

UNC Modification Panel
Minutes of Meeting 281 held on
Thursday 18 November 2021
via teleconference

Attendees

Voting Panel Members:

Shipper Representatives	Transporter Representatives	Consumer Representatives
D Fittock (DF), Corona Energy D Morley (DMo), Ovo Energy M Bellman (MB), ScottishPower O Chapman (OC), Centrica R Fairholme (RF), Uniper S Mulinganie (SM), Gazprom Energy	A Clasper (AC), Cadent A Travell (AT), BU-UK D Lond (DL), National Grid NTS D Mitchell (DM), SGN R Pomroy (RP), Wales & West Utilities T Saunders (TS), Northern Gas Networks	S Hughes (SH), Citizens Advice E Proffitt (EP), Major Energy Users' Council

Non-Voting Panel Members:

Chairperson	Ofgem Representative	Independent Supplier Representative
W Goldwag (WG), Chair	J Semple (JS)	(None)

Also, in Attendance:

E Rogers (ER), Xoserve - CDSP Representative
G Dosanjh (GD), Cadent
H Moss (HM), Cornwall Insight
K Elleman (KE), Joint Office
M Bhowmick-Jewkes (MBJ), Joint Office
P Garner (PG), Joint Office
R Hailes (RH), Joint Office

Record of Discussions

281.1 Introduction

The UNC Modification Panel Chair, Wanda Goldwag (WG), welcomed all attendees.

281.2 Note of any alternates attending the meeting

A Clasper on behalf of G Dosanjh, Cadent

281.3 Record of apologies for absence

A Jackson, IGT Panel Chair

281.4 Minutes of the last meeting (21, 22 and 28 October 2021)

Panel Members approved the minutes from 21, 22 and 28 October 2021.

281.5 Review of Outstanding Action(s)

None.

281.6 Consider Urgent Modifications

a) 0788 (Urgent) - Minimising the market impacts of 'Supplier Undertaking' operation

P Garner (PG) stated that Ofgem had approved the implementation of Modification 0788 (Urgent) on 29 October 2021, with the Modification to be implemented by 01 November 2021.

Panel Members were asked to consider whether the subject matter of this Modification should be reviewed by a Workgroup to assess whether there had been any unintended consequences following its implementation.

R Fairholme (RF) noted that the concerns raised in relation to Modification 0788 were regarding how it would be used in the industry and suggested that it would be inappropriate to carry out a review at this time as an assessment of the Modification's utilisation should take place over a period of time. RF suggested a review should be carried out in three months' time instead.

D Lond (DL) supported this view and asked in which Workgroup the review would be carried out.

PG advised that the Modification would be assessed at the Transmission Workgroup in February 2022 with the aim of a report being presented to the February Panel.

PG added a caveat that Modification 0788 would be presented to Panel in February dependant on how many issues arose out of the Transmission Workgroup assessment, noting that if there were a significant number of issues to consider, the report to Panel may be presented in March instead.

New Action PAN 11/01: Joint Office (Transmission Workgroup Chair) to ensure Modification 0788 (Urgent) is assessed at the February 2022 Workgroup with the aim to report to the February 2022 Panel.

PG asked if DL would present an update on Modification 0788 to the Transmission Workgroup for assessment. DL agreed to this request.

S Mulinganie (SM) asked what would be included in the report on the Modification.

DL clarified that the report would be on the utilisation of the Modification, and it would also highlight any concerns from the industry. WG added that any consequential impact of the Modification should also be included in the report.

SM noted that whilst he did not believe that there had been insufficient time to evaluate Modification 0788, he would agree to proceed with the approach suggested.

PG noted similar reports had been provided on the Urgent COVID-19 Modifications in 2020 and noted that the Joint Office would liaise with DL and E Rogers (ER) on what to include in the reporting.

R Pomroy (RP) noted that Modification 0788 (Urgent) was not an enduring Modification and noted the report should also review how much it was being used and how long it would be used for.

