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CODE MODIFICATION PROPOSAL No. 0053 - Extending established Uniform Network Code governance arrangements to include the Network Code Operations Reporting Manual referenced in Section V9.4

CODE MODIFICATION PROPOSAL No. 0056 - Extending established Unified Network Code governance arrangements to include the Code Credit Rules referenced in section V3.1.2

CODE MODIFICATION PROPOSAL No. 0059 - Extending Established Unified Network Code governance arrangements to include the Network Code Validation Rules document referenced in Section M1.5.3

CODE MODIFICATION PROPOSAL No. 0063: Extending established Uniform Network Code governance arrangements to include the GRE Invoice Query Incentive Scheme Methodology document referenced in Section S4.6

CODE MODIFICATION PROPOSAL No. 0064 – Extending established Unified Network Code governance arrangements to include CSEP ancillary agreements

Dear Julian,

Thank you for your invitation seeking representation with respect to the above Modification Proposals.

National Grid NTS has submitted a consolidated response to all five Proposals.

General

National Grid NTS, in principle, supports the proposed publication of the stated documents and any subsequent versions onto a common website, as this may promote efficiency in the administration and transparency of the UNC. We also agree with the assertion that in some instances ensuring that documents are consistent across Transporters may mitigate perceived adverse affects of market fragmentation.

National Grid NTS recognises that the changes propose the introduction of additional steps in the governance process, and notes that in respect of each of the Proposals, Users may, regardless of the conclusions of the UNC Committee, submit the change through the UNC Modification process. The introduction of such Proposals may reduce the requirement for, non-contentious, changes to procedural documents being required to enter into the full Modification Governance Process and therefore may demonstrate a more efficient administration of the UNC. However we believe that changes relating to the documents proposed may have a significant material impact on Users and therefore any decision regarding revision should be made upon the direction of the Authority.

Modification Proposal 0730 - 'Extending established Network Code governance arrangements to relevant Transco documents', introduced greater governance through the UNC Committee these Proposals seek to extend UNC Committee governance further such that it proposes to permit revisions of the documents, through majority approval of the UNC Committee, by Users as well as Transporters. As previously stated in response to MP0730, we believe that implementation of these Proposals would change the status of the UNC committee from a reviewing body to a governing body. The introduction of such a governing body potentially dilutes, and is conceived to be in certain instances a replacement for, the current decision-making role of the Authority.

National Grid NTS believe that the proposed implementation of document revisions, initiated by Users and reviewed and governed by the UNC committee, further changes the status of the committee to the extent that formal UNC governance procedures would have to be established as part of these Proposals. Most of the Proposers recognise this as an issue by stating that, *"When legal text is drawn up it is suggested that consideration be given to the creation of Code procedures to manage the common governance of this and other similar documents"*. In respect of facilitating revisions of this nature, we believe that replacing the Authority's decision making role to one where such revisions are governed by the UNC committee will require clearly defined UNC governance procedures within the UNC. National Grid NTS believes that these procedures should be developed through a UNC Workstream, and satisfy the Authority. We do not believe that it is appropriate for the Transporters to draft legal text in the absence of such development being completed. We consider that the Proposers' statements (detailed above) imply that development of the Proposals has not been fully completed and therefore remain open to interpretation. We therefore consider that further development is required before these Proposals are considered for implementation.

We do however generally support the view that Users should be able to initiate amendments to non-contentious procedural documents, so long as appropriate governance and consultation of such revisions are clearly defined.

We note that many of the Proposers stated that, "the implementation of procedural changes would only be allowed by first formally satisfying industry Stakeholders". This statement does not

appear to be supported by any details regarding how 'industry stakeholders' will be able to contribute to the consultation process. We believe that 'formally satisfying industry stakeholders' may be better achieved through the consultation of such key procedures, within the governance of the UNC Modification process, or incorporation of the document within the UNC.

National Grid NTS note that although the Proposers have considered the process for revisions, to the proposed procedures, which have been rejected by the UNC committee, through a majority vote or where the committee cannot reach a decision (in both respects a change can be raised through the UNC Modification Process), they have not considered situations where the changes are approved by a committee majority with no recourse, for a dissatisfied party, to approach the Authority in respect of the decision or lack of full industry consultation.

The proposed introduction of revisions to the proposed documents could only be considered where governance procedures for such revisions are robust and clearly defined as part of the UNC. We believe that although this has been recognised by the Proposers they have not as yet provided any definition of such procedures.

