

**UNC Modification Panel**  
**Minutes of Meeting 283 held on**  
**Tuesday 14 December 2021**  
**via teleconference**

**Attendees**

**Voting Panel Members:**

<b>Shipper Representatives</b>	<b>Transporter Representatives</b>	<b>Consumer Representatives</b>
D Fittock (DF) Corona Energy D Morley (DMo) Ovo Energy M Bellman (MB) ScottishPower Oorlagh Chapman (OC) Centrica R Fairholme (RF) Uniper S Mulinganie (Gazprom Energy)	H Ward (HW) BU-UK D Lond (DL) National Grid NTS D Mitchell (DM) SGN G Dosanjh (GD) Cadent R Pomroy (RP) Wales & West Utilities T Saunders (TS) Northern Gas Networks	S Hughes (SH) Citizen's Advice E Proffitt (EP) Major Energy Users' Council

**Non-Voting Panel Members:**

<b>Chairperson</b>	<b>Ofgem Representative</b>	<b>Independent Supplier Representative</b>
W Goldwag (WG), Chair	A Ryan (AR)	(None)

**Also, in Attendance:**

- C Williams (CW), National Grid NTS
- D Wilkinson (DW), EDF Energy
- E Rogers (ER), Xoserve - CDSP Representative
- H Moss (HM), Cornwall Insight
- H Seaton (HS), Ofgem
- J Cox (JC), Energy UK
- J Semple (JS), Ofgem
- J Randall (JR), National Grid NTS
- K Ingham (KI), Centrica

L Hellyer (LH), Total Gas & Power

M Bhowmick-Jewkes (MBJ), Joint Office

P Garner (PG), Joint Office

R Hailes, (RH), Joint Office

## **Record of Discussions**

### **283.1 Introduction**

The UNC Modification Panel Chair (WG) welcomed all attendees to the Extraordinary Panel meeting, explaining that the meeting has been arranged to discuss Modification 0687 - *Creation of new charge to recover Last Resort Supply Payments*.

### **283.2 Note of any alternates attending the meeting**

H Ward on behalf of A Travell, BU UK

### **283.3 Record of apologies for absence**

A Travell, BU UK

### **283.4 Consider Variation Request**

#### **a) 0687 – Creation of new charge to recover Last Resort Supply Payments**

WG stated that Ofgem had sent back Modification 0687 - *Creation of new charge to recover Last Resort Supply Payments*, requesting the UNC Modification Panel to review the Legal Text based on the points noted in Ofgem's letter dated 07 December 2021 and determine whether the Modification should be recommended for implementation. WG invited A Ryan (AR), the Ofgem Representative, to explain Ofgem's position.

AR advised that Ofgem are eager for Modification 0687 to be implemented because of the high retail and wholesale prices in the market and as the Modification seeks to allocate the Supplier of Last Resort (SoLR) costs to the correct market sector from which it originates, and this aligns with Ofgem's policy intentions.

AR asked Panel Members to review the Modification and consider whether it was still fit for purpose, considering the time that had passed since it had been raised. AR also noted that Ofgem will need to make a decision for implementation by 20 January 2022, and therefore the Modification is timebound. AR added Ofgem plan to publish a Retail Price Cap methodology consultation which will align with this Modification.

WG clarified that this Extraordinary Panel was being held to expedite this process and that a Variation Request had been received for Modification 0687, inviting L Hellyer (LH) to present it.

LH introduced the Variation Request, explaining that the Proposer's view was that the amendments to the Modification were immaterial and highlighted the changes to the Legal Text. The amendments to the Modification are captured in a 'change marked' version and published on the Panel meeting page: [www.gasgovernance.co.uk/panel/141221](http://www.gasgovernance.co.uk/panel/141221)

LH noted the key changes to the Varied Modification as follows:

- Commentary has been added around wholesale costs as this is now a significant element of the cost, and this will now be borne by the Domestic sector rather than the I&C sector.
- Further to discussions with Ofgem, the calculations to determine who bear the costs have been simplified as calculating the split in costs is not required to be included in the Modification.
- Clarity around Business Rule 11 has been added.

WG asked whether the Legal Text for the Modification was ready. LH advised the final Legal Text had been produced by the Distribution Network Operator (DN) and added to the Variation Request.

P Garner (PG) explained the governance process for the Variation Request, thanking Panel Members for convening promptly. PG advised if Panel Members determined this Variation was considered immaterial, they could or could not recommend it for implementation to Ofgem, and if it was considered material, it could be issued to Consultation, with the following timetable:

- Consultation issued by midday 14 December 2021
- Consultation close out 30 December 2021
- Extraordinary Panel 12 January 2022

Steve Mulinganie (SM) asked if the Variation could time out through the suggested timetable as this would result in significant financial impacts to the Non-Domestic market. PG explained if Panel Members decided the Variation was material, instead of issuing it to Consultation, they could send the Modification to Workgroup for further discussions which would mean the timeline set by Ofgem to implement this Modification may not be met.

