

**Uniform Network Code Modification Panel**

**Minutes of the 100<sup>th</sup> Meeting**

**Held on Thursday 16 September 2010**

**Members Present:**

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

**User Representatives:** C Wright (British Gas Trading), P Broom (GDF Suez), 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 Shanley (National Grid NTS), C Suleyman (Consumer Focus), J Vignola (Centrica Storage), L Kerr (ScottishPower) by teleconference, R Fairholme (E.ON UK) and R Healey (RWE Npower)

T Davis advised that two requests had been received to amend the minutes of the August Panel meeting.

Agenda item 99.5 (I) Proposal 0328 - Proposal to amend Annex A of the CSEP NEXA by replacing the current version of the AQ Table 2<sup>nd</sup> paragraph; 'L Kerr confirmed the date was not critical'. It was agreed that this be amended to 'L Kerr advised the date was one of the areas that would be considered in the revisions'.

Agenda item 99.12 (O) Proposal 0311 - RG0252 Proposal 13a: Removal of DNOs as Users from UNC TPD V3 and V4

The Panel noted that C Shanley had voted in favour of implementation of the Proposal. However, he wished it to be recorded that this was an error, as he had not intended to vote in favour.

**100.1 Note of any alternates attending meeting**

J Martin for A Gibson (Scotia Gas Networks) and S Rouse for A Bal (Shell)

**100.2 Record of Invitees to the meeting**

None

**100.3 Record of apologies for absence**

A Bal and A Gibson

**100.4 Receive report on status of Urgent Modification Proposals**

None

## **100.5 Consider New, Non-Urgent Modification Proposals**

### a) Proposal 0294 - Changes to UNC Modification Panel Constitution

C Wright explained the Proposal was being reconsidered in light of the range of changes to the Modification Rules that were being progressed through other Proposals. The intention was to bring a revised Proposal to a subsequent meeting. T Davis was concerned at the number of times the Proposal had been deferred and requested the Proposer to consider progressing or withdrawing the Proposal by the next Panel meeting.

The Panel determined UNANIMOUSLY to defer consideration of this Proposal.

### b) Proposal 0318 - Code Governance Review: The approach to be taken when raising alternative Modification Proposals

Panel Members determined UNANIMOUSLY that the Proposal should proceed to the Consultation phase. Panel Members did not determine that legal text was required for inclusion in the Draft Modification Report with no votes cast in favour. The Panel determined UNANIMOUSLY to extend Consultation close out to 11 October.

C Shanley introduced the Proposal and briefly explained the main elements. C Wright did not think the Proposal fully achieves principle 7 of the Code Administration Code of Practice. R Fairholme pointed out there was an error in the wording that should be “may” rather than “shall” raise an alternative. C Wright pointed out a number of spelling mistakes. R Hewitt agreed to amend the Proposal to correct the identified errors.

T Davis noted that a legal text review session had been suggested at the previous Panel meeting. This would provide an opportunity to consider the complete set of changes to the Modification Rules and also how the text matched the Proposals related to the Codes Governance Review. T Davis added that Proposal 0318 is an example of where the text does not appear to be consistent with the Proposal.

C Shanley suggested that, if there was support for the idea, a meeting could be arranged to review the legal text on 5 October. Members indicated this would be useful.

### c) Proposal 0319 - Code Governance Review: Role of Code Administrators and Code Administration Code of Practice

Panel Members determined UNANIMOUSLY that the Proposal should proceed to the Consultation phase. Panel Members did not determine that legal text was required for inclusion in the Draft Modification Report with no votes cast in favour. The Panel determined UNANIMOUSLY to extend Consultation close out to 11 October.

C Shanley introduced the Proposal and explained a number of changes made following the receipt of comments from the Governance Workstream. He referred to the Code of Practice and advised that an additional time reference was required to seek approval from the Authority to seek extensions. S Trivella questioned why this had been reduced to six months instead of twelve as in the present Rules. P Broom added that

a number of Proposals take much longer than six months to develop. C Shanley explained the aim was to achieve consistency with other codes. J Dixon suggested that there are times when development of a Proposal appears to be slow. The reduced timescale might allow a check to be taken on progress and parties gain an insight on likely completion dates.

T Davis asked if consistency in Codes is being delivered through adopting, as far as possible, identical legal drafting. C Shanley replied that the drafting is not identical but it will be very similar and identifiable. T Davis suggested that, as drafted, the time limit only applies to those Proposals where the Panel does not set a time limit – this may need to be reviewed.

