

0281: Introduction of an Implementation Timeframe for Modification Proposals

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- 01 Initial Written Assessment
- 02 Definition Procedure
- 03 Assessment Procedure
- ▶ 04 Report Phase

Clarifies the way in which proposed implementation dates of UNC Modification Proposals must be specified, avoiding the possibility that Modification Proposals may “Time Out”.



The Panel recommends approval of 0281:Introduction of an Implementation Timeframe for Modification Proposals



Low Impact:
UNC Signatories and other interested parties

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About this document:

This document is a Final Modification Report, which was sent to the Authority on 27 October 2010, on behalf of the Panel. The Authority will consider the Panel's recommendations, and decide whether or not this change should be made.

Any questions?

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0281

Final Modification Report

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Why Change?

To support the recommendations within the recent Code Governance Review Final Proposals and the principles of the Code Administration Code of Practice regarding implementation dates and the issue of timing out of proposals.

Solution

It is proposed that a structure of 'fixed' and 'flexible' dates be applied to Modification Proposals where the proposer wishes to include a view of possible implementation timescales.

Impacts & Costs

When fixed implementation dates are specified in Modification Proposals and Reports, these would need to be supplemented by a flexible implementation date.

Modifications will not be able to time out

Implementation and ongoing costs would be minor.

Implementation

Implementation on the day following a Panel Meeting is proposed.

The Case for Change

This change to the Uniform Network Code Modification Procedures would add clarity in respect of implementation dates and their justification. It is consistent with suggested Licence changes that Ofgem has consulted on with a view to addressing timing out.

Recommendations

The UNC Modification Panel is invited to consider this Report.

Drawing Attention to Time Related Events

Currently, if a User raises a Modification Proposal that includes a 'suggested implementation date' this date is treated as an aspiration and generally remains unchanged throughout the development of the Modification Proposal.

If the benefits of a proposal will be affected by the date of an Authority decision or by the date of implementation, but such effects are not accurately captured and defined within the proposal, then the Authority will be unaware that the timing of a decision may have a bearing on the level of benefits provided to the industry. If the current process could be amended to accommodate some flexibility for Modification Proposals to include, where appropriate, a structured range of implementation dates and sufficient accompanying justification for these dates, then this may improve the visibility and reliability of any time dependent benefits or constraints of a Modification Proposal to all UNC parties.

Whilst this Modification Proposal will, if implemented, benefit all Modification Proposals, the proposer believes that User Pays proposals will be specifically benefited by the format for proposers of User Pays Proposals to clearly explain the costs and benefits of a range of implementation options.

Alignment of Industry Codes

Suggested implementation dates within the electricity codes are treated somewhat differently to the UNC. Within the Balancing and Settlement Code (BSC) and Connections and Use of System Code (CUSC), once a proposal is submitted to the respective panel for consideration, responsibility for the proposal, including assessing one or more relevant implementation dates, passes from the proposer to the panel. Within their recommendation to the Authority the panel will set a minimum of one pair of dates consisting of a 'decide by date' for an Authority decision and an associated 'implementation date'.

Adopting a date structure similar to that of the BSC and CUSC may provide a means of clearly setting out implementation options, which all parties will recognise.

Supporting the Recommendations of Recent Governance Review

Principle 11 of the Code Administration Code of Practice suggests a number of fundamental characteristics that implementation dates should include across all industry codes. In summary these characteristics are that implementation should be as timely as possible to capture the maximum benefits, for implementation approaches to form part of the Consultation Phase of a Modification, and finally that any options for implementation will be provided wherever possible.

The development and assessment of proposals via a workgroup, as recommended within the Ofgem Governance Review Final Proposals, will offer the opportunity for interested parties to provide suggested timescales and / or analysis and opinion on alternative timescales..

Adopting a format as recommended by this proposal should aid any such development and assessment performed by a workgroup.

BSC Modification Proposal P250 – Prevention of 'Timing Out' of Authority Decisions on Modification Proposals

Details can be found on the Elexon website at the following location:
www.elexon.o.ok/changeImplementation/ModificationProcess/modificationImplementation/default.aspx

To address the concerns raised in the previous section, it is proposed that the UNC Modification Rules be amended to add the requirement that where a proposer wishes to include a view on implementation timescales (in accordance with 6.2.1 (j)) then the proposer shall include the following:

- At least two 'fixed' proposed implementation dates and associated Authority decision by dates
- A proposed backstop implementation lead time period i.e. 5 Months following the publishing of an Authority decision
- Justification for the above dates and lead time period, and
- A 'Blank' date if an implementation date is not critical and / or not practical to provide.

Further details of these points can be found below.

Proposed Fixed Implementation Date

This Modification Proposal proposes to introduce a similar date structure as used within the proposals of both the CUSC and BSC. It is therefore proposed that a proposer will provide a minimum of two suggested implementation dates, and the associated Authority decision by dates. An example of how such information could be provided is as follows:

- Implementation date of AA, based on an Authority decision published on or before date BB; or
- Implementation date of CC, based on an Authority decision published after date BB, but on or before date DD.

If an Authority decision is not published by the first decision date (BB), then the Authority is provided with a further period of time to make its decision.

In suggesting the decision dates (BB & DD) it is recommended that Users should use a sensible degree of judgement, taking into consideration factors such as the Authority's prevailing key performance indicators and the Modification Proposal timescales as documented within the UNC Modification Rules.

Proposed Backstop Implementation Lead Time

As described above if a User has chosen to include a proposed 'fixed' implementation date it is proposed that they must also include a proposed backstop implementation lead time. This proposed backstop implementation lead time will provide the time period necessary between an Authority decision date and implementation for occasions when the Authority decision is published outside of the dates explained within the above section. An example of how a proposed backstop implementation date could be provided is as follows:

- X Business Days after an Authority decision; or
- X Calendar Months after an Authority decision.

Justification for Proposed Implementation Dates and Lead Times

It is proposed that whenever suggested dates or lead times are included within a Modification Proposal, in line with the proposed formats above, the proposer shall also set out the reasons for proposing such date or lead time.

No Suggested Implementation Date

In keeping with Section 6.2.1 (j) of the UNC Modification Rules, Users who raise a Modification Proposal will continue to have the ability not to provide their views of possible implementation timescales if there are circumstances where it is not critical or practical to do so.

If a suggested implementation date is left blank and, if the Authority decision is to accept the Modification Proposal, then the relevant Gas Transporters will assess the most efficient implementation timescales.

Example (Note the following is for illustration only)

To illustrate the above proposal using an example; a User submits a Modification Proposal and, after consultation with the Transporters, obtains a Rough Order of Magnitude (ROM) for the proposed change. As part of this ROM it is suggested that implementation of the Modification may be most efficiently implemented during one of the three UK Link* release dates so long as a lead time of at least 1 month is allowed for. Alternatively if implementation during a UK Link release is not possible (i.e. the timing of the Authority decision does not provide the necessary lead time to implement within a UK Link release) then implementation can take place approximately 6 calendar months after the Authority decision is published. As a result, the suggested implementation dates and lead time may look similar to the following:

1. Decide by Date of 26/01/2010 for proposed fixed implementation of 26/02/2010
2. Decide by Date of 25/05/2010 for proposed fixed implementation of 25/06/2010
3. Decide by Date of 5/10/2010 for proposed fixed implementation of 5/11/2010

and, if the Authority decision is published after the above dates then the following proposed implementation lead time would apply:

4. The proposed implementation lead time is six (6) calendar months after an Authority Decision being published.

In addition the proposer will also be expected to provide justification for the proposed dates and lead time.

In making a determination under 7.2.3 of the Modification Rules it is proposed that the Modification Panel consider whether the proposed fixed implementation date and backstop lead time are sufficiently developed.

It is important to note that as per the current process, this proposal will not bind any party to perform any action, including an Authority decision, in preparation or response to a proposed implementation date or associated timescales.

For the avoidance of doubt, this Modification Proposal applies to all Modification Proposals.

UNIFORM NETWORK CODE MODIFICATION RULES

Amend Paragraph 2.1 to read as follows:

"Authority Decision Date": the date on which the Authority gives notice to the Secretary in accordance with paragraph 9.3.5(b) of its determination to implement the Modification;

"Backstop Lead Time": where the Authority Decision Date is later than the last Proposed Authority Decision Date, the proposed period of time (commencing on the Authority Decision Date) required to enable the Modification to be implemented;

"Fixed Implementation Date": the proposed implementation date of a Modification, such date being included in accordance with paragraph 6.2.1(e)(i) and, except where the Proposal is a Self Governance Modification Proposal, paragraph 9.4.1(g)(i);

