

Uniform Network Code Modification Panel

Minutes of the 96th Meeting

Held on Thursday 17 June 2010

Members Present:

Transporter Representatives: R Hewitt (National Grid NTS), C Warner (National Grid Distribution), B Dohel (Scotia Gas Networks), J Ferguson (Northern Gas Networks) and S Trivella (Wales & West Utilities)

User Representatives: A Bal (Shell), C Wright (British Gas Trading), S Rouse (Statoil) and S Leedham (EDF Energy)

Consumer Representative: R Hall (Consumer Focus)

Ofgem Representative: J Dixon

Joint Office: T Davis (Chair) and B Fletcher (Secretary)

Observers Present:

C Cameron (Ofgem), R Fairholme (EON UK), R Street (Corona Energy) and J Martin (Scotia Gas Networks)

96.1 Note of any alternates attending meeting

B Dohel for A Gibson (Scotia Gas Networks)

96.2 Record of Invitees to the meeting

None.

96.3 Record of apologies for absence

A Gibson

96.4 Receive report on status of Urgent Modification Proposals

None

96.5 Consider New, Non-Urgent Modification Proposals

- a) Proposal 0297 - Extending Rights to Protected Information Provisions for Meter Asset Managers / Registered Metering Applicants

Following a presentation by J Martin, the Panel voted UNANIMOUSLY that the Proposal should proceed to Consultation. The nine Panel Members present, capable of casting nine votes, determined by PANEL MAJORITY that legal text should be prepared for inclusion in the Draft Modification Report, with the following seven votes cast in favour: A Bal, C Wright, S Rouse, S Leedham, R Hewitt, B Dohel and C Warner.

The legal text is to be reviewed at the 15 July Panel meeting.

- b) Proposal 0298 - RG0252 Proposal 1: Amend and remove UNC TPD Section V3 text inconsistencies, errors and bi-lateral insurance clause

The Proposal was introduced by S Trivella and, following a discussion, the Panel voted UNANIMOUSLY for this Proposal to proceed to Consultation. The Panel voted UNANIMOUSLY for the consultation period

to be extended to 30 July 2010. The Panel did not determine that legal text should be prepared for inclusion in the Draft Modification Report, with no votes cast in favour.

- c) Proposal 0299 - RG0252 Proposal 2: Alignment of portfolio sanctions across UNC TPD Sections V and S

The Proposal was introduced by S Trivella and, following a discussion, the Panel voted UNANIMOUSLY for this Proposal to proceed to Consultation. The Panel voted UNANIMOUSLY for the consultation period to be extended to 30 July 2010. The Panel did not determine that legal text should be prepared for inclusion in the Draft Modification Report, with no votes cast in favour.

- d) Proposal 0300 - RG0252 Proposal 3: Introduction of Fitch as an allowable Credit Rating Agency for the purposes of Code Credit Arrangements

The Proposal was introduced by J Ferguson, and following a discussion, the Panel voted UNANIMOUSLY for this Proposal to proceed to Consultation. The Panel voted UNANIMOUSLY for the consultation period to be extended to 30 July 2010. The Panel did not determine that legal text should be prepared for inclusion in the Draft Modification Report, with no votes cast in favour.

- e) Proposal 0301 - RG0252 Proposal 4: Removal of the use of Specially Commissioned Ratings for the purposes of obtaining an Unsecured Code Credit Limit

The Proposal was introduced by J Ferguson. C Wright asked if the provisions had been used and J Ferguson confirmed they had not been, which she believed was due to the cost involved.

The Panel voted UNANIMOUSLY for this Proposal to proceed to Consultation. The Panel voted UNANIMOUSLY for the consultation period to be extended to 30 July 2010. The Panel did not determine that legal text should be prepared for inclusion in the Draft Modification Report, with no votes cast in favour.

- f) Proposal 0302 - RG0252 Proposal 5: Definition of Regulatory Asset Value (RAV) when calculating Maximum Unsecured Credit

The Proposal was introduced by S Trivella. In light of points raised during the discussion, S Trivella amended the Proposal, with Panel Members agreeing that the amendments clarified the descriptions and meanings within the Proposal in line with its intent.

