

## UNC Modification Panel

Minutes of the 236 Meeting held on Thursday 17 January 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 G Wood (GW), British Gas M Bellman (MB), Scottish Power R Fairholme (RF), Uniper S Mulliganie (SM), Gazprom	C Warner (CWa), Cadent P Hobbins (PH), National Grid NTS H Chapman* (HC), SGN R Pomroy (RP), Wales & West Utilities T Saunders (TS), Northern Gas Networks J Cooper* (JC), BUUK	E Proffitt (EP), MEUC

#### Non-Voting Members:

Chairperson	Ofgem Representative	Independent Supplier Representative
M Shurmer (MS), Chair	D O'Neill (DON)	

#### Also in Attendance:

A Fielding (AF), Ofgem; A Satti (AS), Ofgem; C Shanley (CS), Joint Office; C Williams (CWi), National Grid NTS; C Whitehouse\* (CWh) First Utility; D Hawkin\* (DH), TPA Solutions; E Rogers (ER), Xoserve; J Cox\* (JCo), Energy UK; J Thomson\* (JT), Ofgem; L Biginton\* (LB), Utilita; P Garner (PG), Joint Office; R Fletcher (RFI), Secretary; S Britton\* (SBr), Cornwall Insight; S Coughlan (SC), Wales & West Utilities and T Thompson (TT), National Grid NTS

*\*by teleconference*

#### Record of Discussions

#### Introduction

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

### **236.1 Note of any alternates attending meeting**

D O'Neill for J Dixon, Ofgem

P Hobbins for D Lond, National Grid NTS

Members noted that MS is providing pre-registered votes for J Atherton (Citizens Advice).

MS advised that as previously agreed at Panel, he would vote on a Consumer Representative's behalf by exception, where they were unable to identify a suitable Alternate and provided clear voting instructions.

### **236.2 Record of Apologies for absence**

D Lond, National Grid NTS

J Atherton, Citizens Advice

J Dixon, Ofgem

### **236.3 Minutes and Actions of the Last Meeting(s)**

Members then approved the minutes from the previous meeting on 20 December 2018.

### **236.4 Consider Urgent Modifications**

None discussed.

### **236.5 Consider New Non-Urgent Modifications**

#### **a) Request 0676R - Review of Gas Transporter Joint Office Arrangements**

SM introduced the Request and its aims, advising that he would be in favour of an independent organisation being appointed to manage the process in a similar way to the Xoserve FGO review – he felt that this could be contracted via the CDSP.

CWa was concerned that the proposed review was very wide ranging and in particular highlighted the potential impact on the Modification Rules. SM suggested the review could start from a wider UNC perspective and then narrow down as more specific issues or tasks were identified. He suggested the review establishes the Terms of Reference and an independent expert conducts the review.

GW wanted to understand the funding model for the proposed expert and the impacts on industry parties in terms of cost sharing. PG wanted to explore if the CDSP was the correct funding and contracting option, should this be via Transporters and include Joint Governance Arrangements Committee (JGAC).

CWa wanted to understand the wider scope, if this review would impact other Codes and therefore be a joint workgroup approach.

RP noted that for Transporters, costs in excess of allowed revenues are not recoverable. He was also concerned about the inclusion of a new CDSP to provide funding and how the costs would be allocated.

PG suggested the Joint Office chair the initial workgroup meetings with recommendations being fed through to the wider BEIS/Ofgem industry Codes industry review, as they would be able to consider the implications of new models and funding options. SM was comfortable with the Joint Office chairing the initial Workgroup meetings.

SM wanted to understand the JGAC funding option would work. RP suggested that the funding would already be allowed for the JO and that they should Chair the Workgroup and then the findings would be picked up as previously suggested.

SM is concerned that UNC parties including the Joint Office are conflicted, and it would be useful to involve an independent expert to provide a different view or approach as they would be able to consider a wider remit.

MS suggested that the it would be beneficial to develop the Terms of Reference first and then decide if an independent expert is needed or not. MB suggested that an independent expert would be beneficial as they would be able to take the process wider than just the UNC or UK industry.

