

Stage 01: Modification

0522:

Governance of the use of email as a valid UNC communication

At what stage is this document in the process?

- 01 Modification
- 02 Workgroup Report
- 03 Draft Modification Report
- 04 Final Modification Report

This Modification proposes business rules to ensure that appropriate assurance is in place to be satisfied that communication between parties has been successfully achieved when email is used as the communication method.



The Workgroup recommends that this modification should now proceed to consultation.



High Impact:



Medium Impact:
UNC Parties



Low Impact:
[DNOs, Users]

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About this document:

This report will be presented to the panel on ~~00-Month~~19 November 2015.

The panel will consider whether the modification should proceed to consultation or be returned to the workgroup for further assessment.

The Workgroup recommends the following timetable:

Initial consideration by Workgroup	28 August 2014
Amended Modification considered by Workgroup	27 August 2015
Workgroup Report presented to Panel	28 August 2015
Draft Modification Report issued for consultation	20 <u>20 November</u> 2015
Consultation Close-out for representations	09-October <u>10 December</u> 2015
Final Modification Report presented to Panel	12 October <u>December</u> 2015
UNC Modification Panel decision	179 November <u>December</u> 2015 (at short notice)



Any questions?

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1 Summary

Is this a Self-Governance Modification?

The Modification Panel determined that the criteria for Self-Governance was met for the original modification, however this is a significant change in the way UNC parties will communicate with each other. As this could impact contractual relationships between parties we disagree that this modification meets the criteria for Self Governance as it could have a material impact on contractual relationships if important communication provisions are not managed robustly by all parties.

Is this a Fast Track Self-Governance Modification?

No

Why Change?

At the time of the implementation of the original Network Code in 1995, fax was a more common form of business communication while email was in its infancy. Since then email has superseded fax as a more efficient and common form of business communication ~~but remains disallowed as an official form of UNC communication in most circumstances, despite all relevant parties using it across other aspects of their business.~~

A number of Modification Proposals both in the Gas and Electricity markets have allowed limited use of email communications in specific circumstances, specifically UNC Modification Proposal 033, 'Notification to Users of Emergency Incidents – Impacts on Code Communications' and Balancing and Settlement Code Modification Proposals P113, 'Email Communication under the Code' and P159, 'Extending the Scope of E-mail Communications under the Code'. Since these proposals there has been expansion of the use of email as an allowable code communication in the Gas Industry due to the implementation of Modification 0479S - Inclusion of email as a valid UNC communication.

We believe that it is time to update the industry arrangements to reflect the technology changes and put in place mechanisms to update agreed communication channels between parties. Modification 479S was raised by Northern Gas Networks to introduce more formal requirements in the UNC for the use of email by UNC parties, however this modification has been raised to provide more robust rules for the governance of email as a UNC communication.

Solution

We propose business rules to ensure that appropriate assurance is in place to be satisfied that communication between parties has been successfully achieved when email is used as the communication method.

Relevant Objectives

Implementation of this Modification Proposal would further Special Condition A11.1 (f), the promotion of efficiency in the implementation and administration of the Code as it ~~implements-augments~~ existing best practise regarding the ~~useinclusion~~ of email as a communication format across the industry.

Implementation

This modification can be implemented without system development, therefore there should be no reason to delay implementation immediately following approval.

Does this modification affect the Nexus delivery, if so, how?

No

2 Why Change?

Email has superseded fax as a more efficient and common form of business communication ~~but remains disallowed as an official form of UNC communication, despite all relevant parties using it across other aspects of their business.~~

UNC Modification Proposal 033, 'Notification to Users of Emergency Incidents – Impacts on Code Communications', extended allowable forms of communication to include internet and email to aid Transporters in complying with the provisions detailed within the Shipper Incident Communication Procedure (SICP) and was implemented in 2005.

Arguments in favour of allowing internet and email communication included 'improved operational efficiencies', 'real-time updates to Users' and 'improved quality of information'. Ofgem's decision letter stated their support for 'the use of internet and email facilities where they bring efficient gains'. They also stated their expectation that appropriate levels of security would be put in place regarding internet and email security and we would expect this to also apply wherever email communications were allowed as a result of this proposal being implemented.

Modification 0479S was raised by Northern Gas Networks to introduce more formal requirements in the UNC for the use of email between UNC parties, however this modification has been raised to provide more robust rules for the governance as a UNC communication.

