

Governance Workstream Minutes

Thursday 21 January 2010

350 Euston Road, London

Attendees

Tim Davis (Chair)	TD	Joint Office
Bob Fletcher (Secretary)	BF	Joint Office
Abigail Hall	AH	Consumer Focus
Andrew Wright	AW	Elexon
Bali Dohel	BD	SGN
Chris Warner	CW	National Grid Distribution
Mike Young	CW	British Gas
Gareth Evans	GE	Waters Wye
Joel Martin	JM	Scotia Gas Networks
Jenny Boothe	JB	Ofgem
Nick Reeves	NR	National Grid NTS
Ritchard Hewitt	RH	National Grid NTS
Shelly Rouse	SR	Statoil
Simon Trivella	ST	Wales and West Utilities
Stefan Leedham	SL	EDF Energy

1.0 Introduction and Status Review

TD welcomed attendees to the meeting.

1.1. Minutes from Previous Workstream

Accepted without amendment.

1.2. Review of Actions

GOV1043 Provide a User Pays guidance paper for the December Workstream. **Update:** JB advised that Ofgem wished to review the Transporters draft guidelines prior to providing any paper. **Carried Forward.**

GOV1047 Amend the draft guidelines document based on comments received for presentation to the Governance Workstream. **Update:** RH confirmed that the Transporters have met to discuss the contents of the guidelines. ST confirmed the ROM process is being reviewed for inclusion and a revised document should be available for the next meeting. **Carried Forward**

GOV1048 Provide a view on the possibility of adopting a process for a cost pass through mechanism for marginal User Pays charges. **Update:** JB confirmed that Ofgem are still considering this process and hope to respond at the next meeting. **Carried Forward**

2.0 Modifications

2.1 Review Proposal 0267 “Review of UNC Governance Arrangements”

TD invited views on the Panel constitution in light of the Governance Review. This proposed the inclusion of voting rights for consumer representatives and a casting vote for the chair. The process for Shipper elections may also need to be reconsidered in light of increased self-governance.

MY expressed some concerns that it may not be appropriate for the Gas Forum to run the election of Panel Shipper representatives since not all shippers were members. GE suggested discussions regarding this would be better placed at the Gas Forum, but SL did not agree since, although non-members can vote in Panel elections, it is a closed forum and non-Members would not be entitled to attend meetings where the process may be discussed.

MY suggested consideration be given to how additional Panel voting members may affect the balance and outcome of decisions and whether there was merit in looking at constituency based elections. GE was mindful that the UNC does not impact only retail organisations - there were also wholesale companies - and they need to be represented. GE was also concerned that there appeared to be a desire to change the existing arrangements when they have worked well for 10 years – issues with voting during last year’s elections were a process problem and not an issue with the constituency of the Panel. In addition,

GE considered there is merit in waiting for SPAA developments and recommendations for change, before rushing into decisions – if more organisations became SPAA signatories, additional obligations might be transferred to SPAA and this could change the nature of the UNC. However, SL considered there will be little change for UNC with the universal acceptance of SPAA and the development of a Central Communications Provider – there is still a need for flows of information to the Transporter and therefore little change to governance.

ST considered it worthwhile to structure Panel to ensure the cross section of shipper representatives is reflective of the shipper community – from a Transporter perspective, being able to gain a representative view is valuable. This was endorsed by CW who felt there are not the same issues in representation in UNC as there are in SPAA.

GE asked what are the deficiencies in the current process – what needs to be fixed. RF suggested the Panel constitution needs to avoid an opportunity for parties to vote along market lines rather than looking at the benefits of a Proposal. SR was unconvinced that members currently vote outside the interest of the Modification Proposal but rather in line with their company view, adding that each Shipper can vote and seek election to be a Panel member if they consider this to be an issue. TD asked if votes should be recorded for, against and abstentions rather than only votes for as now.

TD asked if the Workstream thought the introduction of voting consumer representatives had implications for the Panel constitution. RF questioned if the rules should change to ensure a level of independence for the Panel along BSC lines. TD explained the existing requirements, which specify that Members should represent the views of their appointer.

ST was concerned that introducing Panel Chair or Consumer representative's votes could impact the option of appealing against an Ofgem decision. This had the potential to significantly change the perceived risk profile of a network business, with the appeals process being a valuable safeguard. ST suggested that consumer representative, and other, views could be recorded and reflected in Modification Reports without being treated as formal votes within the context of the appeals process.

There was a general view that 5 shippers and 5 transporters is a reasonable balance for the Panel and the rules should be expanded to create an option to abstain or vote against a proposition.

2.2 Issues Matrix

Not discussed.

2.3 Modification Proposal 0281

TD confirmed that the Panel had requested the preparation of a Workstream Report in the proposed new format and this was to be discussed later. NR then gave a presentation introducing the Proposal.

TD asked if the definition of timing out was agreed noting this was different to the issue raised by Ofgem and being considered within the BSC – that issue related to decide by dates. AW confirmed the electricity process has a “decide by” date and “implementation date”, and if no decision is reached by the “decide by” date then the proposal is rejected. CW asked if a new proposal is required to proceed with development of the rejected proposal. AW advised the BSC Panel can set new “decide by” and “implementation” dates.

