

# 0522S:

## Governance of the use of email as a valid UNC communication

- 01 Modification
- 02 Workgroup Report
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- 04 Final Modification Report

This modification proposes business rules to ensure that appropriate assurance is in place to be satisfied that communication between parties has been successfully achieved when email is used as the communication method.



The Panel did not approve implementation of Modification 0522S.



High Impact: None



Medium Impact: UNC Parties



Low Impact: DNs, Users

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## About this document:

This Final Modification Report was considered by the Panel 17 December 2015.  
The Panel determined that this modification should not be implemented.

The Workgroup recommended the following timetable:

Initial consideration by Workgroup	28 August 2014
Amended Modification considered by Workgroup	29 October 2015
Workgroup Report presented to Panel	19 November 2015
Draft Modification Report issued for consultation	20 November 2015
Consultation Close-out for representations	10 December 2015
Final Modification Report published for Panel	11 December 2015
UNC Modification Panel decision	17 December 2015



Any questions?

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# 1 Summary

## Is this a Self-Governance Modification?

The Modification Panel determined that the criteria for Self-Governance was not met for this modification as it was proposing a significant change in the way UNC parties will manage email communications. However, the Workgroup has reviewed the modification solution and considers that this modification would now be suitable for Self-Governance as following amendment, it only proposes to put in place rules for the governance of email communications and therefore is not considered material change.

Taking the Workgroup's view into account, Panel reconsidered the matter on 19 November 2015 and determined that Self Governance procedures should apply.

## Why Change?

At the time of the implementation of the original Network Code in 1995, fax was a more common form of business communication while email was in its infancy. Since then email has superseded fax as a more efficient and common form of business communication

A number of Modification Proposals both in the Gas and Electricity markets have allowed limited use of email communications in specific circumstances, specifically UNC Modification Proposal 033, 'Notification to Users of Emergency Incidents – Impacts on Code Communications' and Balancing and Settlement

Code Modification Proposals P113, 'Email Communication under the Code' and P159, 'Extending the Scope of Email Communications under the Code'. Since these proposals there has been expansion of the use of email as an allowable code communication in the Gas Industry due to the implementation of Modification 0479S - Inclusion of email as a valid UNC communication.

It is time to update the industry arrangements to reflect the technology changes and put in place mechanisms to update agreed communication channels between parties. Modification 479S was raised by Northern Gas Networks to introduce more formal requirements in the UNC for the use of email by UNC parties, however this modification has been raised to provide more robust rules for the governance of email as a UNC communication.

## Solution

Business rules are proposed to ensure that appropriate assurance is in place to be satisfied that communication between parties has been successfully achieved when email is used as the communication method.

## Relevant Objectives

Implementation of this modification would further Special Condition A11.1 (f), the promotion of efficiency in the implementation and administration of the Code, as it implements existing best practice regarding email use across the industry, by providing robust governance mechanisms to ensure the use of email is effective

## Implementation

This modification can be implemented without central system development. However, Transporters would need to review existing email practices to ensure their processes comply with the requirements in this modification.

## Does this modification affect the Nexus delivery, if so, how?

No impacts anticipated should this modification be implemented.

## 2 Why Change?

Email has superseded fax as a more efficient and common form of business communication UNC Modification Proposal 033, 'Notification to Users of Emergency Incidents – Impacts on Code Communications', extended allowable forms of communication to include internet and email to aid Transporters in complying with the provisions detailed within the Shipper Incident Communication Procedure (SICP) and was implemented in 2005.

Arguments in favour of allowing internet and email communication included 'improved operational efficiencies', 'real-time updates to Users' and 'improved quality of information'. Ofgem's decision letter stated their support for 'the use of internet and email facilities where they bring efficient gains'. They also stated their expectation that appropriate levels of security would be put in place regarding internet and email security and we would expect this to also apply wherever email communications were allowed as a result of this proposal being implemented.

Modification 0479S was raised by Northern Gas Networks to introduce more formal requirements in the UNC for the use of email between UNC parties, however this modification has been raised to provide more robust rules for the governance as a UNC communication.

Where formal communication grants rights or imposes obligations on parties, the deemed sending/receipt for email communication is not sufficient to bind the parties contractually and it is important that the network code reflects the necessary safeguards needed to ensure that there is the "meeting of minds" in the evolution of that contractual relationship between the parties.