G Dosanjh (GD) asked if Ofgem could make their decision following a recommendation from Panel on 12 January.

R Pomroy (RP) also asked when Ofgem were considering issuing their decision by, highlighting that DNs have to set their Transportation Charges in January. AR clarified Ofgem were looking to issue their decision between 12 and 20 January 2022 as they understand the urgency of this Modification and realise it is timebound.

S Hughes (SH) asked Ofgem whether a similar consideration for timescales was also required for Modification 0795 - *Arrangements for charging for revenue to pay valid Last Resort Supplier Payment claims*. AR advised he was not an expert on Modification 0795 but believes it will need to follow the same timescales if it is to be implemented by 01 April 2022. RP clarified to SH that Modification 0795 proposes Self-Governance procedures, dependent on a Panel determination at the 16 December Panel.

WG asked Panel Members to consider whether the Variation Request for Modification 0687 was material.

SM suggested it was material. Oorlagh Chapman (OC) agreed with this view, highlighting that Centrica had submitted a letter noting the following points:

- Some of the changes made to the Modification in the Variation Request were material changes, such as the change to the costs;

- Change to the Legal Text on whether the charges meet the DN's licence conditions is material;
- Impact to the Domestic and Non-Domestic sectors is material; and
- Impact to the Central Systems is significant.

T Saunders (TS) highlighted that when considering the value of the financial impact, the Variation could not be immaterial.

WG invited E Rogers (ER), the CDSP Representative, to comment on the impact to the Central Systems. ER explained that the Variation Request was a workaround rather than a complete solution. Considering the timescales for implementation, it was being proposed as an interim solution until the full solution in the original Modification could be implemented.

ER added that considering the significant number of changes currently being developed, the CDSP has allocated resources to implementing the solution specified in the Variation. However, ER noted that if the solution were to change significantly, there could be a risk to implementation.

SH asked:

- Given that there has been a Variation to the original Modification, why does the Consumer Impact show no direct impact when evidently there will be a significant impact on consumers because of this Modification.
- Should the implementation date still show as 2019 or whether this should be updated.

LH explained that whilst the Variation has amended the relevant areas of the Modification, most of the original Modification had not been changed. LH added that there was likely to be minimal changes transferring the impact from one market sector to the other, although accepted the scale of the costs were significantly different.

LH noted as she was not the original proposer of this Modification, she was unable to share any further insight into the original drafting of the Modification. (The original Proposer has now left the business)

PG highlighted that under Modification Rules 6.5.4a) Panel Members must vote unanimously in favour of the Variation Request to be immaterial and asked Panel Members to decide whether this Variation Request was material.

Panel Members then determined (14 Panel votes were available for the determinations):

- Variation Request for Modification 0687 is material, by unanimous vote (14 out of 14).
- Modification 0687V is not related to the Significant Code Review, by unanimous vote (14 out of 14)
- The criteria for Self-Governance is not met, as this Modification is likely to have a material effect on competition in the shipping, transportation or supply of gas conveyed through pipes or any commercial activities connected with the shipping, transportation or supply of gas conveyed through pipes, by unanimous vote (14 out of 14).

SM stated that it would be important to assess any indirect customer impacts as well as the impact on the different market sectors as it is clear that there are indirect impacts from Modification 0687V which have not yet been flagged.

PG asked if Panel Members wanted the Modification to be updated or whether they wanted to add questions to the consultation to address this issue. SM suggested adding it as a consultation question.

SH noted the Varied Modification included a 'worked example' with figures which were unlikely to still be relevant. SH suggested it would be more beneficial to remove this.

WG was reluctant for the Modification to be rewritten at this stage and suggested it would be better to include this as a consultation question.

M Bellman (MB) joined the call and agreed with the cost reflectivity issue, highlighting it was unclear what the tariffs would be by April 2022 as DNs will need to set their charges. WG explained the Modification was timebound and it was being expedited, noting that if the consultation responses came back with new issues or suggested amendments, Ofgem may not be able to meet their timeline for approval.

Oorlagh Chapman (OC) stated that she disagreed that the Modification should be issued to consultation as the changes being proposed required industry scrutiny and suggested the Modification should be reviewed at Workgroup.

MB agreed with this view, noting that whilst he was cognizant of the timescales, putting the Modification to consultation would not address Ofgem's concerns.

AR stated that Ofgem had reviewed the Variation Request and were of the opinion that it was fit for purpose, adding that Modification 0687V should be issued to consultation. AR accepted the consultation responses may make it challenging for Ofgem to meet the timeline.

