Extension to the Appointment of the Independent UNC Modification Panel Chairperson

Panel Consultation

Report

1 Introduction

This report sets out the background, findings and recommendations for the proposal by the gas transporters to extend the term of appointment of the current Independent UNC Modification Panel Chairperson. It reports the views of the UNC Modification Panel Members as provided in an informal consultation held during March/April 2016, and clarifies the next steps the gas transporters propose to take in response to the views expressed.

2 Background

The Joint Office of Gas Transporters (JO) is the Code Administrator for the Uniform Network Code (UNC), which sets out the terms of common transportation arrangements for the gas industry in England, Scotland and Wales. Each transporter is required under their Licence arrangements to cooperate in the establishment, operation and oversight of the JO.

Following a formal consultation and subsequent approval from Ofgem, the Joint Governance Arrangements Committee (JGAC), who oversee the activities of the JO and on which committee all transporters are represented, appointed Alex Plant as independent Chairperson of the Panel for a two year period from December 2014. The process for appointing the independent Panel Chairperson also made provision to allow the appointment term to be extended should both parties agree, subject to further consultation and subsequent Ofgem approval.

At the UNC Modification Panel meeting held on 17 March 2016, noting that the term of the current appointment would be approaching its conclusion in December 2016, the Chief Executive of the JO drew attention to the necessity for the Panel to consider whether or not the term of the current incumbent could and should be extended, or whether a new appointment process should be initiated to recruit a new Independent UNC Modification Panel Chairperson. Views were being sought at this stage, recognising that a minimum of 6 months might be required in order to recruit a new independent Chairperson in the event that an application to extend the term of the current incumbent is not approved.

It was confirmed that Alex Plant had been approached to ascertain his position and has agreed provisionally to an extension of his current term to December 2017 should JGAC, Panel and Ofgem agree.

3 Panel Members Consultation

After hearing that there was precedent in the Connection and Use of System Code (electricity), and that Ofgem had agreed it was appropriate to do likewise for the UNC, it was agreed by the UNC Modification Panel that the Chief Executive of the JO should seek the views of Members on the proposed extension to the term of the current incumbent.

3.1 Proposed Process and Timeline

The following process and timeline was agreed.

17 March	Notify Panel of the intent to seek a 'term extension' through to 31 December 2017
18 March	Joint Office to launch consultation of Panel Members on the potential extension of Alex Plant as the Independent Chair of the UNC Panel
12 April	Panel Members consultation closes
21 April	Panel Meeting (closed session) to consider views and agree a recommendation
30 April (by)	JO to submit formal request for an extension to Ofgem, along with consultation report/Panel recommendation
31 May (by)	Ofgem decision

3.2 Consultation Questions

The following questions were suggested to assist respondents in framing their views:

1 Do you consider that the Independent Chairperson has added value to the UNC Modification Process? - *Please provide evidence to support.*

2 To what extent has the current incumbent (Alex Plant) fulfilled your expectations of the role of Independent Chairperson?

3 Do you agree that the term extension to December 2017 is appropriate?

4 Do you have any other comments?

4 Consultation Responses

Responses were sought from the following Members:

Shipper Representatives

- A Green
- A Margan
- P Broom
- R Fairholme
- S Mulinganie

Transporter Representatives

- C Warner
- F Healy
- H Chapman
- J Ferguson
- R Pomroy

Consumer Representative

- S Moore

4.1 Summary of Views

Responses to the suggested questions were received (by email) from eleven (11) UNC Modification Panel Members, and views are summarised as follows:

1) Do you consider that the Independent Chairperson has added value to the UNC Modification Process?

Members agreed that the Chairperson had added value to the UNC Modification Process:

- The Chairperson had acted impartially and demonstrated objectivity, allowing equal voice for all Panel Members.
- The Chairperson had demonstrated independence of any party with a vested interest in the UNC.
- By bringing an external viewpoint to the issues discussed the Chairperson had helped to facilitate debate, enhancing transparency of, and providing additional insight into, the governance process.

2) To what extent has the current incumbent (Alex Plant) fulfilled your expectations of the role of Independent Chairperson?

Members generally felt that the appointment had fulfilled their expectations and the current incumbent had clearly demonstrated commitment to the role, dealing succinctly with the often complicated and detailed issues, and an appropriate measure of independence that had enhanced the operation and reputation of the UNC Modification Process and Panel.

