

## EXPLANATORY TABLE

## MODIFICATION 0674

## PERFORMANCE ASSURANCE TECHNIQUES AND CONTROLS

Reference	Explanation
<b>TRANSPORTATION PRINCIPAL DOCUMENT</b>	
<b>SECTION V – GENERAL</b>	
<b>12 – GENERAL PROVISIONS RELATING TO UNC RELATED DOCUMENTS</b>	
12.1	Amend to remove both the Performance Assurance Framework Document and Performance Assurance Reports Register from UNC Committee governance.
<b>16 – PERFORMANCE ASSURANCE</b>	
<b>16.1 – Performance Assurance Objective</b>	
16.1.1	New definitions for 'Performance Assurance Party', 'Performance Assurance Objective', 'Performance Assurance Framework', 'Relevant Third Party' and 'Settlement'; all used throughout paragraph 16.
16.1.2	Sets out each Party's acknowledgement that the manner in which it conducts its Code related business and a Relevant Third Party's undertakes relevant activities can have a positive or negative impact on the achievement of the Performance Assurance Objective and to record each Party's agreement to conduct such business and ensure insofar as is it able that Relevant Third Party's undertake relevant activities in a manner

	designed to help achieve the performance Assurance Objective. In addition each Party agrees to provide the Performance Assurance Committee with such information as is reasonably necessary to allow the committee to perform its functions in accordance with paragraph 16.
16.1.3	Acknowledgement that a Party will cooperate with other Parties to help achieve the Performance Assurance Objective.
16.1.4	Acknowledgement that the standard of performance of a Party in helping to achieve (or not) the Performance Assurance Objective is a matter for the Performance Assurance Committee.
16.1.5	Requirement that each Party provide information to the Performance Assurance Committee as it may reasonable require for the purposes of the Performance Assurance Committee determining relative performance (positive or negative) and where required in determining which Performance Assurance Technique should be applied.
<b>16.2 – Performance Assurance Committee</b>	
16.2.1	Requirement to establish the Performance Assurance Committee.
16.2.2	Records functions and powers of the Performance Assurance Committee are those established in paragraph 16.
16.2.3	The Performance Assurance Committee has ability to establish sub-committees on such terms as it can decide.
16.2.4	Acknowledgement the Performance Assurance Committee is autonomous; and that it cannot be overruled by the UNC Committee or have its functions or powers constrained.
16.2.5	Acknowledgement that a decision or requirement of the Performance Assurance Committee cannot cause a Party to be in breach of the UNC or the DSC.
<b>16.3 – Constitution of the Performance Assurance Committee</b>	

16.3.1	The Performance Assurance Committee to comprise nine (9) persons to represent the Shipper Users and three (3) persons to together represent the DN Operators and the Independent Gas Transporters.
16.3.2	Establishes the basis on which the different groups of representatives will be appointed.
16.3.3	Provides for the appointment of a person as the PAC Chairperson to chair meetings of the Performance Assurance Committee.
16.3.4	Provides for the appointment of a person to act as the PAC Secretary.
<b>16.4 - Functions of the Performance Assurance Committee</b>	
16.4.1	Identifies the different functions of the Performance Assurance Committee.
16.4.2	Establishes the requirement the Performance Assurance Committee conduct the Annual PAF Review.
16.4.3	Establishes the requirement the Performance Assurance Committee (following the Annual PAF Review) prepare and publish the Annual PAF Report and Delivery Plan,
16.4.4	Acknowledgement the Performance Assurance Committee may delegate certain of its functions to the PAFA.
16.4.5	To make clear the Performance Assurance Committee cannot recover any of its costs from any Party.
<b>16.5 – Voting arrangements for the Performance Assurance Committee</b>	
16.5.1	Each PAC Representative has one vote, and that where a decision is required, votes to be taken by show of hands.
16.5.2	All decisions shall require (i) a simple majority of the votes of the Shipper Representatives <u>and</u> (ii) a simple majority of the votes of the Transporter Representatives. If there is a majority in one group of PAC Representatives

