

Review of Network Operator Credit Arrangements
Review Group (UNC0252) Minutes
Tuesday 18 August 2009
Ofgem, 9 Millbank, London

Attendees

Bob Fletcher (Chair)	BF	Joint Office of Gas Transporters
Helen Cuin (Secretary)	HC	Joint Office of Gas Transporters
Beverley Viney	BV	National Grid NTS
Carl Wilkes	CW	RWE npower
Chris Wright	CWr	British Gas
Jenny Rawlinson	JW	GTC
Joanna Ferguson	JF	Northern Gas Networks
Mandip Grewal	MG	Northern Gas Networks
Paul Darby	PD	Ofgem
Phil Cushen	PC	National Grid Shared Services
Phil Hobbins	PH	National Grid NTS
Phil Lucas	PL	National Grid Distribution
Simon Trivella	ST	Wales & West Utilities
Sue Davies	SD	Wales & West Utilities
Wayne Mullins	WM	National Grid NTS
Wendy Taylor	WT	Scotia Gas Networks

Apologies

Rawinder Basra	RB	Scotia Gas Networks
Stefan Leedham	SL	EDF Energy
Vickey King	VK	National Grid Shared Services

1. 1. Introduction and Status Review

1.1. Minutes from previous Review Group Meeting

The minutes of the previous meeting were approved.

1.2. Review of actions from previous Review Group Meetings

Action RG0252 0001: ST is to submit a revised workplan based on the discussion held in the Review Group.

Action Update: Revised workplan produced within included within the Terms of Reference. **Complete**

Action RG0252 0002: PD to confirm if a meeting room is available at Ofgem for Tuesday 18 August 2009.

Action Update: Meeting organised. **Complete**

Action RG0252 0003: Joint Office to amend draft Terms of Reference in light of discussions and publish

Action Update: Terms of Reference published. **Complete**

2. Review Group Topics

2.1. General review of the current arrangements and processes within UNC TPD Sections V3 & V4 to determine if they are still appropriate, coherent and relevant

ST provided an extract of UNC TPD sections V3 and V4 which highlighted items for consideration/discussion by the Review Group. The Review Group considered each item and agreed appropriate actions or recommendations:

RAV Regulatory Asset Value (RAV). It was understood that the RAV is published at the start of the Price Control and not on an annual basis. However, WM thought that there may be instances when the price control may be re-opened and therefore the RAV could be subject to amendment. PD explained the use of an indicative RAV within the Electricity market. ST was keen to make an amendment to the Section V3 to document the publication of the RAV. JF explained that NGN publish their RAV at the end of their financial year in December. PD explained that the electricity RAV is published in March.

Action RG0252 0004: National Grid (WM) to clarify what is stated within CUSC for the publication of the RAV.

Action RG0252 0005: Ofgem (PD) to consider the annual cost reporting mechanism which should be established for the Gas and Electricity markets if the RAV is available on an annual basis.

Specially Commissioned Ratings. PL highlighted within section 3.8 of the Best Practise Guidelines (BPG) that the lowest rating will be used where different credit ratings have been awarded. PD briefly explained the Electricity Licence conditions and the use of FITCH bank ratings. It was understood that there were three recognised organisations for Electricity and two for Gas. PD explained the ratings may differ but equivalents could be matched. It was questioned if a Gas Licence change would be required to incorporate the FITCH bank ratings. PD did not foresee a problem recognising FITCH as an additional agency. CW expressed a concern he believed had previously been raised about the costs of introducing another credit rating agency. However, ST believed there may be strong case from a competitive point of view for an additional agency.

Action RG0252 0006: Review Group to establish how FITCH compares against other equivalent credit rating agencies.

Action RG0252 0007: Ofgem (PD) to provide an extract of the equivalent Gas and Electricity Licences.

Action RG0252 0008: Review Group to consider the introduction of another Agency into the UNC and consider recommendations for the Review Group report.