PG suggested that this work would fit in with the BEIS/Ofgem Industry Codes review with this report providing recommendations.

TS felt that the proposed scope at this stage was too wide for an industry expert to undertake as costs would not be focused and the benefits may not be achievable. The scope should be refined and then a test applied to confirm if the industry could deliver the changes required or if an independent expert would be beneficial.

PG advised that the Joint Office would be representing itself and not Transporters or JGAC who would have their own representatives.

HC asked what would be required from the review of Legal Text provision. SM was open to suggestions, but his initial view was centralisation was the aim as this would provide a level playing field and consistency in provision.

RP suggested there might be a material impact on Transporter Licences. However, SM felt at this stage the review was immaterial, but it might lead to a material change should Modifications or a significant change in provision be agreed. RP suggested the review identifies what is deliverable by Code change and what would require a wider industry change such as licence amendments.

RFa also noted that the BEIS/Ofgem review would not be tied to any recommendations proposed in the Workgroup Report.

For Request 0676R Members determined:

- That Request 0676R is issued to Workgroup 0676R for assessment with a report to be presented to the 21 June 2019 Panel, by unanimous vote.

**b) Request 0677R – Shipper and Supplier Theft of Gas Reporting Arrangements**

CWh introduced the Request and its aims. He suggested that a cross code workgroup is established with SPAA to review the effectiveness of theft reporting.

RP suggested that Transporter reporting is included to maintain consistency. CWh suggested the aim is manage impacts on settlement which feed through to unidentified gas (UIG) and he wasn't sure how this would be improved by reviewing Transporter reporting but would be willing to listen to views by Transporters. RP and CW agreed not to add Transport reporting requirements at this stage.

SM agreed with the views expressed as he was keen for a review on the incentivisation of theft investigation and post investigation reporting which were failing to feed through to settlement. He wanted to see parties align the theft reporting so that settlement is managed accurately, and that reconciliation works effectively for the industry. TS wanted to understand the highlighted impact on Transporters on the Request template as medium appeared to be elevated and perhaps it should be low. CWh was happy to review this at Workgroup as this was an indicator and could be adjusted as the analysis is undertaken. CWa suggested the UNC theft reports are reviewed as they don't seem to deliver the required objective if there is a gap in settlement performance.

CWh noted that a similar Request is to be submitted to the SPAA Executive Committee to promote attendance to the joint workgroup by Suppliers.

For Request 0677R Members determined:

- That Request 0677R is issued to Workgroup 0677R for assessment with a report to be presented to the 21 June 2019 Panel, by unanimous vote.

**236.6 Existing Modifications for Reconsideration**

**a) Modification 0651 - Changes to the Retrospective Data Update provisions**

MS asked Members to note that Modification 0651 has been with Ofgem for over 4 months and consideration had been deferred at the previous meeting as J Dixon had advised that Ofgem's intention was to provide a decision on this Modification prior to this meeting.

DON noted the concerns about the delayed decision and advised that Ofgem aimed to provide a decision by the end of January 2019.

SM suggested to ER that the CDSP reconsider the RAASP funding return to Transporters until a decision is received.

For Modification 0651 Members determined:

- Defer consideration to the February 2019 Panel, by unanimous vote.

## **b) Modification 0674 - Performance Assurance Techniques and Controls**

MS asked Members to note that Modification 0674 was deferred at the November and December Panel meetings and that amendments were being prepared by the Proposer.

MB advised that an assessment of the Modification was still being undertaken and he had asked the PAFA to support this activity, with the aim of presenting the next version to the February Panel.

MS asked if this was a realistic expectation. MB advised that the aim was to review the draft at the next PAC meeting and target resubmission to the February Panel.

### **For Modification 0674 Members determined:**

- Defer consideration to the February 2019 Panel, by unanimous vote.

## **236.7 Consider Workgroup Issues**

None

## **236.8 Workgroup Reports for Consideration**

### **a) Modification 0652 – Introduction of winter read/consumption reports and associated obligations**

PH was concerned that the Legal Text does not deliver the intent of the Solution. TS felt that the Text mirrored the Workgroup discussions.