C Wright was concerned that the Modification Rules might prevent a Proposal from progressing to a satisfactory conclusion - this Proposal could force the Panel to make a recommendation on whether or not to implement. What happens if Ofgem say there is insufficient information for them to make a decision? How will parties be mandated to provide the required information? R Hewitt understood the issue, considering it will be down to discussions with the Proposer to resolve the issue.

d) Proposal 0320 - Code Governance Review: Appointment and Voting Rights for a Consumer Representative and Independent Panel Chair

Panel Members determined UNANIMOUSLY that the Proposal should proceed to the Consultation phase. Panel Members did not determine that legal text was required for inclusion in the Draft Modification Report with no votes cast in favour. The Panel determined UNANIMOUSLY to extend Consultation close out to 11 October.

C Shanley introduced the Proposal and recent amendments.

T Davis questioned whether the intent was that the Panel voting arrangements would change to “for and against”. C Shanley confirmed this was the case.

R Hewitt proposed an amendment to the Proposal to correct an error in where the Proposal erroneously refers to the Chair “appointed by Modification Panel”, which should read “as appointed above”. S Trivella suggested “will” should be corrected to “may” in the context of Panel Majority, and R Hewitt agreed to amend the Proposal accordingly.

S Trivella asked if the Proposal is consistent with voting consumer representatives. C Shanley explained that the Proposal seeks to add one additional voting consumer representative who will be appointed by the Authority. C Wright noted that the Proposal does not explain the definition of a consumer representative and the process used by Ofgem to appoint one. J Dixon explained that the appointment process will not be subject to the UNC.

e) Proposal 0321 - Code Governance Review: Approach to environmental assessments within the UNC

Panel Members determined UNANIMOUSLY that the Proposal should proceed to the Consultation phase. Panel Members did not determine that

legal text was required for inclusion in the Draft Modification Report with no votes cast in favour. The Panel determined UNANIMOUSLY to extend Consultation close out to 11 October.

- f) Proposal 0322 - Code Governance Review: Inclusion of the NTS Transportation and Connection Charging Methodologies within the UNC
- Panel Members determined by MAJORITY VOTE that the Proposal should proceed to the Consultation phase, with the following eight Members casting nine votes, voting in favour: R Hall, C Wright, S Rouse (also for A Bal), R Hewitt, C Warner, J Ferguson, J Martin and S Trivella. Panel Members did not determine that legal text was required for inclusion in the Draft Modification Report with no votes cast in favour. The Panel determined UNANIMOUSLY to extend Consultation close out to 11 October.

C Shanley introduced the Proposal and recent amendments. He indicated that National grid wished to amend the Proposal to include Annex a and Annex B, which would contain the NTS charging methodologies as previously published. The suggested text was also amended to point to these Annexes for inclusion in the proposed Section Y of the UNC.

R Hall asked if the ability to raise charging methodology related Proposals would be restricted to a 3 month window as proposed at one stage. S Trivella advised there would be no specific window in which Proposals could be raised. However, the requirements for giving notice of charges remained unchanged, and methodology changes would only be implemented in accordance with Licence obligations, which presume all changes occur only on 1 April each year.

T Davis asked about the status of TCMF/DCMF and whether this is clear in the Proposal and suggested text. C Shanley confirmed the intention is to continue with the forums but their nature and frequency may need to change.

C Wright asked about the assessment of relevant objectives on page 4 – is this required? R Hewitt confirmed these are required to ensure all the relevant objectives are considered for any Proposal and not just charging methodology changes.

S Leedham asked why the points listed on page 2 appear to be referring to different licence conditions and suggesting the Proposal does not conflict with different conditions to those set out below? C Shanley explained some conditions were specific to NTS and others to all Transporters, and that was why the references were required.

S Leedham noted that Annex A references appendix 1 but has no appendix attached.

S Leedham was concerned that recent directions to implement Proposals may be impacted by this Proposal and need to be considered in any transitional arrangements. He remain to be convinced the proposed transitional arrangements will allow the implementation of already approved changes to the charging methodologies. S Trivella agreed that the transporters will need to carefully consider transition and will have to develop rules to manage the process C Shanley accepted that further

development of transitional arrangements may need to be considered.

g) Proposal 0323 - Code Governance Review: Self Governance

Panel Members determined UNANIMOUSLY that the Proposal should proceed to the Consultation phase. Panel Members did not determine that legal text was required for inclusion in the Draft Modification Report with no votes cast in favour. The Panel determined UNANIMOUSLY to extend Consultation close out to 11 October.

h) Proposal 0324 - Code Governance Review: Significant Code Reviews

Panel Members determined UNANIMOUSLY that the Proposal should proceed to the Consultation phase. Panel Members did not determine that legal text was required for inclusion in the Draft Modification Report with no votes cast in favour. The Panel determined by MAJORITY VOTE to extend Consultation close out to 05 November with the following five Members casting six votes in favour: R Hall, C Wright, S Leedham, and S Rouse (also for A Bal).

