










| UNC Request Workgroup Report  |   | At what stage is this document in the process?  |
|---|---|---|
| <h1>UNC 0676R:</h1> <h2>Review of Gas Transporter Joint Office Arrangements</h2>  |   | <div style="display: flex; flex-direction: column; gap: 5px;"> <div style="border: 1px solid #ccc; padding: 2px; display: flex; align-items: center; gap: 5px;"> <span style="border: 1px solid #ccc; border-radius: 50%; padding: 2px 5px;">01</span> Request                 </div> <div style="border: 1px solid #ccc; padding: 2px; display: flex; align-items: center; gap: 5px;"> <span style="border: 1px solid #ccc; border-radius: 50%; padding: 2px 5px;">02</span> Workgroup Report                 </div> <div style="border: 1px solid #ccc; padding: 2px; display: flex; align-items: center; gap: 5px;"> <span style="border: 1px solid #ccc; border-radius: 50%; padding: 2px 5px;">03</span> Final Modification Report                 </div> </div> |
| <p><b>Purpose of Request:</b></p> <p>To request a review of the Uniform Network Code (UNC) General, Modification Rules and Joint Gas Transporter Governance arrangements for the Joint Office of Gas Transporters</p> |   |   |
|    | The Workgroup recommends that the Panel consider this report. |   |
|   | High Impact:<br>Transporters                                  |   |
|    | Medium Impact:<br>Shippers                                    |   |
|    | Low Impact:<br>None   |   |

| Contents  |                           | ?           | Any questions?   |
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| 1   | Request Summary           | 3           | Contact:<br>Joint Office of Gas Transporters   |
| 2   | Impacts and Costs         | 4           |  <a href="mailto:enquiries@gasgovernance.co.uk">enquiries@gasgovernance.co.uk</a>             |
| 3   | Terms of Reference        | 7           |  0121 288 2107  |
| 4   | Modification(s)           | 9           | Proposer:<br>Steve Mulliganie<br>Gazprom   |
| 5   | Recommendation            | 9           |  <a href="mailto:steve.mulliganie@gazprom-energy.com">steve.mulliganie@gazprom-energy.com</a> |
| 6   | Appendix – Scope Document | <b>2019</b> |  0799 097 2568  |
| Timetable   |                           |             | Transporter:<br>SGN  |
| This report will be presented to the Panel on 21 March 2019.  |                           |             |  <a href="mailto:hilary.chapman@sgn.co.uk">hilary.chapman@sgn.co.uk</a>                     |
| The Workgroup recommends that the Panel consider this report. |                           |             |  07749 983418   |
|   |                           |             | Systems Provider:<br>Xoserve   |
|   |                           |             |  <a href="mailto:UKLink@xoserve.com">UKLink@xoserve.com</a>                                 |

## 1 Request Summary

### Why is the Request being made?

The current Joint Gas Transporter arrangements for the Joint Office of Gas Transporters (Joint Office) have been in place for some time and considering the recent fundamental market changes including but not limited to: -

1. The review of the Central Data Service Provider (Xoserve) Funding Governance & Ownership (FGO)
2. Smart and Advanced meter rollouts
3. Project Nexus
4. Faster and More Reliable Switching
5. Retail Energy Code (REC)
6. Supplier Hub

It would seem prudent to review the current Joint Office arrangements to ensure they remain fit for purpose.

The Joint Office which has been operating for a number of years and during that time the market has fundamentally changed, the Proposer believes it is prudent to undertake a review of the current arrangements to ensure they continue to be fit for purpose in this changing market.

If a review is not undertaken then the Joint Office may not be best placed to meet the requirements of all its customers.

### Scope

The Scope of the review should include but not be limited to:

1. Joint Gas Transporter Arrangements for the Joint Office;
2. UNC Modification Rules;
3. Wider UNC should the review warrant further consideration;
3. Data Services Contract (DSC) Arrangements.

### Resourcing

Undertaking a detailed review of the arrangements may necessitate the engagement of external independent support perhaps akin to the approach taken with the Funding, Governance & Oversight (FGO) review of Xoserve.

### Impacts & Costs

Review of Transporter and wider industry funding models for governance arrangements.

### Recommendations

Panel is requested to put in place a review of the current arrangements to ensure they continue to remain fit for purpose during the ongoing period of significant industry change.

## 2 Impacts and Costs

### Consideration of Wider Industry Impacts

The Request might have an impact on the developments being considered for the Retail Energy Code (REC).

This Request should consider any potential Cross Code impacts and in particular, Independent Gas Transporter (IGT) UNC governance.

Whilst being undertaken at a more strategic level it should be mindful of the joint BEIS/Ofgem Industry Code review.

