

## Stage 02: Workstream Report

What stage is  
this document

# UNC 0281: Prevention of “Timing Out” of Authority Decisions on Modification Proposals



Clarifies the way in which implementation dates of UNC Modification Proposals are determined whilst avoiding the possibility that Modification Proposals may “Time Out”



The Governance Workstream recommends  
This Proposal is sent to Consultation



Medium Impact:  
UNC Panel, the Authority, Workstreams and Joint Office



Low Impact:  
All participants affected by Modification Proposal Implementation Dates

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## About this document:

The purpose of this report is make a recommendation to the Panel, to be held on 19 August 2010, on whether Modification Proposal 0281 is sufficiently developed to proceed to the Consultation Phase and to submit any further recommendations in respect of the definition and development of this Modification.



### Any questions?

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## 1 Summary

### Why Change?

To support for the recommendations within the recent Code Governance Review Final Proposals and principles of the Code Administration Code of Practice regarding implementation dates and the issue of Timing Out of proposals.

### Solution

it is proposed that a structure of 'fixed' and 'flexible' dates be applied to Modification Proposals where the proposer wishes to include a view of possible implementation timescales.

### Impacts and Costs

- When fixed implementation dates are specified in Modification Proposals and Reports, these would need to be supplemented by a flexible implementation date.
- Modifications will not be able to time out
- Implementation and ongoing costs would be minor.

### Implementation

Implementation on the day following a Panel Meeting is proposed.

### The Case for Change

This change to the Uniform Network Code Modification Procedures would add clarity in respect of implementation dates and their justification. It is consistent with suggested Licence changes which Ofgem has consulted on with a view to addressing timing out.

### Recommendations

The Governance Workstream concluded that the Proposal is sufficiently clear to proceed to consultation.

## 2 Why Change?

### Drawing Attention to Time Related Events

Currently, if a User raises a Modification Proposal that includes a 'suggested implementation date' this date is treated as an aspiration and generally remains unchanged throughout the development of the Modification Proposal. This can result in a proposed implementation date becoming less pertinent by the time the Authority decision has been received. Further, the current process can also result in the actual implementation date being a different date to that suggested in the proposal.

If the benefits of a proposal will be affected by the date of an Authority decision or by the date of implementation, but such effects are not accurately captured and defined within the proposal then the Authority will be unaware that the timing of a decision may have a bearing on the level of benefits provided to the industry. If the current process could be amended to accommodate some flexibility for Users to propose a range of implementation dates and sufficient accompanying justification for these dates then this may improve the visibility of any time dependent benefits or constraints of a Modification Proposal to all UNC parties.



#### Gas Transporter Licence References

Where are the network code modification procedures referenced?

In paragraph 9 of Standard Special Condition A11.2 of the Gas Transporter Licences. (An identical condition applies to the NTS and all the DN licences)

#### Uniform Network Code Modification Rules

Where are the Uniform Network Code Modification Rules?

On the Joint Office of Gas Transporters website at:

[www.gasgovernance.co.uk/general](http://www.gasgovernance.co.uk/general)

Whilst this Modification Proposal will, if implemented, benefit all Modification Proposals, the proposer believes that User Pays proposals will be specifically benefited by the format for proposers of User Pays proposals to clearly explain the costs and benefits of a range of implementation options.

## Alignment of Industry Codes

Suggested implementation dates within the electricity codes are treated somewhat differently to the UNC. Within the Balancing and Settlement Code (BSC) and Connections and Use of System Code (CUSC), once a proposal is submitted to the respective panel for consideration, responsibility for the proposal, including assessing one or more relevant implementation dates, passes from the proposer to the panel. Within their recommendation to the Authority the panel will set a minimum of one pair of dates consisting of a 'decide by date' for an Authority decision and an associated 'implementation date'.

Adopting a date structure similar to that of the BSC and CUSC may provide a means of clearly setting out implementation options. However, adoption of the current electricity codes format alone is not recommended due to the risk of Timing Out i.e. where an Authority decision to approve a modification proposal is not provided by the last 'decide by date'. Whilst "Timing Out" has not occurred for a UNC Modification Proposal, it has occurred within the electricity industry, most notably in 2007 when the Authority was unable to provide a decision on a small number of BSC modification proposals before the final date allotted for such a decision in the final modification report. A subsequent judicial review ruled that when the Authority did not make its decision by the latest date included in the final modification reports, it lost the ability to make any decision on those proposals.

To address the Timing Out issue it is proposed that the aforementioned implementation date format be complimented with the use of a flexible or backstop alternative date. Similar Modification Proposals have also been raised within each of the electricity codes to attempt to solve this issue, and it is therefore anticipated that, if this proposal is implemented, the format for considering implementation and decide by dates will be consistent across the main industry codes.