C Shanley introduced the Proposal and recent amendments, particularly to the legal text. C Shanley advised the wrong version of the suggested text had been included in the Proposal and indicated that National grid wished to amend the Proposal to incorporate the correct text.

C Wright asked how a Proposal is identified as being related to an SCR. C Shanley advised this is for the Panel to decide and manage. C Wright felt this adds a level of uncertainty and the rules may not be as clear as they are now. R Hewitt was of the opinion that potential proposers will consult with Ofgem to seek a view as to whether a Proposal is within the scope of an SCR. He confirmed this Proposal does not compel Ofgem to include a Proposal within an SCR even if it is related.

i) Proposal 0325 - DN Transportation Charging Methodology and Change Governance

Panel Members determined by MAJORITY VOTE that the Proposal should proceed to the Consultation phase with the following eight Members casting nine votes in favour: R Hall, C Wright, S Rouse (also for A Bal), R Hewitt, C Warner, J Ferguson, J Martin and S Trivella. Panel Members did not determine that legal text was required for inclusion in the Draft Modification Report with no votes cast in favour. The Panel determined UNANIMOUSLY to extend Consultation close out to 11 October.

C Warner introduced the Proposal and drew attention to an error that National Grid wished to correct - on page 2, the reference should be to 4 rather than 5 elements.

j) Proposal 0328 - Proposal to amend Annex A of the CSEP NExA by replacing the current version of the AQ Table

Panel Members determined UNANIMOUSLY that the Proposal should proceed to the Consultation phase. Panel Members did not determine that legal text was required for inclusion in the Draft Modification Report with

no votes cast in favour.

L Kerr introduced the Proposal and explained the recent amendments to the Proposal based on comments received.

R Hall asked if the Proposal changes the values in UNC and those applied by xoserve at present or is this simply a house keeping change. L Kerr confirmed the values would change, and that an iGT Proposal was also due to be issued to consultation and is contingent on this Proposal. R Hewitt suggested clarity was needed in the Proposal to be clear it does not apply to the NTS CSEP NExA. However, L Kerr considered the Proposal was self explanatory and no change was necessary in this respect.

- k) Proposal 0330 - Delivery of additional analysis and derivation of Seasonal normal weather

Following a request from the Proposer, Panel Members determined UNANIMOUSLY to defer consideration of this Proposal.

- l) Proposal 0331- Demand Estimation Section H Changes to Processes and Responsibilities

Following a presentation by R Fairholme, Panel Members determined UNANIMOUSLY that the Proposal should be sent to the Distribution Workstream for consideration and development. The Distribution Workstream was requested to report by the December Panel.

- m) Proposal 0332 - Removal of a Users ability to allow Quarterly NTS Entry Capacity to lapse

Panel Members determined UNANIMOUSLY that the Proposal should be sent to the Transmission Workstream for consideration and development. The Transmission Workstream was requested to report by the December Panel.

R Hewitt introduced the proposal and its objectives, explaining the concept had been discussed in various groups in recent times. C Wright did not believe this particular proposal had been discussed in detail at a Workstream.

S Leedham requested confirmation that the Proposal amends the code provisions to exclude further entry capacity bids. C Shanley did not believe this was the case as sanctions were set out in section V.

R Hall asked if the materiality of the proposal is known. R Hewitt advised that until recently there wasn't a known issue. However, recently a loophole has been identified by the actions of a party, and therefore safeguards should be put in place to prevent a repeat.

- n) Proposal 0333: Update of the default System Marginal Buy Price and System Marginal Sell Price

Panel Members determined by MAJORITY VOTE to consider the

Proposal at short notice, with the following nine votes cast in favour: P Broom, S Leedham, S Rouse (also for A Bal), R Hewitt, C Warner, J Ferguson, J Martin and S Trivella. Panel Members failed to determine to issue the Proposal to Consultation, with R Hewitt voting in favour. The Proposal will therefore be sent to the Transmission Workstream for consideration and development. The Transmission Workstream was requested to report by the December Panel.

R Hewitt introduced the Proposal, which had been discussed by Review Group 0291. T Davis clarified that the Proposal had not gained support within the Review Group.

P Broom asked if the intention for prices notified in March to be applied in April – giving just 1 months notice, in contrast to the standard pricing requirements. R Hewitt confirmed this was the intention.

R Hall was concerned to understanding the impact of the prices, and asked how realistic the default price would be? R Hewitt advised the price is not market related but reflects operational costs. Options based on taking daily market prices and applying uplifts had been discounted.

R Hewitt advised National Grid faced a very tight timeline to meet licence obligations and hence the Proposal had been raised prior to Review Group 0291 concluding, and with a request that it be issued directly to consultation. S Leedham, supported by a number of other Members, did not agree the Proposal was sufficiently developed to proceed to Consultation.