### Impacts

| Impact on Central Systems and Process |   |
|---------------------------------------|---|
| Central System/Process                | Potential impact  |
| UK Link                               | <ul style="list-style-type: none"> <li>None identified</li> </ul> |
| Operational Processes                 | <ul style="list-style-type: none"> <li>None identified</li> </ul> |

| Impact on Users   |  |
|---|--|
| Area of Users' business   | Potential impact   |
| Administrative and operational  | <ul style="list-style-type: none"> <li>Improved arrangements will deliver both Administrative and operational benefits to Users</li> </ul> |
| Development, capital and operating costs                              | <ul style="list-style-type: none"> <li>Marginal - there might be an impact should the funding and resourcing model change.</li> </ul>      |
| Contractual risks   | <ul style="list-style-type: none"> <li>None identified</li> </ul>  |
| Legislative, regulatory and contractual obligations and relationships | <ul style="list-style-type: none"> <li>Improved arrangements will deliver both Administrative and operational benefits to Users</li> </ul> |

| Impact on Transporters  |   |
|---|---|
| Area of Transporters' business  | Potential impact  |
| System operation  | <ul style="list-style-type: none"> <li>None identified.</li> </ul>  |
| Development, capital and operating costs                              | <ul style="list-style-type: none"> <li>Marginal - there might be an impact should the funding and resourcing model change.</li> </ul> |
| Recovery of costs   | <ul style="list-style-type: none"> <li>Marginal - there might be an impact should the funding and resourcing model change.</li> </ul> |
| Price regulation  | <ul style="list-style-type: none"> <li>None identified.</li> </ul>  |
| Contractual risks   | <ul style="list-style-type: none"> <li>Marginal - there might be an impact should the funding and resourcing model change.</li> </ul> |
| Legislative, regulatory and contractual obligations and relationships | <ul style="list-style-type: none"> <li>Marginal - there might be an impact should the funding and resourcing model change.</li> </ul> |

| Impact on Transporters |  |
|------------------------|--|
| Standards of service   | <ul style="list-style-type: none"> <li>None identified.</li> </ul> |

| Impact on Code Administration |   |
|-------------------------------|---|
| Area of Code Administration   | Potential impact  |
| Modification Rules            | <ul style="list-style-type: none"> <li>Material impact</li> </ul> |
| UNC Committees                | <ul style="list-style-type: none"> <li>Minor impact</li> </ul>    |
| General administration        | <ul style="list-style-type: none"> <li>Material impact</li> </ul> |
| DSC Committees                | <ul style="list-style-type: none"> <li>Minor impact</li> </ul>    |

| Impact on Code |   |
|----------------|---|
| Code section   | Potential impact  |
|                | <ul style="list-style-type: none"> <li>To be considered.</li> </ul> |

| Impact on UNC Related Documents and Other Referenced Documents |   |
|--|---|
| Related Document   | Potential impact  |
| Network Entry Agreement (TPD I1.3)                             | <ul style="list-style-type: none"> <li>None identified.</li> </ul>  |
| General  | Potential Impact  |
| Legal Text Guidance Document                                   | <ul style="list-style-type: none"> <li>Potential Impact.</li> </ul> |
| UNC Modification Proposals – Guidance for Proposers            | <ul style="list-style-type: none"> <li>Minor impact.</li> </ul>     |
| Self Governance Guidance                                       | <ul style="list-style-type: none"> <li>Minor impact.</li> </ul>     |
|  |   |
| TPD  | Potential Impact  |
| Network Code Operations Reporting Manual (TPD V12)             | <ul style="list-style-type: none"> <li>None identified.</li> </ul>  |
| UNC Data Dictionary  | <ul style="list-style-type: none"> <li>None identified.</li> </ul>  |
| AQ Validation Rules (TPD V12)                                  | <ul style="list-style-type: none"> <li>None identified.</li> </ul>  |
| AUGE Framework Document  | <ul style="list-style-type: none"> <li>None identified.</li> </ul>  |
| Customer Settlement Error Claims Process                       | <ul style="list-style-type: none"> <li>None identified.</li> </ul>  |
| Demand Estimation Methodology                                  | <ul style="list-style-type: none"> <li>None identified.</li> </ul>  |
| Energy Balancing Credit Rules (TPD X2.1)                       | <ul style="list-style-type: none"> <li>None identified.</li> </ul>  |
| Energy Settlement Performance Assurance                        | <ul style="list-style-type: none"> <li>None identified.</li> </ul>  |