## Supporting the Recommendations of Recent Governance Reviews

Chapter 6 of the Ofgem Governance Review Final Proposals focuses on the Timing Out issue explained earlier within this proposal and proposes that all industry codes be aligned to ensure that Timing Out does not reoccur. Within Chapter 6 of the Final Proposals Ofgem also comment that, while they reserve the right to consider a Licence change to manage Timing Out, industry participants will be left to pursue code modifications to deal with the Timing Out issue.

In addition to the above, Principle 11 of the Code Administration Code of Practice suggests a number of fundamental characteristics that implementation dates should include across all industry codes. In summary these characteristics are that implementation should be as timely as possible to capture the maximum benefits, for implementation approaches to form part of the Consultation Phase of a Modification, and finally that any options for implementation will be provided wherever possible.

Moreover, the proposer believes that in the future most proposals will involve a workgroup assessment which should offer the opportunity to provide further analysis and scrutiny of suggested timescales inline with the above characteristics. Having a format to accurately capture and define implementation dates within the proposal should aid any such assessment performed by a workgroup.

In consideration of the above, the proposer believes that this Modification Proposal reflects the recommendations of the above reviews.



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## **BSC Modification Proposal P250 – Prevention of ‘Timing Out’ of Authority decisions on Modification Proposals**

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Details can be found on the Elexon website at the following location:

[www.elexon.co.uk/changeimplementation/ModificationonProcess/modificationdocumentation/default.aspx](http://www.elexon.co.uk/changeimplementation/ModificationonProcess/modificationdocumentation/default.aspx)

### **3 Solution**

To address the concerns raised in the previous section, it is proposed that the UNC Modification Rules be amended to add the requirement that where a proposer wishes to include a view on implementation timescales (in accordance with 6.2.1 (j)) then the proposer shall include the following;

- At least two ‘fixed’ proposed implementation dates and associated Authority decision by dates
- A proposed backstop implementation lead time period i.e. 5 Months following the publishing of an Authority decision
- Justification for the above dates and lead time period, and
- A ‘Blank’ date if an implementation date is not critical and / or not practical to provide

Further details of these points can be found below

#### **Proposed Fixed Implementation Date**

This Modification Proposal proposes to introduce a similar date structure as used within the proposals of both the CUSC and BSC. It is therefore proposed that a proposer will provide a minimum of two suggested implementation dates, and the associated Authority decision by dates. An example of how such information could be provided is as follows;

- Implementation date of AA, based on an Authority decision published on or before date BB; or
- Implementation date of CC, based on an Authority decision published after date BB, but on or before date DD

If an Authority decision is not published by the first decision date (BB), then the Authority is provided with a further period of time to make its decision.

In suggesting the decision dates (BB & DD) it is recommended that Users should use a sensible degree of judgement, taking into consideration factors such as the Authority’s prevailing key performance indicators and the Modification Proposal timescales as documented within the UNC Modification Rules.

#### **Proposed Backstop Implementation Lead Time**

As described above if a User has chosen to include a proposed ‘fixed’ implementation date it is proposed that they must also include a proposed backstop implementation lead time. This proposed backstop implementation lead time will provide the time period necessary between an Authority decision date and implementation for occasions when the Authority decision is published outside of the dates explained within the above section. An example of how a proposed backstop implementation date could be provided is as follows;

- X Business Days after an Authority decision; or
- X Calendar Months after an Authority decision

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## Justification for Proposed Implementation Dates and Lead Times

It is proposed that whenever suggested dates or lead times are included within a Modification Proposal, in line with the proposed formats above, the proposer shall also set out the reasons (based on the relevant objectives) for proposing such date or lead time.

### No Suggested Implementation Date

In keeping with Section 6.2.1 (j) of the UNC Modification Rules, Users who raise a Modification Proposal will continue to have the ability not to provide their views of possible implementation timescales if there are circumstances where it is not critical or practical to do so.

If a suggested implementation date is left blank and, if the Authority decision is to accept the Modification Proposal, then the relevant Gas Transporters will assess the most efficient implementation timescales.

