

Record of Determinations: Panel Meeting 246 15 August 2019

Modification	Vote Outcome	Shipper Voting Members						Transporter Voting Members					IGT Voting Member	Consumer Voting Member	Consumer Voting Member	Determination Sought
		AG	DF	MB	MJ	RF	SM	DL	AC	HC	RP	TS	JC	SH	EP (SM)	
0696A/0701 - Aligning Capacity booking under the UNC and arrangements set out in relevant NExAs	Not an alternative to Modification 0696 (renumber to Modification 0701) - <i>majority vote against</i>	X	X	X	X	X	X	X	✓	✓	X	✓	✓	✓	X	Should be considered as an alternative to Modification 0696?
	Not related to the Significant Code Review - <i>unanimous vote against</i>	X	X	X	X	X	X	X	X	X	X	X	X	X	X	Does Modification 0701 impact a Significant Code Review?
	Is not a Self-Governance Modification - <i>unanimous vote against</i>	X	X	X	X	X	X	X	X	X	X	X	X	X	X	Does 0701 meet the Self-Governance Criteria?
	Modification 0701 issued to Workgroup 0701 with a report to be presented to the 19 December Panel - <i>unanimous vote in favour</i>	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Should Modification 0701 be issued to Workgroup 0701 with a report to be presented to the December 2019 Modification Panel?
0669R - Review of the Gas Deficit Warning (GDW) and Margins Notice (MN) Arrangements	Workgroup 0669R to be closed - <i>unanimous vote in favour</i>	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	NP	✓	Should Request 0669R be closed?
0670R – Review of the charging methodology to avoid the inefficient bypass of the NTS	Returned to Workgroup 0670R, reporting date extended to 16 January 2020 Panel - <i>unanimous vote in favour</i>	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	NP	✓	Should Request 0670R be returned to Workgroup 0670R with a report to be presented to the 16 January 2020 Modification Panel?
0676R – Review of Gas Transporter Joint Office Arrangements	Returned to Workgroup 0676R, reporting date extended to 21 February 2020 Panel - <i>unanimous vote in favour</i>	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	NP	✓	Should Request 0676R be returned to Workgroup 0676R with a report to be presented to the 21 February 2020 Modification Panel?
0687 – Creation of new charge to recover Last Resort Supply	Proceed to Consultation, with consultation closing out on 06 September 2019 - <i>unanimous vote in favour</i>	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	NP	✓	Should Modification 0687 be issued to Consultation, closing on 06 September?

Record of Determinations: Panel Meeting 246 15 August 2019

Modification	Vote Outcome	Shipper Voting Members						Transporter Voting Members					IGT Voting Member	Consumer Voting Member	Consumer Voting Member	Determination Sought	
		AG	DF	MB	MJ	RF	SM	DL	AC	HC	RP	TS	JC	SH	EP (SM)		
0696 – Addressing inequities between Capacity booking under the UNC and arrangements set out in relevant NExAs	Proceed to Consultation, with consultation closing out on 12 September 2019 - <i>unanimous vote in favour</i>	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Should Modification 0696 be issued to Consultation, closing on 12 September?
0680S - UNC Changes as a Consequence of 'no deal' United Kingdom Exit from the European Union	Consideration of Modification 0680S deferred to 19 September Panel - <i>unanimous vote in favour</i>	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	NP	✓	Should consideration of Modification 0680S be deferred to the 19 September Panel?	
0698S – Improvements to Margins Notice Arrangements	No new issues were identified during Consultation - <i>unanimous vote against</i>	X	X	X	X	X	X	X	X	X	X	X	X	NP	X	Were any new issues identified during the Consultation for 0698S?	
	Modification 0698S implemented - <i>unanimous vote in favour</i>	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	NP	✓	Should Modification 0698S be implemented? (Yes votes only)	
0700 (Urgent) - Enabling large scale utilisation of Class 3	Modification 0700 (Urgent) recommended for implementation - <i>unanimous vote in favour</i>	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Should Modification 0700 (Urgent) be recommended for implementation? (Yes votes only)	

In favour	Not in Favour	Not Present	No Vote Cast
-----------	---------------	-------------	--------------