| Impact on UNC Related Documents and Other Referenced Documents  |   |
|---|---|
| Regime  |   |
| Guidelines to optimise the use of AQ amendment system capacity  | <ul style="list-style-type: none"> <li>None identified.</li> </ul>  |
| Guidelines for Sub-Deduct Arrangements (Prime and Sub-deduct Meter Points)                              | <ul style="list-style-type: none"> <li>None identified.</li> </ul>  |
| LDZ Shrinkage Adjustment Methodology  | <ul style="list-style-type: none"> <li>None identified.</li> </ul>  |
| Performance Assurance Report Register   | <ul style="list-style-type: none"> <li>None identified.</li> </ul>  |
| Shares Supply Meter Points Guide and Procedures   | <ul style="list-style-type: none"> <li>None identified.</li> </ul>  |
| Shipper Communications in Incidents of CO Poisoning, Gas Fire/Explosions and Local Gas Supply Emergency | <ul style="list-style-type: none"> <li>None identified.</li> </ul>  |
| Standards of Service Query Management Operational Guidelines  | <ul style="list-style-type: none"> <li>None identified.</li> </ul>  |
| Network Code Validation Rules   | <ul style="list-style-type: none"> <li>None identified.</li> </ul>  |
|   | <ul style="list-style-type: none"> <li></li> </ul>                  |
| OAD   | Potential Impact  |
| Measurement Error Notification Guidelines (TPD V12)   | <ul style="list-style-type: none"> <li>None identified.</li> </ul>  |
|   | <ul style="list-style-type: none"> <li></li> </ul>                  |
| EID   | Potential Impact  |
| Moffat Designated Arrangements  | <ul style="list-style-type: none"> <li>None identified.</li> </ul>  |
|   | <ul style="list-style-type: none"> <li></li> </ul>                  |
| IGTAD   | Potential Impact  |
|   | <ul style="list-style-type: none"> <li>To be considered.</li> </ul> |
| DSC / CDSP  | Potential Impact  |
| Change Management Procedures  | <ul style="list-style-type: none"> <li>To be considered.</li> </ul> |
| Contract Management Procedures  | <ul style="list-style-type: none"> <li>To be considered.</li> </ul> |
| Credit Policy   | <ul style="list-style-type: none"> <li>To be considered.</li> </ul> |
| Credit Rules  | <ul style="list-style-type: none"> <li>To be considered.</li> </ul> |
| UK Link Manual  | <ul style="list-style-type: none"> <li>To be considered.</li> </ul> |
|   |   |

| Impact on Core Industry Documents and other documents                   |   |
|---|---|
| Document  | Potential impact  |
| Safety Case or other document under Gas Safety (Management) Regulations | <ul style="list-style-type: none"> <li>None identified.</li> </ul>  |
| Gas Transporter Licence   | <ul style="list-style-type: none"> <li>Potential minor impact, subject to the wider scope of the review.</li> </ul> |

| Other Impacts  |   |
|--|---|
| Item impacted  | Potential impact  |
| Security of Supply   | <ul style="list-style-type: none"> <li>None identified.</li> </ul>        |
| Operation of the Total System  | <ul style="list-style-type: none"> <li>None identified.</li> </ul>        |
| Industry fragmentation   | <ul style="list-style-type: none"> <li>None identified.</li> </ul>        |
| Terminal operators, consumers, connected system operators, suppliers, producers and other non code parties | <ul style="list-style-type: none"> <li>Potential minor impact.</li> </ul> |

### 3 Terms of Reference

#### Background

The current Joint Gas Transporter Arrangements for the Joint Office have been in place for some time and considering the recent fundamental market changes, including but not limited to: -

1. The review of the Central Data Service Provider (Xoserve) Funding Governance & Ownership (FGO)
2. Smart and Advanced meter rollouts
3. Project Nexus
4. Faster and More Reliable Switching
5. Retail Energy Code (REC)
6. Supplier Hub
7. Energy Code Review
8. Joint BEIS/Ofgem review of Industry Governance

It would seem prudent to review the current Joint Office Arrangements to ensure they remain fit for purpose.

The industry has over the years made a number of incremental changes to the arrangements e.g. introduction of guidelines for the production of Legal Text. However, the current arrangements that determine the Funding, Governance and Ownership (FGO) of the Joint Office limit the ability of the Joint Office to evolve to meet the challenges of a market subject to fundamental changes.

The Proposer has raised a number of areas for potential reform through the existing Governance process and these were directed to the Gas Transporters Joint Governance Arrangements Committee (JGAC) as the forum responsible for the Joint Office.

These included: -

1. Joint industry Ownership of the Joint Office e.g. limited company with Board
2. Open Procurement of Joint Office arrangements e.g. services
3. Funding model for Joint Office i.e. who pays for what
4. Amendment to the voting arrangements e.g. automatic abstention from voting where there is no direct constituency interest in the matter, and
5. Legal Text production e.g. centralised production of Legal Text

On 9<sup>th</sup> December 2018, an email setting out the JGAC's comments on the proposals was sent to the Proposer. The JGAC saw merit in considering the points raised and felt that this would be better dealt with via the formation of a UNC Code Review Group. The JGAC also noted:

*"Further, JGAC is also looking forward to contributing to the Joint BEIS/Ofgem Energy Code Review which was announced on the 26th November 2018. JGAC and the Joint Office will be fully participating in the Review and we look forward to the forthcoming workshops and discussions. If a Request were to be raised under the present Modification Rules procedures, we believe that the discussions involved could then input into the Joint BEIS/Ofgem Energy Code Review"*

Accordingly, this Request seeks to provide that forum to enable such discussions to take place. This forum should take in to account other governance models, especially the Retail Energy Code (REC), which is designed to introduce best practice.

### Topics for Discussion

- Understanding the objective, including consideration and review of:
  - Joint Gas Transporter Governance Arrangements;
  - Current funding models;
  - Transporter Licence requirements;
  - UNC impacts;
  - DSC Impacts;
  - Potential impacts on IGT UNC.
- Assessment of alternative means to achieve objective
- Development of Solution (including business rules if appropriate)
- Assessment of potential impacts of the Request
- Assessment of implementation costs of any solution identified during the Request
- Assessment of Legal Text.