The rules need to reflect the ability of the parties to communicate and recognise that there are some technical challenges that interrupt the instantaneous communication that emails offer, for example some email systems are set up such that they automatically return emails if they detect what they believe to be a virus/Trojan horse/spyware, even with the correct valid email address.

Equally it is much easier for communications to be misdirected when using email, so it's important that the recipient and sender can rely on the use of an accurate email address. A valid email address should be one that the recipient has provided and is correctly recorded and used by the sender. The risk is that the email address is incorrectly recorded and used by the sender so that the email is delivered to an unintended recipient who fails to notify the sender of their error. In those circumstances communication cannot be deemed to have been achieved, because an invalid email address has been used.

## 3 Solution

In light of Ofgem's comments in their former decision documents on the introduction of internet and email communication we propose therefore to amend General Terms B of the UNC to ensure that appropriate business rules are developed that address:

- How email address information for email communication is established and maintained, and to
- Determine whether communication has been achieved and setting out obligations to manage "Non-delivery" notices
- The creation of a new role for a Registered User's Authorised Email Representative and will set out how escalation of failed communication can be dealt with using an "Authorised Email Representative", as well as the role in validation of changed information.

## **Business Rules**

1. On accession to the code the Transporters will request confirmation of valid relevant email addresses from the Registered User for existing communications sent by email.
2. On implementation the Transporters will continue to use those email addresses currently in use and as provided by the Registered Users as valid email addresses.
3. The sender must use the valid email address as provided by the recipient for the specific communication type. (It is within the addressee's "sphere of influence" to provide adequate means to ensure that their internal communication functions satisfactorily). An email must "reach" the addressee. For clarity - this means it must have been delivered and accepted on to the addressee's server, and for the avoidance of doubt, this does not require the addressee to have retrieved or read the communication – unless that express requirement is agreed in advance by both parties.
4. When an email address is to be used for the first time for any Code Communication, a test email will be sent and the user will respond, so that the recipient can confirm that the email address is correct. Any non-response to test emails will be referred to the Registered User's Email Representative for resolution.
5. Any non-delivery notification received by the Sender must be acted upon by the Sender within 1 hour of receipt of the non-delivery notice. For the avoidance of doubt, non-delivery notifications will invalidate the expectation of deemed communication. If the communication attempts to confer rights or obligations, the Sender will contact the Registered User to resolve the non-delivery before resending.
6. The Registered User's Authorised Representative will be responsible for being the primary person(s) to contact to resolve email communication failures.
7. In the event of non-delivery notification being unresolved, deemed receipt (and any consequential actions) will only result from the 'official' post or fax versions of the communications. Since these exceptions should represent 'one-off' or rare communications, any inefficiency in continuing to issue these by post or fax will be minimal.
8. Registered Users' Authorised Representatives will use reasonable endeavours to provide 20 days' notice of any changes of valid email address (unless an alternative effective date is agreed between parties) to the Transporters, which will then be updated by the Transporter within 5 business days of receipt.
9. Transporters will use reasonable endeavours to provide 20 days' notice of any changes of valid email address (unless an alternative effective date is agreed between parties) to the Registered Users' Authorised Representatives, which will then be updated by the User within 5 business days of receipt.

### **Definition of a Registered User Authorised Email Representative**

The Authorised Email Representative will be the Registered User's authorised representative as an escalation point and will be the point of contact to verify changes to valid email addresses and their responsibilities will include:

- (a) providing a dedicated point of notification in the event of failure of a Code Communication issued by email in order to
  - I. Act as a point of escalation in the event of a non-delivery receipt.

- II. By agreement, accept receipt of the Code Communication on behalf of the Registered User and distribute accordingly within the User organisation - this will satisfy receipt by such Organisation and deemed receipt rules will apply.
- (b) enabling a User to provide a Code Communication:
- I. In the event that Registered User(s) for such Code Communication are unable to do so – i.e. the Authorised Email Representative will be able to provide any User to Transporter Code Communication in addition to any Registered User
  - II. In the event that a User has failed to register a designated recipient or sender.
- (c) enabling a Transporter to provide a Code Communication to a User where that User has failed to provide a designated recipient relating to that Code Communication.
- I. In the event that a User has failed to register a designated recipient or sender.
  - II. For the avoidance of doubt, the Authorised Email Representative is an individual who represents the Registered User who is an organisation.