PH challenged the description in the Legal Text Paragraph 5.9.17 in terms of September/October dates should be changed to calendar year rather than Gas Year. He was also concerned about the clarity of the Legal Text.

RP suggested that if the Solution and Legal Text is incorrect and it should be amended prior to consultation.

SM suggested the consultation is deferred with an extra Panel arranged to ensure the Modification is not unduly delayed.

It was noted that should the Workgroup concluded the amendments quickly, an extraordinary Panel meeting could be arranged to consider if the Modification is suitable for consultation.

For Modification 0652, Members determined:

- It should be referred to Workgroup 0652 for further assessment, with a report by the 21 February 2019 Panel, by unanimous vote.

## **236.9 Consideration of Workgroup Reporting Dates and Legal Text Requests**

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

<b>Workgroup</b>	<b>New Reporting Date</b>
0665 - Introduction of suitable classification of Ratchetable Supply Points & ensuring accurate Capacity Allocations (SOQ)	March 2019
0671 - New Capacity Exchange process at NTS exit points for capacity below baseline	April 2019

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

<b>Modification</b>
None

#### **236.10 Consider Variation Requests**

None discussed.

#### **236.11 Final Modification Reports**

- a) Modification 0668S - Amendment of the Data Permission Matrix to add Alt Han Company as a new User type

Panel discussion: see the Final Modification Report published at:

<https://www.gasgovernance.co.uk/0668>

Members voted by unanimous vote to implement Modification 0668S.

#### **236.12 AOB**

##### **a) BEIS/Ofgem Code Review**

PG advised that AF from BEIS/Ofgem had been invited to Panel to provide a brief overview of the industry Codes Review.

AF provided a brief overview of the proposed approach to the Codes Review and the overall aims. The review is linked to a speech by the Secretary of State for Energy and Climate Change which established a requirement to undertake a review.

The review was to consideration wider industry parties, diversity and how the change process can be made more simple, accessible and easier to understand. The aim is to look at a strategic body or function for setting direction and how this can be supported by the industry, and not just BEIS

or Ofgem setting a route for strategy. This directly linked to proposals in the CMA report and recommendations when they considered competition in the energy market.

The review is to include consideration of barriers, identify best practice and what the new framework(s) should look like going forward.

AF advised that two industry stakeholder workshops were planned for 04 and 14 February which would set out the process and topics for consideration.

AF outlined three questions on which she would be particularly interested in Panel's views:

- 1) Does the Panel consider that the current structure allows it to deliver effectively against its objectives.
- 2) Panel's initial views in terms of code administration and code management.
- 3) Whether Panel felt there was need for a Strategic Review and agreed with the aims set out by BEIS.

MS suggested that Members provide some initial thoughts for consideration by AF and noted that there would be further opportunities to provide input:

AG wanted to see some initial views and scope set out by the programme before providing detailed feedback.

SM suggested that BEIS/Ofgem might want to consider attending Workgroup 0676R (see item 236.5 a) above) as it aimed to review the current UNC governance arrangements and it might be useful as a testing ground for wide industry considerations.

GW wanted to understand the potential cross-over with previous activities such as consideration of the CMA recommendations. Ofgem commenced the review and presented views on strategic guidance bodies, however that was some time ago and progress seems to have stalled, efforts should be made to ensure the same doesn't happen with this project.

AF responded that the CMA outcomes were narrower by definition and focused on competition issues, progress was impacted due to a lack of parliamentary time due to other national issues. However, faster switching and Code consolidation reviews links to this review as they impact each other due to cross overs. AF advised the review is wider in scope due to the joint BEIS/Ofgem approach and would take information from all of the ongoing associated Code reviews.

EP advised that with his limited experiences of Panels, he finds the process frustratingly slow and drawn out but he struggles to find a replacement to suggest as currently the process usually delivers the desired outcome.

MB feels that innovation is more advanced in electricity/power which is probably due to the changing markets and structures. He agrees the current Code process seems to be slow, but he also struggles to find a better alternative.

