

**CODE MODIFICATION PROPOSAL No 0286**  
**Extending Modification Panel Voting Rights to Consumer Representatives**  
**Version 1**

**Date:** 10/03/2010

**Proposed Implementation Date:** Immediately following Ofgem direction

**Urgency:** Non Urgent

**1 The Modification Proposal**

**a) Nature and Purpose of this Proposal**

**Background:**

As part of the Industry Codes Governance Review, Ofgem highlighted that Consumer Representative voting rights differ between modification panels. Ofgem's view from the Governance review is that this inconsistent treatment across codes is not warranted and that the UNC should be reformed so that the Consumer Representative are voting members. Implementation of this Proposal would make the UNC compliant with best practice, and with Ofgem's proposal that Consumer Representatives serving on all the major modification panels should be voting members. Further Ofgem's initial view is that the Gas Transporters' Licences should be amended to facilitate this requirement. This modification proposal, if implemented would remove the requirement for these Licence changes and represent a more effective means of enacting these changes.

Note that the Consumer Representative has voting rights on both the Balancing and Settlement Code and Connection and Use of System Code panels.

Full participation on the UNC will give the Consumer Representative greater scope to advocate for consumers who can either benefit from or suffer the consequences of changes to industry rules. Whilst it is recognized that currently the Consumer Representative is a non-voting member of the UNC, the value of this can be questioned. This can be seen by the lack of consumer representation at the panel until recently. This is in contrast to the BSC and CUSC where a consumer representative has voting rights and has been a regular attendee. Implementation of this proposal would help to ensure that consistent consumer representation at the UNC panel. Voting also sends a clear signal to industry about the Consumer Representative's position on particular issues.

The UNC defines the rights and responsibilities for users of gas transportation systems, and provides for all system users to have equal access to transportation services. The major concepts underlying the Uniform Network Code are that:

- Gas transportation services should meet market requirements.
- System security and safety should be assured.
- Pricing should reflect the real costs of the services concerned.

- Robust computer systems should be developed and maintained.
- Daily energy balancing should be operated.
- Gas Shippers (Shippers) should be incentivised to balance their own supply and demand.

While the UNC allows for efficient commercial relationships between transporters and shippers, it cannot be denied that the consequences of many changes to the gas governance arrangements do impact on end users, such as domestic, industrial and commercial customers. It is therefore crucial that the consumer's voice is represented in such an important forum.

There is also a possibility that by ensuring consumer representation at the panel Ofgem will pay greater respect to the UNC Modification panel recommendation. This should help to ensure that Proposals with the full support of the industry and consumers are implemented, whilst those that are unanimously opposed are rejected.

#### The Modification Proposal

This Proposal seeks to change the status of Consumer Representative(s) on the UNC Modification Panel from non-voting to voting member(s).

**b) Justification for Urgency and recommendation on the procedure and timetable to be followed (if applicable)**

Not applicable.

**c) Recommendation on whether this Proposal should proceed to the review procedures, the Development Phase, the Consultation Phase or be referred to a Workstream for discussion.**

The intent of this Proposal is clear and the suggested legal text demonstrates that it can be readily incorporated within the UNC Modification Rules. Development is therefore unnecessary, and it is recommended that the Proposal should proceed directly to the Consultation Phase.

## **2 User Pays**

**a) Classification of the Proposal as User Pays or not and justification for classification**

This Proposal has no systems implications and does not fall within the User Pays framework.

**b) Identification of Users, proposed split of the recovery between Gas Transporters and Users for User Pays costs and justification**

Not applicable.

**c) Proposed charge(s) for application of Users Pays charges to Shippers**

Not applicable.

- d) **Proposed charge for inclusion in ACS – to be completed upon receipt of cost estimate from xoserve**

None.

**3 Extent to which implementation of this Modification Proposal would better facilitate the achievement (for the purposes of each Transporter’s Licence) of the Relevant Objectives**

We consider that applicable objective C – the efficient discharge of the licensees (transporters) obligations will be better facilitated. This is because condition A11.2 of the Gas Transporter Licence states:

*"In relation to a proposed modification of the network code modification procedures, a reference to the relevant objectives is a reference to the requirements in paragraphs 9 and 12 of this condition (to the extent that those requirements do not conflict with the objectives set out in paragraph 1)."*

Paragraphs 9 includes:

*"9. The network code modification procedures shall provide for:*

....

