

CODE MODIFICATION PROPOSAL No 281

Introduction of an Implementation Timeframe for Modification Proposals

Version 2.0

Date: 13/05/2010

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).*

Executive Summary

This Modification Proposal seeks to introduce a process by which suggested implementation dates and / or Authority* decision by dates can be included within a Modification Proposal in order to provide the following benefits;

- Help to draw attention to the time related benefits and constraints within a proposal
- Compliment the User Pays* process by providing an agreed structure within a proposal for a proposer to set out their preferred implementation dates
- Alignment of suggested implementation date structure between industry codes
- 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.

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

Background

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 un-changed 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 therefore result in the actual implementation date being a different date to that suggested in the proposal during the Consultation Phase.

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 the 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.

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, as proposers of User Pays proposals will be able 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 setting out implementation options. However adoption of the electricity codes format alone is not recommended. We propose that it should be complimented with the use of a flexible or backstop alternative date 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 proposals¹ 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

¹ Balancing and Settlement Code Modification Proposals P198, P200, P203 and P204

modification reports, it lost the ability to make any decision on those proposals.

Modification proposals have been raised within each of the electricity codes to attempt to solve the “Timing Out” issue, and it is therefore anticipated that the format for considering implementation and decide by dates will be consistent across the main codes.

Supporting the Recommendations of Recent Governance Reviews

Chapter 6 of the Ofgem Governance Review Final Proposals² 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 Practice³ 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 to ensure they are suitable.

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

Nature of the Proposal

To address the concerns raised in the previous sections, it is proposed that the UNC Modification Rules Section 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

² http://www.ofgem.gov.uk/Licensing/IndCodes/CGR/Documents1/CGR_Finalproposals_310310.pdf

³ http://www.ofgem.gov.uk/LICENSING/INDCODES/CGR/Documents1/CoP_letter_annex1.pdf

⁴ Currently the Authority key performance indicator is to reach a determination on at least 70% of Modification Proposals in 25 Business Days

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

The 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 indicators⁴ 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

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 the current UNC Modification Rules 6.2.1 (j), 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 with 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.

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.

- 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 proposal should proceed to the Development Phase

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 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**

n/a

- c) **Proposed charge(s) for application of Users Pays charges to Shippers**

n/a

- d) **Proposed charge for inclusion in ACS – to be completed upon receipt of cost estimate from xoserve**

n/a

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 section of the Modification Proposal is made pursuant to Standard Special Condition A11.2 of National Grid NTS' Licence;

"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*
 - (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.

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

This Modification Proposal seeks to reduce industry fragmentation by converging the main industry codes (BSC, CUSC and UNC) with regard to the implementation arrangements for code modification proposals, in line with the final proposals of the Ofgem Code Governance Review.

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

a) The implications for operation of the System:

n/a

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

n/a

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:

n/a

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

n/a

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)

n/a

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

n/a

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

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

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.

b) The development and capital cost and operating cost implications

n/a

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

n/a

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)

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

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

Advantages

National Grid NTS believe that this Modification Proposal will, if implemented, 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.

In addition National Grid NTS believe that this Modification Proposal, if implemented, will reduce the financial risk to Users of a delay in implementing a Modification Proposal.

Disadvantages

- 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**
Uniform Network Code – Modification Rules

Code Concerned, sections and paragraphs

Uniform Network Code - Modification Rules

Transportation Principal Document

Section(s)

Proposer's Representative

Nick Reeves (National Grid NTS)

Proposer

National Grid NTS