

**UNC Workgroup 0448 Minutes**  
**Aligning UNC with Licence Conditions relating to European legislative change**  
**Thursday 19 September 2013**  
**Energy Networks Association, 52 Horseferry Road, London SW1P 2AF**

**Attendees**

Tim Davis (Chair)	(TD)	Joint Office
Lorna Dupont (Secretary)	(LD)	Joint Office
Abid Sheikh*	(AS)	Ofgem
Alan Raper	(AR)	National Grid Distribution
Alex Barnes	(AB)	Gazprom
Amanda Rooney	(ARo)	Ofgem
Chris Hill	(CH)	Consumer Focus
Chris Warner	(CWA)	National Grid Distribution
Chris Wright	(CWr)	Centrica
David Mitchell	(DM)	Scotia Gas Networks
Hilary Chapman	(HC)	Xoserve
Joanna Ferguson	(JF)	Northern Gas Networks
Phil Broom	(PB)	GDF Suez
Richard Fairholme	(RF)	E.ON UK
Ritchard Hewitt	(RH)	National Grid NTS
Sean McGoldrick	(SM)	National Grid NTS
Steve Edwards	(SE)	Wales & West Utilities

\*via teleconference

Copies of all papers are available at: [www.gasgovernance.co.uk/0448/190913](http://www.gasgovernance.co.uk/0448/190913)

The Workgroup Report is due to the Panel by 17 October 2013.

**1.0 Review of Minutes and Action (15 August 2013)**

The minutes were accepted.

**0501:** Ofgem to explain how it thinks the modification/legal text would work in practice.

**Update:** TD suggested that, in light of progress made, this action could be closed. **Closed**

**2.0 Discussion**

AS observed that Ofgem has issues with the current version of the legal text and these will be raised and considered - there were concerns regarding over complication of the process and what it is trying to achieve. The modification should be addressing the defined circumstances in which it has been raised, and is to enable the Authority to perform certain activities in defined circumstances.

RH explained what had been included and why in respect of defining the unique position and situations in which the rules could apply. The modification was seeking to set out the principles that should be applied in these circumstances.

AS queried the inclusion of 'in its entirety' in the definition of a European Modification, which goes beyond what is provided for in the Licence. RH explained this had been added following last month's meeting, to address

concerns raised that any ability to designate a modification as European might be used to ‘overstep’ and go beyond its defined parameters. TD pointed out that the Authority cannot be restricted through the UNC and hence that putting “in its entirety” in the UNC made no difference to Ofgem’s ability to direct as it saw fit - the UNC provision would have no effect.

RH and SM explained what had been directly referenced from the Licence. AS indicated that Ofgem is looking for consistency between what is in the Licence and what will be in the UNC. RH encouraged AS to provide detailed comments to National Grid NTS so that they could be addressed well in advance of the next meeting.

AS expressed concerns regarding the definition of the ‘regulation’ and what this included. SM responded that it was taken from page 105 of the Licence. AS observed that the version dated 05 August appeared to have additional wording and consistency and scope for future change needed to be considered. TD suggested that, consistent with established practice in the Modification Rules, cross-references to the Licence might obviate the need to change the UNC if and when Licence definitions are changed.

AS questioned the need for a Panel view – the Licence does not give the Panel a role. TD explained the differences between the Licence and the UNC and where Panel views have been welcomed and the opportunity for seeking this had been put into the UNC in line with the Code Administration Code of Practice.

AS pointed out that the Licence provides for the Panel to comply with directions issued by the Authority and this had been omitted from the modification. TD pointed out that the Authority has no licensing powers over the Panel - the Authority cannot issue directions to the Panel as it does not regulate it. TD suggested this should either be ignored or there will be a need to build in something that can enable it to happen, which could be very complex. AS agreed to reconsider this.

AS also raised concerns regarding the prevention of raising alternative proposals in writing. SM explained why it had been included, and referred AS to A11 9 C in the Licence, and to Section 2 (Why Change) in the modification.

### **3.0 Review of Legal Text**

The current version of the legal text was reviewed. SM explained the changes made and noted comments and suggestions for further consideration.

#### **Modification Rules**

1.1(b), 1.1(c), 1.1(d) and 1.1(e) – It was suggested that ‘the Authority’ should be included in each of these paras.

1.1(l) – The context is needed to make any sense of a reading of the proposed amendments to this para.

1.1(m) – CWr questioned that this seemed to duplicate 6.8.6? TD explained that MR1 is descriptive/summary. AS suggested that ‘Proposal’ should be added to ‘European Modification’ – for consistency.

6.1.1(d) and (e) – Consider rewording to reflect consistency of wording in previous paras.

6.1.2 (d) – Consider rewording to reflect consistency of wording in previous paras.

6.2.1(e)(i) - Intent of wording/meaning to be checked/reconsidered

6.2.1(q) – TD observed this may involve changes to the Code of Practice and the templates.

6.4.5(b) - TD questioned whether it is necessary to include 'in writing'?

6.8 – Should be shown in 'bold' type.

6.8.1 – Consider rewording. This should not be telling the Authority what it can/cannot do. If the current wording remains the modification may require amendment. Check the wording against the Business Rules.

6.8.4 – As for 6.8.1. This should not be telling the Authority what it can do or how. It should direct other parties as to how to act on receipt of a communication from the Authority.

6.8.5 – Inconsistent with previous paras, and as for 6.8.1.

6.8.6 - As for 6.8.1, 6.8.4, etc. Check roles - references to Panel may need to refer to Secretary.

6.8.7 – Redraft to reflect Ofgem's positive identification of a European Modification.

6.8.9 and (a) – This also should not attribute powers to the Authority. Remove the action relating to the Proposer, and also check the Business Rules. The Licence gives a one-way determination – reconsider wording.

6.8.11 – 'and/or' – is this required?

7.2.9 – Reconsider which section this should reside under – it may need to be in a separate one?

#### *Next Steps*

Amendments to the legal text and modification will be considered and revisions produced.

## **4.0 Workgroup Report**

The modification was considered in relation to the relevant objectives, and it was agreed that it facilitated (c) and (f), but not (g).

It was noted that the Workgroup's report was due to be made to the Modification Panel on 17 October 2013, and to achieve this the revised modification and text would need to be produced within days. SM indicated that this was not achievable and a reporting extension will therefore be requested at the October Panel.

## 5.0 Diary Planning

The next Workgroup 0448 meetings will be accommodated within the Governance Workgroup as follows:

Date		Venue
Thursday 17 October 2013	Governance Workgroup (following the UNCC meeting)	ENA, 52 Horseferry Road, London SW1P 2AF
Thursday 31 October 2013	Governance Workgroup (10:30)	ENA, 52 Horseferry Road, London SW1P 2AF

### Action Table – Workgroup 0448

Action Ref	Meeting Date	Minute Ref	Action	Owner	Status Update
0448/0501	02/05/13	2.0	Ofgem to explain how it thinks the modification/legal text would work in practice.	Ofgem (CC/ET)	Closed