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

- Modification 0788 (Urgent) to be assessed by the February 2022 Transmission Workgroup with a report to be presented to the February 2022 Modification Panel. (14 out of 14)

281.7 Consider Variation Request

- a) None

281.8 Final Modification Reports

- a) **0776S - Revision of the Modification Panel Meeting Location Requirement in the Modification Rules**

Panel Discussion: see the Final Modification Report published at:

<https://www.gasgovernance.co.uk/0776>.

Panel Members considered the Representations made noting that implementation was unanimously supported in the three representations received.

Panel Members agreed that this Modification would allow greater flexibility in relation to the location of the different Panel Members as well as utilise advanced technology for remote meetings and more flexible working arrangements available to the industry.

Panel Members agreed this Modification was suitable for Self-Governance.

RP noted that whilst Modifications affecting Modification Rules would normally require Authority Direction, this Modification was suitable for following Self-Governance procedures.

T Saunders (TS) suggested that this Modification may have a potentially positive impact on carbon footprint as Panel Members would no longer be required to travel to London for Panel meetings every month. SM suggested this would depend on the Panel Members' location and means of transport

Panel Members agreed that this Modification positively impacted Relevant Objectives f) *Promotion of efficiency in the implementation and administration of the Code.*

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

- There were no new issues requiring a view from Workgroup, by unanimous vote (14 out of 14).
- It is not related to the Significant Code Review, by unanimous vote (14 out of 14).
- There are no Cross-Code impacts, by unanimous vote (14 out of 14).
- Modification 0776S to be implemented, by unanimous vote (14 out of 14).

281.9 Consider New, Non-Urgent Modifications

- a) None

281.10 Existing Modifications for Reconsideration

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

PG stated that at the October Modification Panel Meeting, Ofgem had advised that a decision on Modification 0687 would be provided by the end of 2021. PG noted that a number of Panel Members had requested a further update from Ofgem in relation to a final decision on Modification 0687.

J Semple (JS), the Ofgem representative, acknowledged the delay and advised that Ofgem would provide a decision in due course. She noted that there had been an increase in SoLRs (Supplier of Last Resort), concerns relating to implementation of the Modification, alongside recognising industry's frustration at the time it was taking for Ofgem to come to a decision. She stated that Ofgem would expedite their decision-making process.

SM responded stating that Ofgem's statement was not satisfactory and a decision on this Modification was needed immediately. SM also stated that he was aware of a number of letters and bilateral meetings taking place between industry Parties and Ofgem in relation to concerns about the delay to the decision making on this Modification. SM requested a decision no later than the end of December 2021.

RP also noted his dissatisfaction with Ofgem's response. He stated that Ofgem needed to understand the urgency of the impact of them not making a decision. RP requested a decision no later than the end of November 2021. SM agreed this would be a more optimal decision date.

RP advised that he had written to Ofgem, asking for a decision to be made immediately, highlighting the urgent need for this decision and communication to the industry. RP emphasised he was disappointed with Ofgem's inability to commit to making a decision within the timeframe requested.

A lack of a decision is impacting industry's ability to plan for the implementation in systems for this Modification. RP formally requested that JS ask the Ofgem Policy Team for a decision before the end of November, as several issues would need to be considered before implementation could proceed.

JS noted she would speak to her colleagues for a view on this, noting the Ofgem Policy lead for this Modification was Lina Apostoli.

ER stated that the DSC Change Management Committee would need to be involved as there would be a need for potential reprioritisation of the work associated with systems implementation.

ER noted that from a Central Systems perspective, she agreed with RP's view, as in order to deliver Modification 0687, the CDSP (Central Data Service Provider) would need to carry out a number of checks once a decision on implementation was granted by Ofgem. ER added that if a decision from Ofgem was received by the end of November, or at the very latest before the December DSC Change Management Committee, the industry Change Managers could approve the changes required to the Central Systems, to allow the Modification to be implemented.