UNC Modification Panel

Minutes of the 246 Meeting held on

Thursday 15 August 2019

at Elexon, 4th Floor, 350 Euston Road, London NW1 3AW

Attendees

Voting Members:

Shipper Representatives	Transporter Representatives	Consumer Representatives
A Green (AG), Total D Fittock* (DF), Corona Energy M Jones (MJ), SSE M Bellman (MB), ScottishPower R Fairholme (RF), Uniper S Mulinganie (SM), Gazprom and alternate for E Proffitt	D Lond (DL), National Grid NTS A Clasper (AC), Cadent H Chapman (HC), SGN R Pomroy (RP), Wales & West Utilities T Saunders (TS), Northern Gas Networks J Cooper* (JC), BUUK	S Horne* (SH), Citizens Advice

Non-Voting Members:

Chairperson	Ofgem Representative	Independent Supplier Representative
M Shurmer (MS), Chair	L King (LK)	

Also in Attendance:

A Peart (AP), Utility People; E Rogers (ER), Xoserve; J Hallam-Jones* (JHJ), Xoserve;
L Weston (LW), Utility People; R Hailes (RH), Secretary; R Fletcher (BF), Joint Office;
R Patel* (RPa), Xoserve and S Britton, Cornwall Insight.

**by teleconference*

Record of Discussions

Introduction

MS welcomed all attendees and then set out the order of business for the meeting.

246.1 Note of any alternates attending meeting

A Clasper for G Dosanjh Cadent

S Horne for J Atherton, Citizens Advice

S Mulinganie for E Proffitt, MEUC

246.2 Record of Apologies for absence

E Proffitt, MEUC

G Dosanjh, Cadent

J Atherton, Citizen's Advice

P Garner, Joint Office

246.3 Minutes and Actions of the Last Meeting(s)

Panel Members approved the minutes from 18 July 2019 meeting.

Action PAN 02/06: The Code Administrator to ensure the Governance Workgroup review the appropriateness of counting members as absent who provide an alternate when considering Modification Rules - Ceasing to be a Member 4.4 b) (i) the Member is absent.

Update: This item has been included on the agenda of the next Governance Workgroup currently planned for 02 September 2019. The Governance Workgroup is requested to provide any comments or recommendations in a review report.

Action Closed.

Action PAN 01/07: Code Administrator to collate information on all Modifications at both UIG and Distribution Workgroups with views from Workgroup as to which could be prioritised, for discussion at August 2019 Panel.

Update: This activity is ongoing and a further update is to be provided at the September meeting. **Carried Forward.**

Action PAN 02/07: Code Administrator to write to those alternates who had yet to submit a statement of Modification Panel Behaviour, requesting their statements, status to be reviewed at August 2019 Panel. Panel Members also to chase their Alternates to submit the statements.

Update: All notified alternates have submitted Modification Panel Behaviour statements. It was also agreed that there was no need for Members who had already signed the statement to sign again post September's election. **Action Closed.**

Action PAN 03/07: Code Administrator to add standing agenda item to Distribution Workgroup agenda from 22 July 2019 to receive update from CDSP as to Impacts to UNC of CSS Detailed Design.

Update: An additional item has been included in the Distribution Workgroup agenda as a standing item. **Action Closed**

246.4 Consider Urgent Modifications

None presented.

246.5 Consider New Non-Urgent Modifications

a) **Modification 0696A – Further Realising the Benefit of the Data Permissions Matrix and UNC Consistency Review**

MS noted the obvious link between this Modification and the later agenda item addressing the Workgroup Report for Modification 0696 and the need therefore for the Panel to discuss whether this Modification was an alternative.

TS introduced the Modification, its aims and why it is considered to be an alternate to Modification 0696.

SM challenged that while this Modification might have some overlaps with Modification 0696, it is not a true alternative as both could be implemented without impacting the other and that the 0696A Modification goes much wider in terms of scope and timelines. Responding, TS felt that Modification 0696 had highlighted that the existing process was in need of a wider review and this provided the opportunity to do so. SM agreed with these sentiments, but felt the wider review could be undertaken separately to Modification 0696 which was very narrow in scope.

TS challenged that this was an undue delay to Modification 0696 noting that it had been presented to Panel with no pre-modification discussions and that there had only been two meetings in between which the modification had been amended. Under the circumstances, this proposed alternative had been raised promptly and was not proposing a significant development period.