Where formal communication grants rights or imposes obligations on parties, the deemed sending/receipt for email communication is not sufficient to bind the parties contractually and it is important that the network code reflects the necessary safeguards needed to ensure that there is the "meeting of minds" in the evolution of that contractual relationship between the parties.

The rules need to reflect the ability of the parties to communicate and recognise that there are some technical challenges that interrupt the instantaneous communication that emails offer, for example some email systems are set up such that they automatically return emails if they detect what they believe to be a virus/Trojan horse/spyware, even with the correct valid email address.

Equally it is much easier for communications to be misdirected when using email, so it's important that the recipient and sender can rely on the use of an accurate email address. A valid email address should be one that the recipient has provided and is correctly recorded and used by the sender. The risk is that the email address is incorrectly recorded and used by the sender so that the email is delivered to an unintended recipient who fails to notify the sender of their error. In those circumstances communication cannot be deemed to have been achieved, because an invalid email address has been used.

3 Solution

In light of Ofgem's comments in their former decision documents on the introduction of internet and email communication we propose therefore to amend General Terms B of the UNC to ensure that appropriate business rules are developed that address:

- How email address information for email communication is established and maintained, and to
- Determine whether communication has been achieved and setting out obligations to manage "Non-delivery" notices

- The creation of a new role for a Registered User's Authorised Email Representative and will set out how escalation of failed communication can be dealt with using an "Authorised Email Representative", as well as the role in validation of changed information.

Draft Business Rules

1. On accession to the code the Transporters ~~to will~~ request confirmation of valid relevant email addresses from ~~the~~ Registered User ~~for existing communications sent by email.~~ s
- ~~1. On implementation the on implementation and in future as new Users accede to the code~~
2. Transporters ~~to will create and update a register of~~ continue to use those email addresses currently in use and as provided by ~~Registered Users~~ the Registered Users as valid email addresses.
- 2.3. The sender must use the valid email address as provided by the recipient for the specific communication type. (It is within the addressee's "sphere of influence" to provide adequate means to ensure that their internal communication functions satisfactorily). An e-mail must "reach" the addressee. For clarity - this means it must have been delivered and accepted on to the addressee's server, and for the avoidance of doubt, this does not require the addressee to have retrieved or read the communication – unless that express requirement is agreed in advance by both parties.
4. Any non-delivery notification received by the Sender must be acted upon by the Sender within 1 hour of receipt of the non-delivery notice. For the avoidance of doubt, non-delivery notifications will invalidate the expectation of deemed communication. If the communication attempts to confer rights or obligations, the Sender will contact the Registered User to resolve the non-delivery before resending.
5. ~~A Code Communication User~~ The Registered User's Authorised Representative will be responsible for being the primary person(s) to contact to resolve communication failures.
6. In the event of non-delivery notification being unresolved, deemed receipt (and any consequential actions) will only result from the 'official' post or fax versions of the communications. Since these exceptions should represent 'one-off' or rare communications, any inefficiency in continuing to issue these by post or fax will be minimal.
- ~~3.~~
- 4.7. Registered Users' ~~Authorised Representatives will use reasonable endeavours~~ to provide 20 days' notice of any changes ~~of valid email address- (unless an alternative effective date is agreed between parties)~~ of email address to the Transporters, which will ~~then~~ be updated by the Transporter within 5 business days of receipt.
- ~~5. Transporters will use reasonable endeavours to provide 20 days' notice of any changes of valid email address (unless an alternative effective date is agreed between parties) of email address to the Registered Users' Authorised Representatives, which will then be updated by the User within 5 business days of receipt.~~
- 8.

Definition of a Registered User Authorised Email Representative

The Authorised Email Representative will be the Registered User's authorised representative as an escalation point and will be the point of contact to verify changes to valid email addresses and their responsibilities will include:

(a) providing a dedicated point of notification in the event of failure of a Code Communication issued by email in order to

- I. Act as a point of escalation in the event of a non-delivery receipt.
- II. By agreement, accept receipt of the Code Communication on behalf of the Registered User and distribute accordingly within the User organisation - this will satisfy receipt by such Organisation and deemed receipt rules will apply.

(b) enabling a User to provide a Code Communication:

- I. In the event that Registered User(s) for such Code Communication are unable to do so – i.e. the Authorised Email Representative will be able to provide any User to Transporter Code Communication in addition to any Registered User
- II. In the event that a User has failed to register a designated recipient or sender.