Sanctions for Users and Transporters. ST highlighted that the sanctions for credit arrangements work differently for Users and Transporters, as a Transporter cannot be terminated. He also highlighted references that identify both National Grid NTS and National Grid as a Plc and where in certain circumstances both NTS and Distribution should be construed as a single Transporter. ST highlighted that there is no reference to either within V3 and V4.

Action RG0252 0009: National Grid (PL) to establish what the reference to National Grid NTS and National Grid PLC being construed as a single Transporters is designed for.

Security provided with an Approved Credit Rating. SD questioned if you can have a security provider without an approved credit rating challenging why such a statement had been made within Section V3.

Action RG0252 0010: Review Group to consider if the “an approved credit” rating can be removed from section V3.

Within section V3.1.4 it was questioned if the reference to V3.1.7 is a reference to an old paragraph which has now been removed or if it is superfluous.

Action RG0252 0011: National Grid Distribution to establish if the reference to V3.1.7 within V3.1.4 relates to a previous UNC Modification which should have been removed or if it should refer to an alternative paragraph.

Interpretation of 12 month period reference. Within section V3.1.5 there is a reference to a 12 month period which has previously been questioned by Users. Its interpretation has been challenged as it is unclear if at least 12 months must lapse before a credit limit could be applied. It was understood that there was a monthly build up over a 12 month period for the first 12 months. It was agreed that this statement was not clear although the intent was. SD explained how a fraction process was used to build a credit rating on a monthly basis based on a 5 year period.

Action RG0252 0012: Review Group to consider the reference to a 12 month period for credit limits which build up measured as a 60th per month over 5 years.

Credit Rating Reductions for late/missed payments. ST questioned V3.1.6 (a) and whether the total amount due of £250 or less is intended to relate to; due or the unpaid total value. It was believed the reference is to the due date that the credit rating reduces by 50%. The different management of credit rating reductions for missed payments within the Electricity and Gas markets was discussed. ST asked whether Ofgem had any concerns with the Gas and Electricity market not having equivalent principles and that both also differ from the BPG. ST believed this had been considered before and was open to whether the Review Group wishes to consider bringing the arrangements in line or content with different arrangements.

Action RG0252 0013: Review Group to compare the differences between missed/late payments in the Gas and Electricity markets and whether there should be a soft landing for administration errors

Independent Assessments. Section V3.1.7. Independent Assessments and unsecured credit limits was discussed it was agreed that the intention was reasonable but more granularity is required for Independent Assessments. The DCP034 matrix was considered and the application of credit ratings.

Action RG0252 0014: WWU (ST) to establish if the DCP034 document is available publicly and can be made available to the Review Group for further consideration.

Relevant Code Indebtedness (RCI). ST highlighted that the RCI Section V3.2.1 was not used in section V and questioned whether this should be moved to section B where it is used. ST suggested that National Grid NTS may want to review entry elements.

Invoice Queries. It was questioned if V3.2.3 had become redundant and whether this should be changed to VAR and RCI. It was agreed that this needs to be considered as a recommendation by the Review Group.

Action RG0252 0015: National Grid NTS to check if there are any further references to RCI within the UNC and to consider moving Section V3.2.1 to section B.

User Codes Credit Limit. The reference to Section V3.2 within Section V3.2.4 (b) was considered, it was uncertain if this should be a reference to V3.2.8.

Action RG0252 0016: National Grid Distribution to clarify that the reference to V3.2 should be a reference to section V3.2.8.

It was agreed Section V3.2.4 (c) reference needs to stay as it is in line with the definitions. Ofgem questioned if other warnings can be reviewed and considered for revision of credit cover, PL highlighted that revision may not be possible under the UNC.

In section V3.2.4 (d) there is a reference to security expiring it was questioned if this required 30 days notice following the expiration. WM asked if there are any terms or clauses with an ability to use a security deposit.

Action RG0252 0017: National Grid NTS to confirm what is in CUSC in relation to expiration

Action RG0252 0018: Review Group to consider whether a provision needs to be included relating to 30 days within V3.2.4 (d).