SM noted that the principle of the original Modification had not been fundamentally changed, but the impact of the price cap on the wholesale market had changed instead. SM did not agree with the view that reviewing Modification 0687V at Workgroup would be beneficial.

SH commented that if this Modification was not timebound, Panel would have likely determined it should be returned to Workgroup for further development. SH highlighted that the length of time taken by Ofgem to make their 'minded to decision' had truncated the normal process for developing this Modification to ensure it was suitable and fit for purpose.

MB agreed with this view about the timeline, noting that various market segments would be impacted by this Modification and asked how the proposed Ofgem Price Cap review would affect this.

RP highlighted that the consultation stage could be used by industry parties to raise any issues with this Modification and to substantiate their concerns.

D Fittock (DF) agreed with RP stating that it was unclear what a Workgroup review would achieve at this stage, whilst the consultation will be more likely to have greater engagement with the industry.

LH stated that the amendment to the original Modification will impact a small number of Suppliers who have entered administration, adding that only where Suppliers have both Domestic and Non-Domestic customers would see a reallocation of costs. AR agreed with this view.

WG acknowledged that this was not the ideal situation, suggesting it would be best to add the right questions to the consultation to address these issues.

E Proffitt (EP) asked if this Modification was returned to Workgroup and the timescales were not met, whether the existing rules apply, and the non-Domestic sector would be charged incorrectly. DF confirmed this was correct. EP added that his understanding was that £175m in charges had been allocated incorrectly. Panel Members largely agreed with this view.

MB reiterated that he did not believe issuing the Modification to consultation was the right approach and suggested convening a short Workgroup to discuss these issues.

R Hailes (RH) explained that if this Modification was returned to Workgroup, it would still need to be issued to consultation and an Extraordinary Panel would have to be convened before Ofgem could make their decision. RH added that in light of the upcoming Christmas and New Year holidays, it was unlikely that Ofgem's timeline would be met. PG agreed and stated that a consultation would also have a wider engagement with the industry than a Workgroup.

SM noted that Ofgem are due to consult on their Price Cap review, based on the assumption that Modification 0687V is implemented. If the Modification is not implemented, it will frustrate the Price Cap consultation which will impact the recovery of charges.

AR agreed with SM's view and added that Ofgem's Retail Price Cap methodology is proposing to future proof the recovery options in the retail energy market.

R Fairholme (RF) noted that if new issues were raised in consultation responses, the Modification may still not meet the timeline set by Ofgem. RF suggested his preference was for a Workgroup to address any issues that may be raised at consultation.

WG accepted there were challenges with either approach but highlighted that if Ofgem did not meet their timeline there would be significant consequences to the industry.

Panel Members voted on whether Modification 0687V should be issued to Consultation for 10 days, with the Final Modification Report to be considered at an Extraordinary UNC Modification Panel on 12 January 2022.

Panel Members then determined (14 Panel votes were available for the determinations):

- Modification 0687V issued to consultation, with consultation close out date of 30 December 2021, and to be considered at the 12 January 2022 Extraordinary Panel, by majority vote (10 out to 14)

Panel Members discussed at length the questions to be added to the consultation template. The final list of questions was agreed as follows:

Panel Questions for Consultation:

1. What are the impacts for industry if the mandatory timeframes for changes to DN tariffs are not met?
2. Based on the estimated SoLR levy costs published by DNs on 01 November 2021 which total approx. £900m (available in indicative charging statements, albeit with uncertainty, here: <https://www.gasgovernance.co.uk/indic/2022> and an indicated split between domestic (80%) and non-domestic (20%), do Parties have any comments on the methodology?
3. What is the impact on markets and industry of the inclusion of wholesale costs in the varied Modification 0687V?
4. Do parties have any comments regarding the technical delivery of the Code solution proposed by the CDSP (note this is a different option to what is given within the Modification), as detailed here: <https://www.xoserve.com/change/change-proposals/xrn-4992-modification-0687-creation-of-new-charge-to-recover-last-resort-supply-payments/>
5. What is the impact on industry of the timeline of this Modification?

Consultation close out 5pm 30/12/2021  
FMR to Panel for reading 05/01/2022  
Panel consideration 12/01/2022  
FMR to Ofgem 12/01/2022  
Ofgem decision expected 20/01/2022  
Deadline for publication of DN charges 31/01/2022

In addition, Panel Members discussed adding the following question to the consultation template:

*What has the impact on Parties been as a consequence of the duration of this Modification awaiting a decision by the Authority since October 2019?*

However, Panel Members agreed that this issue would be better addressed through other means and agreed to discuss it at a later date.

### **283.5 Consider Final Modification Report**

#### **a) 0687 – Creation of new charge to recover Last Resort Supply Payment**

Consideration of this was no longer applicable.

### **283.6 AOB**

None.

### **280.6 Date of Next Meeting**

10:00, Thursday 16 December 2021, by teleconference