	but not the other then the decision made shall be against the relevant matter.
16.5.3	To confirm that where an equal number of votes are made for and against a decision amongst a group of PAC Representatives there is no casting vote and the decision made shall be against the relevant matter.
<b>16.6 – Proceeding of the Performance Assurance Committee</b>	
16.6.1	Proceedings of the Performance Assurance Committee to follow the same rules as for the Modification Panel with a number of exceptions (and in broadly the same manner as for proceedings of the DSC Committees). There are some small variations to the rules regarding alternates from those applying in relation to alternates for members of the Modification Panel.
16.6.2	Rules regarding a quorum – which require four (4) Shipper User Representatives and two (2) Transporter Representatives to be present to allow a meeting to proceed.
16.6.3	Requirement that the CDSP attend a Performance Assurance Committee meeting if required
16.6.4	Subject to the Performance Assurance Committee and the PAC Chairperson inviting others to attend, and the right of Ofgem to attend only PAC Representatives, the PAC Chairperson and the PAC Secretary may attend Performance Assurance Committee meetings.
16.6.5	A meeting of the Performance Assurance Committee may be structured so as allow for separate discussion of confidential and non-confidential business, and the new paragraph makes clear who may participate in the meeting depending on the nature of the business being discussed.
16.6.6	Ofgem may send up to three (3) observers to any meeting of the Performance Assurance Committee.
16.6.7	Before a PAC Representative can receive meeting papers it must have first delivered a statement of release and signed a statement of impartiality, confidentiality agreement and statement confirming no conflict of interest –

	and where it fails to do so in the required time period the person shall automatically cease to be a PAC Representative.
16.6.8	Definition of 'relevant matters' for the purposes of paragraph 16.6.9; broadly matters involving the PAC Representative's employer or any Affiliate of the employer.
16.6.9	Requirement that a PAC Representative cannot vote on 'relevant matters'.
16.6.10	Requirement that a PAC Representative shall not disclose information received in its capacity as a PAC Representative to its employer or any Affiliate of its employer except in limited circumstances.
16.6.11	Requirement that all attendees at proceedings of the Performance Assurance Committee at which confidential business is discussed agree to keep the relevant papers and proceedings relating to confidential business confidential.
<b>16.7 – Performance Assurance Framework Document</b>	
16.7.1	Identifies the contents of the Performance Assurance Framework Document, which include the scope and contents of the Performance Assurance Reports Register and relevant Performance Assurance Techniques.
16.7.2	The Performance Assurance Framework Document is subject to Performance Assurance Committee governance and the new paragraph sets out the governance procedure.
16.7.3	<p>The Performance Assurance Committee to keep under review the Performance Assurance Techniques available to it (and develop new techniques) to facilitate achievement of the Performance Assurance Objective.</p> <p>The new paragraph also makes clear that prior to making any determination to apply a Performance Assurance Technique the Performance Assurance Committee with discuss the matter with the relevant Performance Assurance Party and further that the application of the relevant Performance</p>

	Assurance Technique will be proportionate to the impact of the Performance Assurance Party's behaviour.
16.7.4	Requirement that each Party comply with the Performance Assurance Framework Document to the extent applicable to it.
16.7.5	To make clear each Party responsible for its own costs associated with following Performance Assurance Techniques when required to do so.
<b>16.8 - Appeal</b>	
16.8.1	A Party may appeal the decision by the Performance Assurance Committee to require the Party to implement and follow a particular Performance Assurance Technique where such technique involves a referral to Ofgem or the requirement to submit to an audit. These are the <u>only</u> two decisions of the Performance Assurance Committee which are subject to the appeal procedure.
16.8.2	Specifies the grounds on which any such appeal must be based; either the Performance Assurance Committee relied on incomplete or inaccurate information or it did not follow the procedures relating to the application of a Performance Assurance Technique provided for in the Performance Assurance Framework Document.
16.8.3	Requirement that the Appellant Party give notice of the appeal to the PAC Secretary within a one (1) month period.
16.8.4	Specifies the steps to be followed where an Appellant Party gives notice of an appeal to the PAC Secretary.
16.8.5	Subject to an appeal to the UNC Committee (where available) the decision of the Performance Assurance Committee is final and binding.
16.8.6	Specifies the basis on which Appellant Party can appeal the decision of the Performance Assurance Committee to the UNC Committee.