Published Credit Rating. Section V3.2.5 was considered and whether this should relate to an approved credit rating, the notice period was also considered. CW expressed concern with the ability to find alternative credit within 2 days. JF explained that companies would be aware of potential downgrades and that in reality they would have ample time to manage the situation. The relation of qualifying companies such as a bank being downgraded which has provided a letter of credit was also considered.

User Code Credit Limit downgrade notification. The Review Group considered changing section V3.2.9 in relation to the event and notice on the next Business Day. A discussion took place about the provision of two notices one to pre-notify that a limit will be changed within two days followed by a confirmation that the action has been completed. The potential breach of Value at Risk (VAR) was considered and that any subsequent steps cannot be undertaken until a completion notice has been provided. It was agreed further clarity was required.

Additional Security. Section V3.2.10 was considered and whether this should also cover 3.2.5. There was a view that a link should exist to 3.2.4 and 3.2.5 however a legal view may be required as to how these link together in terms of a process. CUSC was considered and whether an amendment was required.

Value at Risk Increase. Section V3.2.11 it was questioned if there was a misinterpretation of the BPG 3.47. SD believed this related to an increase in a portfolio for example, supplier at last resort, to allow time to arrange security to account for the increase in the VAR. It was considered whether this should be for a portfolio change only and whether Transporters Transportation Charges also ought to be included. PL asked for Ofgem's insight as to why this was brought in.

Action RG0252 0019: Ofgem to clarify the approval rationale for UNC0077, given that Section V3.2.11 appears to open up a three month window that the VAR is potentially not covered by an increase in security.

Action RG0252 0020: Review Group to consider if the whole of 3.2.5 should be referenced in 3.2.10.

Clause 3.3.1 ST had previously discussed what constitutes a notice as defined in code with their legal and thought it would be worth the Review Group considering suitable methods. WWU had provided example notices which were published on the Joint Office website. SD explained how WWU usually fax a notice and follow this up by emailing a scanned version.

ST thought it would be useful if Shippers could provide contacts for notices to ensure there was no doubt when a notice had been served. CW thought it would be advisable if all notices were followed up with a phone call to ensure receipt.

PL believed there were existing definitions of deemed receipt of notices and what constitutes an acceptable delivery method.

Action RG0252 0021: Shippers to consider the provision of specific contact details for the receipt of notices.

Action RG0252 0022: National Grid Distribution to clarify what is considered to be "deemed receipt of a notice".

Requirements as to Value at Risk

Clause 3.3.1 (b) DS believed it would be a useful exercise for the Review Group to consider the notification process and appropriate timeline. As there can be confusion when a follow up action should be taken eg at what point do 2 business days expire. PD thought it would be useful if the Review Group could recommend suitable templates for notices and clarify the timeline for their execution.

CW thought the 2 business days a challenging timescale for large organisations and that it would be useful to recognise this within the process. SD added that the Review Group may want to consider how “commercial judgement” is applied to the process.

Action RG0252 0023: The Review Group is to consider the process and timeline for serving notices.

Clause 3.3.2 SD offered the opinion the clause applied a 2 level test which was not its original intention and made the process difficult to interpret /apply. CW thought it would be easier to move from 80% of the under written credit for 12 months to 100% as with energy balancing. PL added the clause reflected the recommendations made in BPG, though ST thought the intention of the test was to apply 80% and not 64% as currently drafted.

Action RG0252 0024: Review Group to consider if the current drafting should be amended to reflect one test at 80%.

Action RG0252 0025: 3.3.2 - drafting error to be corrected – delete superfluous “V” in reference.

Clause 3.3.2 (c) SD thought that sanctions should apply at this stage if remedial action was not taken. PL pointed out that there was an option to terminate though this may be considered to be draconian, adding the clause is in line with BPG. PD clarified that best practice should be applied even if this was different to BPG as the process should be considered as living and not fixed in time.

ST thought the references in this clause should be amended by clarifying i) and iii) apply to NTS only and ii) can apply to NTS and DNOs.