DF is concerned about how the review process is to be managed by both BEIS and Ofgem, they seem to have similar ideas, but coordination might prove to be difficult. He related to his previous experiences as a Code

Adminstrator and the limited level of authority or influence the Code Adminstrator has when seeking change. Codes themselves might block this activity and Code Managers might be the way forward, particularly where they directly employ experts. DF also wanted to see reform and commitment around Authority decisions as delays can impact industry investment, development and consistency of approach.

PH look forward to the review and a successful outcome, however he wanted to understand the timescales and the engagement process beyond the stakeholder workshops planned for February.

CWa noted that overtime additional costs and complexity have been introduced into Codes which can make the process cumbersome and very expensive. He is keen to understand why other parties other than the actual Code parties need to be involved as they are not directly impacted. He also suggested some form Code consolidation would be useful although he doubted an overarching Code would be manageable or reactive enough to specific market issues.

RP felt the review should also consider change impacts across the whole industry to ensure changes in individual Codes and system identify consequential impacts on other Codes. This could include a review of relevant objectives to ensure they take account of the wider energy industry.

TS noted that as a new member it is not a quick process to understand however, there is a need for such complexity to ensure the relevant rules and protections are in place for the industry.

RFa noted that as an experienced member he had seen a lot of incremental change and was cautious about over-simplification as this might create more problems than they solve. Risks could be created if the process gets devolved into a governance structure with less scrutiny. He feels that Panel is often viewed as an overseeing all knowing body when in reality it is a body that is there to manage the governance of change – no individual can be fully conversant of all of the processes set out in Code.

HC agreed with most views but felt at times there needed to be clearer strategic direction so that priorities for change can be identified.

JCo noted that a review of IGT governance had recently looked at the opportunity to merge Codes, however it was felt there were other industry priorities that needed to be resolved first.

SM noted that Panel doesn't sit in isolation of the community as members are usually part of wider business and in some examples multinational business which experiences/knowledge can be drawn from.

AF thanked members for their views and confirmed they aimed to explore further opportunities at the stakeholder workshops.

It was also noted that both Electralink and Elexon would be presenting options for change at the workshops. There would be consideration of the structure of Codes including the inclusion of charging methodologies.

AF confirmed that the aim is to go to an initial consultation by May 2019.

A copy of the Energy Codes Review Terms of Reference I published on the



Ofgem website:

<https://www.ofgem.gov.uk/publications-and-updates/energy-codes-review>

**b) BREXIT Impact update**

PH advised that preparations for BREXIT continue with an Urgent Modification anticipated towards the end of January. This is to align Code to the UK statutory instruments.

PG noted that Ofgem had written to the industry advising of the need for compliance regardless of the BREXIT outcome.

**c) “Modification 0621/A/B/C/D/E/F/G/H/J/K/L - Amendments to Gas Transmission Charging Regime” Rejection Decision and next steps**

PG felt it was important for Panel to get a view on the Modification 0621 decision letter and get a better understanding of the issues raised and why the Modifications were rejected by Ofgem.

DON advised that Ofgem had considered these Modifications and set out the reasons why they were not compliant and therefore rejected. DON confirmed there was no intention for Ofgem to undertake a Significant Code Review (SCR), particularly as the timescales for compliance and completion of an SCR would be challenging.

DON summarised the key points in the Ofgem letter, advising the Modifications were rejected due to the following compliance conflicts:

- The creation of ‘interim contracts’;
- The content of the proposed ‘transition period’; and
- The NTS Optional Charge.

DON emphasised that a new Modification as a minimum needs to be compliant with the Tariff Network Code (TAR NC), noting there should be consistency with electricity charging models where appropriate.

DON also noted that charging based on distance seems unfair and justification would be required. He also noted the concerns on contracts and provided a number of scenarios where they might or might not be impacted.

DNO also advised that short haul should be aimed at genuine reasons for avoiding inefficient by-passing the NTS.

When considering BREXIT, no deal scenario would still require compliance of the TAR NC it will be adopted by UK Law.

AG was concerned about managing the Modification process without an SCR, how will the alternatives be managed, and the timescales meet. What were the next steps to ensure compliance.