Responding to a question about precedents, it was noted that there have been a number of Modifications raised as alternatives when a Workgroup Report has been submitted for Panel determination. These are usually noted in the Workgroup Report and at times Panel has returned the Modification and proposed alternative to Workgroup to develop a combined report.

SM requested that a view is provided on the Modification Rules in terms of the process to be adopted when alternatives are raised late in the process.

MJ asked if the timeline for the proposed alternative is achievable and would this unduly delay Modification 0696. SM again questioned whether this Modification should be considered as alternative due to scope and proposed timeline.

RF noted that Modification 0696 is addressing a narrow issue and the

proposed alternative is looking at a wider resolution of a number of issues, but both might be addressing the same concerns.

SM was concerned that the process for a simple modification is being delayed by a wider review and that there is nothing preventing Modification 0696 being implemented and the proposed alternative being implemented at a later date when the wider process review was concluded.

TS felt that any review to avoid detriment to a consumer or shipper should be undertaken fully and not for an isolated point, to ensure there are no other issues being ignored.

SM disagreed as Modification 0696 was addressing an identified issue and should be progressed. He had not identified any other issues creating this or a similar detriment to a consumer. If Modification 0696 was implemented, then the wider review could unwind retrospection if the industry felt it was appropriate.

RP felt that a wider a review would be more beneficial for the industry and should be supported. SM agreed in part but felt a specific issue should be addressable without waiting for a wider review of a section of Code.

RF suggested that the proposed alternative could be amended to reflect Modification 0696 without retrospection for example as it could then follow Modification 0696 timeline. The proposer could raise a wider review as a Request or Modification. TS was concerned that this would be inefficient and the topic should be addressed as is.

RP noted that there were additional features proposed in the alternative and that proposals would be difficult to remove without significantly impacting the solution.

MS noted that the discussion was becoming circular and therefore consideration of splitting Modification 0696A is a possible option but one the proposer is reluctant to consider at this time.

MS invited the Ofgem Representative to provide an opinion on a preferred approach. LK advised that from his perspective and discussions with colleagues, although each modification has a different approach, they are proposing different solutions to the same problem and that those solutions are mutually exclusive. Good governance and best regulatory practice would suggest that industry and Ofgem would benefit from seeing both modifications alongside each other as alternatives in the same report to ensure an effective comparison can be made against each modification.

RF was concerned how far Panel should consider the scope of a Modification in terms of agreeing it is an alternative, particularly where both were addressing the same issue although the approach might be different.

RP noted that if the proposed alternative was to be renumbered as

Modification 0701, how would Ofgem be able to make a decision on Modification 0696 until Modification 0701 had concluded.

MB ask for a definition of an alternative proposal.

BF advised that there is no clear definition or description of an alternative Modification in the Modification Rules. However, the Rules anticipate a discussion at Workgroup where an industry participant might request a proposer to make an amendment to a Modification and if they decline to do so, the participant could then raise an alternative Modification.

Members asked if further clarity could be provided or developed on the criteria for considering alternatives and when they can be raised. MS agreed with this view as this issue had arisen at a number of previous panel and that clarity would be helpful.

LK advised that Ofgem would be willing to consider responding to a formal request for a View on the management of alternatives should Panel request this.

MS asked Members if they required a formal View from Ofgem on this topic and following a wider discussion, it was agreed that the Governance Workgroup should include this topic in its discussions and that Ofgem attendance at the meetings would benefit the development of recommendations.

New Action: PAN 01/08: The Governance Workgroup is requested to review the current criteria for proposing alternative Modifications and provide clarity and/or recommendations for the management of alternative Modifications.

Note: this action includes the requested view on the interpretation of raising alternative Modifications as set out in the Modification Rules requested by Panel Members earlier in the Modification discussion.

For Modification 0696A Members determined:

- That Modification 0696A is not an alternative to Modification 0696 and should be renumbered as Modification 0701, by majority vote.
- It is not related to the Significant Code Review, by unanimous vote;
- The criteria for Self-Governance are not met as this Modification is likely to have a material impact on the contractual arrangements between Transporters, Consumers and Shippers that have a NExA in place, by unanimous vote;
- That Modification 0701 be issued to Workgroup 0701 with a report by the December Panel, by unanimous vote.