One Member suggested that having grown in experience, for the next term Alex might be expected to exercise a greater degree of autonomy in interpreting and applying the governance rules and thereby further demonstrating the Chairperson's independence.

3) Do you agree that the term extension to December 2017 is appropriate?

Members agreed that a term extension to December 2017 was appropriate. Extending the term was seen to be efficient and negated the need for costly and unnecessary recruitment of an alternative Panel Chairperson.

One Member commented that the costs of recruiting a new Panel Chairperson are ultimately borne by the industry (and therefore customers) and suggested it would be unnecessary to review the role every year. A two year extension would, therefore, be appropriate.

4) Do you have any other comments?

In summary, whilst accepting that an extension to the current term was both efficient and economic given the noted levels of satisfaction with the performance of the current incumbent, some Members were of the view that it may be appropriate to address a wider audience for consultation, if/when consideration of a replacement becomes necessary (either at the conclusion of the extended term or in the event of a resignation).

5 UNC Modification Panel Members Discussion - Closed session

In closed session, convened during the UNC Modification Panel meeting on 21 April 2016, the UNC Modification Panel Members considered the views expressed in the responses to the informal consultation.

It was agreed that the current incumbent demonstrated to a high level an appropriate degree of independence expected in the role, and it was agreed that formal approval of an extension to the current appointment term should be sought.

6 Recommendation

UNC Modification Panel members unanimously recommended that formal approval of an extension to the current appointment term should be sought and an extension to the current appointment term (to December 2017) should be ratified.

In the event that an application to extend the term of the current incumbent is not approved, then a new recruitment process will be commenced as soon as possible.

7 APPENDIX

Responses to the suggested questions were received (by email) from eleven (11) UNC Modification Panel Members, and are summarised as follows:

1) Do you consider that the Independent Chairperson has added value to the UNC Modification Process?	
A Green	Believes Alex has done a great job as independent Chairperson, is not afraid to take decisions when necessary, and that Panel Members respect that.
A Margan	Comments that, not knowing the cost of the Chairperson, it is difficult to say if the benefit outweighs the cost. Therefore has no evidence to support or oppose this statement.
P Broom	Believes that Alex has added the independence required as an industry outsider and has fulfilled his role admirably so far.
R Fairholme	Agrees that a UNC Panel Chairperson that is independent of both Transporter and Shipper commercial interests is important. The introduction of this formal role has removed the previous reliance on the Chairperson's "voluntary" independence. Whilst the introduction of the role has not, in his view, had a radical impact on the Code governance arrangements, it has been a positive step forward in terms of enhancing transparency.
S Mulinganie	Agrees that Alex has on a number of occasions demonstrated his impartiality.
C Warner	Observes that while he was satisfied with the quality of UNC Modification Panel Chairmanship prior to the decision to appoint Alex, he understands the drivers for the role and acknowledges and accepts the value that an independent Chairperson has added to UNC governance. In particular he

	notes that Alex has been required to exercise a casting vote on more than one occasion and it is clear that this has been handled with due diligence and consideration.
F Healy	Notes that Alex has on a number of occasions been required to provide a casting vote, in each instance he has done so based on a reasoned/measured basis in line with the requirements as laid down for an independent Chairperson. Alex has also added value in that he has brought an external viewpoint to the issues discussed which has helped to facilitate debate.
H Chapman	Alex has often been required to cast a deciding vote and has not shied away from doing so, and has provided balanced reasoning to support any decision he has made. He has also demonstrated that he considers all views to be equal and ensures that they are discussed as such, and neither stifles debate nor allows it to go on too long.
J Ferguson	Comments that while the Joint Office (JO) previously provided independent Chairmanship of the Panel, she understands the perception that some industry parties may have had about their (JO) independence from the Transporters. She agrees that the new Chairperson has provided additional insight into the governance and process at UNC Modification Panel.
R Pomroy	The role has helped some issues to progress, such as concerns over incompletely drafted modifications, which otherwise may have been seen as the JO holding things up.
S Moore	Points out that having not been on the UNC Modification Panel long enough to have experienced it before Alex took over, it is difficult to compare what happens now with what went before. However, according to colleagues with previous experiences serving on the Panel, it sounds as if things have improved markedly since Alex became Chairperson.