CW asked why the Proposal requires at least two suggested dates to be put forward, as this appears to provide alternative dates with no consequences if they are not met. RH replied this is due to user pays impacts, where costs may change based on the implementation timeline - cheaper options may take a longer timeline than a more expensive shorter implementation. TD thought this was not clearly addressed in the Proposal as it defined an implantation dates dependent on when the Ofgem decision was taken – it did not create optional implementation dates. JB thought discussions during development should guide Ofgem regarding the reasons why decision by a particular date was preferable. RH agreed that some changes are required to the Proposal so that it delivers the process required.

RF suggested that the electricity model has prearranged system release dates which proposals need to adhere too. JM said there were similar dates for UK Link system changes, although changes can usually be accommodated outside these dates based on User/Transporter preferences.

MY asked about the relevance of the suggested implementation dates if the authority is not tied to the date. RF felt the Proposal envisaged a useful process that could give the industry a better view of potential implementation

dates for proposed system changes. However, MY remained concerned that the implementation date process as suggested in the Proposal was trying to fix a problem that isn't there.

AH suggested the Proposal may offer the Panel more control on when it could expect Ofgem decisions to be made. ST believed that, looking at the decisions currently outstanding with Ofgem, none of the Proposals would have been implemented any earlier due to their nature i.e. regulatory impact assessments being required.

ST agreed that there might be a desire by the Proposer to get Proposals implemented by a particular date, though by and large these were aspirational. GE agreed with this view, as most changes are justified on their own merits rather than only if delivered by a specific implementation date.

SL thought it might be useful if the Panel adopted the ideas behind the Proposal as a best practice, such that no formal Proposal would be needed and flexibility would be retained. SL added that inclusion of a variable implementation date with any fixed implementation date may be sufficient to justify re-consultation on Proposals, which do not meet the earlier implementation dates, further delaying the process. As such, he did not believe it was efficient to implement 0281 in its current form.

ST asked what detail is required for implementation dates on the existing templates. TD advised that proposers are only invited to provide a date. AW explained that the BSC process involves implementation dates agreed by the development group initially and then by the Panel - they are not driven by the Proposer.

MY argued that the modification process should deliver proposals that are fully developed and understood - this is not likely to be improved by 0281. In his view, identifying good practice and providing clear guidance may be the right way forward. AW added that the obligations in the BSC are flexible in the way implementation dates are included and not as proscriptive as in 0281. The key was that implementation dates should be achievable and be available for consultation.

SL was concerned that proposers may need to specify implementation dates for ROMs to be completed which then tied down the Proposal and may not be achievable once more detailed analysis is available. RH advised that it would still be possible to vary or amend a proposal to change the implementation date if more accurate information is made available.

JB advised Ofgem had concerns over the consistency of implementation dates currently provided and were hopeful this proposal would start to address these issues.

SL asked how legal text or its production is likely to be affected by this Proposal, as Ofgem won't be able to make a decision until it has received the text. RH considered 0281 might prompt a requirement to have legal text available for consultation and so allow a more informed consultation process.

ST asked when Ofgem would be publishing their views on the consultation they undertook on timing out since this should influence the solution which is put forward. JB confirmed Ofgem's conclusions and final proposals are still to be published.

SL asked how the process would work for urgent proposals, as these are usually time related. How can a flexible date be provided in Urgent situations.

RH agreed the Proposal would need to be amended in light of the discussions. The Workstream therefore proposed to defer consideration of the Workstream Report until after the publication of Ofgem's proposals and to request an extension in the time to report to the Panel.

TD drew attention to the new Workstream Report template and invited feedback. TD highlighted the Solution section of the Report which the JO regarded as the Proposal itself and hence as the only part which could only be edified by the Proposer. This was supported. ST asked if the proposed code of practice for code administrators is to be mandatory or guidance. TD suggested that he expected it to be mandatory.

Action GOV1049: National Grid NTS to consider the comments received and amend UNC 0281. **Pending**

3.0 Topics

3.1 013Gov, Industry Codes Governance Review

TD asked if there were any points Ofgem wished to raise on the Industry Codes Governance review. JB advised that the final proposals were ready for publication. However, these were subject to internal approval and would be issued once this was obtained. ST asked if licence drafting would be included. JB confirmed potential licence changes will be published for consultation, but this would not be the statutory consultation. Ofgem proposed holding an industry workshop to walk through the drafting, which had been changed from the previous version.

4.0 Any Other Business

None raised.

5.0 Next Meeting

18 March 2010, following the UNC Committee meeting.

Action Ref	Meeting Date(s)	Minute Ref	Action	Owner*	Status Update
GOV1043	19/11/09	3.2	Provide a User Pays guidance paper for the December Workstream.	Ofgem (JD)	Carried Forward
GOV1047	21/01/10	3.2.1	Amend the draft guidelines document based on comments received for presentation to the Governance Workstream.	National Grid NTS (RH)	Carried Forward

GOV1048	21/01/10	3.2.2	Provide a view on the possibility of adopting a process for a cost pass through mechanism for marginal User Pays charges.	Ofgem (JB)	Carried Forward
GOV1049	18/02/10	2.3	National Grid NTS to consider the comments received and amend UNC 0281.	National Grid NTS (RH)	Pending