The Panel voted UNANIMOUSLY for this Proposal, as amended, to proceed to Consultation. The Panel voted UNANIMOUSLY for the consultation period to be extended to 30 July 2010. The Panel did not determine that legal text should be prepared for inclusion in the Draft Modification Report, with no votes cast in favour.

- g) Proposal 0303 - RG0252 Proposal 6: Obligation for Users to maintain a Code Credit Limit and at a reasonable level

The Proposal was introduced by S Trivella and, following a discussion, the Panel voted UNANIMOUSLY for this Proposal to proceed to Consultation. The Panel voted UNANIMOUSLY for the consultation period to be extended to 30 July 2010. The Panel did not determine that legal text should be prepared for inclusion in the Draft Modification Report, with no votes cast in favour.

- h) Proposal 0304 - RG0252 Proposal 7: Introduction of a rating table for independent credit rating agencies for use with Independent Assessments

The Proposal was introduced by J Ferguson and, following a discussion, the Panel voted UNANIMOUSLY for this Proposal to proceed to Consultation. The Panel voted UNANIMOUSLY for the consultation period to be extended to 30 July 2010. The Panel did not determine that legal text should be prepared for inclusion in the Draft Modification Report, with no votes cast in favour.

- i) Proposal 0305 - RG0252 Proposal 8: Unsecured Credit Limit allocated through payment history

The Proposal was introduced by C Shanley and, following a discussion, the Panel voted UNANIMOUSLY for this Proposal to proceed to Consultation. The Panel voted UNANIMOUSLY for the consultation period to be extended to 30 July 2010. The Panel did not determine that legal text should be prepared for inclusion in the Draft Modification Report, with no votes cast in favour.

- j) Proposal 0306 - RG0252: Proposal 9: Administration of Shipper Credit Security Contact Details

The Proposal was introduced by B Dohel. R Hewitt asked if this should be classified as a User Pays Modification Proposal since the Transporters' agent would be incurring costs to administer an additional service. S Trivella did not believe the Proposal introduces a User Pays service, but rather places an obligation on Users to provide information while Transporters would provide a central collating point. R Street asked how this compared to the current arrangements, and J Ferguson explained that the only current UNC obligation to provide contact information is when a User is first set up.

R Street suggested the Proposal could usefully be expanded to include updating Transporter details. J Martin replied that the Proposal applied to the credit arrangements for Transportation invoices and the intention was to help Users as some UNC notices had challenging timescales. C Wright asked if the scope was restricted to transportation credit and J Ferguson confirmed that was the intention. C suggested this should be clarified in the Proposal, and J Martin amended the Proposal as suggested.

The Panel then voted UNANIMOUSLY for this Proposal, as amended, to proceed to Consultation. The Panel voted UNANIMOUSLY for the consultation period to be extended to 30 July 2010. The Panel did not determine that legal text should be prepared for inclusion in the Draft Modification Report, with no votes cast in favour.

- k) Proposal 0307 - RG0252: Proposal 10: Alignment of Defaulting User Threshold with Insolvency Act

The Proposal was introduced by B Dohel. C Cameron asked why the £10k limit was in UNC. J Ferguson confirmed it was an historical value based on a “one Transporter” model. R Street believed it was a provision put in place to accommodate new entrants at the beginning of the Network Code and has not been updated subsequently.

The Panel voted UNANIMOUSLY for this Proposal to proceed to Consultation. The Panel voted UNANIMOUSLY for the consultation period to be extended to 30 July 2010. The Panel did not determine that legal text should be prepared for inclusion in the Draft Modification Report, with no votes cast in favour.