246.6 Consider Workgroup Issues

- a) None

246.7 Workgroup Reports for Consideration

a) Request 0669R – Review of the Gas Deficit Warning (GDW) and Margins Notice (MN) Arrangements

Members noted the recommendations in the Workgroup Report and that two related Modifications have been progressed separately.

For Request 0669R, Members determined:

- That Workgroup 0669R should be closed, by unanimous vote.

b) Request 0670R – Review of the charging methodology to avoid the inefficient bypass of the NTS

Members noted the recommendations in the Workgroup Report.

For Request 0670R, Members determined:

- It should be referred back to Workgroup 0670R for further assessment, with a report by the 16 January 2020 Panel, by unanimous vote.

c) Request 0676R – Review of Gas Transporter Joint Office Arrangements

Members noted the recommendations in the Workgroup Report.

For Request 0676R, Members determined:

- It should be referred back to Workgroup 0676R for further assessment, with a report by the 19 December 2019 Panel, by unanimous vote.

d) Modification 0687 – Creation of new charge to recover Last Resort Supply Payments

Panel Members noted the Workgroup Report recommendations.

HC asked Members to note that a number of minor errors have been identified in the Legal Text and an amended version is to be provided for consultation.

For Modification 0687, Members determined:

- It should be issued to consultation with a close out date of 06 September 2019 (this includes a deemed request for Legal Text), by unanimous vote.

e) Modification 0696 - Addressing inequities between Capacity booking under the UNC and arrangements set out in relevant NExAs

Panel Members noted that the Workgroup had not been able to reach a consensus on proposed next steps.

RP noted that the proposer had been requested to clarify Class 1 and 2 Supply Meter Points in the solution and that Legal Text has been requested with these clarifications.

SM agreed to amend the Modification and Panel Members noted the amendments.

For Modification 0696, Members determined:

- It should be issued to consultation with a close out date of 12 September 2019 (this includes a deemed request for Legal Text), by unanimous vote.

246.8 Consideration of Workgroup Reporting Dates and Legal Text Requests

Members determined unanimously to extend the following Workgroup reporting date(s):

Workgroup	New Reporting Date
0646 - Review of the Offtake Arrangements Document	19 December 2019
0674 - Performance Assurance Techniques and Controls	19 December 2019
0683 - Offtake Arrangements Document (OAD) Review Updates – Phase 1	21 November 2019
0688 - Recovery of Shipper Losses incurred in Supplier of Last Resort events	19 December 2019

Members determined unanimously to request Legal Text for the following modification(s):

Modification

246.9 Consider Variation Requests

None discussed.

246.10 Final Modification Reports

a) Modification 0680S - UNC Changes as a Consequence of ‘no deal’ United Kingdom Exit from the European Union

DL advised that as with previous months, Panel was being requested to defer consideration of the Final Modification Report until there was more certainty on a potential date for a no deal scenario implementation.

TS questioned whether the Modification would need to be further reviewed as the deadline for Brexit approaches. LK noted that there were licence changes were being considered and these would need to be considered as part of the

implementation process.

DL agreed and it was noted that the Modification would require a Variation at some point in the future, although this is unlikely to be a material impact.

Panel Members then determined:

- that consideration of the Final Modification Report should be deferred until the 19 September 2019 Panel, by unanimous vote.

b) Modification 0698S – Improvements to Margins Notice Arrangements

Panel discussion: see the Final Modification Report published at:

<https://www.gasgovernance.co.uk/0698>

Panel Members then determined:

- that there were no new issues requiring a view from Workgroup, by unanimous vote;
- to implement Modification 0681S, by unanimous vote.

c) Modification 0700 (Urgent) - Enabling large scale utilisation of Class 3

Panel discussion: see the Final Modification Report published at:

<https://www.gasgovernance.co.uk/0700>

It was noted that amended Legal Text has been provided by the Transporter to address or clarify some of the concerns raised during consultation.

A paper has been provided by Xoserve to clarify a number of questions raised in consultation and the paper was outlined by DA. Panel agreed that the paper should be included as an appendix in the Final Modification Report (FMR). It was suggested that industry participants are advised of this addition to the FMR in a Joint Office communication.