A Registered User may have more than one Authorised Email Representative to ensure cover is provided at all times

The Authorised Email Representative authorises all requests to add, amend or remove designated recipients of Code Communications on behalf of their organisation or business unit.

In addition, the Authorised Email Representative will be able to provide a focus for the management of Registered Users contact information for Code Communications by:

- (a) Periodic review of contact information for Code Communications; and
- (b) To answer questions arising from the Transporter where potential issues with the validity of Registered User information is identified.

User Pays	
Classification of the modification as User Pays, or not, and the justification for such classification.	There are no anticipated costs to the implementation or operation of this proposal. No User Pays service would be created or amended by implementation of this modification and it is not, therefore, classified as a User Pays Modification.
Identification of Users of the service, the proposed split of the recovery between Gas Transporters and Users for User Pays costs and the justification for such view.	n/a
Proposed charge(s) for application of User Pays charges to Shippers.	n/a
Proposed charge for inclusion in the Agency Charging Statement (ACS) – to be completed upon receipt of a cost estimate from Xoserve.	n/a

## 4 Relevant Objectives

Impact of the modification on the Relevant Objectives:	
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.	None
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.	None
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.	None
f) Promotion of efficiency in the implementation and administration of the Code.	Positive
g) Compliance with the Regulation and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators.	None

### Impacts to Relevant Objectives

Implementation of this modification would further Relevant Objective (f), the promotion of efficiency in the implementation and administration of the Code, as it implements existing best practice regarding email use across the industry by providing robust governance mechanisms to ensure the use of email is effective.

## 5 Implementation

Implementation could be sixteen business days after a Modification Panel decision to implement, subject to no Appeal being raised. However, Transporters would need to review their existing email practices to ensure processes comply with the requirements in this modification.

Transporters will therefore confirm the actual implementation date following a decision to implement.

## 6 Impacts

### Does this modification impact a Significant Code Review (SCR) or other significant industry change projects, if so, how?

No, see below.

#### Project Nexus Implementation

It should be noted that Project Nexus systems are being built with requirements to allow the use of email for certain Code communications.

## 7 Legal Text

### Text and Text Commentary

Text and Text Commentary has been provided and is published alongside this report.

## 8 Consultation Responses

Of the 9 representations received 3 supported implementation, 1 offered qualified support, 1 offered comments and 4 were not in support

Representations were received from the following parties:

Organisation	Response	Relevant Objectives	Key Points
British Gas	Support	f) - positive	<ul style="list-style-type: none"><li>• Supports this change, as email is the primary form of business communication and this change provides improved governance for email communication.</li><li>• Supports the introduction of an Authorised Email Representative that will be the Registered User's authorised representative and escalation point for all failed code communications.</li><li>• Agrees with self-governance status.</li></ul>
E.ON	Support	f) - positive	<ul style="list-style-type: none"><li>• Recognises when the business rules were first introduced into an industry code, email communication was just being adopted and was not classed as being a formal notice of communications.</li><li>• Considers there is still no legal precedence on the reliance of when communication can be determined to have taken place in respect of the use of email, other than that which is set out in a contract between parties who have agreed what the rules will be.</li><li>• Feels the introduction of more robust requirements are needed, therefore essential to ensure that it's clear when communication has contractually taken place.</li></ul>