### Outputs

Produce a Workgroup Report for submission to the Modification Panel, containing the assessment and recommendations of the Workgroup including a draft modification(s) where appropriate.



### Composition of Workgroup

The Workgroup is open to any party that wishes to attend or participate.

A Workgroup meeting will be quorate provided at least two Transporter and two User representatives are present.

### Meeting Arrangements

Meetings will be administered by the Joint Office and conducted in accordance with the Code Administration Code of Practice.

## 4 Modification(s)

To be determined.

## 5 Recommendation

### Scope

At the January UNC Panel the 0676R Workgroup were asked to evaluate if an independent expert is needed or not to undertake the review. As part of this work it was suggested that the scope (for UNC 0676R: Review of Gas Transporter Joint Office Arrangements) 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 (especially if it would require a wider industry change such as licence amendments, etc).

The refined scope and the test applied to confirm this UNC Request Workgroup could deliver a Workgroup Report that considers this scope, is contained in section 6 and this was approved by the March Panel.

- The Workgroup invites Panel to:
- xxx
- DETERMINE that Request 0676R should close.

### Conclusion

[Redacted text]

**A) The history behind the creation of the JO and understanding of Transporter Licence requirements with regards to UNC Code Administration** (to provide the background/context behind the current Joint Office governance arrangements).

- o Standard Special Condition A12: Joint Office Governance Arrangements (page 88 to 91).

[Insert further detail]

**B) UNC Governance Matters (Modification Rules)**

[information could be obtained (alongside experiences from Transporters, Shippers, JO and Ofgem) and could be explored by the group to identify options and their pros and cons.]

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Other parties could also be asked to provide a view/input, such as Dentons, CACoP, SPAA/Gowlings, etc.]

**Use of Panel Alternates**

Mod 0656 has addressed these concerns around Alternates. This issue was not considered further by this review.

**UNC Voting arrangements**

- o Issues with current UNC Voting arrangements:
  - Concerns around Panel making decisions on certain matters – whether legal advice could be provided to assist with these decisions

Current UNC Panel Voting could be enhanced by adoption of alternative voting approaches:

| Option   | Pros | Cons | Proposal |
|--|------|------|----------|
| 1. Automatic abstention from voting where there is no direct constituency interest in the matter. DSC Change Committee voting has some constituency voting and this could be used wider. |      |      |          |
| 2. All UNC parties vote but it is weighted based on throughput.  |      |      |          |
| 3. CACoP could also assist with identifying differences/similarities in Panel voting/change processes and further options for consideration.   |      |      |          |
| 4. ?   |      |      |          |

**Legal Text production**

Cadent on behalf of the ENA provided the following information.

Introduction

- Transporter are (and always have been) responsible for producing legal text for UNC modifications.
- Relevant GT licence obligations – Standard Special Condition A11: Network Code and Uniform Network Code
  - o 6. The licensee shall, together with the other relevant gas transporters, prepare a document (the “uniform network code”).....

- 7. The licensee shall, together with the other relevant gas transporters, establish and operate procedures ("network code modification procedures").....
- UNIFORM NETWORK CODE – MODIFICATION RULES
  - 9.6 Legal Text for Modification 9.6.1 Subject to paragraphs 6.2.1(q)(i) and 9.6.6, in relation to each Modification Proposal, the Transporters shall prepare the legal text of the Modification....

Outline of present arrangements

- Each GT produces legal text for its own UNC Modification.
- Shipper UNC Modifications:
- Transmission related Modifications, legal text undertaken by National Grid.
- Rota arrangements – allocation based on size of Network e.g. Cadent allocated double that of SGN or SGN double that of W&WU or NGN.
- No account taken of legal text extent or complexity during allocation.
- Each GT responsible for providing legal resource.
- Benefit of early engagement i.e. lawyers typically engaged early in Modification assessment process.
- GDN’s policy is normally to undertake work via internal legal resource.
- Dependent on complexity of Modification or availability of internal resource, lawyers may direct work to be outsourced to external resource.
- In general, preferred law firm is presently Dentons although not all GDNs have used them.

Issues with the process for Legal Text production:

- ?

The following approaches were considered:

| Option  | Pros  | Cons   | Proposal |
|---|---|--|----------|
| 1. <u>No Change</u> ASIS – Legal Text continues to be provided by GTs | <i>Funding (GTs historical spend levels) would need to be a major consideration and the aspiration would be for the service to be value for money/ efficient.</i> | Some evidence of inconsistent drafting dependent on lawyer producing legal text.<br><br>Approach to legal support and advice to proposer in interpreting business rules may vary dependent on allocated lawyer.<br><br>Speed and timeliness of legal text production may vary dependent on legal resource availability and other factors such as knowledge and experience.<br><br>Shippers may feel they are dealing with lawyers 'second hand' whereas Transporters have direct access (albeit GTs do |          |