It was noted a number of ancillary documents will require amendment should this Modification be approved and these will be progressed through the relevant approval Committees.

It was noted that it might be beneficial to arrange an extraordinary UNCC meeting to ensure ancillary documents are approved to align with implementation of this Modification.

DA advised that Xoserve will be providing an update to the DSC Delivery Subgroup concerning the systems changes and this activity was being undertaken simultaneously to the Modification process.

Some concerns were raised about the enduring process being implemented that potentially restricts the submission of reads and impacts on UIG. However,

it was noted that the Modification could not be amended at this time without extension to the process by Ofgem.

TS disagreed that the opportunity to consider other options had been discussed at a pre modification workshop. A number of options were presented as being unable to be proceeded with and only one option was presented which was explored in any depth.

Members noted that the Legal Text and Solution should be further reviewed to ensure they are compatible while also noting that this Modification is following Urgent timescales which restricts Panel options to seek amendments.

Panel Members then determined:

- to recommend implementation of Modification 0700, by unanimous vote.

246.11 AOB

a) Statement of Modification Panel Member Behaviour

See action PAN 02/07 update above.

b) Legal Text Guidance Document Annual Review

MS asked Members if there were any changes required to the Legal Text Guidance Document.

No changes were proposed by Members.

c) Non-Domestic Consumer Rep for the UNC Modification Panel

RH advised that one new nomination (Nigel Bradbury) for the role of Non-Domestic Consumer Rep for the UNC Modification Panel had been received and this has been forwarded to Ofgem for their consideration.

d) Joint Ofgem/BEIS Energy Code Review

LK Ofgem representative informed Panel that on Monday, 22 July Ofgem and BEIS jointly published a consultation setting out two potential future models that would fundamentally reform the industry codes and their governance. The four key themes to our proposed reforms are:

1. **Providing strategic direction:** how to introduce a new strategic function or body to take the government's high-level vision and translate it into a strategic direction for codes.
2. **Introducing empowered and accountable code management**
3. **Increasing independence of decision-making:** rebalancing the code change process and decision-making away from industry control, whilst retaining the industry's input and expertise.

4. Simplifying and consolidating the codes.

To deliver these reforms we have proposed two potential models. The first has a separate strategic function and code management function. The second has an integrated rule-making body that delivers both the strategic function and code management functions.

LK said Ofgem/BEIS were seeking views from a wide range of stakeholders, and encourage all parties to respond. We are accepting consultation responses by 16 September. To facilitate consultation responses two workshops are being held, one in London on 2 September, and one in Birmingham on 4 September

Document and details on how to respond can be found [here](#).

Invite to workshops can be found [here](#)

246.12 Date of Next Meeting

- 10.30, Thursday 19 September 2019, at Elexon.

Action Table (15 August 2019)

Action Ref	Meeting Date	Minute Ref	Action	Owner	Status Update
PAN 02/06	20/06/19	244.12f)	The Code Administrator to ensure the Governance Workgroup review the appropriateness of counting members as absent who provide an alternate when considering <i>Modification Rules - Ceasing to be a Member 4.4 b) (i) the Member is absent.</i>	JO (CS)	Closed
PAN 01/07	18/07/19	245.5c)	Code Administrator to collate information on all Modifications at both UIG and Distribution Workgroups with views from Workgroup as to which could be prioritised, for discussion at the September 2019 Panel.	JO (RH)	Carried Forward
PAN 02/07	18/07/19	245.11a)	Code Administrator to write to those alternates who had yet to submit a statement of Modification Panel Behaviour, requesting their statements, status to be reviewed at August 2019 Panel. Panel Members also to chase their Alternates to submit the statements.	JO (RH) and Panel Members	Closed
PAN 03/07	18/07/19	245.11d)	Code Administrator to add standing agenda item to Distribution Workgroup agenda from 22 July 2019 to receive update from CDSP as to Impacts to UNC of CSS Detailed Design.	JO (RH)	Closed
PAN 01/08	15/08/19	246.5 a)	The Governance Workgroup is requested to review the current criteria for proposing alternative Modifications and provide clarity and/or recommendations for the management of alternative Modifications.	JO (CS)	Pending

