

Uniform Network Code Modification Panel

Minutes of the 92nd Meeting

Held on Thursday 18 March 2010

Members Present:

Transporter Representatives: R Hewitt (National Grid NTS), C Warner (National Grid Distribution), S Trivella for (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)

Ofgem Representative: J Boothe, J Dixon

Consumer Representative: A Hall (Consumer Focus)

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

92.1 Note of any alternates attending meeting

S Trivella for A Gibson (Scotia Gas Networks)

92.2 Record of Invitees to the meeting

R Hall (Consumer Focus)

92.3 Record of apologies for absence

A Gibson

92.4 Receive report on status of Urgent Modification Proposals

None

92.5 Consider New, Non-Urgent Modification Proposals

a) Modification Proposal 0283 - Removal of Bottom Stop SOQ

Following a presentation by C Warner and 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 20 May 2010 Panel meeting.

Seeking to clarify the impact of the Proposal, J Boothe raised a number of questions. C Warner explained that the BSSOQ was a redundant requirement following changes to the commodity/capacity split and implementation of interruption reform. J Boothe questioned the suggestion that would no longer be interruptible sites since they could exist following an auction process. C Warner indicated that these would nonetheless be firm sites.

R Hewitt suggested the Proposal should be amended to reflect that it does not apply to NTS supply points. C Warner agreed this amendment could add clarity.

T Davis suggested Business Rule 2 contained an error and should be corrected by adding "Stop".

C Wright questioned why the Proposal had not been classified as User Pays. Previous Panel debates had suggested that the Proposal may have

costs allocated 100% to the Transporters but should still be classed as User Pays. C Warner explained that he had followed the definitions in the UNC, and the Proposal was not User Pays on that basis. However, he agreed to consider if the costs of implementation could be published.

J Boothe asked if, in developing the Proposal, the following questions could be addressed:

1. What user commitments are required should this Proposal be implemented. (C Warner explained that Shippers would still be expected to book their required SOQ.)
2. Why remove the BSSOQ and replace it with a different incentive. (C Warner clarified that sustainable rules are in place to ensure the systems and processes work and prevent inappropriate capacity booking, and ratchets to protect against capacity breaches will remain.)
3. How does the Proposal link to the relevant objectives? (C Warner considered the relevant objectives were met by the removal of obligations which were no longer required and, as such, implementation removed administrative burdens from Shippers.)
4. Why implement this proposal now when its not required until 2012. (C Warner advised that systems need to be amended and this would be facilitated and planned for a suitable implementation date.)

b) Modification Proposal 0284 - Removal of the Zero Auction Reserve Price for Within-day Daily NTS Entry Capacity (WDDSEC)

Following a presentation by R Hewitt and a discussion, the Panel voted UNANIMOUSLY for this Proposal to proceed to Consultation. The eight 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 five votes cast in favour: P Broom, J Ferguson, S Leedham and S Trivella (also proxy vote for A Gibson).

During the presentation, Jean Raymond Rastoul (Gaselys) asked for clarification of how auction prices might be affected by implementation and how it would affect investment signals. R Hewitt explained the Proposal was part of a package of measures seeking to encourage longer term capacity bookings and to rebalance revenue collection away from the TO commodity charge.

R Hall asked what the impact would be if Proposal 0284 was implemented but 0285 was not. R Hewitt explained there would still be a requirement for a clearing auction, possibly within day. S Rouse pointed out that additional information is available in the Entry Capacity Review Group minutes on National Grid's website, and in the associated consultation document proposing change to the NTS charging methodology.

P Broom raised a concern that the Proposal appears to be driving behaviours which are contrary to security of supply. Jean Raymond Rastoul asked why the reserve price had been set at zero. T Davis advised this was to meet the licence requirement for there to be a clearing

allocation.

T Davis asked if the effective date would be 2 October given the proposed implementation date of 1 October. R Hewitt agreed that this would need to be clear in the legal drafting.

c) Modification Proposal 0285 - Use it or lose it”(UIOLI) Interruptible Capacity only to be released when firm entry capacity is at least 90% sold out

Following a presentation by R Hewitt and a discussion, the Panel voted UNANIMOUSLY for this Proposal to be referred to the Transmission Workstream for consideration and development. The Workstream was requested to report by the 20 May 2010 Panel meeting.