|   |   |   |  |
|---|---|---|--|
|   |   | <p>arrange 'liaison calls' with Proposers as required).</p> <p>Overall cost of text production not transparent and therefore difficult to quantify.</p> <p>Difficult to determine efficiency/effectiveness of process.</p>  |  |
| <p>2. Legal Text administered by JO or GTs via centralised production of Legal Text and this could be used wider.</p> | <p>Elimination of fragmented approach to legal text production.</p> <p>Consistency in drafting.</p> <p>Certainty of charging rates (although not overall cost).</p> <p>Overall cost of legal text production more easily ascertained and quantifiable.</p> <p>Dedicated 'single point of contact'.</p> <p>Code Manager / administrator or Shippers/ GTs could act as contact intermediary (between the relevant external legal organisation and the Modification proposer to ensure effective engagement.</p> | <p>GTs would need to set up a competitive tender for a UNC legal text service provider (cannot 'gift' to Dentons directly). Frequency of tendering requirement would need to be identified.</p> <p>High risk that appointed provider would initially be unlikely to have knowledge and experience of UNC text production although knowledge would build over time.</p> <p>Successful applicant would be reliant on Proposer to advise/provide expertise on UNC regime and arrangements; i.e. text production would be 'mechanical' being a strict legal interpretation of the Modification solution and business rules.</p> <p>Process much more disciplined which may lead to inflexibility and extended assessment timescales.</p> <p>Much greater emphasis on precise accuracy of business rules – early engagement of lawyer unlikely to be cost effective.</p> <p>lawyer likely to refer Modification back to proposer if solution is in any way deficient or unclear leading to process delay.</p> <p>Funding liability would</p> |  |

|   |   |   |  |
|---|---|---|--|
|   |   | need to be reviewed under such arrangements and may be necessary to modify GT Licence and Modification Rules.               |  |
| 3. Legal Text provided via a contract with a third-party provider/s (such as Dentons) | <p>Highly experienced and knowledgeable lawyers, especially for UNC.</p> <p>Offer insight and detailed advice on content of business rules as pre-requisite for text production.</p> <p>Able to interpret complex arrangement into legal text with a minimum of input from proposer/s (albeit dependent on how well solution in Modification is defined).</p> <p>Able to provide explanatory pre-drafting papers.</p> <p>Consistent legal drafting.</p> | <p>Expensive. Very high hourly rate.</p> <p>Reliant on 2 x specific individuals – long term level of support uncertain.</p> |  |
| 4. A mix of option 2 and 3  |   |   |  |
| 5. ?  |   |   |  |

The ENA also highlighted the following for further consideration:

- Outcome of BEIS/Ofgem Code Governance review uncertain e.g. role of Code Manager?
- May be worth considering other industry codes approach to legal text production (e.g. electricity codes)?
- UNC potentially unique in its complexity (when compared to some industry codes e.g. SPAA or REC)?
- Cost of 'abortive' legal text for rejected or withdrawn UNC Modifications – expectations regarding legal access, etc. by parties would need to be balanced and realistic. High risk of effective cost control being compromised?
- Comparative Cost/benefit exercise between present arrangements and centralised approach may be useful?
- Risk of pressure to produce legal text before business rules are finalised; would need 'gate keeper' role in Joint Office (JO) to manage this which leads to issues with JO capacity to facilitate this effectively?
- Necessity for GT to continue 'oversight' of Legal Text production and content may temper potential benefits of centralisation?

It was agreed that the GT's and Transporters should consider what could be provided in relation to the Legal text costs; segregated by the level of expertise: junior lawyer, senior lawyer and paralegals, etc].

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**Features that could be included as part of any of the above options:**

- To assist with this process, Modifications (ideally with a well-developed/clear solution) could be rated (easy, average and hard) from a legal text drafting perspective.
- In some cases early legal advice and/or engagement could be beneficial to the development of the Mod.

**Critical Friend**

Wales and West on behalf of the Energy Networks Association provided the following back ground information on the topic.

- **Code Administrators' Code of Practice. Principle 1: Code Administrators shall be critical friends.** A 'critical friend' is a Code Administrator who provides support to all with an interest in the Code Modification process, but paying particular attention to under-represented parties, small market participants and consumer representatives.
- **Guidance Document UNC Modification Proposals – Guidance for Proposers.** To avoid undue delays in the Workgroup phase, Panel expects that initial modification proposals will be sufficiently complete that they can anticipate the likely impact and Workgroup effort required such that realistic assessment timeframes can be set. For smaller UNC parties, Panel will apply more latitude with respect to the level of detail they will accept in an initial proposal, however such parties are still expected to avail themselves of pre-modification support as described above.
- **UNIFORM NETWORK CODE – MODIFICATION RULES**

1.5 Code of Practice

1.5.1 The Code Administrator shall in conjunction with other code administrators, maintain, publish, review and (where appropriate) amend the Code of Practice.

1.5.2 Where the Code Administrator undertakes any obligation for the purposes of these Rules, the Code Administrator shall do so in compliance with the Code of Practice unless it conflicts with these Rules.

1.6.1 In carrying out its obligations including under these Rules and in compliance with the Code of Practice, the Code Administrator shall provide such assistance as a User (and in particular Small Participants) or Consumer Representatives may reasonably require, which shall include but not be limited to assistance in relation to:

- (a) the drafting of a Modification Proposal;
- (b) the provision of advice in relation to the operation and effect of the Uniform Network Code or an Individual Network Code;
- (c) the User's participation, involvement and representation in the Modification Procedures; and
- (d) access to information relating to a Modification Proposal, Modifications and the Modification Procedures.

