

UNC Workgroup 0646R
Review of the Offtake Arrangements Document
Wednesday 24 November 2021
via Microsoft Teams

Attendees

Bob Fletcher (Chair)	(BF)	Joint Office
Mike Berrisford (Secretary)	(MiB)	Joint Office
Ben Hanley	(BH)	Northern Gas Networks
Darren Dunkley	(DD)	Cadent
David Mitchell	(DM)	SGN
Leteria Beccano	(LB)	Wales & West Utilities
Louise McGoldrick	(LM)	National Grid
Shiv Singh	(SS)	Cadent

Copies of non-confidential papers are available at: <https://www.gasgovernance.co.uk/0646/241121>

1. Introduction and Status Review

Bob Fletcher (BF) welcomed all parties to the meeting.

1.1 Approval of Minutes (27 October 2021)

The minutes from the previous meetings were approved.

1.2 Review of Outstanding Actions

Action 1001: Joint Office (BF) to circulate the amended Transmission System Operator to Distribution System Operator Agreement Guidelines to the Offtake Committee via email for approval.

Update: When BF advised that he had already circulated the guidelines requesting either email approval or alternatively the establishment of a meeting, and that so far only Northern Gas Networks and Wales & West Utilities had not responded (via email), both Leteria Beccano (LB) and Ben Hanley (BH) on behalf of their respective organisations confirmed that they would provide formal approval via email after the meeting. It was agreed that the action could now be closed. **Closed**

Action 1002: Cadent (DD) to review the options for an escalation process if Cost Recovery could not be agreed.

Update: When Darren Dunkley confirmed that this action had been completed and would also be covered under consideration of item 2.1 below, it was agreed the action could now be closed. **Closed**

Action 1003: Cadent (DD) to amend wording in Business Rule 9 of the Cost Recover Pre-Modification by removing the use of 'i.e'.

Update: When Darren Dunkley confirmed that this action had been completed and would also be covered under consideration of item 2.1 below, it was agreed the action could now be closed. **Closed**

Action 1004: Cadent (DD) to reference emergency parties with a small 'e'.

Update: When Darren Dunkley confirmed that this action had been completed and would also be covered under consideration of item 2.1 below, it was agreed the action could now be closed. **Closed**

Action 1005: Cadent (DD) to review BR bullet points around emergency parties so they align and complement existing clauses in OAD.

Update: When Darren Dunkley confirmed that this action had been completed and would also be covered under consideration of item 2.1 below, it was agreed the action could now be closed. **Closed**

Action 1006: National Grid (SR) to confirm the process for updating Appendix D in the Supplemental Agreement so that prerequisite information will only be provided upon request when Appendix D changes are submitted.

Update: In the absence of her National Grid colleague, Louise McGoldrick (LM) enquired whether this matter would / could potentially any existing OAD processes, DD confirmed that this would not be the case and the matter only related to Supplement Document related changes. Thereafter, it was agreed the action could now be closed. **Closed**

2. Pre-Modification Discussions

2.1 Amendments to Cost Recovery and Invoicing under OAD

Shiv Singh (SS) undertook an onscreen review of the latest round of changes applied to the draft *'Amendments to Cost Recovery and Invoicing under OAD'* Modification during which attention was focused on the Business Rules within Section 5 – Solution, with the most notable discussion points captured (by exception) below:

BR3

- One party (National Grid) remains concerned that potentially shifting the onus around invoicing provisions could inadvertently introduce a 'barrier';
 - It was noted that clarity around the interaction of the new proposals and the existing OAD provisions is of paramount importance;
 - Some parties favour addition of a 'caveat' around how best to invoice actual costs (rather than estimated costs);
 - Other parties believe that BR7 already addresses the concern and that the real issue relates more to additional costs, and that these (new) proposals are all about addressing 'unknown' impacts that occur 'on the day';
 - It was suggested that any instances that fall outside the scope of OAD provisions are dealt with on an 'on the day' basis;
 - Some parties questioned the value of such a 'caveat';
 - The new proposals are not looking to prevent cost recovery, but rather, focus on the development of more timely notification mechanisms;
- It was noted that where a party e.g. Cadent submits an invoice with a value greater than the predicted costs, it would be highly likely that National Grid would reject the invoice and commence discussions in order to ascertain what might constitute 'reasonable justification' for the increase – perhaps a reference to the appropriate existing OAD justification criteria might be all that is needed, especially bearing in mind the Modification is not looking to change existing OADL provisions;
 - The finer detail behind these aspects could / would be flushed out during various Workgroup discussions;

- It was suggested, and parties agreed that the Modification would need to clearly specify what existing OAD provision costs are being recovered against (i.e. as per OADL 2.3.2 – in short, this should become part of the supporting estimate process;

BR4

- Relates in part to existing OADB interference and emergency provisions;
 - