

CODE MODIFICATION PROPOSAL No xxxx
Code Governance Review – The approach to be taken when raising alternative
Modification Proposals.
Version x.x

Date: 07/07/2010

Proposed Implementation Date:

Urgency: Non Urgent

1 The Modification Proposal

a) Nature and Purpose of this Proposal

Where capitalised words and phrases are used within this Modification Proposal, those words and phrases shall usually have the meaning given within the Uniform Network Code (unless they are otherwise defined in this Modification Proposal). Key UNC defined terms used in this Modification Proposal are highlighted by an asterisk (*) when first used.

This Modification Proposal*, as with all Modification Proposals, should be read in conjunction with the prevailing Uniform Network Code* (UNC).

Background

In November 2007, Ofgem announced the Industry Codes Governance Review, which concluded at the end of March 2010 when Ofgem published their Final Proposals for the Code Governance Review (CGR). The Final Proposals covered the following work strands:

- Significant Code Review and Self Governance proposals;
- Proposals on the governance of network charging methodologies;
- Proposed approach to environmental assessment within the code objectives ;
- Proposals on the role of code administrators and small participant and consumer initiatives; and
- The Code Administration Code of Practice (subset of the above code administrators proposals).

The licence modifications necessary to implement the Final Proposals for the Code Governance Review and the Code Administration Code of Practice were published on 3 June 2010 and become effective on the 31 December 2010.

This Modification Proposal aims to implement the Code Governance Review Final Proposals with regards to an aspect of the Code Administration Code of Practice (CoP) – “the approach to be taken when raising alternatives to Amendment Proposals.”

Principle 7 of the Code Administrator CoP states that:

Any process for considering a suggested Modification to a code will allow for alternative solutions to be developed and fully assessed during the Modification lifecycle. To ensure this happens;

- other than the proposer of the Modification, any user who has a right to raise a Modification will be allowed to propose an alternative solutions;*
- Alternative proposals shall be raised prior to or during the workgroup stage;*
- Subject to timing and ownership there shall be no restriction on the number of alternative proposals that can be raised. Each alternative solution will be assessed with the same rigour as the proposed solution.*

This proposal is raised to amend the UNC to comply with Principal 7 of CoP. On implementation of the proposal the Joint Office will be able to facilitate alternative solutions being developed to the same degree as an original solution. In addition, implementation will ensure alternative proposals can only be raised prior to or during the working group stage.

Nature of the Proposal

The current UNC process for raising alternatives is not consistent with the aforementioned CoP principle. Currently the process for raising alternative UNC modification proposals is described in 6.4 of the Modification Rules; broadly this requires an alternative to be raised within five business days of a proposal proceeding to either development or consultation. The alternative proceeds to the same timescales as the initial proposal.

In comparison, alternative proposals raised under the electricity ‘Connection and Use of System Code’ (CUSC) are consistent with the CoP principles. The CUSC process was amended by CAP160 ‘Improvements to the assessment of Amendments’ which was implemented on 15 August 2008. This allows greater development of alternatives during a working group, and allows no alternatives to be raised once it has reached consultation. It is proposed that the UNC adopt a similar approach to the CUSC. It should be noted that CAP160 itself was brought in to create a governance process similar to the BSC process. Therefore aligning the UNC to the approach to developing alternatives in electricity creates consistent code governance within the main industry codes. Further details of CAP160 can be found at http://www.nationalgrid.com/uk/Electricity/Codes/systemcode/amendments/amendment_archive/

The recently published Ofgem document The Code Administration Code of Practice, Schedule 7 states that ‘Code Administrators will facilitate alternative solutions to issues being developed to the same degree as an original solution’. The following amendment is proposed to bring the UNC into line with this.

It is proposed that once a new Modification Proposal has been published by the Joint Office (JO), Users have until no later than noon, the day before the Panel Meeting (D-1) to notify the JO that they wish to raise an alternative. Where possible the proposer should submit a fully detailed Modification Proposal. If the proposer of the alternative does not feel they have sufficient time to adequately develop the alternative they should as a bare minimum, notify the JO of the nature of the alternative proposal, should the Panel agree for this to proceed to Workgroup then a detailed Modification Proposal should be supplied no later than D-5 of the first Workgroup meeting. In either case the proposer shall include an explanation as to why the alternative proposal would better facilitate the Relevant Objectives more than the original proposal. The alternative (or proposal outline) would then be issued to the Panel by the JO for consideration at the same time as the original Modification Proposal.

The original Modification Proposal and alternative(s) would then proceed to Panel where the JO would bring to the Panels attention that an alternative(s) had been received.

As at this point the Panel is able to discuss the Modification Proposals in accordance with section 7.2 and may decide to issue all the Modification Proposals for development or consultation. Both the original and alternative would have to follow the same process and could not be progressed separately, such that anybody wishing to delay a Proposal could raise an ill prepared last minute alternative such that both have to go for development. At this stage the proposer does not seek to implement any controls to attempt to mitigate this potential issue and anticipates that the Panel will continue to evaluate Modification Proposals with the same rigour as currently employed and help prevent irrelevant alternatives being proposed as a delaying tactic to the original proposal.

If the Proposals proceed to consultation, no further alternatives can be raised and the original and alternative(s) would proceed to the same timescales.