6.2.2 Each Modification Proposal shall be given to the Secretary who shall ensure that the information required pursuant to the Code of Practice has been provided, and the form of the Modification is as specified in the Code of Practice, before accepting such Modification Proposal.

6.2.3 Where a Modification Proposal, does not comply with paragraph 6.2.2 the Secretary may reject such Modification Proposal.

7.2.3 (b) a Modification Proposal:

- (i) subject to paragraph 7.2.3(d), should proceed to Consultation in accordance with paragraph 7.3; or
- (ii) should be referred to a Workgroup for Workgroup Assessment in accordance with paragraph 7.5 (and the Modification Panel may determine the Terms of Reference for such work (including terms as to the identity of any third parties to be consulted) and the date upon which it requires the Workgroup to submit its Workgroup Report);
- (iii) should be deferred to a subsequent meeting of the Modification Panel for further discussion; or

- (iv) be implemented, subject to unanimous determination under 7.2.3(a)(ii) that Fast Track Self-Governance Criteria are satisfied and subject to Panel determining unanimously that the Modification Proposal be implemented; or
- (v) be referred back to the Proposer [by the Panel] for further development.

ENA Observations with current Critical Friend process:

- Quality of proposals should be the same for all, the question is how that level of quality is achieved
- Joint Office has a critical friend role (introduced as part of Code Governance Review 1 in 2010)
- Can only give assistance, cannot insist on changes
- In past this role may have been pushed to or beyond what Modification Rules state
- Panel has power to require refer the proposal back to the proposer but rarely used (0674 deferred)
- Panel can ask for Ofgem view for example on modifications that impact on licence obligations
- Pre-panel workgroup discussion is useful
- Use of reviews is useful and could be encouraged more
- For example, 0642R (retrospective adjustments) led to 0651 and 0646R (OAD) led to 0683S
- Perceived concern with reviews is that x months is spent in a review and then y months at workgroup with the modification so people raise a modification in the hope the total duration is less than x + y
- Poorly drafted modifications means workgroup discusses points that proposer should have resolve
- Some well drafted modifications will be withdrawn or rejected and that is part of the process

The following approaches were considered:

| Option  |
|---|
| 1. No change  |
| 2. No Code changes but JO and Panel to encourage more use of reviews  |
| 3. ASIS + Code requirement to make pe-mod engagement compulsory   |
| 4. Enhanced Code Manager powers for JO with regards Critical Friend role. JO could require a minimum standard rather than offer advice, for example quality of justification for urgency. |
| 5. Panel's powers introduced to require proposer to re-submit modification if not clear/concise or direct that a Request is more appropriate.   |

The Joint Office highlighted that the critical friend review often corrected language, inflammatory remarks and context in new Modifications and that 3 business days was allowed undertake the review.

The JO also indicated that differing timelines occur for submission of a new Modification prior to discussion at Panel and that for a comprehensive review to take place, the new Modification should be submitted earlier if possible, to enable more time to evaluate the content of the Modification. It was also noted that Modifications are often better developed if they have been for pre-mod discussion as this allows the Joint Office time and opportunity to work with the Proposer and for industry input. A complex

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Modification submitted without warning on the new modification deadline is difficult to review well in the time allowed.

Workgroup participants highlighted that Proposers were not always willing to submit the new Modification earlier than the deadline, to prevent alternative Modifications from being raised. The Joint Office indicated that they keep discussions on new Modifications confidential if that is what the Proposer would prefer.

In conclusion, workgroup participants proposed that further education (in line with option 2) was the best option as this would improve transparency of the independent process deployed by the Joint Office. The Joint Office agreed to further investigate the content of the existing Critical Friend process and look to add further detail and guidance.

Changes to JO Model

Changes to JO Model could lead to changes being required to the Mod Rules to support the revised model and/or realise other opportunities/benefits.

Alternative Modifications

[See Panel Actions 01/08 – insert any possible recommendations resulting from the investigation on this action]

**C) UNC Governance Matters (services)**

[the Proposers initial list of services could be reviewed and explored by the group to identify views on services that could be adopted and add value (within the existing governance structure or a future structure). Discussion could also spark further ideas to be put forward and considered]

This area is related to what could form part of a **Code Manager role** or a **commercial (model)** offering.

As part of this review the following services were explored as to how these could work from a UNC perspective:

- o Performance assurance role for JO
- o Data analysis provision/challenge by JO (is it robust, etc.).
- o Value added services – Project Management, Independent Analysis, Options Papers, technical capability.
- o New technology – website / online document access / online remote conference capability
- o Stakeholder Engagement – Transporters, Shippers, iGT's, Xoserve, Customer Reps, Ofgem, Suppliers, MAM's and other Governance providers.