- l) Proposal 0308 - RG0252 Proposal 11: Appropriate use of the terms Surety and Security in UNC TPD Section V

The Proposal was introduced by S Trivella. R Hewitt suggested additional clarity was needed as to what is proposed. S Trivella responded that the suggested legal text is the “Proposal” as it indicates the required changes to UNC. C Wright asked if the referral to credit agencies would be updated to include Fitch. S Trivella confirmed this would happen if Proposal 0300 were implemented. R Hall suggested the potential consequences of not making the proposed change are significant and this should be highlighted in the Proposal. S Trivella felt the risk is not significant as the credit tools are used now - however it is a matter that could be used if a party was in default and the definitions were used to support a claim.

The Panel voted UNANIMOUSLY for this Proposal to proceed to Consultation. The Panel voted UNANIMOUSLY for the consultation period to be extended to 30 July 2010. The Panel did not determine that legal text should be prepared for inclusion in the Draft Modification Report, with no votes cast in favour.

- m) Proposal 0309 - RG0252 Proposal 12: Timeframes for establishing and extending Guarantees and Letters of Credit

The Proposal was introduced by S Trivella and following a discussion, the Panel voted UNANIMOUSLY for this Proposal to proceed to Consultation. The Panel voted UNANIMOUSLY for the consultation period to be extended to 30 July 2010. The Panel did not determine that legal text should be prepared for inclusion in the Draft Modification Report, with no votes cast in favour.

- n) Proposal 0310 - RG0252: Proposal 13: Removal of DNO Users from UNC TPD V3.3.4

The Proposal was introduced by J Martin. R Hewitt asked why an implementation date of 01 October 2010 was proposed. J Martin confirmed this can be flexible. S Leedham requested that the value and potential cost to the industry be included in the DNO representations.

The Panel voted UNANIMOUSLY for this Proposal to proceed to Consultation. The Panel voted UNANIMOUSLY for the consultation period

to be extended to 30 July 2010. The Panel did not determine that legal text should be prepared for inclusion in the Draft Modification Report, with no votes cast in favour.

- o) Proposal 0311 - RG0252 Proposal 13a: Removal of DNOs as Users from UNC TPD V3 and V4

The Proposal was introduced by S Trivella. R Hewitt identified a number of errors in the Proposal, and S Trivella made a number of amendments to the Proposal. S Leedham requested that the value and potential cost to the industry be included in the DNO representations.

The Panel voted UNANIMOUSLY for this Proposal, as amended, to proceed to Consultation. The Panel voted UNANIMOUSLY for the consultation period to be extended to 30 July 2010. The Panel did not determine that legal text should be prepared for inclusion in the Draft Modification Report, with no votes cast in favour.

- p) Proposal 0312 - Introduction of Two-Thirds Majority Voting to the UNC Modification Panel

The Proposal was introduced by R Fairholme and following a discussion, the Panel voted UNANIMOUSLY for this Proposal to be referred to the Governance Workstream for consideration and development. The Workstream was requested to report by the 16 September 2010 Panel meeting.

- q) Proposal 0313 - Application Date for Mod0229

The Proposal was introduced by C Wright and following a discussion, the Panel voted UNANIMOUSLY for this Proposal to be referred to the Distribution Workstream for consideration and development. The Workstream was requested to report by the 16 September 2010 Panel meeting.

96.6 Consider New Proposals for Review

None.

96.7 Consider Terms of Reference

None.

96.8 Existing Modification Proposals for Reconsideration

Proposal 0231V - Changes to the Reasonable Endeavours Scheme to better incentivise the detection of Theft

J Dixon confirmed Ofgem expect to issue a regulatory impact assessment to include changes to licence and theft obligations, looking across the gas and electricity Codes. C Wright suggested the Panel write to the Authority asking when a decision was likely to be made. The nine Panel Members present, capable of casting nine votes, determined by PANEL MAJORITY to write to the Authority to seek confirmation of when a decision is likely. The seven members voting in favour were: A Bal, C Wright, S Rouse, R Hewitt, C Warner, J Ferguson and S Trivella.

96.9 Consider Variation Requests

None.

96.10 Consider Workstream Monthly Reports

Workstream Reports for Consideration

- a) Review Proposal 0272 - Mod 640 Validation Arrangements for when a Change of Shipper has occurred

The Panel voted UNANIMOUSLY to accept the report and its recommendations.