In addition to the above we provide the following individual responses: -

1. CODE MODIFICATION PROPOSAL No. 0053 - Extending established Uniform Network Code governance arrangements to include the Network Code Operations Reporting Manual referenced in Section V9.4

Stance - Comments

National Grid NTS agree that for the purposes of providing greater transparency there is merit in ensuring that such documents and any updated versions are available through one common website.

We advise that the latest version of NCORM is available on the Gas Governance website and therefore is freely available within the public domain.

We observe that as part of the implementation of MP 0730 the UNC committee can approve or reject changes to the NCORM, however only the relevant Transporter can propose changes. We also note that the NCORM sub-committee, established as a forum to develop and consider reports and timetables required by the industry and to be included as part of the introduction of the Information Exchange, was dis-banded following the implementation of the Information Exchange. We do not have any objections to the sub-committee being reintroduced should the industry believe this would be beneficial.

We note that under current arrangements we raise revisions to the NCORM based on the additional or amended reports requested by Users or the community.

This Proposal seeks to facilitate User proposed amendments. We have concerns that in the absence of clear governance procedures, Transporters may be required to provide additional information, and/or change the timetable for the provision of information, without due consideration of the impacts such changes may have on other members of the

community, or the development and implementation costs such changes may require. The lack of clarity in respect of governance does not clearly demonstrate that this Proposal would better facilitate the obligations provided under the Gas Transporters Licence, Standard Special Condition A11(f), 'the promotion and efficiency in the implementation and administration of the network code and/or the uniform network code'.

2. **CODE MODIFICATION PROPOSAL No. 0056 - Extending established Unified Network Code governance arrangements to include the Code Credit Rules referenced in section V3.1.2**

Stance - Against

National Grid NTS note that each Transporter is required to manage its Transportation Code Credit Rules in accordance with the UNC section V3.1.2 - Transportation Code Credit Rules. We recognise that separate Code Credit Rules are produced by each individual Transporter and therefore may not be consistent across all Transporters. We agree that for the purposes of providing greater transparency there is merit in ensuring that such documents and any updated versions are available through one common website, this may to some degree mitigate perceived adverse affects of fragmentation of the Market.

We note that each Transporter's Code Credit Rules are available on the Gas Governance website.

In its decision letter for UNC Modification Proposal 032 - 'Adjustment to the number of days in the VAR calculation to bring the Code Credit Rules into line with the Best Practice Guidelines, Conclusions document Feb 2005', Ofgem expressed the opinion that, *"arrangements for credit cover should be governed by robust and transparent modification procedures. In this regard, Ofgem believes that credit arrangements that have the potential for material impact on Users should be incorporated within the UNC, thereby providing a clear and consistent approach across relevant networks, making it easier for both new entrants and existing participants to familiarise themselves within the market rules and arrange their businesses accordingly."* We agree with the principle that Transportation Code Rule changes should be considered under the governance of the Modification Process as many of the consequences of revision may have a material impact on Users, we believe that on all occasions proposed changes to the Transportation Code Credit Rules should be submitted to the Authority for direction.

We do not agree with the Proposer's view that the Proposal would improve transparency and accountability and we would question how the Proposal would achieve the stated result of, 'ensuring efficient consultation' any better than prevailing arrangements. We note that under prevailing UNC Modification Rules Users can propose changes to the Transportation Code Credit arrangements through the Modification Process; therefore we don't believe that this Proposal demonstrates any improvement to the relevant objectives in respect of this particular aspect of the Proposal.

We therefore conclude that we do not support the implementation of this Modification Proposal, as we believe that any change relating to the Code Credit Rules must be subject to full industry consultation. We do not believe that submission to the UNC Committee is the appropriate level of governance for such changes. We believe that this position is consistent with the views expressed by Ofgem in its decision letter for UNC 0032.

3. **CODE MODIFICATION PROPOSAL No. 0059 - Extending Established Unified Network Code governance arrangements to include the Network Code Validation Rules document referenced in Section M1.5.3**

Stance - Against

We agree that for the purposes of providing greater transparency there is merit in ensuring that such documents and any updated versions are available through one common website. We note that the Network Code Validation Rules (NCVR) document is available on the Gas Governance website.