PG advised that a number of options were available:

- Ofgem establish an SCR – as advised, this is not likely;
- Ofgem direct a Modification – this would again be an Ofgem decision

and unlikely;

- Urgent Modification – This would be raised by an industry party and it would maintain a fixed timeline. However, if Workgroups are included in the process, as is most likely, this would allow Alternative Modifications to be raised;
- Standard Modification – As with Modification 0621, it would be difficult for Panel to manage the timeline should Alternatives be raised late in the Workgroup process.

DON asked if an Urgent Modification was issued straight to consultation would it reduce the risk of Alternatives. GW noted that an Urgent Modification process without Workgroups won't prevent other Modifications being raised, they will just be numbered individually.

RFa was concerned that the Urgent process was being considered to include a significant number of Workgroup meetings, this would seem to indicate it wasn't Urgent by definition.

MB asked what the consequences would be if the process failed to deliver a compliant Modification. DON advised the UK would be at-risk of action being taken against it, including substantial fines for failure to comply with the TAR NC.

SM was concerned that compliance would be difficult for the Panel as non-lawyers to assess. RFa noted that a number of the previous Modifications could be considered compliant if certain aspects were removed which again creates the risk of a large number of alternatives being raised.

DON asked what the Panel could do to prevent alternatives being brought forward. PG advised the rules would not prevent Alternatives being raised where a Modification is at Workgroup, as Panel have very limited choices – they might be able to defer a Modification if it is poorly developed or issue it to another Workgroup if it is not clear it is an Alternative. Panel are not able to reject Modifications.

SM was concerned that if the solution set out in the new Modification is not clear and fixed it would allow the opportunity for additional Alternative Modifications to be raised. He noted that Panel does not have that authority to stop Alternatives if they are compliant with the rules.

PG advised that the Joint Office will apply the rules as set out in the Modification Rules and CACoP.

DON noted that when considering Panel previous recommendations on Modification 0621, he wanted to see the process to work for industry and consumers and that Panel members should be taking a wider industry view. Panel's recommendations should be based on a robust view of the Modification against the relevant objectives and compliance.

RFa advised that if Panel members are being asked to provide a view compliance this will prove difficult as members do not have access to a central legal resource which can provide this view.

RP felt some industry participants might be better informed than others in such a wide ranging industry review of current methodologies and it will prove difficult to get a consistent Panel view with the current process.

SM felt that if a company's commercial interests were impacted by these Modifications they would bring forward an alternative to attempt to protect their commercial position.

CWi advised that National Grid had considered the decision letter and the points made and that they would be submitting an Urgent Modification to meet the requirements for compliance imminently.

SM asked when the Modification would be available for review by the industry. PG advised that it is currently going through the Critical Friend process and would be processed soon.

PG outlined the proposed Workplan in the draft modification and the likely meeting dates.

RFa noted that at the recent NTSCMF, it was advised that any new modification would need to be completed and with Ofgem in two weeks – is this possible. It is unlikely that any implementation would be prior to October 2020 due to the impacts on contracts, if so, why can't the standard process be used to fully utilise the time available that is available and prevent any possible errors by rushing a significant change through the process.

PG advised that this is the potential programme discussed with the proposer and is subject to approval by the Authority. RP suggested that Ofgem could direct no Alternatives.

DON noted that concerns on the timeline but felt that demonstrating an aim and making progress to achieving compliance with TAR NC is a reasonable defence but not an excuse to delay the Modification process.

CWi noted that the fixed timeline should focus attention on achieving the objectives of compliance and that any Alternatives would need to be raised quickly.

DON agreed the process would be challenging but working towards compliance would be seen as a mitigation to the legal risks.

### **236.13 Date of Next Meeting**

- 10:30, Thursday 21 February 2019, at Elexon.

**Action Table (17 January 2019)**

<b>Action Ref</b>	<b>Meeting Date</b>	<b>Minute Ref</b>	<b>Action</b>	<b>Owner</b>	<b>Status Update</b>
<b>PAN 01/01</b>	17/01/19				<b>Pending</b>