J Dixon confirmed it is unlikely that Ofgem would consider an impact assessment but would support the Proposal being sent for further development to ensure it is clear and has been fully assessed.

R Hewitt invited views on the issues to be discussed at the Transmission Workstream, and Members suggested:

NTS to provide the previously requested cash out data.

Justification for including a TO element in the methodology.

How the Proposal links with European requirements.

Consider notice periods for changing prices.

Compressor fuel cost, is this published separately from OUG?

Is this a User Pays Proposal.

Does this proposal time out on 1<sup>st</sup> April if it is not implemented.

#### **100.6 Consider New Proposals for Review**

None.

#### **100.7 Consider Draft Modification Reports**

None.

#### **100.8 Consider Terms of Reference**

None.

### **100.9 Existing Modification Proposals for Reconsideration**

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

Panel members determined UNANIMOUSLY to defer consideration of this Proposal.

J Dixon advised a letter is to be issued soon regarding the impact assessment. T Davis explained the options and the Panel agreed to defer consideration. The Panel members agreed this be removed from future Panel Agendas until the impact assessment was concluded.

### **100.10 Consent to Extend the Modification Proposal Development Phase**

T Davis explained the reason for this section and why it is needed over and above normal extensions, the available options and actions.

S Leedham asked if it is possible to withdraw and resubmit a Proposal for a new number – this was agreed as being possible.

J Dixon asked if in future the Panel should request a report when 12 month deadlines are nearing so that the Panel can consider how it approaches the issue with the Authority. This could help ensure Proposals do not carry on indefinitely. The Authority is concerned at the development timescales where these appear to be excessive. In essence they will be looking for reports on lessons learnt, if anything has gone wrong, and what is the likely completion time.

#### a) Proposal 0270 - Aggregated Monthly Reconciliation for Smart Meters

The Joint Office is to produce a report for the October Panel detailing what has happened during the development time and seeking to answer questions highlighted above.

#### b) Proposal 0274 - Creation of a National Revenue Protection Service

The Joint Office is to produce a report for the October Panel detailing what has happened during the development time and seeking to answer questions highlighted above.

### **100.11 Consider Variation Requests**

None.

### **100.12 Consider Workstream Monthly Reports**

#### **Review Group Reports for Consideration**

Review Proposal 0267 - Review of UNC Governance Arrangements

The Panel determined UNANIMOUSLY to accept the Review Group Report and its recommendations.

### **Extensions Requested**

- a) Proposal 0273 - Governance of Feasibility Study Requests to Support Changes to the Network Exit Agreements

Following a request, the Panel voted UNANIMOUSLY to extend the time for the Workstream to report until December 2010.

- b) 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 December 2010.

- c) 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 December 2010.

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

Following a request, the Panel voted UNANIMOUSLY to extend the time for the Workstream to report until December 2010.

- e) Proposal 0313 - Application Date for MOD0229

The Proposal was withdrawn prior to the Modification Panel Meeting.

### **100.13 Consider Final Modification Reports**

- a) Proposal 0315 - To Enhance Section X of the UNC Transportation Principal Document to improve the Energy Balancing Further Security Process

Members considered the report was in the correct form. The Panel determined UNANIMOUSLY to defer consideration of the report.

R Hall was concerned that the Proposal does not appear to provide a benefit, as he does not see the risk it is trying to protect against.

S Leedham did not see any material benefit, as it is not likely to protect against a failure by a larger company – but it could be seen as a barrier to entry. P Broom felt it was of concern to smaller parties and the way they need to secure credit, particularly when they first start up.

C Wright was concerned that rules providing this protection may incentivise larger parties to mismanage their credit and create a risk of default. S Leedham did not agree as larger companies can secure credit at lower cost than smaller start up companies who usually have to deposit cash.

To assist in making a recommendation, the Panel requested the EBCC to provide evidence on the materiality of the issues –

How often does it happen;

What values are involved;

What is the overall risk;

There appears to be no value placed on a new entrant to the market.

#### **100.12 Receive report on status of Consents**

Consent 34 had been accepted.

#### **100.13 Any Other Business**

Approval of revised Templates (adoption of Code of Practice formats, as used for Proposal 0281)

T Davis asked for views on whether to move to immediate implementation of the revised template. Members agreed to defer implementation.

#### **Approval of Revised User Pays Guidance Document**

S Trivella explained the document is not for approval at this meeting but for comments and is aiming to bring a document for approval to the October Panel.

#### **Amendments to Panel Membership**

T Davis explained membership changes to the Panel and thanked S Rouse for her support over the last year. R Fairholme will be joining the Panel as a voting Member, and C Hill as the independent Supplier representative.

#### **100.14 Conclude Meeting and Agree Date of Next Meeting**

The Panel noted that the next meeting is planned for 10.00 on 21 October 2010 at the Energy Networks Association.