Extensions Requested

- a) Proposal 0209 – Rolling AQ
Following a request, the Panel voted UNANIMOUSLY to extend the time for the Workstream to report until 18 November 2010.
- a) Proposal 0273 – Governance of Feasibility Study Requests to Support Changes to Network Exit Agreements
Following a request, the Panel voted UNANIMOUSLY to extend the time for the Workstream to report until 16 September 2010.
- a) Proposal 0292 – Proposed change to the AQ Review Amendment Tolerance for SSP sites
Following a request, the Panel voted UNANIMOUSLY to extend the time for the Workstream to report until 16 September 2010.
- a) Proposal 0293 – Proposed removal of the AQ Review Amendment Tolerance for SSP sites
Following a request, the Panel voted UNANIMOUSLY to extend the time for the Workstream to report until 16 September 2010.

96.11 Consider Final Modification Reports

- a) Proposal 0295: Allocation of Daily NTS Entry Capacity Within-Day

Members considered the report was in the correct form and discussed whether or not to recommend implementation of the Proposal. They did not determine that new issues had been raised that justified seeking further views from a Workstream or Development Work Group, with no votes cast in favour. The Panel voted UNANIMOUSLY to recommend implementation.

T Davis summarised that the Proposal sought to provide certainty that within-day entry capacity would be allocated and successful bidders notified within an hour of an auction closing. This would codify existing National Grid practice and remove any ambiguity about this from the UNC. Panel members agreed that, by clarifying and specifying obligations, implementation would be expected to further achievement of the Code Relevant objective *“the promotion of efficiency in the implementation and administration of the network code and/or the uniform network code”*.

Panel Members also considered that implementation would be expected to facilitate the code relevant objective *“the securing of effective competition between relevant shippers”*. This would result from increased confidence that within-day entry capacity bids would be considered and allocations notified

within a fixed timeframe. It was recognised that this may be particularly valuable to new entrants relying on the obligations within the UNC rather than experience of National Grid's operating practice.

- a) Proposal 0287 - Change System Capacity Transfers Notification Time Limit from 04:00 to 03:00 hours

The nine Panel Members present, capable of casting nine votes, did not determine to recommend implementation of the Proposal, with the following three votes cast in favour: R Hewitt, B Dohel and C Warner.

T Davis summarised that the Proposal sought to bring forward the latest time for notifying system capacity transfers from 0400 to 0300. He reminded Members that the Modification Report had been referred to the Transmission Workstream in light of the issues raised during the consultation. National Grid had provided information to the Workstream on the number and size of trades registered between 0300 and 0400. The Workstream accepted that the volume was not material such that it was unlikely that implementation would have a significant adverse impact. However, the Workstream had been unable to identify a compelling argument that implementation would be expected to further achievement of the Relevant Objectives.

T Davis summarised that, by removing an opportunity to transfer system capacity, implementation would reduce the opportunities open to Shippers. Panel Members accepted that, notwithstanding the low level of activity, reducing trading opportunities would be expected to have an adverse impact on the code relevant objective "*the securing of effective competition between relevant shippers*".

R Hewitt explained that the benefit of the Proposal is to ensure the availability of products for all traders within the scheduled windows on a consistent, non-discriminatory basis. If the Proposal were not implemented, more use of the 0300 to 0400 window may mean trades were more likely to be rejected since IS systems to assess and register trades are unavailable at this time. J Dixon indicated that, to assess the case for introducing a restriction on trading, he would wish to understand the risks and costs that National Grid NTS would face were the Proposal to be implemented.

96.12 Receive report on status of Consents

There were no changes to report.

96.13 Any Other Business

J Dixon advised the licence consultation related to the industry codes review is due to close soon. J Dixon hoped to provide a presentation at the July Panel meeting in order to consider, in particular, identification of areas which might be progressed as Significant Code Reviews.

96.14 Conclude Meeting and Agree Date of Next Meeting

The Panel noted that the next meeting is planned for 10.00 on 15 July 2010.