

**CODE MODIFICATION PROPOSAL No 0286A**  
**Extending Modification Panel Voting Rights to a Consumer Representative**  
**Version 1**

**Date:** 24/03/2010

**Proposed Implementation Date:** Immediately following Ofgem Direction

**Urgency:** Non-Urgent

**1 The Modification Proposal**

**a) Nature and Purpose of this Proposal**

**Background**

As part of the Industry Codes Governance Review, Ofgem highlighted that Consumer Representative voting rights differ between modification panels.

Although final proposals are still awaited, Ofgem's early view from the Governance review is that this inconsistent treatment across codes is not warranted and that the UNC should be reformed so that the Consumer Representative has voting rights.

The proposer of this Alternative Proposal welcomes a greater role for Panel consumer representation, including the extension of Consumer Representative voting rights. However, the proposer believes that ideally, reform of Consumer Representative voting rights within the UNC should be the subject of much fuller debate between all interested parties, since a simple extension of voting rights could have far reaching implications. Issues include:

- Impacting the prevailing balance in respect of permitting a Competition Commission appeal;
- Whereas the National Consumer Council (NCC) may be judged to be impartial, current arrangements would permit the NCC to appoint consumer representatives other than NCC, who may be strongly aligned to a particular market sector;
- The questionable need for appointed Consumer Representatives to have voting rights on matters of UNCC business; and
- The questionable need for Consumer Representatives to have voting rights in respect of anticipated Self-Governance proposals.

Review Group 0267 has been established in order to consider the output of the Ofgem Code Governance Review and its impact upon the UNC. The Review Group is therefore well positioned to define UNC change requirements once Ofgem's final proposals are known.

However, it has been necessary to raise this alternative proposal at this time, and in the absence of the desired level of scrutiny and development, in order to comply with UNC timescales for Alternative Proposals, and so as not to unduly delay the progress of the original proposal 0286.

## **This Proposal**

This Proposal is to:

- Change the status of one Consumer Representative from a non-voting to a voting member, but;
  - Not extend to the voting Consumer Representative voting rights in respect of Uniform Network Code Committee (UNCC) business; and
  - Not extend to the voting Consumer Representative voting rights in respect of UNC Modification Proposals which may in future fall under any Self-Governance regime; and
  - Prevent the NCC from appointing as the voting Consumer Representative any party other than the NCC (this could either be a permanent NCC employee or a consultant or contractor substantively employed to carry out NCC business). This shall not restrict the ability of the NCC representative to appoint an Alternative to act on their behalf.

**b) Justification for Urgency and recommendation on the procedure and timetable to be followed (if applicable)**

N/A

**c) Recommendation on whether this Proposal should proceed to the review procedures, the Development Phase, the Consultation Phase or be referred to a Workstream for discussion.**

As an Alternative Proposal, this proposal shall follow the same timeline as the original proposal 0286.

## **2 User Pays**

**a) Classification of the Proposal as User Pays or not and justification for classification**

This Proposal has no systems implications and does not fall within the User Pays framework.

**b) Identification of Users, proposed split of the recovery between Gas Transporters and Users for User Pays costs and justification**

Not applicable.

**c) Proposed charge(s) for application of Users Pays charges to Shippers**

Not applicable.

**d) Proposed charge for inclusion in ACS – to be completed upon receipt of cost estimate from xoserve**

Not applicable.

**3 Extent to which implementation of this Modification Proposal would better facilitate the achievement (for the purposes of each Transporter's Licence) of the Relevant Objectives**

The proposer believes that allowing a greater share of voice to consumers in respect of certain Panel business, by extending Consumer Representative voting rights, will better facilitate the efficient discharge of the Licencee's obligations (A11.1(c)) and the promotion of efficiency in the implementation and administration of the network code and or the uniform network code (A11.1 (f)).

**4 The implications of implementing this Modification Proposal on security of supply, operation of the Total System and industry fragmentation**

None.

**5 The implications for Transporters and each Transporter of implementing this Modification Proposal, including:**

**a) The implications for operation of the System:**

None.

**b) The development and capital cost and operating cost implications:**

None.

**c) Whether it is appropriate to recover all or any of the costs and, if so, a proposal for the most appropriate way for these costs to be recovered:**

Not applicable.

**d) The consequence (if any) on the level of contractual risk of each Transporter under the Uniform Network Code of the Individual Network Codes proposed to be modified by this Modification Proposal**

The Consumer Representative vote could alter the outcome of a Panel vote. This increases Transporters' risk that the Panel will vote in favour of an issue despite having no Transporter support. Also the change in voting rights may mean that Transporters are unable to lodge a Competition Commission appeal against an Ofgem direction (not) to implement a Modification Proposal since Appeals are only permitted when an Ofgem direction does not accord with a Panel recommendation.

**6 The extent to which the implementation is required to enable each Transporter to facilitate compliance with a safety notice from the Health and Safety Executive pursuant to Standard Condition A11 (14) (Transporters Only)**

Not applicable.

**7 The development implications and other implications for the UK Link System of the Transporter, related computer systems of each Transporter and related computer systems of Users**

None.

**8 The implications for Users of implementing the Modification Proposal, including:**

**a) The administrative and operational implications (including impact upon manual processes and procedures)**

None.

**b) The development and capital cost and operating cost implications**

None,

**c) The consequence (if any) on the level of contractual risk of Users under the Uniform Network Code of the Individual Network Codes proposed to be modified by this Modification Proposal**

The Consumer Representative vote could alter the outcome of a Panel vote. This increases Users' risk that the Panel will vote in favour of an issue despite having no User support. Also the change in voting rights may mean that Users are unable to lodge a Competition Commission appeal against an Ofgem direction (not) to implement a Modification Proposal since Appeals are only permitted when an Ofgem direction does not accord with a Panel recommendation.

**9 The implications of the implementation for other relevant persons (including, but without limitation, Users, Connected System Operators, Consumers, Terminal Operators, Storage Operators, Suppliers and producers and, to the extent not so otherwise addressed, any Non-Code Party)**

Implementation would increase visibility of consumer views with respect to certain Panel business and ensure these can be formally recorded in Modification Reports and Modification Panel minutes.

**10 Consequences on the legislative and regulatory obligations and contractual relationships of the Transporters**

None.

**11 Analysis of any advantages or disadvantages of implementation of the Modification Proposal not otherwise identified in paragraphs 2 to 10 above**

**Advantages**

- Increases visibility of consumer interests in modification process
- Gives consumers a greater say in key Modification Panel business
- Brings UNC into line with other industry codes
- Possibly consistent with Ofgem's Industry Codes Governance Review

**Disadvantages**

Increases Transporter and User risk in respect of potentially limiting appeal rights.

**12 Summary of representations received as a result of consultation by the Proposer (to the extent that the import of those representations are not reflected elsewhere in this Proposal)**

None received

**13 Detail of all other representations received and considered by the Proposer**

None received

**14 Any other matter the Proposer considers needs to be addressed**

None

**15 Recommendations on the time scale for the implementation of the whole or any part of this Modification Proposal**

To follow timescales of 0286

**16 Comments on Suggested Text**

**17 Suggested Text**

**Code Concerned, sections and paragraphs**

Uniform Network Code

Modification Rules

**Section(s)**

**Proposer's Representative**

*Chris Wright*

**Proposer**

*Chris Wright (British Gas Trading Limited)*