### Example (Note the following is for illustration only)

To illustrate the above proposal using an example; a User submits a Modification Proposal and, after consultation with the Transporters, obtains a Rough Order of Magnitude (ROM) for the proposed change. As part of this ROM it is suggested that implementation of the Modification may be most efficiently implemented during one of the three UK Link\* release dates so long as a lead time of at least 1 month is allowed for. Alternatively if implementation during a UK Link release is not possible (i.e. the timing of the Authority decision does not provide the necessary lead time to implement within a UK Link release) then implementation can take place approximately 6 calendar months after the Authority decision is published. As a result, the suggested implementation dates and lead time may look similar to the following;

1. Decide by Date of 26/01/2010 for proposed fixed implementation of 26/02/2010
2. Decide by Date of 25/05/2010 for proposed fixed implementation of 25/06/2010
3. Decide by Date of 5/10/2010 for proposed fixed implementation of 5/11/2010

And, if the Authority decision is published after the above dates then the following proposed implementation lead time would apply;

4. The proposed implementation lead time is six (6) calendar months after an Authority Decision being published

In addition the proposer will also be expected to provide justification for the proposed dates and lead time.

In making their determination under 7.2.3 of the Modification Rules the UNC Panel should consider whether the proposed fixed implementation date and backstop lead time are feasible and the proposal can move to the Consultation Phase.

It is important to note that as per the current process, this proposal will not bind any party to perform any action, including an Authority decision, in preparation or response to a proposed implementation date or associated timescales.

For the avoidance of doubt, this Modification Proposal applies to all Modification Proposals.



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Insert text here

## 4 Relevant Objectives

0281 will better facilitate the achievement of **Relevant Objectives c and f.**

Proposer's view of the benefits of XXXX against the Code Relevant Objectives	
Description of Relevant Objective	Identified impact
a) Efficient and economic operation of the pipe-line system.	None
b) Coordinated, efficient and economic operation of (i) the combined pipe-line system, and/ or (ii) the pipe-line system of one or more other relevant gas transporters.	None
c) Efficient discharge of the licensee's obligations.	See explanation below
d) Securing of effective competition: (i) between relevant shippers; (ii) between relevant suppliers; and/or (iii) between DN operators (who have entered into transportation arrangements with other relevant gas transporters) and relevant shippers.	
e) Provision of reasonable economic incentives for relevant suppliers to secure that the domestic customer supply security standards... are satisfied as respects the availability of gas to their domestic customers.	
f) Promotion of efficiency in the implementation and administration of the Code	See explanation below

### The Applicable Section of the Transporter Licences

Standard Special Condition A11.2 of National Grid NTS' 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)."*

To assist in the understanding of this section, paragraph 9 of Standard Special Condition A11.2 of National Grid NTS' Licence is provided below. Underneath this extract is an explanation of how the proposer believes that this Modification Proposal benefits this paragraph.

### Paragraph 9 of Standard Special Condition A11.2

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

*(a) a mechanism by which any of*

*(i) the uniform network code; and*

*(ii) each of the network codes prepared by or on behalf of each relevant gas transporter, may be modified;*

*(b) (i) the making of proposals for the modification of the uniform network code in accordance with paragraph 10 (a) of this condition; and/or*

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- (ii) the making of proposals for the modification of a network code prepared by or on behalf of a relevant gas transporter in accordance with paragraph 11(a) of this condition;
- (c) the making of alternative modification proposals in accordance with paragraphs 10(b) and 11(b) of this condition, except in a case where the Authority otherwise directs in writing;
- (d) the giving of adequate publicity to any such proposal including, in particular, drawing it to the attention of all relevant gas transporters and all relevant shippers and sending a copy of the proposal to any person who asks for one;
- (e) the seeking of the views of the Authority on any matter connected with any such proposal;
- (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; and
- (g) where the Authority accepts that the uniform network code or a network code prepared by or on behalf of a relevant gas transporter may require modification as a matter of urgency, the exclusion, acceleration or other variation, subject to the Authority's approval, of any particular procedural steps which would otherwise be applicable."

## How this Modification Proposal would better facilitate paragraph 9 of A11.2

National Grid NTS believe that this proposal benefits the above paragraph in so far that;

- In respect of sub-paragraphs (a), (b), (c), (d) and (e) above, this proposal improves the mechanism by which Modification Proposals, and any alternative or variation, are raised by ensuring clarity with regards to any suggested implementation dates or lead time and accompanying justification. This improved mechanism will aid both the understanding of the proposed changes and the subsequent Authority decision;
- In respect of sub-paragraph (f) above, this proposal will provide greater clarification of a suggested implementation timescale to all interested parties. As such, interested parties will be able to include in their representations views on the affect on them of any suggested implementation date.

## 5 Impacts and Costs

### Costs

Include here any proposal for the apportionment of implementation costs amongst parties.