"Proposed Authority Decision Date": the proposed date by which that the Authority shall give notice to the Secretary in accordance with paragraph 9.3.5(b) of its determination to implement the Modification, such date being included in accordance with paragraph 6.2.1(e)(ii) and, except where the Proposal is a Self Governance Modification Proposal, paragraph 9.4.1(g)(ii);

Amend paragraph 6.2.1 to read as follows:

- "6.2.1 Each Modification Proposal made pursuant to paragraphs 6.1.1 or 6.1.2 shall set out the information and be in the form specified in the Code of Practice and:
- (a) in the case ...;
 - (b) in the case ...;
 - (c) shall state ...;
 - (d) shall where ... made; and
 - (e) in the case of a Modification which proposes a timescale for the implementation of the Modification (for the purpose of enabling the Authority and any persons, including but not limited to Users, Transporters, Third Party Participants and Non Code Parties to be aware of the potential benefits or constraints associated with such timing), shall include:
 - (i) two or more Fixed Implementation Dates;
 - (ii) a Proposed Authority Decision Date in respect of each Fixed Implementation Date, for the purposes of enabling the Modification to be implemented by the Fixed Implementation Date;
 - (iii) a Backstop Lead Time;
 - (iv) the reasons why it is proposing each date under paragraph (i), (ii) and (iii)."

Amend paragraph 9.4.1 to read as follows:

- “9.4.1 Each Modification Report shall set out the information, and be in the form, specified in the Code of Practice and:
- (a) shall in ...;
 - (b) state whether ...;
 - (c) where it relates...;
 - (d) where it relates...;
 - (e) where it relates...;
 - (f) state whether ... and;
 - (g) where it relates to a Modification Proposal other than a Self Governance Modification Proposal and where the Proposer has proposed a timescale for the implementation of the Modification in accordance with paragraph 6.2.1 (e), shall include:
 - (i) two or more Fixed Implementation Dates;
 - (ii) a Proposed Authority Decision Date in respect of each Fixed Implementation Date, for the purposes of enabling the Modification to be implemented by the Fixed Implementation Date;
 - (iii) a Backstop Lead Time; and
 - (iv) the reasons why it is proposing each date under paragraph (i), (ii) and (iii).”

5 Impacts & Costs

Costs

Include here any proposal for the apportionment of implementation costs amongst parties.

Indicative industry costs

No costs identified

Impacts

Impact on Transporters' Systems and Process

Transporters' System/Process	Potential impact
UK Link	<ul style="list-style-type: none"> No impacts
Operational Processes	<ul style="list-style-type: none"> No impacts
User Pays implications	<ul style="list-style-type: none"> Not User Pays

Impact on Users

Area of Users' business	Potential impact
Administrative and operational	<ul style="list-style-type: none"> Additional information may be included in Modification Proposals
Development, capital and operating costs	<ul style="list-style-type: none"> None identified
Contractual risks	<ul style="list-style-type: none"> None identified
Legislative, regulatory and contractual obligations and relationships	<ul style="list-style-type: none"> None identified

Impact on Transporters

Area of Transporters' business	Potential impact
System operation	<ul style="list-style-type: none"> None identified
Development, capital and operating costs	<ul style="list-style-type: none"> None identified
Recovery of costs	<ul style="list-style-type: none"> Not applicable
Price regulation	<ul style="list-style-type: none"> None identified
Contractual risks	<ul style="list-style-type: none"> None identified
Legislative, regulatory and contractual obligations and relationships	<ul style="list-style-type: none"> None identified
Standards of service	<ul style="list-style-type: none"> None identified

Other Impacts	
Item impacted	Potential impact
Security of Supply	<ul style="list-style-type: none"> • None identified
Operation of the Total System	<ul style="list-style-type: none"> • None identified
Industry fragmentation	<ul style="list-style-type: none"> • None identified
Terminal operators, consumers, connected system operators, suppliers, producers and other non code parties	<ul style="list-style-type: none"> • None identified

6 Implementation

Subject to the Chairman's Guidelines that require a minimum of five Business Days' notice of Panel business, once the Authority had approved this Proposal, the next Panel Meeting could agree to approve the proposed changes in the Modification templates. This would permit implementation immediately following the meeting.

The Panel may wish to address how the process and templates should apply to Modification Proposals in flight if the proposal remains unclear on this point or if discretion is given to the Panel.

