the responsibility of the nominating party at the time they nominate the individual to assess their ability to be able to effectively represent their constituency and appointor and provide relevant views.

A Workgroup Participant raised a question about the difference between appointor and constituency.

Some Workgroup Participants agreed that this Modification supports bringing consistency across Industry Codes and is therefore a strong argument for change as it brings clarity to this area.

The Proposer pointed out that the change is not retrospective and there is an implicit onus on the Secretary to confirm the change in employment status. Legal Text now ensures that the Secretary takes such steps as are

reasonable in the circumstances and is satisfied as to the accuracy of such information it has been provided with.

The Proposer’s view is to limit the Modification Proposal to the objective question of whether the member is still employed or engaged by the same entity as at the time of nomination. Competency of otherwise is a subjective opinion hence the Proposer does not wish to include it in this Modification.

The Workgroup was satisfied that the Modification Rules specified what was required of Panel members under 3.2.2 (see above).

7 Relevant Objectives

Impact of the Modification on the Transporters’ Relevant Objectives:	
Relevant Objective	Identified impact
a) Efficient and economic operation of the pipe-line system.	None
b) Coordinated, efficient and economic operation of (i) the combined pipe-line system, and/ or (ii) the pipe-line system of one or more other relevant gas transporters.	None
c) Efficient discharge of the licensee's obligations.	None
d) Securing of effective competition: (i) between relevant shippers; (ii) between relevant suppliers; and/or (iii) between DN operators (who have entered into transportation arrangements with other relevant gas transporters) and relevant shippers.	None
e) Provision of reasonable economic incentives for relevant suppliers to secure that the domestic customer supply security standards... are satisfied as respects the availability of gas to their domestic customers.	None
f) Promotion of efficiency in the implementation and administration of the Code.	Positive
g) Compliance with the Regulation and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators.	None

Proposer’s view:

Clarification of the arrangements where a Member of the Modification Panel ceases to be employed or engaged by the same specified entity as at the time of nomination better facilitates the objective of the promotion of efficiency in the implementation and administration of the Code by adding the clarity which is absent under the current rules.

Workgroup view:

Some Workgroup Participants disagreed, stating that the changes introduced as part of Modification 0656 address this and believe that this Modification restricts the ability to access Industry expertise. Modification 0656 did not want to be overly restrictive.

A Workgroup Participant supported the Proposer’s view and also noted that this Modification covers the scenario where, as a result of a change in employment, your ability to represent is changed.

A Workgroup Participant noted that membership of the Panel is limited to a maximum period of 2 years and expressed concern as to whether someone’s knowledge/competency could reduce in that time which meant they would not be able to discharge their role.

The Workgroup acknowledge that this Modification does not address competency. The Proposer pointed out that this Modification addresses employment/engagement status only.

8 Implementation

Implementation should be as soon as possible following Authority Direction.

9 Legal Text

Workgroup Assessment

The Workgroup considered the Legal Text on 17 April 2023 and 22 May 2023 and is satisfied that it meets the intent of the Solution.

Text

[0839 - Revision of the Modification Panel Membership Cessation Provisions | Joint Office of Gas Transporters \(gasgovernance.co.uk\)](https://www.gasgovernance.co.uk/0839-revision-of-the-modification-panel-membership-cessation-provisions)

10 Consultation

Representations were invited from interested parties on 16 June 2023. All representations are encompassed within the Appended Representations section, including any initial representations.

The following table provides a high-level summary of the representations. Of the 4 representations received 3 supported implementation and 1 was not in support.

Representations were received from the following parties:

Organisation	Response	Relevant Objectives
Cadent Gas	Support	f) positive
National Gas Transmission	Support	f) positive
SEFE Energy	Oppose	f) negative

Scotland Gas Networks Ltd and Southern Gas Networks Ltd	Support	f) positive
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Please note that late submitted representations may not be included or referred to in this Final Modification Report. However, all representations received in response to this consultation (including late submissions) are published in full alongside this Report and will be taken into account when the UNC Modification Panel makes its assessment and recommendation.