Under prevailing arrangements changes to the NCVR can be implemented provided Ofgem does not disapprove the amendment. Prevailing arrangements defined under UNC ref M1.5.3: - state that a change can be made where the Proposal has been issued and amended by the Transporters following consultation with the UNC committee or any relevant sub-committee. Paragraph M1.5.3 also provides a three-month notice period to Users, additionally within one month a User may notify the Authority of any concerns regard the revision. The Authority may disapprove the change. We note that the Proposal does not make it clear whether Ofgem's above right to "veto" is to be retained.

The Proposal seeks to allow Users to propose changes to the NCVR. We recognise that there may be merit in such a change, however we believe that any changes to the NCVR has the potential to materially impact Users and therefore consultation through the UNC Modification Process may be more appropriate.

The Proposer contends that the Proposal may provide a 'reduction of operating costs for the industry, consequently facilitating competition between shipper and between suppliers'; it also states that implementation of the Proposal 'may reduce contractual risk'. National Grid NTS questions the merits of these assertions. The Proposal seeks to allow Users to make changes subject to the governance of the UNC committee. This in itself does not demonstrate that it better facilitates competition between shippers and suppliers or a reduction in operating costs. It should be noted that if implemented any subsequent changes to the NCVR might very well increase costs to some Users. We therefore do not believe that the proposed change clearly demonstrates any improvement of the relevant objectives in the context of National Grid NTS's GT licence obligations, standard special condition A11 1 (a), (d) or (f).

National Grid NTS concludes that we do not support this Modification Proposal, as we believe that as currently drafted the Proposal does not further facilitate the relevant objectives through improving governance of changes to the NCVR. We believe that

changes to the NCVR would benefit from industry-wide consultation, achieved through the UNC Modification Process.

4. **CODE MODIFICATION PROPOSAL No. 0063: Extending established Uniform Network Code governance arrangements to include the GRE Invoice Query Incentive Scheme Methodology document referenced in Section S4.6**

Stance - Against

We agree that for the purpose of providing greater transparency there is merit in ensuring that this document and subsequent versions are available through a common website. National Grid NTS will request that the Joint Office publish the GRE Invoice Query Incentive Scheme Methodology onto the Gas Governance website.

The UNC ref S4.6.1 (a) specifies the version of the GRE Invoice Query Incentive Scheme Methodology (GRE IQISM) applicable. Therefore, under prevailing arrangements, any amendment to the methodology has to be raised through the UNC Modification process in order to revise the version. This implies that all changes to the methodology have to be consulted upon through UNC Modification governance process.

The Proposal seeks to revise UNC paragraph S4.6.1 (a), such that National Grid NTS retains its obligation to prepare and seek agreement from the Authority, but proposes to facilitate revisions to the GRE IQISM from time to time therefore no Modification Proposal to amend the version would be required.

The GRE IQISM was established to provide a mechanism through which Users could raise GRE invoice queries relating to Users overpayment of Reconciliation Clearing Charges. In order to ensure that National Grid NTS provides timely resolution of such queries an incentive scheme was introduced. The incentive scheme was introduced through the payment of compensation to Users, where National Grid NTS fails to meet its obligations set out in the GRE IQISM, UNC paragraph S 4.6 GRE Invoice Query Incentive Scheme Methodology and section V10 - Compensation.

Where National Grid NTS believes that a change is required to the GRE IQISM it is obliged to seek agreement from the Authority. We believe that changes to the GRE IQISM have the potential to materially impact National Grid NTS and therefore we do not believe that it is appropriate that User revisions to this methodology are governed through the UNC Committee and decisions made through majority vote of the committee without recourse to the Authority. We believe that such changes should be addressed via industry wide consultation and referral to the Authority, which are facilitated through the UNC Modification process.

The Proposer contends that the Proposal may provide a 'reduction of administrative costs for Users' and would 'significantly reduce the level of contractual risk for Users by implementing more robust governance'. The Proposer believes that this will 'facilitate competition between shipper and between suppliers', it also states that implementation of the Proposal 'may reduce contractual risk for each Transporter'. National Grid NTS

questions the validity of these assertions. The Proposal seeks to allow Users to propose changes through the governance of the UNC committee this in itself does not demonstrate an improvement to competition between shippers and suppliers or a reduction in the level of contractual risk on transporters. Indeed it could be argued that the Proposal may increase the level of contractual risk and cost, however this would not be as a direct consequence of this Proposal, but of any revisions that could be raised as a result of the implementation of the Proposal. We do not believe that such a change clearly demonstrates any improvement of the relevant objectives in the context of National Grid NTS's GT licence obligations, standard special condition A11 1 (a), (d) or (f).