E Proffitt (EP) highlighted that Ofgem had not provided a decision on Modification 0687 for two years and emphasised the importance of the Modification under the current industry circumstances, noting that this had been highlighted to Ofgem on a number of occasions previously.

Panel Members agreed this topic should remain a standard Panel agenda item until a decision had been received from Ofgem.

M Bellman (MB) strongly agreed with the views shared by other Panel Members and asked why Ofgem was unable to decide on this Modification yet. MB asked the following questions:

- Was there a link with the price cap?
- Is this why the decision is taking so long?
- What is the legitimate reason for the delay?

SM noted that in not making its decisions in a timely manner, Ofgem is allowing proposals made by the industry to rectify topical issues to time out, subsequently leading to a significant impact on the market. SM was concerned that this highlighted that industry governance was not being dealt with in an appropriate and timely manner.

WG asked if there were any suggestions on how to progress this. PG advised that once a Modification was with Ofgem for a decision, there was very little to be done as the matter resided with Ofgem until such time as Ofgem provided their decision.

RP stated that the different teams within Ofgem appeared to be operating in silos, as there appeared to be no signs that Ofgem's Policy Team understood the urgency for a decision date on this matter.

R Hailes (RH) advised that under the UNC rules, if the proposal within a Modification had been materially changed, it could be sent out for a further consultation. RH added that the previous Ofgem Panel Representative, L King (LK) had suggested that a solution was being sought under the Retail Energy Code (REC).

SM agreed that this had been the case but stated that for REC to deal with the matter would be wholly inappropriate.

SM emphasised the need for a decision on this matter immediately, advising that this had been required over two years ago, and presently large swathes of the market were failing.

A Travell (AT) asked if Panel could progress the matter in any way.

PG advised that the discussions taking place would be recorded in minutes which were public records. PG also suggested that WG could raise matter with L Nugent (LN), Deputy Director, Licensing Frameworks at Ofgem, or write an open letter on behalf of the UNC Modification Panel.

WG agreed with this suggestion and asked Panel Members to vote as to whether they wished her to do this. PG noted that the Joint Office would aim to get an appointment for WG to speak to LN as soon as possible.

WG asked Panel Members if there was a value which represented the financial impact of Ofgem not making a decision. SM provided the following figures, stating potential total cost of £878m.

	£m SOLR added to forecast for 22/23	% Change in Allowed Revenue
Cadent	436	42.8
NGN	104	36.4
Southern	169	33.8
Scotland	75	38.3
WWU	93	29.3
Total	878	

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

- Independent UNC Modification Panel Chair (WG) to urgently discuss Modification 0687 with L Nugent at Ofgem. (14 out of 14).
- WG to report back to Panel Members. (14 out of 14).

281.11 Workgroup Issues

- a) None

281.12 Workgroup Reports for Consideration

a) Modification 0734S Reporting Valid Confirmed Theft of Gas in Central and Reporting Suspected Theft to Suppliers

Panel Members noted the Workgroup Report recommended that this Modification was returned to Workgroup for one month to review the revised Modification and finalise the Legal Text.

WG asked if a one-month extension was sufficient.

SM, as the Proposer of the Modification, noted that the lawyers had challenged some wording in the Modification when drafting the Legal Text. These have now been amended and a revised Modification has been submitted for Workgroup to review alongside new Legal Text.

For Modification 0734S, Members determined (14 Panel votes were available for the determinations):

- Modification 0734S should be returned to Workgroup with a reporting date of 16 December 2021. (14 out of 14)

281.13 Consideration of Workgroup Reporting Dates and Legal Text Requests

Panel Members determined unanimously to extend the following Workgroup reporting date(s), recorded here with some additional data:

Modification number and title	Current Panel reporting date	Requested Panel reporting date	Reason for request to change Panel reporting date/Comments
0674 - Performance Assurance Techniques and Controls	December 2021	January 2022	1 Month Extension Requested – awaiting revised Modification and new Legal Text