If the Proposals proceed to development, the relevant Workgroup or Workstream can develop the alternative(s) as necessary and/or develop a new alternative if required. Although not part of this proposal, it is worth noting that the original Modification Proposal and any alternative(s) will be developed in accordance with Principle 6 of the CoP “A proposer of a Modification will retain ownership of the detail of their solution”. Key elements of this principle are as follows:

- Only a proposer can amend their Modification Proposal
- Workgroups will assist the proposer in designing and assessing their solution advising on any issues but not changing the solution unless the proposer agrees.
- Any User, who has the right to raise a Modification, has the right to adopt a modification that has been withdrawn by the original

proposer

With the above in mind the Proposer anticipates that the proposers of the original Proposal and any alternative Proposal(s) will attend the Working Group, or send a representative. In the case of small participants the Joint Office as a Code Administrator may offer to represent the proposer if it is not able to do so itself.

Once the original proposal and the alternative(s) are suitably developed by the Workgroup they may decide a pre-consultation is required to ascertain whether industry participants believe the proposals are clear and concise and whether there are any further alternatives that should be considered by the Working Group, or future questions or analysis surrounding the proposals that need to be addressed. If so the Modification Proposals will be submitted to the Panel with the recommendation that the proposals be issued for consultation and include details of the suggested consultation period (if different to the standard 15 Business Days provision). The Panel can either agree to send the Modification Proposals for pre-consultation or ask the Working Group to finalise the Working Group report. A pre-consultation will be conducted in the same way as a standard consultation.

If applicable, the Workgroup will consider any responses to the pre-consultation in the development of further alternatives and the Working Group report.

The Workgroup members who have attended a minimum of 50% of the meetings shall be eligible to vote on whether or not each of the proposals and alternatives better facilitate the relevant objectives, and which in their opinion is the BEST. The eligibility based on minimum attendance is in line with the CUSC and to ensure those that are voting have been party to the analysis and development. Any voting undertaken would be as a guide and recommendation to the Panel only, if there is no clear preferred option by the workgroup then this should be included in the report. The results of any votes must be included in the report to the Panel.

The Panel will then decide as now on the next steps, this can include but is not limited to; returning the Proposals to the Workgroup for further work or issuing to Consultation. If the Panel accept the report and the Modification Proposals are directed to proceed to consultation it will do so in the normal manner.

Once the Modification Panel directs that a proposal and/or alternative proceed to consultation there will be no option to raise any further alternatives. Appendix 1 is a flowchart of the proposed process.

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 proposer believes that this Modification Proposal is sufficiently clear to proceed directly to consultation

2 User Pays

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

This Modification Proposal does not affect xoserve systems or procedures and therefore it is not affected by User Pays governance arrangements.

- 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**

Not applicable.

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

This Modification Proposal is made pursuant to Standard Special Condition A11 of National Grid NTS's Licence that becomes effective 31 December 2010;

10b "where a modification proposal has been made under paragraphs 10(a), 10(aa) or 10(ab) of this condition (an "original proposal") alternative modification proposals may be made, in respect of any such original proposal, by any of the parties listed in paragraph 10(a) 10(aa) or 10(ab) of this condition with the exception of the person who made the original proposal provided that:

(i) the alternative proposal is made as described in the Code of Practice and as further specified in the uniform network code; and

(ii) unless an extension of time has been approved by the panel and not objected to by the Authority after receiving notice, any workgroup stage shall last for a maximum period (as specified in the uniform networkcode) from the date on which the original modification was proposed.

The proposer believes that this Modification Proposal benefits paragraph 10b (i) as it will provide greater clarification as to how alternative proposals shall be raised and treated (in particular during the workgroup stage).ensuring each alternative solution will be assessed with the same rigour as the proposed solution.

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

In terms of industry fragmentation, this proposal better aligns the UNC alternative Modification Proposal process to that utilised in the CUSC and BSC.

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

a) The implications for operation of the System:

Not applicable.

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

Additional JO Costs?

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

Greater level of certainty that an alternative has been subject to appropriate scrutiny / development prior to being issued to consultation.

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

Not applicable.

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

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

UNC parties would need to note the new timescales and procedures for raising alternative proposals and amend their administration processes accordingly.

b) The development and capital cost and operating cost implications

Not applicable.

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

Not applicable.

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)

All UNC parties would need to note the new procedures for raising alternative proposals and amend their administration process accordingly. By raising an alternative the UNC party is committing to sending a representative to the Working Group.

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

Implementation of the proposal would allow the new licence obligation effective on 31 December 2010 to be met.

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

Advantages

The proposal would allow the new licence obligation effective on 31 December 2010 to be met.

It allows both alternatives and original proposals to have the same development and analysis if that is the route chosen by the Panel.

Disadvantages

The amendment process may become extended to allow for better development of alternatives.

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)

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

14 Any other matter the Proposer considers needs to be addressed

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

16 Comments on Suggested Text

17 Suggested Text

To be added

6.2 Form of Modification Report to be amended to include work carried out by Working Group, and vote where applicable

6.4 Alternative Modification [Provisions to be rewritten to be consistent with this proposal. Please see suggested changes to section 6.4 of the Mod Rules as identified by Tim Davis (7/5/10)].

Code Concerned, sections and paragraphs

To be added

Uniform Network Code

Transportation Principal Document

Section(s)

Proposer's Representative

Beverley Viney, National Grid NTS

Proposer

National Grid NTS

Appendix 1

