

CODE MODIFICATION PROPOSAL No 0318
Code Governance Review: The approach to be taken when raising alternative
Modification Proposals.
Version 4.0

Date: 16/09/2010
Proposed Implementation Date: 31 December 2010
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).

Background

In November 2007, Ofgem announced the Industry Codes Governance Review, which concluded at the end of March 2010 when Ofgem published their Final Proposals for the Code Governance Review (CGR). The Final Proposals covered the following work strands:

- Significant Code Review and Self Governance proposals;
- Proposals on the governance of network charging methodologies;
- Proposed approach to environmental assessment within the code objectives;
- Proposals on the role of code administrators and small participant and consumer initiatives; and
- The Code Administration Code of Practice (subset of the above code administrators proposals).

Modifications to the gas transporter's licence necessary to implement the Final Proposals for the Code Governance Review and the Code Administration Code of Practice were published on 3 June 2010 and become effective on the 31 December 2010.

This Modification Proposal aims to implement the Code Governance Review Final Proposals with regards to an aspect of the Code Administration Code of Practice (CoP) – “the approach to be taken when raising alternatives to Amendment Proposals.”

Principle 7 of the Code Administrator CoP states that:

Any process for considering a suggested Modification to a code will allow

for alternative solutions to be developed and fully assessed during the Modification lifecycle. To ensure this happens;

- *other than the proposer of the Modification, any user who has a right to raise a Modification will be allowed to propose an alternative solutions;*
- *Alternative proposals shall be raised prior to or during the workgroup stage;*
- *Subject to timing and ownership there shall be no restriction on the number of alternative proposals that can be raised. Each alternative solution will be assessed with the same rigour as the proposed solution.*

This proposal is raised to amend the UNC to comply with Principle 7 of CoP. It is intended that upon implementation of the proposal the Joint Office will facilitate the development of alternative solutions to the same degree as an original solution. In addition, implementation will ensure alternative proposals can be raised prior to, or during the workgroup stage.

The current UNC process for raising an alternative Proposal is not consistent with the aforementioned CoP principle. Currently the process for raising an alternative Proposal, is described in paragraph 6.4 of the Modification Rules; broadly this requires an alternative Proposal to be raised within five business days of a Proposal proceeding to either Development Phase* or Consultation Phase*. The alternative Proposal proceeds to the same timescales as the initial proposal.

Nature of the Proposal

Principle 7 of the recently published Ofgem document The Code Administration Code of Practice states that “Code Administrators will facilitate alternative solutions to issues being developed to the same degree as an original solution”. The following amendment will bring the UNC into line with this principle.

It is proposed that the existing provision in Code Modification Rules 6.4.1(c) is removed and a new section added to state that:

- alternative proposals shall be allowed to be raised up until the time a workstream report is submitted to the Panel. Where the Panel subsequently reject the report and send it back to the workstream then at that point alternatives may once more be raised up until the time a workstream submits the revised report to the Panel.
- Once a modification proposal(s) proceeds to the Consultation Phase with or without an alternative, no further alternative can be raised.

Should a Modification Proposal proceed to the Development Phase, the relevant Workgroup can develop the Proposal(s) as necessary and create a new alternative Proposal if the work group believe this is required. If the

Proposer of the original does not wish to amend their proposal to the alternative approach a different party ~~shall~~ may become the proposer of the alternative proposal. Also, any other party may raise an alternative provided that they are able to raise a proposal in this area. Such alternatives shall be considered by the workgroup provided that such alternate is raised at least 5 working days before a meeting of the workgroup. It is anticipated that this will enable alternative(s) and original Proposals to be developed to the same degree and timescales.

Although not part of this Proposal, as these points are already described within the UNC Modification rules, it is worth noting that the original Modification Proposal and any alternative Proposal(s) will be developed in accordance with Principle 6 of the CoP “A proposer of a Modification will retain ownership of the detail of their solution”. Key elements of this principle are as follows:

- Only a Proposer can amend their Modification Proposal
- Workgroups will assist the Proposer in designing and assessing their solution advising on any issues but not changing the solution unless the Proposer agrees.
- Any User, who has the right to raise a Modification Proposal, has the right to adopt such a Modification Proposal that has been withdrawn by the original Proposer as detailed in paragraph 6.5 of the Rules

With the above in mind we anticipate that the Proposers of the original and any alternative proposal(s) will attend the workgroup, or send a representative. Upon the implementation of Modification Proposal 0319: Role of the Code Administrator and Code Administration Code of Practise the Joint Office may, as a Code Administrator, offer to represent small participants.

It is proposed that if implemented the following transitional arrangements are used;

All modification proposals that have been allocated a number by the Joint Office at the time of implementation will continue on the arrangements prior to implementation of this proposal, however from the date of implementation any new modifications will progress using the new arrangements.

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 Modification Proposal is sufficiently clear to proceed directly to consultation

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 it 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**

Not applicable.

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

Not applicable.

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

Not applicable.

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 proposal is raised in accordance with paragraphs 1c, 1f and 9 of Standard Special Condition A11 Network Code and Uniform Network Code.