7 The Case for Change

This section allows for further development of the case than is included in the earlier summaries

Facilitation of the Achievement of the Relevant Objectives

0281 will better facilitate the achievement of **Relevant Objectives c and f**.

Proposer's view of the benefits of 0281 against the Code Relevant Objectives	
Description of 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.	See explanation below
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.	
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.	
f) Promotion of efficiency in the implementation and administration of the Code	See explanation below

The Applicable Section of the Transporter Licences

Standard Special Condition A11.2 of National Grid NTS' Licence states;

"In relation to a proposed modification of the network code modification procedures, a reference to the relevant objectives is a reference to the requirements in paragraphs 9 and 12 of this condition (to the extent that those requirements do not conflict with the objectives set out in paragraph 1)."

To assist in the understanding of this section, paragraph 9 of Standard Special Condition A11.2 of National Grid NTS' Licence is provided below. Underneath this extract is an explanation of how the proposer believes that this Modification Proposal benefits this paragraph.

Paragraph 9 of Standard Special Condition A11.2

"9. The network code modification procedures shall provide for:

- (a) a mechanism by which any of*
 - (i) the uniform network code; and*
 - (ii) each of the network codes prepared by or on behalf of each relevant gas*

- transporter, may be modified;*
- (b) (i) the making of proposals for the modification of the uniform network code in accordance with paragraph 10 (a) of this condition; and/or*
- (ii) the making of proposals for the modification of a network code prepared by or on behalf of a relevant gas transporter in accordance with paragraph 11(a) of this condition;*
- (c) the making of alternative modification proposals in accordance with paragraphs 10(b) and 11(b) of this condition, except in a case where the Authority otherwise directs in writing;*
- (d) the giving of adequate publicity to any such proposal including, in particular, drawing it to the attention of all relevant gas transporters and all relevant shippers and sending a copy of the proposal to any person who asks for one;*
- (e) the seeking of the views of the Authority on any matter connected with any such proposal;*
- (f) the consideration of any representations relating to such a proposal made (and not withdrawn) by the licensee, any other relevant gas transporter, any relevant shipper, or any gas shipper or other person likely to be materially affected were the proposal to be implemented; and*
- (g) where the Authority accepts that the uniform network code or a network code prepared by or on behalf of a relevant gas transporter may require modification as a matter of urgency, the exclusion, acceleration or other variation, subject to the Authority's approval, of any particular procedural steps which would otherwise be applicable."*

How this Modification Proposal would better facilitate paragraph 9 of A11.2

This proposal benefits the above paragraph in so far that;

- In respect of sub-paragraphs (a), (b), (c), (d) and (e) above, this proposal improves the mechanism by which Modification Proposals, and any alternative or variation, are raised by ensuring clarity with regards to any suggested implementation dates and accompanying justification. This improved mechanism will aid both the understanding of the proposed changes and the subsequent Authority decision;
- In respect of sub-paragraph (f) above, this proposal will provide greater clarification of a suggested implementation timescale to all interested parties. As such, interested parties will be able to include in their representations views on the effect on them of any suggested implementation date.

In addition to those advantages/disadvantages identified the above, the Proposer identified the following:

Advantages

- Implementation will encourage Code Parties to consider implementation options.
- Implementation may reduce the financial risk to Users of a delay in implementing a Modification Proposal.

Disadvantages

- Restricts the format in which Users can state preferred implementation dates.

Summary of Representations

Respondent		
Company/Organisation Name	Abbreviation	Support Implementation or not?
British Gas	BGT	Not in Support
EDF Energy	EDF	Supports
E.ON UK	E.ON	Supports
National Grid Distribution	NGD	Supports
National Grid NTS	NGNTS	Supports
RWE Npower	NP	Supports
ScottishPower	SP	Not in Support

In summary, of the seven representations received, five support and two oppose implementation of the Modification Proposal.

BGT consider Modification 0281 seeks to provide a framework for proposers of UNC modifications to set out milestone dates for the implementation of their proposal, and the reasons why. While BGT considers that this may help to drive good discipline in code modifications, the current regime also allows proposers to set out a timetable should they so wish. Therefore, 0281 does not provide a new opportunity in this respect, but may prompt greater thinking around implementation dates at the time of proposing a code modification.

BGT add that potential users of this framework, however, will need to be aware that should they choose to specify firm dates within their proposal, any delay to the progress of their proposal through the governance process following conclusion of the final modification report – delays which at that stage will be outside of their control – could result in their proposal being timed out against their wishes. This is a detriment that does not currently exist, and could deter use of the framework that 0281 offers. For these reasons BGT cannot consider this proposal to better facilitate the promotion of efficiency in the implementation and administration of the UNC.