*(f) the consideration of any representations relating to such a proposal made (and not withdrawn) by the licensee, any other relevant gas transporter, any relevant shipper, or any gas shipper or other person likely to be materially affected were the proposal to be implemented".*

The Modification Rules provide that Membership of the Modification Panel includes up to two Consumers’ Representatives, being non- voting Members. By changing this to voting Members, implementation of this Proposal would mean that consumer representative votes would be clearly recorded and visible to the Authority in Modification Reports and Modification Panel minutes. This would be expected to facilitate consideration of representations “by persons likely to be materially affected were the proposal to be implemented” and, consequently, implementation would be expected to facilitate achievement of paragraph 9.

No conflict with other relevant objectives has been identified.

**4 The implications of implementing this Modification Proposal on security of supply, operation of the Total System and industry fragmentation**

None.

**5 The implications for Transporters and each Transporter of implementing this Modification Proposal, including:**

- a) **The implications for operation of the System:**

None.

**b) The development and capital cost and operating cost implications:**

None.

**c) Whether it is appropriate to recover all or any of the costs and, if so, a proposal for the most appropriate way for these costs to be recovered:**

Not applicable.

**d) The consequence (if any) on the level of contractual risk of each Transporter under the Uniform Network Code of the Individual Network Codes proposed to be modified by this Modification Proposal**

The Consumer Representative vote could alter the outcome of a Panel vote. This may increase the Transporter's risk that the Panel will vote in favour of an issue despite having no Transporter support. Also the change in voting rights may mean that Transporters are unable to lodge a Competition Commission appeal against an Ofgem direction (not) to implement a Modification Proposal since Appeals are only permitted when an Ofgem direction does not accord with a Panel recommendation.

**6 The extent to which the implementation is required to enable each Transporter to facilitate compliance with a safety notice from the Health and Safety Executive pursuant to Standard Condition A11 (14) (Transporters Only)**

Not applicable.

**7 The development implications and other implications for the UK Link System of the Transporter, related computer systems of each Transporter and related computer systems of Users**

None.

**8 The implications for Users of implementing the Modification Proposal, including:**

**a) The administrative and operational implications (including impact upon manual processes and procedures)**

None.

**b) The development and capital cost and operating cost implications**

None.

**c) The consequence (if any) on the level of contractual risk of Users under the Uniform Network Code of the Individual Network Codes proposed to be modified by this Modification Proposal**

The Consumer Representative vote could alter the outcome of a Panel vote. This may increase User risk that the Panel will vote in favour of an issue

despite having no User support. Also the change in voting rights may mean that Users are unable to lodge a Competition Commission appeal against an Ofgem direction (not) to implement a Modification Proposal since Appeals are only permitted when an Ofgem direction does not accord with a Panel recommendation.

**9 The implications of the implementation for other relevant persons (including, but without limitation, Users, Connected System Operators, Consumers, Terminal Operators, Storage Operators, Suppliers and producers and, to the extent not so otherwise addressed, any Non-Code Party)**

Implementation would increase visibility of consumer views with respect to Modification proposals and ensure these can be formally recorded in modification Reports and Modification Panel minutes.

**10 Consequences on the legislative and regulatory obligations and contractual relationships of the Transporters**

None.

**11 Analysis of any advantages or disadvantages of implementation of the Modification Proposal not otherwise identified in paragraphs 2 to 10 above**

**Advantages**

- Increases visibility of consumer interests in modification process
- Gives consumers a greater say in Modification Panel business
- Brings UNC into line with best practice in other industry codes
- Consistent with Ofgem's Industry Codes Governance Review

**Disadvantages**

None identified.

**12 Summary of representations received as a result of consultation by the Proposer (to the extent that the import of those representations are not reflected elsewhere in this Proposal)**

None.

**13 Detail of all other representations received and considered by the Proposer**

None.

**14 Any other matter the Proposer considers needs to be addressed**

None.

**15 Recommendations on the time scale for the implementation of the whole or any part of this Modification Proposal**

It is recommended that this Proposal is implemented immediately following direction by the Authority.

**16 Comments on Suggested Text**

None.

**17 Suggested Text**

*Amend the definition of Voting Member in Modification Rules 2.1, Defined Terms, to read*

**"Voting Member"**: any **Consumers' Representative**, Transporters' Representative (other than the Panel Chairman and deputy chairman) and any Users' Representative; and

*Delete "non-" from paragraph 3.2.1 (f) of the Modification Rules, in order to read:*

*"(f) if appointed, up to two (2) Consumers' Representative(s), being voting Members;"*

**Code Concerned, sections and paragraphs**

Uniform Network Code

Modification Rules

**Section(s)** 2.1, 3.2.1

**Proposer's Representative**

*Stefan Leedham (EDF Energy)*

**Proposer**

*EDF Energy*