On balance, National Grid NTS conclude that we do not support this Modification Proposal, as we believe the Proposal does not further facilitate the relevant objective in respect of the governance of changes to the GRE IQISMR. We believe that the compensation incentives, under sections S 4.6 and V10 of the UNC, provides sufficient incentives on National Grid NTS to ensure appropriate management of the GRE IQISMR change process. Where a User considers that change to the GRE IQISMR is required such changes can be raised through the UNC Modification Process, which has the benefit of greater industry consultation.

5. **CODE MODIFICATION PROPOSAL No. 0064 – Extending established Unified Network Code governance arrangements to include CSEP ancillary agreements**

Stance - Against

In principle National Grid NTS supports the publication of the CSEP Ancillary Agreement (AA) and any subsequent versions, however we believe that, as a result of site specific circumstances at some CSEPs, there maybe a requirement for a formal recognition that the published agreement may differ from that offered in respect of proposed new CSEPs.

UNC TPD, section J6.6.4 states that, 'The Transporter will make available to any User on request a copy of any CSEP Ancillary Agreement'. National Grid observes that this Proposal appears to make individual AAs more readily available. The Proposal implies that a generic AA is made available and suggests that there is only one CSEP AA. We believe that there are three generic CSEP AAs (DM NTS, DM LDZ and NDM LDZ). Furthermore we seek clarity that the Proposal doesn't require signed agreements to be published.

In respect of enabling Users and Transporters to propose revisions; the UNC TPD J6.6.2 says "A CSEP AA shall be deemed to be a part of the Code for the purposes of enabling such Agreement to be modified pursuant to the Modification Rules." We cannot see anything within the UNC that limits Proposals for changes to Transporters only. We therefore feel that this aspect of the Proposal is unnecessary.

National Grid NTS notes that when a new site specific CSEP AA is being prepared relevant Users can always request changes. However, all relevant Users would need to agree. If a relevant Transporter or relevant Users is unreasonable in rejecting the proposed change then the User can approach the Authority. Hence Users can already propose changes. The Transporter has a non-discrimination obligation to ensure any agreed changes are available to other connections with similar circumstances.

The CSEP AAs are not simple operational manuals, they are integral to UNC and are fundamental to how gas is allocated at CSEPs. National Grid NTS does not believe that it is appropriate for the governance of these agreements to be addressed outside of the UNC modification process. Indeed it is arguable that in seeking to circumvent the Modification rules process for change, the Proposal conflicts with the SSC A11 which provides for UNC changes to be by Modification process. An alternative could be to introduce substantive parts of the CSEP AA into UNC so that the entire industry can propose or comment on changes. Introducing specific sections of the agreements in UNC principle document may overcome the difficulty of having to amend existing signed agreements when rules are revised.

The Proposal also has the potential to create conflicts. It is not clear what the Proposer intends to happen if a Modification to the UNC merits a change to a CSEP AA but the UNC committee votes against such a change? The Proposal does not address this issue and has, therefore, the potential to fetter the prompt implementation of UNC Modification changes.

In respect of the proposed prevention of any revisions being made to the CSEP AA without approval of the UNC Committee. Currently CSEP AA needs A11 (18) Authority approval (J6.6.1). Hence the Transporter cannot impose changes. This Proposal seems to be a dilution of the current governance arrangements and consumer protection by introducing the UNC Committee as the decision-making body rather than the Authority.

We do not agree with the Proposer's view that the Proposal would improve transparency and accountability and we would question how the Proposal would achieve the stated result of, 'ensuring efficient consultation' any better than prevailing arrangements. We note that under prevailing UNC arrangements Users can already propose changes to the CSEP AA through the UNC Modification Process, therefore we don't believe that this Proposal would demonstrate any improvement to the relevant objectives in respect of this particular aspect of the Proposal.

On balance National Grid NTS concludes that we do not support this Modification Proposal, as we believe that any change relating to the CSEP Ancillary Agreements must be subject to full industry consultation with all relevant Users and an Authority decision. We do not believe that UNC Committee governance is the appropriate level of governance for such material changes.

Please let me know if you, or the SME assigned to this Proposal, require any further information to enable preparation of the Final Modification Report.

Yours sincerely

Ritchard Hewitt
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