2) To what extent has the current incumbent (Alex Plant) fulfilled your expectations of the role of Independent Chairperson?	
A Green	Believes Alex has done a great job as independent Chairperson, is not afraid to take decisions when necessary, and that Panel Members respect that.
A Margan	Alex Plant exercises his role as independent Chairperson with professionalism and integrity. This meets the expectations of the independent Chairperson role.
P Broom	Alex has added the independence required as an industry outsider and has fulfilled his role admirably so far.

R Fairholme	Believes that expectations have been largely fulfilled, although after serving two years he would expect Alex sometimes to be more familiar with the UNC governance arrangements and Modification Rules, rather than having to rely on the Joint Office for advice. Given Alex's background outside of the gas industry, it is expected that some support would be required initially. For the next term, however, he would expect to see Alex become more "self-sufficient" in interpreting and applying the governance rules and thereby further demonstrating his independence. Overall, Alex has shown commitment to the role, consistently attending UNC Modification Panel meetings (as to be expected) and dealing succinctly with the often complicated and detailed issues.
S Mulinganie	Alex has carried out his role well.
C Warner	States that Alex has met his expectations fully. Alex has consistently demonstrated complete impartiality and independence.
F Healy	Alex has consistently demonstrated complete impartiality and independence and has fully met expectations.
H Chapman	Alex has exceeded my expectations of an independent Chairperson for the reasons given at Q1, above.
J Ferguson	Alex has been approachable and knowledgeable in acting as the independent Chairperson. He has ensured that meetings progress in an efficient manner and that all parties' views are considered with equal weight.
R Pomroy	Alex has provided the independence the role requires. On the occasions on which Alex has had to make a decision as Chairperson he has clearly stated his thinking.
S Moore	-

3) Do you agree that the term extension to December 2017 is appropriate?	
A Green	Supports the proposed extension.
A Margan	There is no reason not to extend Alex's term to December 2017. Therefore it is appropriate.
P Broom	Supports the proposed extension. Extending the term to December 2017 is efficient as it negates the need for costly and unnecessary recruitment of an alternative Panel Chairperson.
R Fairholme	Supports the proposed extension. The costs of recruiting a new Panel Chairperson are ultimately borne by the industry

	(and therefore customers) and so it would be unnecessary, in the respondent's view, to review the role every year. A two year extension would, therefore, be appropriate.
S Mulinganie	Supports the proposed extension.
C Warner	Supports the proposed extension.
F Healy	Supports the proposed extension.
H Chapman	Supports the proposed extension.
J Ferguson	Supports the proposed extension. Alex has provided additional value and the respondent would welcome extension of his term.
R Pomroy	Supports the proposed extension. Is happy for the term to be extended until December 2017 as long as the procurement arrangements for the current appointment allow this.
S Moore	Supports the proposed extension. Is happy to endorse Alex for an extended term in office, until the end of 2017.

4) Do you have any other comments?	
A Green	-
A Margan	Whilst it is more important to have a Chairperson that acts independently, rather than an independent Chairperson, the respondent is satisfied Alex is doing a good job and acts in the interest of the industry.
P Broom	-
R Fairholme	In the published materials (on the JO website) associated with recruiting an independent Chairperson, reference is made to The Gas Forum. This document will need to be updated to reflect that The Gas Forum has ceased to exist and should also include provision for how a Shipper representative will be included in the next process for recruiting an independent Panel Chairperson, when required.
S Mulinganie	Whilst accepting it may be appropriate to rollover arrangements for this year the respondent believes that a market test should be undertaken at the next anniversary.
C Warner	No.
F Healy	An extension to Alex's tenure at this point is more than simply a practical step as he adds value to the governance process, which the respondent fully expects him to continue to do.

H Chapman	Only to offer observations that the respondent considers Panel to be run in a very efficient manner by both Les Jenkins and Alex, with as much pragmatism as possible while still adhering to the governance as required. This is the case from the respondent's experience as both an observer and member.
J Ferguson	Extension of the term offers the most economic and efficient way to ensure that the independent Chairperson continues in the UNC arrangements.
R Pomroy	-
S Moore	-