

Representation - Draft Modification Report UNC 0674

Performance Assurance Techniques and Controls

Responses invited by: 5pm on 24 May 2021

To: enquiries@gasgovernance.co.uk

Please note submission of your representation confirms your consent for publication/circulation.

Representative:	Mark Jones
Organisation:	SSE Energy Supply Limited
Date of Representation:	24 May 2021
Support or oppose implementation?	Oppose
Relevant Objective:	d) Negative f) Negative

Reason for support/opposition: Please summarise (in one paragraph) the key reason(s)

We are supportive of settlements performance being improved and of the PAC being given more discretion to help it achieve this aim. However, this modification gives too much power to the PAC, who could place onerous requirements on parties to the UNC. We are not supportive of the governance structure being proposed, as it would result in the PAC not being accountable to the UNCC and so no other committee would have oversight of its actions. The PAC could, in theory, spend significant amounts of money for little benefit without any recourse or accountability. The PAC will also be able to change its own terms of reference and membership criteria without agreement with any other body, including the UNCC.

Without oversight on the PAC from the UNCC, it is not clear how parties who feel that they have been treated unfairly and had a dispute rejected against a PAC decision would have any independent adjudication, as the modification specifically states that the UNCC cannot overturn a PAC decision on a dispute. The PAC would not be accountable to any other committees despite being set up as a UNC Sub-committee.

It must also be recognised that PAC meetings are closed meetings with minutes often censored for confidentiality reasons. Whilst other committees are elected, including the UNC Panel and Committee, parties are generally able to attend as observers and the minutes are accepted by members as a fair and accurate reflection of decisions and discussions at these committees. The PAC could make decisions that have major consequences without the necessary information on the decision making process being available to the industry.

Implementation: *What lead-time do you wish to see prior to implementation and why?*

We do not wish to see the modification being implemented. However, if it is implemented it could take parties significant amounts of time to put in place any consequential changes due to new demands being made by the PAC on them, which could be ongoing and be required at seemingly random times.

Impacts and Costs: *What analysis, development and ongoing costs would you face?*

No direct costs with the implementation of this modification. However, given the powers proposed to be given to the PAC by this modification it could lead to shippers and suppliers having significant costs to meet the demands of the PAC in the future.

Legal Text: *Are you satisfied that the legal text will deliver the intent of the Solution?*

We have not reviewed the legal text

Modification Panel Members have requested that the following questions / considerations are addressed:

Q1: Provide a view on whether respondents think it is appropriate to impact non-UNC parties with this proposal?

We do not believe it is appropriate to impact non-UNC parties with this proposal and believe that this cannot be enforced. Whilst the PAC monitors the performance of UNC parties, if there is non-performance as a result of the actions of a service provider appointed by a party, then it is the party under the UNC that must put in place appropriate remedies with its service provider.

Q2: Consider impact of proposal for the overarching principle to apply to Modification Panel, UNCC, Sub Committees and Parties as set out in business rule 2a.

We feel that this proposal is too vague, and parties cannot be held responsible for doing something that is not explicitly prohibited under the UNC. This is open to too much interpretation, and if there are any loopholes in the UNC they should be closed via an appropriate modification to the UNC.

Are there any errors or omissions in this Modification Report that you think should be taken into account? *Include details of any impacts/costs to your organisation that are directly related to this.*

Please provide below any additional analysis or information to support your representation

A performance assurance regime will soon be introduced into the REC and it is probably an appropriate time to consider the whole performance assurance regime structure within the electricity and gas industries' governance arrangements, as streamlining may be able to make the regime more efficient and lower overall industry costs. There could also be

instances of similar targets being in place under two performance regimes, potentially leading to shipper and suppliers facing a double jeopardy for a single settlement performance failure.