0734S - Reporting Valid Confirmed Theft of Gas into Central Systems and Reporting Suspected Theft to Suppliers	November 2021	December 2021	1 Month Extension Requested – to review revised Modification and finalise the Legal Text
0763R - Review of Gas Meter By-Pass Arrangements	January 2022	April 2022	3 Month Extension Requested – further analysis to be completed
0771S - Removal of the absolute requirement to include a Remotely Operable Valve (ROV) Installation for all new NTS Entry connections	December 2021	February 2022	2 Month Extension Requested – Awaiting response from HSE around Materiality

Panel Members discussed Request 0763R, noting that it had Cross Codes impact on REC and MAM. Panel Members agreed Request 0763 should be reviewed in a Cross-Codes Workgroup. RP noted he would flag this Modification at the REC Steering Group. PG noted she would liaise with Elizabeth Lawlor and Jon Dixon from RECCo to organise the Joint Workgroup.

New PAN Action 11/02: Joint Office (PG) to discuss Request 0763 with E Lawlor and J Dixon at RECCo in order to organise a Cross-Codes Workgroup.

Legal Text Requests

UNC Modification Panel Members discussed a number of Legal Text Requests and determined unanimously to make Legal Text Requests for the following Modification(s):

Legal Text Requests for Modifications
0734S - Reporting Valid Confirmed Theft of Gas into Central Systems and Reporting Suspected Theft to Suppliers
0785 - Application of UNC processes to an aggregated Bacton (exit) Interconnection Point

281.14 AOB

a) Joint Office New Company Update

PG stated that JGAC had replied to Ofgem's letter and Ofgem had 90 days to make a decision or raise further queries.

PG noted that she was also liaising with Ofgem in this matter and a further update would be provided to Panel Members when available.

RP asked if this matter can be removed from the Panel Agenda until there was a substantive update. PG agreed with this request.

S Hughes (SH) asked if the letter from Ofgem to JGAC could be shared with the Panel Members and if there were any concerns raised in Ofgem's letter.

PG explained that the letter from Ofgem had been positive and did not raise any concerns. PG noted that the letter could not be shared as there were legal considerations but rather that Ofgem's queries were about seeking clarity and assurances around licence changes, similar to the Xoserve and Corella split.

b) 0790 (Urgent) - Introduction of a Transmission Services Entry Flow Charge

RF noted there was a view that the current governance process around Charging Modifications was not working as each new Charging Modification being raised was using the Urgency procedures.

RF referred to Ofgem's decision letter on Modification 0790, which also highlighted this concern, and stated that Shippers were also concerned that the Urgency procedures were currently being used inappropriately.

RF also noted that the Workgroups set up by National Grid to discuss Modification 0789 - *Energy Balancing Arrangements During the Operation of a Supplier Undertaking to Transporters*, which has since been withdrawn, were set outside the normal governance process under the UNC and a cause for concern.

RF stated that a review by Energy UK had identified that the Legal Text for Modification 0790 was broader than the remit of the Modification, noting this was a further cause for concern. RF added that under a normal Modification, this could be challenged and amended, but there was no opportunity to do this with an Urgent Modification.

SM agreed with the concerns raised around the broader issue of the use of Urgency procedures being widely and frequently used. SM also agreed that the Modification 0789 Workgroups, while well facilitated, had a lack of clarity around governance and noted the issue of managing Urgency needed to be addressed.

PG advised that in relation to Urgent Modifications, the Joint Office only provided guidance in carrying out the Critical Friend process and in relation to the timescales being proposed. However, PG agreed with the concerns raised around the compressed timescales and the lack of industry engagement.

D Fittock (DF) noted that whilst there were no concerns with the Joint Office, he had significant concerns with how the recent Urgent Modifications had been dealt with by Ofgem and the Proposer of the Modifications. DL added that the lack of good governance, oversight and engagement with the industry were extremely concerning.