The following approaches were then evaluated:

| Option   | Pros | Cons | Proposal |
|--|------|------|----------|
| <u>1. No Change</u>                                  |      |      |          |
| <u>4-2. Code Manager role to do x, y and z</u>       |      |      |          |
| <u>2-3. Commercial (model) to provide z, x and z</u> |      |      |          |

The Workgroup noted that Code Manager powers were likely to be introduced by BEIS/Ofgem but this may take some time to introduce. As a short term/interim initiative it was proposed the Joint Office should be able to raise self-governance Modifications for housekeeping type changes, and they felt that this could be sanctioned via a slight change to the existing arrangements and was consistent with the likely Code Manager powers that could come out of the energy codes review.

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[\[insert further detail\]](#)

**D) Joint Office Governance Arrangements**

In July 2019 the Joint Office provided the following cost information.

| Year    | Actual Spend |
|---------|--------------|
| 2018/19 | £1,059,527   |
| 2017/18 | £853,776     |
| 2016/17 | £694,290     |
| 2015/16 | £592,948     |
| 2014/15 | £581,865     |
| 2013/14 | £504,698     |

The costings include the Joint Offices resources, Independent Panel Chair, internal and external venues, travel costs and IS provision costs. The Joint Office budget is discussed on a quarterly basis with JGAC in order to make sure the Joint Office is adapting to the increased requests and requirements. legal text is not part of the Joint Office budget.

The Joint Office also provided the following Operational update for the 12 month period 01/03/2018 - 01/04/2019 to put the above costs in to context. It was noted by the Workgroup that JO workload has steadily increased in recent years to the current levels and Joint Office resources and associated costs have gradually risen to meet the increased demands.

| WORK AREA                      | AMOUNT                     | Further information   |
|--------------------------------|----------------------------|---|
| Self-Governance Modifications  | 9                          | 2 UIG<br>1 Transmission and Governance<br>1 Distribution and Transmission<br>5 Distribution |
| Urgent Modifications           | 14                         | 13 classed as other and 1 classed as Distribution   |
| Number of Modifications raised | 18                         | 1 other<br>4 UIG<br>1 Distribution<br>3 Transmission<br>1 Governance<br>8 NTSCMF            |
| Requests raised by Workgroup   | 5                          | 1 Other<br>1 Other and SPAA<br>1 Governance<br>1 NTSCMF<br>1 Transmission                   |
| Number of Workgroup Meetings   | 273 arranged and completed |   |
| Non- workgroup meetings        | 120                        | Committees (Panel, UNCC, PAC, DSC x 3, EBCC, DESC and TWG, AUG, Offtake) and Transporter    |

meetings (Shrinkage, IGTAD)

| WORK AREA                          | AMOUNT | FURTHER INFORMATION  |
|------------------------------------|--------|--|
| Workgroup reporting extensions     | 33     | Based on analysis of Workgroups that completed their final reports and that involved an extension at some point in the prescribed periods. |
| Number of consultations undertaken | 19     | 3 associated with Urgent Modifications<br>10 Self Governance<br>6 associated with normal Modifications                                     |

Workgroup participants suggested that the Joint Office were good value for money and should publish an annual report each year so that the costings and performance metrics were in the public domain. Joint Office (PG) to discuss with JGAC the production of a Joint Office mid-year and annual report – could capture as a recommendation if supported]

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- Funding model for Joint Office
  - Who pays for what and current costs (past 5 years?)
  - What percentage of JO costs do Transporters pass through to Shippers?
  - How does cost of the JO compare to other Governance Providers e.g. SPAA/REC etc.

[insert information here]

[Issues/constraints/gaps/enhancements could be identified, reviewed and explored by the group to provide views on potential more effective/efficient models.]

- Issues with current model
  - Is it agile enough to cope with significant industry developments? E.g. Modification 0621, Nexus, CSS, Smart Metering
  - In the role of a Code Manager, explore the relationship with CDSP (as Delivery Body) and DSC Committees (UNC Sub-committee). Independence is a key consideration.

#### E) Other funding/governance models

[Parties could share/identify options through their governance experience. The group could also consider any initial thoughts from the BEIS/Ofgem review (May 2019). JGAC have also offered to share JO strategy work on future funding models (June or July) that would also be informed the BEIS/Ofgem.] views.]

Having considered the current arrangements (see section D) the following options were put forward:

| Option   | Pros | Cons | Proposal |
|--|------|------|----------|
| 1. ASIS – No Change  |      |      |          |
| 2. Joint industry Ownership of the Joint Office e.g. limited company with Board                    |      |      |          |
| 3. Open Procurement of Joint Office arrangements e.g. services                                     |      |      |          |
| 4. Retail Energy Code (REC) Governance Arrangements – best practise that could be utilised in UNC. |      |      |          |

[It is recognised that an Independent Expert may still be required to conduct further work, and this requirement will be reviewed during the Workgroup process.]

