

**UNC Workgroup 0761 Minutes**  
**Arrangements for Interconnectors with additional Storage capability**  
**Thursday 06 January 2022**  
**via Microsoft Teams**

**Attendees**

Eric Fowler (Chair)	(EF)	Joint Office
Helen Cuin (Secretary)	(HCu)	Joint Office
Adam Bates	(AB)	South Hook Gas
Andrew Blair	(ABl)	Interconnector
Anna Shrigley	(ASh)	Eni
Anna Stankiewicz	(ASt)	National Grid
Ashley Adams	(AA)	National Grid
Bethan Winter	(BW)	Wales & West Utilities
Chris Wright	(CW)	Exxon Mobil
Christiane Sykes	(CS)	Shell
Daniel Hisgett	(DHl)	National Grid
Davide Rubini	(DR)	Vitol
Debra Hawkin	(DHa)	TPA Solutions
Emma Buxton	(EB)	Northern Gas Networks
Hannah Reddy	(HR)	Corella
Henk Kreuze	(HK)	Vermilion Energy
Hursley Moss	(HM)	Cornwall-Insight
Jeff Chandler	(JCh)	SSE
Jennifer Randall	(JR)	National Grid
Julie Cox	(JCx)	Energy UK
Kamla Rhodes	(KR)	Conoco Phillips
Lauren Jauss	(LJ)	RWE
Marion Joste	(MJ)	ENI
Mark Field	(MF)	Sembcorp
Max Lambert	(ML)	Ofgem
Nick Wye	(NW)	Waters Wye Associates
Paul O'Toole	(POT)	NGN
Pavanjit Dhesi	(PD)	Interconnector
Phil Hobbins	(PH)	National Grid
Phil Lucas	(PL)	National Grid
Richard Fairholme	(RF)	Uniper
Richard Hounslea	(RHo)	National Grid
Richard Selmen	(RSe)	Ancala Midstream
Ritchard Hewitt	(RHe)	Hewitt Home and Energy Solutions
Rudi Streuper	(RSt)	BBLC
Sarah Cooper	(SC)	Interconnector
Shiv Singh	(SS)	Cadent
Terry Burke	(TB)	Equinor

Copies of all papers are available at: <https://www.gasgovernance.co.uk/0761/060122>

The Workgroup Report is due to be presented at the UNC Modification Panel by 20 January 2022.

**1. Introduction and Status Review**

Eric Fowler (EF) welcomed all parties to the meeting advising that the December Panel had directed the Final Modification Report back to Workgroup for consideration, requiring a supplemental report on the clarification of primacy of legislation relating to the definition of storage in the context of an interconnector. It was understood this required input from Ofgem/BEIS.

The concern raised via the UNC Modification Panel was that it could not make a decision on implementing a change to the UNC that could be in breach of the Gas Act or licence conditions.

### 1.1. Approval of minutes (07 October 2021)

The minutes from the last meeting were considered approved.

### 1.2. Approval of Late Papers

No late papers.

### 1.3. Review of Outstanding Actions

None

## 2. Completion of Supplemental Report

Max Lambert (ML) provided a position statement from Ofgem, he recognised that all the issues raised needed a full legal appraisal, which was not possible during the Christmas break. At this time ML did not want to fetter Ofgem's discretion but he wished to note that Ofgem expect the Modification assessment process to consider all aspects including the provision of legal views.

ML agreed that the content of an email sent to the Joint Office could be added to the minutes. Please see quotation below:

*"It should be acknowledged that all of these issues require full legal appraisal on our side, and there has not been the resource to undertake this all over the Christmas and New Year break. We would encourage that it is well within the gift of the UNC panel chair to seek its own understanding of the legal views (e.g. those raised by BEIS, interrelationship between Gas Act/Regulations etc.) for this modification, and whilst we do engage with BEIS frequently on issues, we are an independent regulator and will therefore source our own legal advice and internal views. As always, it is the modification proposer's responsibility to ensure the mod is legally compliant, and we will not fetter our discretion by providing a view on this prior to making our final decision on the mod."*

Phil Lucas (PL) provided a response from National Grid to the questions being raised. PL believed there is an explicit view in Section 5 in the European Union (Withdrawal) Act 2018 in that for matters of interpretation the EU derived law prevails over any domestic legislation.