DL thanked Panel Members for the feedback provided noting it had been taken on board. DL noted that some of the feedback provided were in relation to Modification 0789 and some for Modification 0790. DL noted the following key points in response to the concerns raised:

- There had been significant changes to the market since Modification 0789 had been raised and agreed it had been appropriate to withdraw it. DL thanked the Joint Office for their assistance in facilitating the Workgroups for Modification 0789 and providing the minutes for these meetings.
- Whilst Modification 0789 did not follow the normal governance route, it was considered the best way forward at that time.
- Modification 0788 (Urgent) - *Minimising the market impacts of 'Supplier Undertaking' operation*, which has been implemented, needed additional support by means of implementing Modification 0790.
- It would be beneficial if Panel was allowed to implement some Fast Track Modifications.

- Whilst he shared some of the industry's concerns around Modification 0790, noted that the Modification had been developed through a number of Pre-Modification discussions at the NTSCMF Workgroup.
- A review of the Urgency Process should be carried out in the Governance Workgroup. DL shared the frustrations around the Urgent Modifications noting that Ofgem's timings were often challenging, which resulted in larger numbers of Urgent Modifications being raised.

JS noted that for Modification 0789, Ofgem acknowledged that whilst the usual governance was not being followed, Ofgem appreciated the industry's co-operation on the Workgroups arranged to review the Modification.

RF suggested that Panel needed to take control of the Urgent Process by creating an expedited Fast Track process, which will facilitate a better governance process as well. RF noted that whilst Workgroups outside the usual governance process can be minuted, if a Modification progresses further, Workgroups held outside the usual governance do not collate seamlessly when creating a Final Modification Report.

PG noted the views shared by Panel Members and advised that the Joint Office can support expedited Modifications and asked Panel Members and industry parties to contact the Joint Office to discuss the best way forward.

SH asked for clarification on what the issue was with the current processes. WG clarified there were several issues:

- Urgency Procedure rules
- Workgroup Governance for Modification 0789
- Ofgem's timeliness around making decisions

WG noted that overall, the process was not working at every step.

Panel Members agreed that the Urgency Process can be reviewed and new criteria can be considered within the Governance Workgroup.

New PAN Action 11/03: Joint Office (KE) to review and consider the criteria for Urgency Procedures within the Governance Workgroup.

RF asked if Ofgem can defer to Panel on Urgency decisions and if Panel can expedite the process. WG noted this needed clarification.

SH asked if this issue can be raised at CACoP to see how Urgency Procedures are managed in other Industry Codes.

PG suggested the Energy Industry Panel Chair's meeting would be a more suitable forum for discussing this. WG agreed.

New PAN Action 11/04: WG to discuss Urgency Procedures within other Industry Codes at the next Energy Industry Panel Chair's meeting on 22 November 2021 and report back to the December Panel.

281.15 Date of Next Meeting(s)

10:00, Thursday 16 December 2021, by teleconference

Action Table (18 November 2021)

Action Ref	Meeting Date	Minute Ref	Action	Owner	Status Update	Date of Expected update
PAN 11/01	18/11/21	281.6 a)	Joint Office (Transmission Workgroup Chair) to ensure Modification 0788 (Urgent) is assessed at the February 2022 Workgroup with an aim to report to the February 2022 Panel.	Joint Office (TWG Chair)	Pending	February 2022
PAN 11/02	18/11/21	281.13	Joint Office (PG) to discuss Request 0763 with E Lawlor and J Dixon at RECCo in order to organise a Cross-Codes Workgroup.	Joint Office (PG)	Pending	December 2021
PAN 11/03	18/11/21	281.14 b)	Joint Office (KE) to review and consider the criteria for Urgency Procedures within the Governance Workgroup.	Joint Office (KE)	Pending	January 2022
PAN 11/04	18/11/21	281.14 b)	WG to discuss Urgency Procedures within other Industry Codes at the next Energy Industry Panel Chair's meeting on 22 November 2021 and report back to the December Panel.	WG	Pending	December 2021