Indicative industry costs

None

### Impacts

Impact on Transporters' Systems and Process

Transporters' System/Process	Potential impact
UK Link	<ul style="list-style-type: none"> <li>• None</li> </ul>

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Operational Processes	<ul style="list-style-type: none"> <li>• None</li> </ul>
User Pays implications	<ul style="list-style-type: none"> <li>• None</li> </ul>



**Where can I find details of the UNC Standards of Service?**

In the Revised FMR for Transco's Network Code Modification **0565 Transco Proposal for Revision of Network Code Standards of Service** at the following location:  
<http://www.gasgovernance.com/networkcodearchive/551-575/>

Impact on Users	
Area of Users' business	Potential impact
Administrative and operational	<ul style="list-style-type: none"> <li>• If implemented this Modification Proposal will ensure that Users consider the efficient implementation of a Modification Proposal at an earlier stage to ensure that benefits borne from the implementation of the Proposal are delivered as early as possible to the industry.</li> </ul>
Development, capital and operating costs	<ul style="list-style-type: none"> <li>• None</li> </ul>
Contractual risks	<ul style="list-style-type: none"> <li>• None</li> </ul>
Legislative, regulatory and contractual obligations and relationships	<ul style="list-style-type: none"> <li>• None</li> </ul>

Impact on Transporters	
Area of Transporters' business	Potential impact
System operation	<ul style="list-style-type: none"> <li>• None</li> </ul>
Development, capital and operating costs	<ul style="list-style-type: none"> <li>• None</li> </ul>
Recovery of costs	<ul style="list-style-type: none"> <li>• None</li> </ul>
Price regulation	<ul style="list-style-type: none"> <li>• None</li> </ul>
Contractual risks	<ul style="list-style-type: none"> <li>• None</li> </ul>
Legislative, regulatory and contractual obligations and relationships	<ul style="list-style-type: none"> <li>• None</li> </ul>
Standards of service	<ul style="list-style-type: none"> <li>• None</li> </ul>

Impact on Code Administration	
Area of Code Administration	Potential impact
Modification Rules	<ul style="list-style-type: none"> <li>• The Modification Rules would be modified to reflect this Proposal.</li> </ul>
Modification Panel	<ul style="list-style-type: none"> <li>• The Modification Panel would need to agree the changes to the Proposal and report pro-formas, including the Draft and Final Modification Reports.</li> </ul>
General administration	<ul style="list-style-type: none"> <li>• The Joint Office would be required to ensure that its processes reflect the changes to the Modification Rules.</li> </ul>

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Impact on Code	
Code section	Potential impact
Uniform Network Code - Modification Rules	Minor

Impact on UNC Related Documents and Other Referenced Documents	
Related Document	Potential impact
Network Entry Agreement (TPD I1.3)	None
Network Exit Agreement (Including Connected System Exit Points) (TPD J1.5.4)	None
Storage Connection Agreement (TPD R1.3.1)	None
UK Link Manual (TPD U1.4)	None
Network Code Operations Reporting Manual (TPD V12)	None
Network Code Validation Rules (TPD V12)	None
ECQ Methodology (TPD V12)	None
Measurement Error Notification Guidelines (TPD V12)	None
Energy Balancing Credit Rules (TPD X2.1)	None
Uniform Network Code Standards of Service (Various)	None

Impact on Core Industry Documents and other documents	
Document	Potential impact
Safety Case or other document under Gas Safety (Management) Regulations	None
Gas Transporter Licence	None
Transportation Pricing Methodology Statement	None

Other Impacts	
Item impacted	Potential impact
Security of Supply	None
Operation of the Total System	None
Industry fragmentation	This Modification Proposal seeks to reduce industry fragmentation by ensuring consistency across the main industry codes (BSC, CUSC and UNC) with regard to the implementation arrangements for code modification proposals, in line with the objectives of the ongoing industry Codes Governance Review.

## 6 Implementation

Subject to the Chairman's Guidelines that require a minimum of five Business Days notice of Panel business, once the Authority had approved this Proposal, the next Panel Meeting could agree to approve the changes in the templates. This would permit implementation immediately following the meeting.

The Panel may wish to address how the process and templates should apply to Modification Proposals in flight if the proposal remains unclear on this point or if discretion is given to the Panel.

## 7 The Case for Change

*This section allows further development of the case than is included in the earlier summaries*

In addition to those identified the above, the Proposer identified the following:

### Advantages

- Implementation will ensure that a Modification can be delivered in a timely manner ensuring that the potential benefits to Users are realised at the earliest and most efficient opportunity.
- Implementation will reduce the financial risk to Users of a delay in implementing a Modification Proposal.

## 8 Recommendations

The Governance Workstream invites the Panel to:

- AGREE that Modification Proposal 0281 be submitted for consultation;
- AGREE that the Transporters should be asked to prepare the Text of the Modification;
- AGREE that the standard consultation period should apply.



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Proposer's Quote:

" Insert quote here"

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