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Dear Bob,

Code Governance Review Modification Proposals
0318 – 0323 & 0325

- 0318 - The approach to be taken when raising alternative Modification Proposals
- 0319 - Role of Code Administrators and Code Administration Code of Practice
- 0320 - Appointment and Voting Rights for a Consumer Representative and Independent Panel Chair
- 0321 - Approach to environmental assessments within the UNC
- 0322 - Inclusion of the NTS Transportation and Connection Charging Methodologies within the UNC
- 0323 - Self Governance
- 0325 - DN Transportation Charging Methodology and Change Governance

Thank you for your invitation seeking representations with respect to the above Modification Proposals. This response is on behalf of National Grid Transmission.

In November 2007, Ofgem announced the Industry Codes Governance Review, which concluded at the end of March 2010 when Ofgem published their Final Proposals for the Code Governance Review (CGR). The modifications to the Gas Transporter's (GT) licence necessary to implement the Final Proposals of the Code Governance Review and the Code Administration Code of Practice¹ (CoP) were published on 3 June 2010 and become effective on the 31 December 2010.

At the outset of the above review in 2007, the Authority set 7 objectives for Code Governance, which were;

- promote inclusive, accessible and effective consultation;
- be governed by transparent and easily understood roles & processes;
- be administered in an independent and objective fashion;
- provide rigorous and high quality analysis of the case for and against proposed changes;
- be cost effective;
- contain rules and processes that are sufficiently flexible to circumstances that they will always allow for efficient change management; and
- be delivered in a manner that results in a proportionate regulatory burden

¹ <http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=328&refer=Licensing/IndCodes/CGR>

National Grid believe that, if implemented these CGR proposals will ensure that the UNC governance processes meet the above objectives and deliver a commonality of governance across all Industry Codes both electric and gas, which will better protect the consumer interest and promote effective competition.

Following the introduction of the new GT Licence terms and initial discussions in Review Group 0267 “Review of UNC Governance Arrangements”, National Grid volunteered to raise the necessary Code Governance Review Modification Proposals and wrote to the industry on 15th June 2010, this was an open letter titled ‘Implementation of Code Governance Review Final Proposals’, issued via the Joint Office. It outlined how National Grid would continue to liaise with the industry in the development of the UNC Modification Proposals.

We believe that there has been exhaustive industry and Authority engagement during the development of these draft proposals, despite the proposals being developed to challenging timescales. The industry feedback obtained, during this process has been very valuable, has been carefully considered, and where possible the draft proposals were amended to reflect this feedback, whilst still ensuring that the draft proposals fully implement the new licence obligations. Following further discussions at the UNC Governance Workstream meetings, National Grid Transmission subsequently formally raised modification proposals 0318 - 0324.

As proposer of 0318 – 0323 Modification Proposals National Grid Transmission offers support to these Proposals. We also support Proposal 0325.

We believe that implementation of these proposals will align the Uniform Network Code with the new licence conditions that come into being on 31st December 2010. As these proposals are required to enable the meeting of the licence directives, we support the suggestion that implementation should be on 31st December 2010, and if this date has already past at the time of the Authority decision, then implementation should be on the next day after the decision.

We have the following comments on the benefits of the individual modification proposals;

Modification 0318 & 0318A

The current UNC process for raising an alternative Proposal is not fully consistent with the Code of Practice principle 7 with regards to the development of alternative solutions, and therefore we support 0318 & 0318A in their proposal to amend the current process to allow for alternatives to be developed during the ‘assessment’ stage and at the same time as the original Proposal.

Whilst Modification Proposal 0318A raised by E.ON is similar to 0318 it does go further by providing guidance to the Panel, and although we envisaged the UNC Panel would consider these points when making Panel determinations, we appreciate that the detailed guidance for the Panel provided in 0318A could lead to less ambiguity and provide greater transparency of the reasons for Panel decisions. Therefore, whilst National Grid Transmission supports both 0318 and 0318A our preferred option of the two is 0318A, due to the added clarity the guidelines would bring to the new “alternatives” process.

Modification 0319

The Code of Practice expressly states that the industry Codes take precedence and therefore there should be no conflict between the CoP and the various industry codes. To ensure there are no such issues and to aid understanding as to how the UNC interacts with the CoP the proposal seeks to ensure that, as far as practical, both elements (role of code administrator and the CoP) of the Ofgem Final Proposals are implemented within the UNC. We support this proposal and have the following comments, which we have aligned to the sub headings within the Proposal.