Paragraph 1f of the Licence states that *"so far as is consistent with sub-paragraphs (a) to (e), the promotion of efficiency in the implementation and administration of the network code and/or the uniform network code;"*

Paragraph 2 of the Licence states that *"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)." Paragraph 9 of the Licence describes the procedures which must be included within the Modification Rules to allow amendments to the UNC to occur including but not limited to; the raising of proposals and alternates, providing publicity to a proposal and the consideration of any representations.*

The proposer believes that this Modification Proposal (which is seeking to implement an element of the Code Governance Review Final Proposals) will better facilitate paragraphs 1f and 9 by providing a number of administrative and implementation efficiencies:

- Reducing unnecessary barriers and red tape within the UNC;
 - Making existing governance processes more transparent and accessible,

- particularly important for small participants and consumer groups.
- Simplifying the UNC change processes and increase consistency between industry codes.
- Provide greater clarification as to how alternative proposals shall be raised and treated (in particular during the workgroup stage) ensuring each alternative solution will be assessed with the same rigour as the proposed solution.

In addition, this proposal is raised in accordance with paragraph 1c of Standard Special Condition A11 Network Code and Uniform Network Code. The Proposer feels that the Proposal better facilitates the efficient discharge by the licensee of the obligations imposed upon it following the Ofgem Code Governance Review, under paragraph 10 of Standard Special Condition A11. Network Code and Uniform Network Code, of the Gas Transporters' Licence as provided below:

10b "where a modification proposal has been made under paragraphs 10(a), 10(aa) or 10(ab) of this condition (an "original proposal") alternative modification proposals may be made, in respect of any such original proposal, by any of the parties listed in paragraph 10(a) 10(aa) or 10(ab) of this condition with the exception of the person who made the original proposal provided that:

(i) the alternative proposal is made as described in the Code of Practice and as further specified in the uniform network code; and

(ii) unless an extension of time has been approved by the panel and not objected to by the Authority after receiving notice, any workgroup stage shall last for a maximum period (as specified in the uniform networkcode) from the date on which the original modification was proposed.

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

In terms of industry fragmentation, this proposal better aligns the UNC alternative Modification Proposal process to that utilised in the CUSC and BSC.

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

a) The implications for operation of the System:

Not applicable.

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

Not applicable.

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:

Not applicable.

- 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**

Greater level of certainty that an alternative has been subject to appropriate scrutiny / development prior to being issued to consultation.

- 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)**

Not applicable.

- 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**

Not applicable.

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

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

UNC parties would need to note the new timescales and procedures for raising alternative proposals and amend their administration processes accordingly.

- b) **The development and capital cost and operating cost implications**

Not applicable.

- 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**

Not applicable.

- 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)**

All UNC parties would need to note the new procedures for raising alternative proposals and amend their administration process accordingly. By raising an alternative the UNC party is committing to sending a representative to the Working Group.

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

Implementation of the proposal would allow the new licence obligation effective on 31 December 2010 to be met.

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

Advantages

The proposal would allow the new licence obligation effective on 31 December 2010 to be met.

It allows both alternatives and original proposals to have the same development and analysis if that is the route chosen by the Panel.

Disadvantages

The Modification process may become extended to allow for better development of alternatives.

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

It is recommended that this modification be implemented on 31st December 2010, if this date has already past at the time of the Authority decision then it is recommended that it is implemented on the next working day after the decision.

16 Comments on Suggested Text

17 Suggested Text

Code Concerned, sections and paragraphs

MODIFICATION RULES

Delete all text at paragraph 6.4 and replace with text to read as follows:

6.4 Alternative Proposals

6.4.1 In respect of a Modification Proposal which the Modification Panel pursuant to paragraph 7.2.3 has determined should proceed to the Development Phase:

- (a) where the Modification Proposal is made in respect of the Uniform Network Code, any Transporter or User;
- (b) where the Modification Proposal is made in respect of an Individual Network Code, any Relevant Transporter or Relevant Shipper;
- (c) where the Modification Proposal is a Third Party Modification Proposal, any Third Party Participant;

being a person other than the Proposer, may make an alternative Modification Proposal in accordance with paragraph 6.2.

6.4.2 The Development Work Group shall consider an alternative Modification Proposal made under paragraph 6.4.1:

- (a) at the next meeting of the Development Work Group if such proposal is made no later than five (5) Business Days before the next meeting of the Development Work Group; or
- (b) at the meeting of the Development Work Group immediately following the meeting referred to in paragraph (a) if such proposal is made after the date which is five (5) Business Days before the meeting referred to in sub-paragraph (a).

6.4.3 An alternative Modification Proposal shall not be:

- (a) made in respect of a Modification Proposal; or
- (b) considered by the Development Work Group under paragraph 6.4.2;

where:

- (1) the Development Work Group Report (relating to the relevant Modification Proposal) has been sent to all Members in accordance with paragraph 8.7; or
- (2) the Modification Panel has made a determination to refer the Workgroup Report (relating to the relevant Modification Proposal) back to the Workgroup for revision or further work under paragraph 8.8.1(b)(ii) and such Development Work Group Report has been sent to all Members in accordance with paragraph 8.7 after such revision or further work.

6.4.4 An alternative Modification Proposal may not be made in respect of a Modification Proposal after the Modification Panel pursuant to paragraph 7.2.3 has determined such Modification Proposal should proceed to the Consultation Phase.

Uniform Network Code

Transportation Principal Document

Section(s)

Proposer's Representative

Beverley Viney, National Grid NTS

Proposer

National Grid NTS