			<ul style="list-style-type: none"> <li>• Appreciates whilst Mod 0479 introduced some improvements, they did not go far enough to provide the legal certainty that should attach to formal notice communications by email.</li> <li>• Agrees with self-governance status.</li> </ul>
National Grid Distribution	Oppose	f) - negative	<ul style="list-style-type: none"> <li>• Are unable to offer support, as they don't agree the case has been made for the requirement of an additional governance step in the transaction of e-mail notifications.</li> <li>• Believes there has been no evidence in the nine months since implementation of Modification 0479S of an e-mail failure which would necessitate potentially burdensome governance arrangements;</li> <li>• Considers it difficult to see how instigating additional controls to govern an apparently satisfactory code communication mechanism could be viewed as furthering Relevant Objective (f).</li> <li>• Believes rather than create additional arrangements at this time which would establish an arguably overly cumbersome mechanism to ensure the certainty of an e-mail arriving at a specified e-mail address, it would be preferable to carry out a review of Mod 0479S after an appropriate time has elapsed.</li> <li>• Agrees with self-governance status.</li> </ul>
National Grid NTS	Oppose	f) - negative	<ul style="list-style-type: none"> <li>• Supports the general principles of this proposed change as it is seeking to introduce more robust rules around the governance of email communications. However, National Grid NTS are concerned that there is not a clear understanding of how this modification will be implemented in practise.</li> <li>• This is further exasperated by the late change to the solution to introduce an email address check upon first use. This change and any potential system impacts on Xoserve have not been investigated as part of the workgroup discussions.</li> <li>• Feels as though areas of the modification still need further development, it is difficult to provide a clear view on the necessary implementation timescales. However, are of the view that this 'test' email upon first use may need to be inserted as a new communication in the UK Link Manual, therefore requiring UK Link Committee approval.</li> <li>• The modification in principle does not appear to have any major costs. This is with the exception of the late change to the solution to introduce an email address</li> </ul>

			<p>check upon first use. It is unclear whether this will introduce increased Xoserve costs.</p> <ul style="list-style-type: none"> <li>• Feel if this proposal is to progress, National Grid NTS believe that the modification requires clarity on how the 'test' email on first use will work. In particular how any 'test' email is recorded between the sender and the recipient, and what criteria will constitute an email reaching the addressee. Believes that further clarification is required on how the co-ordination of sending and receiving emails will work, who will control email address lists and timescales. In addition we seek confirmation that there will be no requirement for additional funding to support these processes.</li> <li>• Agrees with self-governance status.</li> </ul>
Nothern Gas Networks	Oppose	f) - negative	<ul style="list-style-type: none"> <li>• Recognises the proposal introduces an 'Authorised User's Email Representative' to act as an escalation point in instances where an email communication has failed to send, as well as a number of obligations to amend the governance process around email communication within the UNC.</li> <li>• Believes the role of an Authorised User's Email Representative has merit, if served as an escalation point for all failed code communications, which would allow a similar function to exist for post, telephone, fax and system communications.</li> <li>• Believes this would represent a step forward for improved governance around code communications and build on Mod 0479S. However, Northern Gas Networks is concerned that the last minute introduction of a Business Rule to obligate a 'confirmation email' exchange before a nominated email can be used as a valid communication is bureaucratic and will deliver little by way of improved efficiency.</li> <li>• Appreciates email has been used as a code communication unofficially for a number of years without incident, so additional governance rules over and above those introduced via Mod 0479S need a stronger justification.</li> <li>• Believes the obligation on the sender to act upon a non-delivery notification within one hour is unenforceable and will not be followed.</li> <li>• Believes receipt of a non-delivery notification will act as the driver for the sender re-attempting the communication and therefore an additional obligation is unnecessary and it has not been justified as to why it is</li> </ul>

			<p>needed.</p> <ul style="list-style-type: none"> <li>• Feels the obligation to provide a month's notice of any change of email address will potentially limit the ability of parties to use email where a new email is needed due to an existing registered email being found to be no longer in use.</li> <li>• Notes that the additional rules move the UNC away from the principal to mirror wherever possible the email governance rules in the electricity Balancing and Settlement Code (BSC).</li> <li>• Believes this modification would have an ongoing impact whenever a new Code Communication was put forward, or whenever a new email address was provided for use, due to the 'confirmation test'.</li> <li>• Have concerns this would create an administrative burden due to the need for an administrative audit trail and an extra step in the process before the email address could be used for communications.</li> <li>• Agrees with self-governance status.</li> </ul>
RWE npower	Qualified Support	f) - None	<ul style="list-style-type: none"> <li>• Offers qualified support for this change. Agrees that ensuring emails are sent to the correct recipient is beneficial. However, RWE npower feel that the change creates a highly administrative process.</li> <li>• Believes that the responsibility of ensuring the correct contacts are in place should be a role for the UNC Code Administrator and not the transporter.</li> <li>• As email has been used within the industry unofficially for a number of years and there haven't been any issues raised by any party to say where this has failed or caused a financial impact. Also given that Mod 0479S has been implemented with governance rules for the use of email within the industry, there is little evidence presented as to why extra governance rules are needed. This change will add complexity rather than being value add.</li> <li>• Agrees with self-governance status</li> </ul>
Scotia Gas Networks	Comments	f) - negative	<ul style="list-style-type: none"> <li>• Believes that a mechanism that ensures information is sent to the correct recipient(s) would be beneficial. However, SGN do feel that this modification creates unduly administrative processes, and so would not necessarily further relevant object f).</li> <li>• Believes alternate methods of code communication (e.g. facsimile) have been in operation successfully for many years, without the need for a central register and</li> </ul>