During the presentation, issues were raised about precisely what was proposed and how it would operate. It was suggested that the effective and implementation dates needed to be clearly identified due to the advance nature of the impacted auctions.

R Hewitt asked if there would be benefit in producing legal text to clarify the Proposal. S Rouse felt there would be a benefit, particularly to understand the impacts on the availability of interruptible capacity under differing scenarios.

d) Modification Proposal 0286 – Extending Modification Panel Voting Rights to Consumer Representatives

Following a presentation by S Leedham and a discussion, the eight Panel Members present, capable of casting nine votes, determined by PANEL MAJORITY that the Proposal should proceed to consultation, with the following five votes cast in favour: P Broom, R Hewitt, S Leedham, S Rouse, C Wright. The Panel did not determine legal text was required, with no votes cast in favour, and determined UNANIMOUSLY that the consultation should close on 7 May 2010.

During the presentation, C Warner asked if it was advisable to allow Consumer Focus to have two voting members at Panel. A Hall clarified that no change is being proposed in this respect. Consumer Focus is entitled to appoint two Panel members, but this does not necessarily mean they would both be Consumer Focus staff. C Wright was concerned that Consumer Focus could appoint Panel members without defining their roles and which market sector they represent, thereby potentially creating imbalance. R Hall suggested he was open minded on any requirement which meant there would be balanced representation based on domestic/non domestic concerns.

S Trivella was concerned that the Proposal is placing risks on UNC signatories. In light of the ongoing review of UNC Governance, including Panel membership, he suggested that this Proposal should be sent for development and consideration in a wider context. C Wright was also concerned that Panel membership has not been fully explored by Review Group 0267 and felt it would be of more benefit if this happened first. Similarly S Rouse was concerned that the Proposal had been raised when the Code Governance Review is due to report within the next few weeks. However, R Hall believed the Proposal was complete and clear

and did not see any value in discussion. S Leedham confirmed it is not EDF Energy's intention to vary the Proposal and he therefore saw no benefit in further discussion of related issues.

J Dixon confirmed that Ofgem's Final Proposals regarding the Industry Codes Governance Review were likely to be published shortly. These are expected to include a requirement for consumer representation with voting rights on Panels. While this is likely to involve Consumer Focus, the Authority's final proposals may involve the Authority rather than Consumer Focus appointing consumer representatives to Panels. A Hall added that implementation of the Proposal would allow consumer voting rights to be implemented without the need for licence changes.

e) Modification Proposal 0287 –Change System Capacity Transfers Notification Time Limit from 04:00 to 03:00 hours

Following a presentation by R Hewitt and a discussion, the Panel voted UNANIMOUSLY for this Proposal to proceed to Consultation and that a further cost assessment was not required. The Panel did not determine that legal text was required, with no votes cast in favour. It was UNANIMOUSLY agreed that an additional Panel meeting should be held by teleconference on 22 April in order to consider the Final Modification Report for this Proposal.

During the presentation, C Wright said it was not clear in the Proposal if the underlying issue is NTS not being able to meet its UNC obligations. R Hewitt confirmed that system issues meant some requests could not be considered, and NTS could reject them in order not to risk being non-compliant with the UNC. P Broom asked if volumes of activity were available in order to demonstrate the materiality of the change, and R Hewitt agreed to see what could be published in support of the consultation.

C Wright was concerned that the Proposal is described as User Pays when there is no direct benefit for Shippers in removing an obligation on NTS. R Hewitt responded that the proposal is User Pays and Shippers benefit if requests are not automatically rejected.

J Dixon noted that, while a zero implementation cost is suggested, there is no guarantee the cost will be zero and implementation would commit Shippers to paying a charge over which they have no control.

S Leedham felt the background does not describe the process accurately and suggested National grid may wish to consider varying the Proposal for accuracy. C Wright suggested that the Proposal should describe the cost avoided by changing the current obligations, since no changes to systems will be required should this Proposal be implemented.