11 Panel Discussions

Discussion

The Panel Chair summarised that Modification 0839 would revise the Modification Rules to mandate that where a Member of the Modification Panel ceases to be employed or engaged by the same specified entity as at the time of nomination, that Member will cease to be a Member of the UNC Modification Panel.

Panel Members considered the representations submitted during the Consultation noting that, of the 4 representations received, 3 supported implementation and 1 was not in support.

Constituency and nominating party control

A Panel Member believed that the nominating party should have control over the nomination until the end of the period to guard against a person moving to an unrelated area, potentially within the same entity.

A Panel Member believed that the Modification enables constituencies who nominate a Panel Member to continue exercising their discretion on who is the appropriate person to fulfil that role. The solution has appropriate applicability to the issue described in the Modification and other relevant situations as it ensures that nominating parties have the appropriate representation.

A Panel Member did not agree because the Modification in effect allows an employer to “interfere” with the duties of a Panel Member.

Panel Members discussed several related issues:

Panel Member moves within constituency

Some Panel Members noted that appointments are as a constituency representative and therefore if the Member moves to another organisation within the same constituency, they should be able to continue as a Panel Member. This Modification appears to introduce an unnecessary hurdle.

Panel Member moves to organisation which already has a Panel Member

A Panel Member asked what would happen if a Panel Member moves to an organisation which already has a Panel Member. Clarification was given that only 1 Panel Member is allowed per entity/group¹ under the Code.

Panel Member criteria

A Panel Member asked would it be possible to clarify what happens if the person no longer meets the strict criteria set out in the Modification Rules. This Modification does not address this situation.

¹ For example Shipper User Group, see Guidelines for the User Representatives Appointment Process: <https://www.gasgovernance.co.uk/sites/default/files/ggf/page/2023-07/UNC%20User%20Representative%20Appointment%20Process%20v5.0%20.pdf>

Fitness to discharge the role

Some Panel Members believed that the fitness to discharge the role does not dissipate in the timescales in question. The other point is that person nominating the Member onto Panel should not have control over the situation after nomination. Therefore, they oppose this Modification 0839. Bilateral options are available to address the situation of leaving the employ or engagement of the nominating organisation.

Summary

The above paragraphs address different situations. This Modification 0839 addresses the single situation where a Member of the Modification Panel ceases to be employed or engaged by the same specified entity as at the time of nomination. Other situations can be addressed through further Modifications.

Panel discussed whether these constitute new issues and determined by majority that they did not.

Consideration of the Relevant Objectives

Panel Members considered Relevant Objective *f) Promotion of efficiency in the implementation and administration of the Code*, agreeing that implementation would have a positive impact because this Proposal better facilitates the promotion of efficiency in the implementation of the code as it will add clarity that is currently missing / absent under the current rules by providing clarification where a Member of the Modification Panel ceases to be employed or engaged by the same specified entity as at the time of nomination.

Some Panel Members disagreed, stating that this Proposal has a negative impact on Relevant Objective (f) as it would unnecessarily remove a Panel Member from post should a relevant event occur, and no conflict of interest exists. Following this, a further administration burden would occur requiring a new nomination window.

Determinations

Panel Members voted by majority with 10 votes in favour (out of a possible 14), that no new issues were identified as part of consultation.

Panel Members voted unanimously that there were no cross-code impacts associated with this Modification.

Panel Members voted with 9 votes in favour (out of a possible 14), to recommend implementation of Modification 0839.

12 Recommendations

Panel Recommendation

Panel Members recommended that Modification 0839 should be implemented.

13 Appended Representations

Representation – Cadent Gas

Representation – National Gas Transmission

Representation – Scotland Gas Networks Ltd and Southern Gas Networks Ltd

Representation – SEFE Energy



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Pilot Way, Ansty Park
Coventry CV7 9JU
cadentgas.com

Bob Fletcher
Joint Office of Gas Transporters
Radcliffe House,
Blenheim Court,
Warwick Road,
Solihull
B91 2AA

Andy Clasper
Andy.clasper@cadentgas.com
Direct tel +44 (0)7884 113385

7th July 2023
Your Reference: UNC Modification Proposal 0839

UNC Modification Proposal 0839 - Revision of the Modification Panel Membership Cessation Provisions

Dear Bob,

Thank you for your invitation seeking representations with respect to the above Modification Proposal to which Cadent provides support.