			<p>so it is not clear why these administrative processes are now required.</p> <ul style="list-style-type: none"> <li>• Additionally SGN do not believe that placing a duty on parties to resolve the failure of an undelivered email within one hour would be a measurable and enforceable obligation, and note that the introduction of Mod 0033, 'Notification to Users of Emergency Incidents – Impacts on Code Communications' allows use of emails but did not create a central register.</li> <li>• Understands the modification sites Ofgem's decision letter on Mod 0033 as key justification, however the letter highlights the security around information within the emails, not security of delivery.</li> <li>• Agrees with self-governance status.</li> </ul>
SSE	Support	f) Positive	<ul style="list-style-type: none"> <li>• Supports this modification as it creates a much stronger structure for the use of email as a communication method and will help to ensure that communication between parties has been successfully achieved when email is used as the chosen method for communication.</li> <li>• Acknowledges a number of the communications that can be sent by email have a high level of importance and certainty is required that that they have reached their intended recipient, and that the correct course of action is taken by the sender when this certainty cannot be achieved.</li> <li>• Agrees with self-governance status.</li> </ul>
Wales and West Utilities Limited	Oppose	f) - None	<ul style="list-style-type: none"> <li>• Believes the proposal has a very worthy aim of having a central record of email contacts for all Code Communications, however in practice it will introduce complexity without adding value.</li> <li>• Appreciates it is seeking to achieve the same result as Mod 0306 in 2011, which introduced the Shipper Credit Security Contacts list, but across a much larger range of contacts. Experience has shown that the Shipper Credit Security Contacts list is not kept up to date.</li> <li>• Believes the need for a 'deemed receipt' definition for email communication has already been implemented by Mod 0479S, therefore they, do not support implementation of this modification.</li> <li>• Feels one common use of email is for BACS remittances (as required by UNC S 3.4.1) and this is used without issue by most parties without the need to maintain separate lists of the email addresses.</li> </ul>

			<ul style="list-style-type: none"> <li>• Notes that the obligation on Shippers to keep the Shipper Credit Security Contacts is an absolute obligation (TPD V2.1.1states Shipper must...). Mod 0522S does not absolutely require updates to be provided it just has a reasonable endeavours obligation.</li> <li>• Support the principle that changes should be notified in advance. However, parties should have as a minimum an absolute obligation to keep addresses up to date.</li> <li>• Understands from the legal text commentary that the legal text provider had to make number of assumptions so while the legal text fulfils the intent of the solution it is not clear that it fully delivers the intent of the proposer.</li> <li>• Agrees with self-governance status.</li> </ul>
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Representations are published alongside the Final Modification Report.

## 9 Panel Discussions

The Panel Chair summarised that Modification 0522S seeks to ensure that business rules are in place to provide appropriate assurance that communication between parties can be successfully achieved when email is used as the UNC communication method.

Members considered the representations made noting that, of the 9 representations received, 3 supported implementation, 1 offered qualified support, 1 provided comments and 4 were not in support.

Members considered the relevant objective (f), agreeing that implementation would have a positive impact on the efficient implementation and administration of the Code as it implements existing best practice regarding email use across the industry by providing robust governance mechanisms to ensure the use of email is effective.

Members noted the range of views provided in Consultation responses, significantly that those in support of the proposal believed that additional measures were appropriate to provide legal certainty around email usage for formal UNC communications. Other respondees generally felt there was some merit in the proposal, but that this was an overly complex and administrative method of achieving better governance.

Members voted and with 5 votes in favour (out of a possible 10), did not approve implementation of Modification 0522S.

## 10 Recommendation

### Panel Recommendation

Having considered the Modification Report, the Panel determined:

- that proposed self-governance Modification 0522S should not be made.