

Modification proposal:	Uniform Network Code (UNC) 0839: Revision of the Modification Panel Membership Cessation Provisions (UNC0839)		
Decision:	The Authority ¹ directs this modification be made ²		
Target audience:	UNC Panel, Parties to the UNC and other interested parties		
Date of publication:	12 Jan 2024	Implementation date:	To be confirmed by the code administrator

Background

Membership of the Uniform Network Code (UNC) Modification Panel ('the Panel') is set out in section 3.2 of the UNC Modification Rules and comprises up to fourteen voting members and four non-voting members.³ All Panel members, apart from the Chairperson, are required to represent a specific entity (or entity type, as part of a constituency). The Modification Rules set out the entity types and appointment periods, and provide rules for retirement and/or ceasing to be a Member under the following circumstances:

- voluntary cessation by the Member
- where a Voting Member does not comply with certain meeting attendance requirements
- where a Voting Member holds a Conflicting Appointment

National Gas Transmission ("the Proposer") has identified a lack of provisions to deal with instances where, due to a change in circumstances, a Member is no longer employed or engaged by the same specified entity as at the time of nomination.

¹ References to the "Authority", "Ofgem", "we" and "our" are used interchangeably in this document. The Authority refers to GEMA, the Gas and Electricity Markets Authority. The Office of Gas and Electricity Markets (Ofgem) supports GEMA in its day to day work. This decision is made by or on behalf of GEMA.

² This document is notice of the reasons for this decision as required by section 38A of the Gas Act 1986.

³ UNC documents can be found on the Joint Office of Gas Transporters website: <https://www.gasgovernance.co.uk>.

The modification proposal

UNC0839 '*Revision of the Modification Panel Membership Cessation Provisions*' was raised on 3 March 2023, and seeks to revise the Modification Rules to mandate that where a Member of the Modification Panel ceases to be employed or engaged by the same specified entity as at the time of nomination, that Member will cease to be a Member of the Modification Panel.

UNC0839 proposes that if a Member of the Modification Panel no longer represents the same specified entity as at the time of nomination, the Member is required (as soon as is practicable) to inform the Secretary of such change in circumstances and the date from which this change took, or will, take effect. As a consequence, that Member shall cease to be a Member of the Modification Panel with effect from the later of the following conditions:

- a) The date from which that Member will no longer be employed or engaged by the relevant entity or
- b) The day following the date the Secretary is informed, or made aware, of such change in circumstances

UNC Panel⁴ recommendation

At the UNC Panel meeting on 20 July 2023, a majority of the Panel (nine out of a possible fourteen voting members) considered that UNC0839 would better facilitate the UNC relevant objective (f) '*Promotion of efficiency in the implementation and administration of the code*', and the Panel therefore recommended its approval. Some Panel Members considered the modification was negative for this objective due to the increased administration burden associated with appointing a new Panel Member.

Our decision

We have considered the issues raised by the modification proposal and the Final Modification Report (FMR) dated 21 July 2023. We have considered and taken into account the responses

⁴ The UNC Panel is established and constituted from time to time pursuant to and in accordance with the UNC Modification Rules.

to the industry consultation on the modification proposal which are attached to the FMR.⁵ We have concluded that:

- implementation of the modification proposal will better facilitate the achievement of the relevant objectives of the UNC⁶ and
- directing that the modification be made is consistent with our principal objective and statutory duties⁷

Reasons for our decision

We consider UNC0839 will better facilitate UNC relevant objective (f) and has a neutral impact on the other relevant objectives.

(f) so far as is consistent with sub-paragraphs (a) to (e), the promotion of efficiency in the implementation and administration of the network code and/or the uniform network code

We agree with the Proposer that there is a deficiency in the current arrangements where there are no explicit rules setting out the consequences where an existing Panel Member, due to a change in circumstances, is no longer employed or engaged by the same specified entity as at the time of nomination.

Furthermore, we agree that in some cases such a change in circumstances may affect the ability of that Panel Member to adequately represent their entity or constituency as required by the Modification Rules. We note that respondents to the industry consultation made similar arguments. We consider that UNC0839 provides clarity to the Modification Rules under those specific circumstances.

⁵ UNC modification proposals, modification reports and representations can be viewed on the Joint Office of Gas Transporters website at www.gasgovernance.co.uk.

⁶ As set out in Standard Special Condition A11(1) of the Gas Transporters Licence, available at: [Licences and licence conditions | Ofgem](#).

⁷ The Authority's statutory duties are wider than matters which the Panel must take into consideration and are detailed mainly in the Gas Act 1986 as amended.

We note that three out of the four responses received to the industry consultation in respect of UNC0839 agreed that the modification would have a positive impact against the relevant objectives.

One respondent argued that UNC Modification 0656 'Changes to Modification Panel arrangements', approved by us in November 2018,⁸ was sufficient to address this issue and considered that UNC0839 would have a negative impact if it unnecessarily removed a Panel Member from post if a relevant event occurred but there was no conflict of interest. This would require a new nomination window and the respondent considered that this would introduce an increased administrative burden. This view was supported by some Panel Members.

We recognise that there are circumstances in which UNC0839 will cause a Panel Member to leave their role despite being competent to fulfil that role, and that the appointment of a replacement could increase the administrative burden. However, we think these would be rare events and consider this inconvenience is outweighed by the additional clarity that the changes introduced by UNC0839 would provide in the specific situations it addresses.

Finally, we note that the changes introduced by UNC0839 will align the arrangements for the UNC Modification Panel with equivalent arrangements such as under the Independent Gas Transporters UNC (IGT UNC),⁹ and the UNC requirements in respect of Data Services Contract (DSC) Committees,¹⁰ which provides an explicit outcome for such a change in circumstances for Shipper Users. We consider alignment of Membership rules across the gas codes to be a positive outcome which effectively simplifies governance arrangements and hence is positive for relevant objective (f).

Decision notice

In accordance with Standard Special Condition A11 of the Gas Transporters licence, the Authority hereby directs that modification proposal UNC0839: '*Revision of the Modification Panel Membership Cessation Provisions*' be made.

⁸ [UNC656: Changes to Modification Panel arrangements | Ofgem.](#)

⁹ Part L Section 5.9 of the IGT UNC: <https://www.igt-unc.co.uk/>.

¹⁰ As set out in [Annex D-2, Paragraph 5.2 of Section D of the UNC General Terms.](#)

Carmel Golden

Deputy Director – Industry Rules

Signed on behalf of the Authority and authorised for that purpose