16.8.7	Specifies the steps to be followed where an Appellant Party gives notice of an appeal to the UNC Committee.
16.8.8	To note that any recommendation or opinion of the UNC Committee on the appeal is not binding on the Performance Assurance Committee.
16.8.9	The Performance Assurance Committee will make its decision within fifteen (15) Business Days of the UNC Committee hearing the appeal.
16.8.10	All appeal related communications to be sent to the Appellant Party's PA Representative and company secretary.
<b>16.9 – Appointment of Performance Assurance Administrator</b>	
16.9.1	Definition of 'Performance Assurance Framework Administrator'.
16.9.2	The PAFA to be appointed by the CDSP.
16.9.3	Specifies the process to be followed by the CDSP in appointing the PAFA and in entering into the PAFA Contract.
16.9.4	Requirements applying to the CDSP in relation to entering into of the PAFA Contract.
16.9.5	Identifies some protections for the CDSP in relation to the PAFA Contract, so it is not required to enter a contract which would be unlawful or give rise to any liability except in very limited cases.
16.9.6	Specifies when the appointment process in paragraph 16.9 is to be followed.
<b>16.10 – Terms of engagement of the PAFA and cost recovery</b>	
16.10.1	Confirms CDSP can agree a PAFA Contract which excludes liability of the PAFA.

16.10.2	Confirms the CDSP owes no duties to Parties to the Code in relation to the PAFA Contract.
16.10.3	Requires the CDSP to make available to the PAFA such information as the PAFA may require to enable the PAFA to perform under the PAFA Contract.
16.10.4	Requires the CDSP to ensure the PAFA Contract allows it to make available information to the PAFA to enable it to perform its functions.
<b>16.11 – Appointment of PA Representative</b>	
16.11.1	Each Party to appoint a PA Representative as an initial point of contact for the Performance Assurance Committee.
16.11.2	Each Party also to identify more senior representatives to whom matters may be escalated.
16.11.3	Each Party to ensure a suitable alternate to its PA Representative available when required.
16.11.4	The Performance Assurance Committee can assume PAC Representative authorised to take decision on its employer's behalf unless told otherwise.
16.11.5	The Performance Assurance Committee to use the PA Representative as a first point of contact on all performance assurance matters.
16.11.6	When attending meetings with the Performance Assurance Committee the PA Representative to be suitably prepared.
<b>16.12 - Miscellaneous</b>	
16.12.1	Confirmation all Parties waive any liability a member of the Performance Assurance Committee might have where arising in connection with the good faith and proper performance of the member's role as a member of the Performance Assurance Committee.



16.12.2	To note that a Party can appeal (to the courts) that a decision of the Performance Assurance Committee is outside its vires as established under paragraph 16.
<b>16.13 – Reports</b>	
16.13.1	The CDSP to deliver the reports required by the Performance Assurance Risks Register.
16.13.2	The CDSP to ensure it makes available information as reasonably required by the Performance Assurance Committee.
<b>16.14 – Disclosure for the purposes of Performance Assurance</b>	
16.4.1	Parties agree to disclosure of Protected Information to the Performance Assurance Committee or the PAFA where required for paragraph 16 purposes.
16.4.2	No such disclosure required unless party or persons to whom disclosure being made have provided an appropriate confidentiality undertaking.
16.4.3	Confirmation of entitlement of the Performance Assurance Committee to have access to information required for paragraph 16 purposes.
<b>MODIFICATION RULES</b>	
<b>6 – Modification Proposals</b>	
6.2.1	Where a Modification Proposal relates to performance assurance requirements the proposal may include confirmation of whether or not the proposal is supported by the Performance Assurance Committee.
<b>GENERAL TERMS</b>	
<b>4 – Uniform Network Code Committee and Sub-Committees</b>	

4.3.1	Amend to remove the ability of the UNC Committee to disband the Performance Assurance Committee.
4.4.2	Amend to make clear failure to provide the Performance Assurance Committee with information required for the purposes of the performance of its role is a breach of Code.