PL wished to note that it is not the intention for the UNC to police wider compliance in terms of a party's licence requirements.

Richard Fairholme (RF) asked if a view was available from the Department for Business, Energy and Industrial Strategy (BEIS), expressing concern that a difference in views could result in Panel returning the Modification back to Workgroup until there is a clearer assessment on whether the Modification could be implemented based on legislation.

Julie Cox (JCx) wished to note there was a Panel action for BEIS and Ofgem to provide a view to assist. ML suggested the UNC Modification Panel should liaise with BEIS direct for a response.

Mark Field (MF) wished to clarify that the Workgroup were not asking for a view on the merits of Modification itself from BEIS or Ofgem. The request is for a view on the legal framework.

EF agreed to send an email to BEIS asking for a view in time for the January UNC Modification Panel meeting.

**Post Meeting Note:** Joint Office (EF) issued email to BEIS (Erika Melen) for a view on the primacy of legislation relating to the definition of storage in the context of an interconnector.

The Workgroup re-considered the ability for Panel to make a decision on whether the Modification should be submitted to Ofgem for a decision without a clear view on whether the Modification could be implemented in line with Gas Act and Licence conditions.

ML suggested that as the proposer of the Modification National Grid should satisfy themselves that a proposed Modification is not against legislation.

RF explained the difficulty for Panel making a decision if there is an unresolved difference in legal views, between National Grid and BEIS. RF challenged how the Modification can proceed with or without a consensus view.

It was suggested that the Final Modification/Supplemental Workgroup Report should record National Grid's view and that BEIS have not expressed a view. PL challenged the need for BEIS to provide a legal view and if this should hold up the progression of the Modification.

Pavanjit Dhesi (PD) wished to note that Modifications in the past have been allowed to proceed with differing views on compliance to allow these views to be provided and considered by the Authority for a final decision. PD believed there was an unnecessary obstacle in allowing this to Modification to proceed.

Nick Wye (NW) believed the Modification needed to proceed, acknowledging the circular difficulties of the Workgroup with seeking a consensus. NW noted it would be helpful if Ofgem and BEIS could offer support in providing clarification in terms of compliance with law. NW suggested in the absence of securing a view, if the Workgroup assessment provides a difference of views that cannot be resolved and there is a need for legal advice from Ofgem and BEIS this can be considered once the Final Modification has been submitted to Ofgem. NW expressed that ultimately Ofgem is the decision maker on the views expressed within the report.

JCx expressed that the Workgroup have identified issues with the legal interpretation from different parties and this has been recorded.

Ritchard Hewitt (RHe) asked if Ofgem have the power to "call-in" the Modification to be submitted to them for an assessment.

Andrew Blair (AB) wished to understand exactly what view was being asked from BEIS referring to an earlier statement provided to the Workgroup. PL asked if BEIS can be formally asked to provide a view. RHe expressed frustration on the efforts made to contact BEIS to seek a view.

It was suggested as the Workgroup had exhausted all options to provide a definitive view on legislation which may or may not prevent implementation the Workgroup could only provide the differing views and that a consensus could not be reached.

It was agreed to provide a Supplemental Report to the January UNC Modification Panel meeting for further consideration.

### **3. Next Steps**

EF confirmed that the Final Modification Report including the Supplemental Report would be submitted to the January UNC Modification Panel meeting.

### **4. Any Other Business**

None.

### **5. Diary Planning**

No further meetings planned.

*Further details of planned meetings are available at: [www.gasgovernance.co.uk/events-calendar/month](http://www.gasgovernance.co.uk/events-calendar/month)*