- **Definitions** - We agree that the Uniform Network Code Modification Rules should be amended to change several definitions and/ or use of terminology to ensure consistency with the CoP.
- **Reasons for recommendations** – We support the proposed changes which will see the Modification Panel provide reasons for recommendations on whether or not a proposal should be implemented and the recording of these views within the Final Modification Report. We believe this is the approach already undertaken in the Connection and Use of System Code (CUSC) and therefore this will bring a consistent approach across industry codes in this regard.
- **Maximum Period of Workgroup Stage** – We support the Panel setting an initial timetable of up to six months and agree with the approach that where the Panel determines an extension is required and the timetable exceeds 6 months in total that the Panel will notify and seek the approval of the Authority. This change gives an opportunity to ensure the progress of a Review Group is checked, which seems an incremental improvement on the existing process. We believe that this change will keep the development of Proposals timely.
- **Send Back** - We support that the Authority will have the power to ‘send back’ Proposals where analysis, legal text or any other aspect of the Final Modification Report (FMR) is in their opinion deficient as this reduces the risk of non-approval due such deficiencies, which could cost the industry time and money, by both having to resubmit the proposal and seeing a delay in its implementation.
- **Legal text** – We support the amendment of the Modification Rules to ensure legal text is normally made available prior a Proposal entering the Consultation Phase. We note that the Panel may, prior to the Consultation Phase, agree that legal text is not required and that this may include instances where the Proposer has produced “suggested text” as part of the Modification Proposal.

We believe that going forward the Code of Practise (CoP) will play a greater role as this will be the overarching governance document for setting out the processes Code Administrators, Panels and industry participants will follow to make changes to the codes. The regular review and amendment of the CoP will be a more efficient way of amending the codes governance processes and limit the need for all the codes to be individually amended and reviewed.

Modification 0320

The introduction of appointment and voting rights for a Consumer Representative and Independent Panel Chair will allow for the Authority to appoint a further Consumer Representative. Both the National Consumer Council (introduced via Modification Proposal 0286) and Authority appointed representative will have full voting rights. This proposal aligns the UNC with the approach that has been utilised within the electricity regime, where Consumer Representatives have been able to vote for some time. As Proposer of this proposal we support 0320 as it will allow full representation in the governance process from the consumer sector.

This Proposal also proposes that the current role of UNC Panel Chairman will become the role of independent chair as described within the CGR Final Proposals and Code Administration Code of Practice, and we note that the Transporters will be reviewing the Joint Governance Arrangements Agreement (JGAA) to ensure this agreement reflects this extended role of the chairman. We expect that any changes resulting from this exercise will be made in November 2010.

We feel that providing for a Chairman's casting vote is an improvement on the current default position, where a tie in the number of votes cast for and against a motion would result in the motion being rejected. We also agree that this proposal is consistent with the intent of a chair's vote on relevant motions in the CUSC and that it is important that the main codes exclude the chair's vote from being cast in relation to a Panel recommendation on a Modification Proposal, where such a determination can legitimately reflect a split vote without hindering the ongoing progress of a proposal.

Modification 0321

Whilst we have difficulty in seeing how this assessment on the impacts of greenhouse gas emissions would be used on a regular basis we do support this modification proposed on the basis that the requirements need to be set out in the UNC for those occasions where it does need to be used.

Modification 0322 & 0325

We recognise that there may be some merit in applying the UNC governance arrangements to charging methodologies as this may make the methodologies more accessible and transparent. We also consider that the Transmission and Distribution Charging Methodology Forums will play a key role in assisting industry participants in developing modification proposals related to the methodologies.

Modification 0323

We support the creation of a Self Governance route for some code modification proposals and we agree that the creation of such a process should help reduce the time and resources required to progress these types of modification proposals. Like other industry parties we will wait and see how many proposals go through this pathway.

Extent to which implementation of the Modification would better facilitate the relevant objectives:

Modification Proposal 0318 – 0323, & 0325 proposes amendments to the Modification Rules and as such the Modification Proposals shall be judged against how the modification better facilitates paragraph 1c, 1f and 9 of Standard Special Condition A11. By implementing the licence obligations that seek to implement the 7 objectives of Code Governance set out in Ofgem's review, we believe that all of these proposals promote the efficient implementation and administration of the Uniform Network Code and better facilitate the efficient discharge of the duties associated with the licence in relation to the Uniform Network Code and therefore improve the current status quo position

We also feel that that the recent variation requests issued for 0319, 0320, 0321, 0322, 0323 and 0325 do provide useful additional clarification and are of an immaterial nature.

In summary, National Grid Transmission supports all of the proposals and prefers 0318A to 0318.

Please let me know if you require any further information to enable preparation of the Final Modification Report.

Yours sincerely

Beverley Viney