Following identification of an error in the proposed allocation of User Pays Costs to Shippers, R Hewitt sought to amend the Proposal to make it explicit that Shipper costs would be based on the share of costs allocated to Shippers rather than being based on all costs, as stated in the Proposal. This amendment was accepted and the Proposal was considered on the basis that this change had been made.

Modification Proposal 0288 – Facilitating the Reduction of Enduring Annual NTS Exit (Flat) Capacity by a value less than 100,000kWhs

Following a presentation by R Hewitt and a discussion, the eight Panel Members present, capable of casting nine votes, failed to determine that the Proposal should proceed to consultation, with the following four votes cast in favour: P Broom, R Hewitt, S Leedham and S Rouse. Therefore, the Proposal will be referred to the Transmission Workstream for consideration and development. The Workstream was requested to report by the 20 May 2010 Panel meeting.

Members debated precisely what was proposed and sought clarity regarding the expected impacts. Members also discussed whether this was or was not correctly classified as a User Pays Proposal, and whether the proposed allocation of costs was appropriate. R Hewitt clarified that systems impacts were expected, and offered to amend the Proposal to make this clear. C Wright asked if the implementation costs were guaranteed to be zero. R Hewitt was unable to provide this guarantee but explained that the ROM analysis showed that no additional costs are expected to be incurred.

Modification Proposal 0289 – To determine the amount of Annual NTS Exit (Flat) Capacity to be released where the quantity of unsold NTS Exit Capacity fluctuates within the Gas Year

Following a presentation by R Hewitt and a discussion, the Panel voted UNANIMOUSLY for this Proposal to proceed to Consultation and that a further cost assessment was not required. The Panel did not determine that legal text was required, with no votes cast in favour. It was agreed that the Final Modification Report would be considered at the additional Panel meeting due to be held by teleconference on 22 April.

R Hewitt clarified the Proposal seeks to change the UNC to remove the obligation to offer exit capacity which NTS has no obligation to release under the terms of its Licence. C Wright suggested that the Proposal is not clear in terms of what it is trying to achieve and whether systems development is trying to match the UNC or Licence obligation. R Hewitt confirmed the proposed change is to mirror Licence obligations. S Trivella was unclear what needed to change in the UNC to achieve this and would prefer it if this were described in the Proposal.

Two errors in the Proposal were identified and R Hewitt sought to amend the User Pays elements of the Proposal to reflect how costs, if any, would be shared between Shippers; and to indicate that there would be systems changes rather than “None” as stated in the Proposal. These amendments were accepted and the Proposal was considered on the basis that the changes had been made.

f) Modification Proposal 0290 – To facilitate the release of Additional NTS Exit (Flat) Capacity at National Grid NTS’s discretion

Following a presentation by R Hewitt and a discussion, the Panel voted UNANIMOUSLY for this Proposal to be referred to the Transmission Workstream for consideration and development. The Workstream was requested to report by the September 2010 Panel meeting.

C Wright was concerned about the potential volumes of released capacity and how it is proposed to manage revenues. S Trivella asked what type of

capacity would be released – whether it would be annual or within day. R Hewitt replied it was a right to capacity on a particular day, though it is to be managed through discretion only in the annual capacity window.

S Trivella asked how the capacity is identified against other incremental capacity, and the Panel requested the Transmission Workstream to clarify the revenue implications and National Grid's ability to release capacity in a particular window.

92.6 Consider Terms of Reference.

a) Development Group 0277 - Creation of Incentives for the Detection of Theft of Gas (Supplier Energy Theft Scheme)

The Panel UNANIMOUSLY agreed to defer consideration of the Terms of Reference.

R Hall suggested the Terms of Reference should be explicit that the value of gain from the incentive should not exceed the value of theft identified as otherwise implementation could increase costs for all customers without providing commensurate benefits. However, it was also recognised that deterrence has a value. It was agreed that the Development Group should be asked to consider this.

b) Modification Proposal 0282 - Introduction of a process to manage Long Term Vacant sites

The Panel UNANIMOUSLY agreed to defer consideration of the Terms of Reference.

On behalf of Scotia Gas Networks, S Trivella requested that the Distribution Workstream be invited to reconsider safety related issues in addition to those currently described in the Terms of Reference. It was agreed that this should not be allowed to delay development of the Proposal.

