

## UNC Workgroup 0384 Agenda

### UNC Modification Rules; housekeeping, clarity and minor drafting changes

Tuesday 07 June 2011

ENA, Dean Bradley House, 52 Horseferry Road, London SW1P 2AF

#### Attendees

Tim Davis (Chair)	TD	Joint Office
Bob Fletcher (Secretary)	BF	Joint Office
Alex Ross	AR	Northern Gas Networks
Amie Charalambous	AC	RWE npower
Chris Shanley	CS	National Grid NTS
Chris Warner	CWa	National Grid Distribution
Dora Ianora	DI	Ofgem
Phil Lucas	PL	National Grid NTS
Richard Fairholme	RF	E.ON UK
Simon Trivella	ST	Wales & West Utilities

#### 1.0 Outline of Modification

CS provided an overview of the modification and its aims.

#### 2.0 Consider Terms of Reference

No further comments were provided.

#### 3.0 Initial Discussion

##### CUSC Modifications Process Overview

CS provided a presentation on the CUSC governance modifications and progress made to date. He also gave an overview of the relevant parts of the CUSC process and explained the key differences between UNC and CUSC arrangements.

CS advised that CUSC workgroup members are nominated and members of a workgroup have voting rights – the UNC is more fluid on membership requirements with all meetings open to all. RF clarified that anyone can be a CUSC workgroup member, they just need to put themselves forward at the commencement of the group.

TD noted some of the suggested CUSC practices appeared not to fully reflect the Code Administration Code of practice. He considered that, given the Codes Governance Review had consistency as a key objective, there would be benefit in having one set of rules for all modification processes and administrators. There was a risk that some of the changes suggested in Modification 0384 could reduce rather than increase consistency.

##### Draft Legal Text

CS explained the proposed changes to the Modification Rules; these were based on comments from the Joint Office and from National Grid NTS' observation of the process. The general aim is to remove ambiguity and to bring elements of the process back to where it was previously, so that the flexibility of "workstreams" is not lost.

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Discussing the options available when a new modification is presented to the Panel, ST asked if it is possible for the Panel to reject a modification. TD advised that this is not an option - they could only defer consideration, send it to a workgroup for assessment, or initiate the consultation process. RF suggested the rules might usefully send all new modifications for assessment at a workgroup by default. CS clarified there is no obligation for assessment at present, but he would consider making such a change if there was a desire for this. There was general consensus that, when considering a new modification, the Panel should have three options: i) proceed to consultation, ii) defer consideration or iii) send to a workgroup for assessment, with option iii) as the default.

CS explained the suggested amendments which would facilitate sending modifications to either a new or existing workgroup, underpinned by a requirement to produce a separate report for each modification. ST did not think this was desirable as the current process allows a flexible approach where modifications can be discussed as and when needed and progress monitored by an appropriate group. CWa agreed, adding that as information is published against each modification it is easier to review earlier discussions on the modification. RF felt it could be advisable to reinstate the term workstreams for general discussion of issues in order to avoid confusion with the formal term of workgroup for assessment of specific modifications.

CS suggested that the charging forums provided an example of where there would be benefit in sending all charging related modifications to the same group. He also clarified that these forums are defined as workgroups in the Modification Rules but have a limited remit when modifications are assessed elsewhere.

Turning to Modification 0384, TD suggested that the draft text should to be reviewed as it allows a workgroup to provide a report for each modification referred to it. While this achieved the suggested intent for referring several modifications to a single Workgroup, it would mean that alternatives could no longer be considered in a combined report.

CS explained the proposals for alternatives. He advised that the rules would allow an alternative to be raised if a proposer does not change the solution in a modification after being requested to do so by a workgroup. TD thought this was redundant as the process already allows alternates to be raised regardless of the reason.

The Workgroup disagreed with CS's suggestion that alternatives should be defined within the modification rules. There was no consensus that the alternatives process requires changing, other than reconsidering how the process is administered should an alternative be submitted less than 5 days prior to a workgroup meeting – it should be possible for the alternative to be considered at following meetings, which is not allowed for under the current rules.

TD suggested that there is a potential gap in the alternatives process, as an alternative can be raised and by the time it has been considered at Panel, the workgroup may have completed its report prior to receiving the alternative. CS thought the process allows the alternative to proceed on its own, though it would require renumbering. CS felt the CUSC process has advantages in this context since the workgroup takes ownership of any alternative. RF asked if it was being proposed that an alternative could be raised by a UNC workgroup. CS confirmed this is not proposed, although members could cooperate with each other to arrange for an alternative to be raised by one of them.

ST raised an issue regarding how the current process operates if a modification is determined as subject to self-governance, but an alternative does not meet the self-governance criteria, for example due to the complexity or cost of the proposed solution. It was recognised that this could create process concerns, and it was likely that the situation would be addressed in practice by either the Panel or Ofgem changing the status of the modifications such that either all or none were subject to self-governance.

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RF suggested that, if the alternative process is being reconsidered, there would be merit in the Panel being asked, when considering new modifications, to consider if an alternative might be raised if parties were given an opportunity to do so. If they believed this was the case, a new modification should not be issued to consultation.

CS advised that National Grid NTS had considered a number of options for the provision of legal text for Self-Governance Modifications. He confirmed they favoured option two in Modification 0384, whereby the Transporter can confirm the suggested text is suitable for consultation on the modification. RF was concerned that the text may not be reviewed by a workgroup. Therefore it might be untested and fail to meet the requirement of the modification. It was also suggested that, if the change is desirable, it should be extended to all modifications and not just Self-Governance.

ST was in favour of formal text being provided for consultation - there are examples of the repeat submission of FMRs due to modifications being issued to consultation with no or suggested text. TD questioned whether this meant the concept of suggested text should be removed and, simply, text should be provided when available. ST agreed, although it was important to understand that legal text may change for legitimate reasons. He suggested that, where the text is amended in an FMR, all parties should be notified that this has occurred. TD agreed that the JO would look into adopting this practice.

CS confirmed he would review the feedback received and consider amending the modification.

#### **4.0 Diary Planning for Workgroup**

The next meeting is scheduled for Thursday 21 July 2011, at ENA, following the UNC Committee meeting.