## 6 Appendix – Scope Document

### 1. Scope

The following is a draft scope developed by the Workgroup:

- A) The history behind the creation of the JO and understanding of Transporter Licence requirements with regards to UNC Code Administration** (to provide the background/context behind the current Joint Office governance arrangements).
- Standard Special Condition A12: Joint Office Governance Arrangements (page 88 to 91).
- B) UNC Governance Matters (Modification Rules)**
- Use of Panel Alternates - Mod 0656 has addressed these concerns around Alternates.
  - Issues with current UNC Voting arrangements
    - Concerns around Panel making decisions on certain matters – whether legal advice could be provided to assist with these decisions
    - Current UNC Panel Voting could be enhanced by adoption of alternative voting approaches:
      - Automatic abstention from voting where there is no direct constituency interest in the matter. DSC Change Committee voting has some constituency voting and this could be used wider.
      - All UNC parties vote but it is weighted based on throughput.
      - CACoP could also assist with identifying differences/similarities in Panel voting/change processes and further options for consideration.
  - Issues with the process for Legal Text production and alternative approaches (e.g. administered by JO via centralised production of Legal Text or a contract with a third-party provider/s (or a mix of the two)).
    - Funding (GTs historical spend levels) would need to be a major consideration and the aspiration would be for the service to be value for money/ efficient.
    - To assist with this process, Modifications (ideally with a well-developed/clear solution) could be rated (easy, average and hard) from a legal text drafting perspective. In some cases early legal advice and/or engagement could be beneficial to the development of the Mod.
  - Issues with Critical Friend and how this could be improved (through pre-mod engagement and possibly new Code Manager powers). The Code Manager role could also be expanded to cover performance assurance and data analysis/challenge (is it robust, etc.).
  - Changes to JO Model could lead to changes being required to the Mod Rules to support the revised model and/or realise other opportunities/benefits.
- C) UNC Governance Matters (services)** - could form part of a Code Manager role or commercial (model) offering but as part of this review it could be useful to explore how these could work from a UNC perspective.
- Value added services – Project Management, Independent Analysis, Options Papers, technical capability.
  - New technology – website / online document access / online remote conference capability
  - Stakeholder Engagement – Transporters, Shippers, iGT's, Xoserve, Customer Reps, Ofgem, Suppliers, MAM's and other Governance providers.
- D) Joint Office Governance Arrangements**
- Funding model for Joint Office
    - Who pays for what and current costs (past 5 years?)
    - What percentage of JO costs do Transporters pass through to Shippers?

- How does cost of the JO compare to other Governance Providers e.g. SPAA/REC etc.
- Issues with current model
  - Is it agile enough to cope with significant industry developments? E.g. Modification 0621, Nexus, CSS, Smart Metering
  - In the role of a Code Manager, explore the relationship with CDSP (as Delivery Body) and DSC Committees (UNC Sub-committee). Independence is a key consideration.

**E) Other funding/governance models and their pros and cons**

- Joint industry Ownership of the Joint Office e.g. limited company with Board
- Open Procurement of Joint Office arrangements e.g. services
- Retail Energy Code (REC) Governance Arrangements – best practise that could be utilised in UNC.

**2. Test applied to confirm if the industry (UNC Request) could deliver the changes required**

| Aspect of the Review  | Can it be assessed via a UNC Request or not?  |
|---|---|
| The history behind the creation of the JO and understanding of Transporter Licence requirements with regards to UNC Code Administration   | Yes – information has been obtained and could be explored by the group to provide context for the review.   |
| UNC Governance Matters (Modification Rules): <ul style="list-style-type: none"> <li>• Use of Panel Alternates</li> <li>• UNC Voting arrangements</li> <li>• Legal Text production</li> <li>• Critical Friend</li> </ul> | Yes – information could be obtained (alongside experiences from Transporters, Shippers, JO and Ofgem <sup>1</sup> ) and could be explored by the group to identify options and their pros and cons.<br><br>Other parties could also be asked to provide a view/input, such as Dentons, CACoP, SPAA/Gowlings, etc. |
| UNC Governance Matters (services) <ul style="list-style-type: none"> <li>F) Value added services</li> <li>G) New technology</li> <li>H) Stakeholder Engagement</li> </ul>   | Yes – the Proposers initial list of services could be reviewed and explored by the group to identify views on services that could be adopted and add value (within the existing governance structure or a future structure). Discussion could also spark further ideas to be put forward and considered.          |
| Joint Office Governance Arrangements <ul style="list-style-type: none"> <li>• Funding model for Joint Office</li> </ul>   | Yes – JGAC have confirmed that they are happy to for the JO to provide high level budget information (a figure per year) and a summary of the services provided.  |
| Joint Office Governance Arrangements <ul style="list-style-type: none"> <li>• Issues with current model</li> </ul>  | Yes – issues/constraints/gaps/enhancements could be identified, reviewed and explored by the group to provide views on potential more effective/efficient models.   |
| Other funding/governance models and their pros and cons   | Yes – parties could share/identify options through their governance experience. The group could also consider any initial thoughts from the BEIS/Ofgem review (May  |

<sup>1</sup> Please note, this is subject to Ofgem confirmation in due course.

|  |  |
|--|--|
|  | 2019).<br>JGAC have also offered to share JO strategy work on future funding models (June or July) that would also be informed the BEIS/Ofgem views. |
|--|--|

Note: It is recognised that an Independent Expert may still be required to conduct further work, and this requirement will be reviewed during the Workgroup process.