Do you support or oppose implementation?

Support

Relevant Objective:

f) Positive

Reason for support/opposition:

We agree that fundamentally a Panel Member is appointed to represent the constituency it is nominated by. Once no longer employed within that constituency, the Panel Members effectiveness to represent such constituency is reduced.

Implementation

We agree that implementation should be as soon as possible following Authority Direction.

Impacts and Costs

No costs have been identified.

Legal Text

We are satisfied the legal text delivers the intent of the modification.

Are there any errors or omissions in this Modification Report that you think should be taken into account?

No such errors or omissions identified.

Please provide below any additional analysis or information to support your representation

Nothing further to add.

We trust that this information will assist in the compilation of the Final Modification Report. Please contact me on 07884 113385 (andy.clasper@cadentgas.com) should you require any further information.

Yours sincerely,

Andy Clasper

Representation - Draft Modification Report UNC 0839

Revision of the Modification Panel Membership Cessation Provisions

Responses invited by: **5pm on 07 July 2023**

To: enquiries@gasgovernance.co.uk

Please note submission of your representation confirms your consent for publication/circulation.

Representative:	Phil Lucas
Organisation:	National Gas Transmission
Date of Representation:	29 June 2023
Support or oppose implementation?	Support
Relevant Objective:	f) Positive
Relevant Charging Methodology Objective:	Not Applicable

Reason for support/opposition: Please summarise (in one paragraph) the key reason(s)

As the proposer, National Gas Transmission ('NGT') supports the implementation of this Modification Proposal.

This Proposal addresses a deficiency in the current arrangements whereby no explicit rules set out the consequence for an existing Member of the UNC Modification Panel who, due to a change in circumstances, is no longer employed or engaged by the same specified entity as at the time of nomination.

All Members of the UNC Modification Panel (aside from the Chairperson) are required to represent a specific entity (or entity type, as part of a constituency) and therefore a change in circumstances of this nature brings into question their ability to be a Representative as required by the Modification Rules.

Given this, we believe that clarification of the arrangements where a Member of the Modification Panel ceases to be employed or engaged by the same specified entity as at the time of nomination (as set out in this Proposal) better facilitates the objective of the promotion of efficiency in the implementation and administration of the Code by adding the clarity which is absent under the current rules.

Implementation:

No lead time is required for implementation from an NGT perspective.

Impacts and Costs:

NGT will not incur any material costs in the event of the implementation of this Proposal.

Legal Text:

NGT is satisfied that the legal text delivers the intent of the solution identified in this Proposal.

Are there any errors or omissions in this Modification Report that you think should be taken into account?

NGT has not identified any such errors or omissions.

Please provide below any additional analysis or information to support your representation

Not applicable.

Representation - Draft Modification Report UNC 0839

Revision of the Modification Panel Membership Cessation Provisions

Responses invited by: 5pm on 07 July 2023

To: enquiries@gasgovernance.co.uk*Please note submission of your representation confirms your consent for publication/circulation.*

Representative:	David Mitchell
Organisation:	Scotland Gas Networks Ltd and Southern Gas Networks Ltd
Date of Representation:	7 th July 2023
Support or oppose implementation?	Support
Relevant Objective:	f) Positive
Relevant Charging Methodology Objective:	Not Applicable

Reason for support/opposition: Please summarise (in one paragraph) the key reason(s)

SGN supports this modification proposal as it will address a gap in the existing UNC Modification Panel Membership rules that don't currently stipulate what happens if a Panel Member has a change in employment / affiliation with an organisation and ceases to be employed / affiliated to the organisation to whom they were representing when they became a representative on the UNC Panel.