(b) enabling a Transporter to provide a Code Communication to a User where that User has failed to provide a designated recipient relating to that Code Communication.

A Registered User may have more than one Authorised Email Representative to ensure cover is provided at all times

The Authorised Email Representative authorises all requests to add, amend or remove designated recipients of Code Communications on behalf of their organisation or business unit.

In addition, the Authorised Email Representative will be able to provide a focus for the management of Registered Users contact information for Code Communications by:

- (a) Periodic review of contact information for Code Communications; and
- (b) To answer questions arising from the Transporter where potential issues with the validity of Registered User information is identified.

~~6. For clarity...an e-mail must "reach" the addressee. This means it must have been delivered and accepted on to the addressee's server. For the avoidance of doubt, this does not require the addressee to have retrieved or read the communication – unless that express requirement is agreed in advance by both parties; it does mean the sender must have used the valid email address as provided by the recipient for that communication type. (It is within the addressee's "sphere of influence" to provide for adequate means to ensure that their internal communication functions satisfactorily).~~

~~7. The email communication shall be deemed to have been received one hour after being sent in the absence of any non-delivery return receipt received by the sender during that period.~~

~~8. Any non-delivery notification received by the Sender must be acted upon by the Sender within 1 hour of receipt of the non-delivery notice. For the avoidance of doubt, non-delivery notifications will invalidate the deemed communication. If the communication attempts to confer rights or obligations, the Sender will contact the Registered User to resolve the non-delivery before resending.~~

~~9. If the time at which any notice or communication sent by e-mail is deemed to have been received falls after 1700 hours on a day, the notice or communication shall be deemed to have been received at the start of the next Business Day.~~

~~10. Where a notice is sent by e-mail, the Party giving the notice shall if requested by the recipient Party, resend as soon as reasonably practicable the notice by e-mail.~~

11. ~~In the event of non-delivery notification being unresolved, deemed receipt (and any consequential actions) will only result from the 'official' post or fax versions of the communications. Since these exceptions should represent 'one-off' or rare communications, any inefficiency in continuing to issue these by post or fax will be minimal.~~

12. ~~_____~~

User Pays	
Classification of the modification as User Pays, or not, and the justification for such classification.	There are no anticipated costs to the implementation or operation of this proposal. No User Pays service would be created or amended by implementation of this modification and it is not, therefore, classified as a User Pays Modification.
Identification of Users of the service, the proposed split of the recovery between Gas Transporters and Users for User Pays costs and the justification for such view.	n/a
Proposed charge(s) for application of User Pays charges to Shippers.	n/a
Proposed charge for inclusion in the Agency Charging Statement (ACS) – to be completed upon receipt of a cost estimate from Xoserve.	n/a

4 Relevant Objectives

Impact of the modification on the Relevant Objectives:

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.	None
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.	None
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.	None
f) Promotion of efficiency in the implementation and administration of the Code.	Positive
g) Compliance with the Regulation and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators.	None

Impacts to Relevant Objectives

Implementation of this Modification Proposal would further Special Condition A11.1 (f), the promotion of efficiency in the implementation and administration of the Code as it implements existing best practice regarding email use across the industry by providing robust governance mechanisms to ensure [the use of email is not used inappropriately for UNG communications-effective](#).

5 Implementation

No implementation timescales are proposed. However, as this modification has no systems impacts, implementation could be immediately following and Authority decision to do so.

6 Impacts

Does this modification impact a Significant Code Review (SCR) or other significant industry change projects, if so, how?

No, see below.

Project Nexus Implementation

It should be noted that Project Nexus systems are being built with requirements to allow the use of email for certain Code communications.

7 Legal Text

While the Proposer is welcome to put forward suggested legal text, formal legal text and commentary will be provided by the Transporters when requested to do so by the Modification Panel.

If this is a proposed Fast Track Self-Governance modification then legal drafting and commentary must be provided.

Text Commentary

In support of the legal text provided, the legal representative shall provide a plain English explanatory note setting out the approach taken to converting the Solution into legal text, illustrating how the legal text delivers the intent of the Solution.

Insert text here

Text

The following Text has been prepared by Northern Gas Networks.

8 Recommendation

The Workgroup invites the Panel to:

- AGREE that this modification should be issued to consultation.

~~issued to consultation~~