92.7 Existing Modification Proposals for Reconsideration

J Dixon confirmed that Ofgem has requested legal text for Proposal 0229 and that a decision on this and Proposals 0194, 0194A, 0228, 0228A and 0229 was due in Spring 2010. R Hall suggested the Panel might usefully write to Ofgem seeking confirmation of a likely decision date. The Panel then voted UNANIMOUSLY to write to the Authority seeking confirmation of a likely decision date for each of the following Proposals:

- a) Proposal 0194 - Framework for correct apportionment of NDM error**
- b) Proposal 0194A - Framework for correct apportionment of LSP unidentified gas**
- c) Proposal 0228 - Correct Apportionment of NDM Error – Energy**
- d) Proposal 0228A - Correct Apportionment of NDM Error – Energy**
- e) Proposal 0229 - Mechanism for correct apportionment of unidentified gas**

On behalf of the Authority, J Dixon requested preparation of legal text for Proposal 0246B.

C Wright suggested the Panel should write to Ofgem seeking confirmation of likely decision dates for Proposals 0246/A/B. J Boothe indicated that a decision was expected during Spring 2010. The Panel then voted UNANIMOUSLY to write to Ofgem seeking a likely decision date for each of the following Proposals:

- f) **Proposal 0246 - Quarterly NTS Entry Capacity User Commitment**
- g) **Proposal 0246A - Quarterly NTS Entry Capacity User Commitment**
- h) **Proposal 0246B - Quarterly NTS Entry Capacity User Commitment**

92.8 Consider Variation Requests

None

92.9 Consider Workstream Monthly Reports

Extensions Requested

- a) **Modification Proposal 0281 - Prevention of "Timing Out" of Authority decisions on Modification Proposals**

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

- b) **Modification Proposal 0248 - Meter Reading Replacement**

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

- c) **Modification Proposal 0273 - Governance of Feasibility Study Requests to Support Changes to Network Exit Agreement**

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

Workstream Reports for Consideration

Modification Proposal 0279 - Improving the availability of meter read history and asset information

Panel Members accepted the Workstream Report. The Panel then voted UNANIMOUSLY for the Proposal to proceed to Consultation with close out on 16 April 2010, and that a further cost assessment was not required. The Panel did not determine that legal text was required, with no votes cast in favour.

C Wright asked how shared Meter Points would be managed for sharing out User Pays charges. S Trivella agreed that this should be made explicit through the legal drafting process, but indicated that there would be no material impact since charges would be derived by dividing costs by the total number of supply points.

In response to a question about the status of the Proposal, P Broom sought to amend the introduction to the Proposal such that it no longer states that the Proposal should be sent to the Distribution Workstream for Development. This amendment was accepted and the Proposal was considered on the basis that this change had been made.

Review Group Reports For Consideration

Proposal 0252 - Review of Network Operator Credit Arrangements

The Panel accepted this Report and noted the recommendations made by the Review Group.

S Trivella thanked participants of the Review Group and, in particular Paul Darby of Ofgem, for their contributions and efforts.

92.10 Consider Final Modification Reports

None

92.11 Receive report on status of Consents

Consent C037 - Revision to the legal text associated with the implementation of UNC Modification 0261: Annual NTS Exit (Flat) Capacity Credit Arrangements.

T Davis clarified that this request to modify the UNC had been sent to Ofgem for consideration but was being brought to the Panel to provide an opportunity for parties to indicate if they felt the consent route – which involves no consultation – is appropriate for the envisaged change.

Members accepted that the intention was to clarify the text, but there were concerns that the proposed text was no clearer than the present wording and could be reinterpreted as materially changing the intent. S Leedham asked for clarification that if a Party has insufficient credit for the next 12 months, it could be terminated. J Dixon interpreted the text as meaning parties can only be terminated if they had insufficient credit to cover outstanding invoices and booked capacity and failed to put in place sufficient guarantees of credit to cover these items.

Given concerns about interpretation and the effect of the changed text, the consensus of Panel members was that Ofgem should not accept the consent.

92.12 Any Other Business

None raised.

92.13 Conclude Meeting and Agree Date of Next Meeting

The Panel noted that the next meeting was planned for 10.00 on 15 April 2010.