Action RG0252 0026: Review Group to consider if clause 3.3.2 (c) should be redrafted in line with discussions.

Clause 3.3.1(d) SD again highlighted that there maybe a significant delay in applying sanctions and whether these should be delayed once there was concern about a particular parties credit rating.

Clause 3.3.3 ST considered this clause may need to be reviewed once the timeline and notices had been reviewed. Though he expressed a view that he did not believe a DNO could be terminated.

Action RG0252 0027: WWU (ST) to provide a view on whether a DNO can be terminated.

Clause 3.3.4 ST explained the comments made in the circulated document, though he was of an opinion any corrections could be made if a decision was given to implement UNC Modification proposal 0261.

In reference to Section B3.2.6 and 3.3.3(f) and paragraph 3.6 of Section B Annex B-1 - ST is unclear how this impacts Users and if this should impact VAR. It is suggested this is removed though there may be impacts after 2012 following the implementation of Exit Reform.

Action RG0252 0028: Ofgem agreed to consider the provisions in 3.3.4 to identify if there are any regulatory reasons for these provisions.

Security under Code

Clause 3.4.1 – ST is unsure of the meaning of “and whether or not entered into by the User” within the clause and thought it is advisable to seek a legal view.

Action RG0252 0029: WWU to seek a legal view on the meaning of “and whether or not entered into by the User” within the clause 3.4.1.

3.4.5 – ST was unsure of the meaning and process for obtaining bi- lateral insurance. CW thought the requirement unlikely, though could it be used as a letter of credit. WM thought this was usual practice in CUSC and may help to reduce or manage risk by a User.

Action RG0252 0030: Review Group to consider relevance and use of bi-lateral insurance provisions used in section 3.4.

Action RG0252 0031: Typo “an policy” to be corrected.

Definition Enforceable was discussed and the group agreed the definition contains a typo in the last sentence change “provides” to “provide”.

Action RG0252 0032: Definition Enforceable contains a typo in the last sentence change “provides” to “provide”.

3. AOB

None

4. Diary Planning for Review Group

10:00 Tuesday, 22 September 2009, Holiday Inn Solihull venue to be confirmed

10:00 Monday, 19 October 2009, venue to be confirmed

10:00 Monday, 16 November 2009, Solihull venue to be confirmed

APPENDIX A.

ACTION LOG - Review Group 0252

Action Ref	Meeting Date	Minute Ref	Action	Owner	Status Update
RG0252 0001	09/07/2009	3.0	ST is to submit a revised workplan based on the discussion held in the Review Group.	WWU (ST)	Complete
RG0252 0002	09/07/2009	3.0	PD to confirm if a meeting room is available at Ofgem for Tuesday 18 August 2009.	Ofgem (PD)	Complete
RG0252 0003	09/07/2009	3.0	Joint Office to amend draft Terms of Reference in light of discussions and publish	Joint Office (BF)	Complete
RG0252 0004	18/08/2009	2.1	National Grid (WM) to clarify what is stated within CUSC for the publication of the RAV.	National Grid (WM)	Pending
RG0252 0005	18/08/2009	2.1	Ofgem (PD) to consider the annual cost reporting mechanism which should be established for the Gas and Electricity markets if the RAV is available on an annual basis.	Ofgem (PD)	Pending
RG0252 0006	18/08/2009	2.1	Review Group to establish how FITCH compares against other equivalent credit rating agencies.	Review Group	Pending
RG0252 0007	18/08/2009	2.1	Ofgem (PD) to provide an extract of the equivalent Gas and Electricity Licences.	Ofgem (PD)	Pending
RG0252 0008	18/08/2009	2.1	Review Group to consider the introduction of another Agency into the UNC and consider recommendations for the Review Group report.	Review Group	Pending
RG0252 0009	18/08/2009	2.1	National Grid (PL) to establish what the reference to National Grid NTS and National Grid PLC being construed as a single Transporters is designed for.	Review Group	Pending