This modification if implemented would enhance the UNC Panel Membership rules to stipulate that if a Panel Member experiences a change in circumstance and is no longer employed or associated with their organisation when they were elected to the UNC Panel then they will need to inform the Panel Secretary of their change in circumstance as soon as reasonably practicable. Following notification to the Panel Secretary the Panel Member will be required to step down from their position, this will take effect from either the date that their employment or engagement with the organisation ceases or the day following their notification being made to the Panel Secretary.

SGN believes that this proposal better facilitates the promotion of efficiency in the implementation of the code as it will add clarity that is currently missing.

Implementation: What lead-time do you wish to see prior to implementation and why?

We believe that this modification can be implemented as soon as possible following an authority direction.

Impacts and Costs: *What analysis, development and ongoing costs would you face?*

SGN does not anticipate any costs or impacts to its processes as a result of this modification being implemented.

Legal Text: *Are you satisfied that the legal text will deliver the intent of the Solution?*

SGN is satisfied that the legal text will deliver the intent of the solution.

Are there any errors or omissions in this Modification Report that you think should be taken into account? *Include details of any impacts/costs to your organisation that are directly related to this.*

SGN has not identified any error or omissions in the modification report.

Please provide below any additional analysis or information to support your representation

We do not have any further analysis or information in support of this modification.

SEFE Energy Representation Draft Modification Report

Modification OUNC 0839: Revision of the Modification Panel Membership Cessation Provisions

1. **Consultation close out date:** 7th July 2023
2. **Respond to:** enquiries@gasgovernance.co.uk
3. **Organisation:** SEFE Energy
5th Floor
8 First Street
Manchester
M15 4RP
4. **Representative:** Steve Mulinganie
Regulation Manager
stevemulinganie@sefe-energy.com
0799 097 2568
5. **Date of Representation:** 6th July 2023
6. **Do you support or oppose Implementation:**
We **Do Not Support** implementation of this Modification
7. **Please summarise (in 1 paragraph) the key reason(s) for your position:**
In principle we do not agree that the fitness for purpose of an elected Modification Panel Member who represents a constituency should be fundamentally linked to the continuity of their relationship with the entity that originally nominated them. We note concerns in relation to the potential for a Conflict of Interest to arise but note this was addressed in detail in Modification 0656 - Changes to Modification Panel arrangements which was approved by Ofgem in November 2018.
<https://www.gasgovernance.co.uk/0656>.
8. **Are there any new or additional Issues for the Modification Report:**
No
9. **Self-Governance Statement Do you agree with the status?**
Not Applicable

10. Relevant Objectives:

How would implementation of this modification impact the relevant objectives?

We **disagree** with the proposer that this modification is positive in respect of Relevant Objective (f) and believe it is negative in respect of Relevant Objective (f) as it would unnecessarily remove a Panel Member from post should a relevant event occur and no conflict of interest exists.

11. Consumer Benefits:

Do you have any comments on the Consumer Benefits?

Not Applicable

12. Impacts & Costs:

What analysis, development and on-going costs would you face if this modification was implemented?

We **have not** identified any significant costs associated with the implementation of this modification

13. Implementation:

What lead times would you wish to see prior to this modification being implemented, and why?

No preference

14. Legal Text:

Are you satisfied that the legal text will deliver the intent of the modification?

We **have not reviewed the Legal Text** but note the workgroups comments:

“The Workgroup considered the Legal Text on 17 April 2023 and 22 May 2023 and is satisfied that it meets the intent of the Solution”

15. Modification Panel Questions:

Do you have any comments on any questions raised by the Modification Panel?

Not Applicable

16. Performance Assurance Considerations:

Do you have any comments?

Not Applicable

17. Is there anything further you wish to be taken into account?

Please provide any additional comments, supporting analysis, or other information that you believe should be taken into account or you wish to emphasise.

Yes

If entities who nominate parties are concerned about this type of risk, then it could be better addressed in the bilateral terms between those parties e.g. the termination arrangements between the parties in the relevant contract.