EDF support adopting a “firm” implementation date structure consistent with that of the BSC and CUSC. This would provide a means of clearly setting out implementation options, which all parties will recognise, whilst ensuring that they can align and manage their IT system change programmes.

EDF considers that requiring the proposer of a modification to indicate an implementation date or lead time with an explanation is evidence of clear and efficient practice. This was one of the conclusions of the Code Administration Code of Practice principles and might ensure the Authority is aware of the benefits provided to the industry from prompt implementation. EDF welcome the fact that Users are not obliged to provide their views of possible implementation timescales if there are circumstances where it is not critical or practical to do so. However, 0281 will not bind any party to the dates within a modification proposal, including an Authority decision and EDF question how firm these implementation dates will be and what value they serve other than guidance.

Both E.ON and NGD consider implementation of this proposal would bring some marginal benefits.

E.ON notes that the effect of implementation would be minimal in the context of the UNC. Unlike the BSC and CUSC where similar proposals have been raised, the issue of decisions timing-out does not exist in the UNC. This is not necessarily a good thing, however, as E.ON believe having a ‘decision-by’ date focuses the mind and avoids unnecessary delay and regulatory uncertainty.

NGNTS considers the proposal has the following benefits:

It should help the industry to understand the impact of a Modification Proposal by drawing attention to the time related benefits and constraints of a proposal. This will allow industry participants to highlight in their representations any further benefits or impacts of the proposed implementation timescales.

Compliments the User Pays process by providing an agreed structure for proposers of User Pays proposals to clearly explain the costs and benefits of a range of implementation options and indicate their preferred implementation date.

Will align the "suggested implementation date" and "decide by date" structure used in the main industry codes and help embed Principle 11 of the Code Administration Code of Practice "there will be flexibility for implementation, to allow proportionate delivery time and the realisation of benefits".

NP considers that the proposed modification may not go far enough insofar as it does not provide a binding mandate for implementation to take place on the dates specified by the proposer. Further benefits could be gained by making the dates specified binding.

SP is supportive of a number of aspects of the proposal. However, they remain primarily concerned about the implications of the proposed backstop lead time period. By convention, the issue of implementation dates or "timing out" has not been a concern in UNC Modifications to this point. However, that is not to say that this need always be the case and this Proposal will now introduce a prescriptive aspect that will remove some of the inherent flexibility within the UNC that is valuable in tailoring solutions to particular issues.

SP is concerned that if one of the objectives is to align with other Industry Codes then this proposal fails to reflect the options now incorporated in the BSC via the implementation of P250 (Alternative). This now provides the option to the Authority to instruct the Panel to consult with industry on revised implementation dates if there is a risk that it will be timed out on making a decision.

Modification Panel Discussion

At the Modification Panel held on 21 October 2010

1. Panel Members considered the report was in the correct form and discussed whether or not to recommend implementation of the Proposal. They did not determine that new issues had been raised that justified seeking further views from a Workstream or Development Work Group, with no votes cast in favour.
2. Panel Members considered that the benefits of implementing the Proposal were marginal. While it would mandate a format for implementation dates, this format was not precluded under the existing provisions and the requirement may actually deter Proposers from putting forward desired implementation dates.
3. In terms of the Relevant Objectives, Panel Members recognised that implementation could be regarded as facilitating the efficient administration of the UNC by providing for proposed implementation dates to be in a consistent format with no risk of timing out.
4. Being a change to the Modification Rules, Panel Members also recognised that implementation of the Proposal should be judged against Para 9 of Condition A12, and it was suggested that:
 - In respect of sub-paragraphs (a), (b), (c), (d) and (e) of Para 9, this proposal could improve the mechanism by which Modification Proposals, and any alternative or variation, are raised by ensuring clarity with regards to any suggested implementation dates;
 - In respect of sub-paragraph (f) of Para 9, this proposal could provide greater clarification of a suggested implementation timescale to all interested parties. As such, interested parties would be able to include in their representations views on the effect of any suggested implementation date.

Modification Panel Recommendation

The Panel determined by PANEL MAJORITY to recommend implementation of the Proposal, with 10 out of 11 votes cast in favour.

Recommendation

Modification 0281
should be implemented