Action Ref	Meeting Date	Minute Ref	Action	Owner	Status Update
RG0252 0010	18/08/2009	2.1	Review Group to consider if the “an approved credit” rating can be removed from section V3.	Review Group	Pending
RG0252 0011	18/08/2009	2.1	National Grid Distribution to establish if the reference to V3.1.7 within V3.1.4 relates to a previous UNC Modification which should have been removed or if it should refer to an alternative paragraph.	National Grid Distribution (PL)	Pending
RG0252 0012	18/08/2009	2.1	Review Group to consider the reference to a 12 month period for credit limits which build up measured as a 60 th per month over 5 years.	Review Group	Pending
RG0252 0013	18/08/2009	2.1	Review Group to compare the differences between missed/late payments in the Gas and Electricity markets and whether there should be a soft landing for administration errors	Review Group	Pending
RG0252 0014	18/08/2009	2.1	WWU (ST) to establish if the DCP034 document is available publicly and can be made available to the Review Group for further consideration.	WWU (ST)	Pending
RG0252 0015	18/08/2009	2.1	National Grid NTS to check if there are any further references to RCI within the UNC and to consider moving Section V3.2.1 to section B.	National Grid NTS (WM)	Pending
RG0252 0016	18/08/2009	2.1	National Grid Distribution to clarify that the reference to V3.2 should be a reference to section V3.2.8.	National Grid Distribution (PL)	Pending
RG0252 0017	18/08/2009	2.1	National Grid NTS to confirm what is in CUSC in relation to expiration.	National Grid NTS (WM)	Pending

Action Ref	Meeting Date	Minute Ref	Action	Owner	Status Update
RG0252 0018	18/08/2009	2.1	Review Group to consider whether a provision needs to be included relating to 30 days within V3.2.4 (d).	Review Group	Pending
RG0252 0019	18/08/2009	2.1	Ofgem to clarify the approval rationale for UNC0077, given that Section V3.2.11 appears to open up a three month window that the VAR is potentially not covered by an increase in security.	Ofgem (PD)	Pending
RG0252 0020	18/08/2009	2.1	Review Group to consider if the whole of 3.2.5 should be referenced in 3.2.10.	Review Group	Pending
RG0252 0021	18/08/2009	2.1	Shippers to consider the provision of specific contact details for the receipt of notices	Shippers	Pending
RG0252 0022	18/08/2009	2.1	National Grid Distribution to clarify what is considered to be "deemed receipt of a notice".	National Grid Distribution (PL)	Pending
RG0252 0023	18/08/2009	2.1	The Review Group is to consider the process and timeline for serving notices.	Review Group	Pending
RG0252 0024	18/08/2009	2.1	Review Group to consider if the current drafting should be amended to reflect one test at 80%	Review Group	Pending
RG0252 0025	18/08/2009	2.1	3.3.2 drafting error to be corrected – delete superfluous "V" in reference.	Review Group	Pending
RG0252 0026	18/08/2009	2.1	Review Group to consider if clause 3.3.2 (c) should be redrafted in line with discussions.	Review Group	Pending
RG0252 0027	18/08/2009	2.1	WWU (ST) to provide a view on whether a DNO can be terminated.	WWU (ST)	Pending

Action Ref	Meeting Date	Minute Ref	Action	Owner	Status Update
RG0252 0028	18/08/2009	2.1	Ofgem agreed to consider the provisions in 3.3.4 to identify if there are any regulatory reasons for these provisions.	Ofgem (PD)	Pending
RG0252 0029	18/08/2009	2.1	WWU to seek a legal view on the meaning of "and whether or not entered into by the User" within the clause 3.4.1.	WWU (ST)	Pending
RG0252 0030	18/08/2009	2.1	Review Group to consider relevance and use of bi-lateral insurance provisions used in section 3.4.	Review Group	Pending
RG0252 0031	18/08/2009	2.1	Typo "an policy" to be corrected	Review Group	Pending
RG0252 0032:	18/08/2009	2.1	Definition Enforceable contains a typo in the last sentence change "provides" to "provide".	Review Group	Pending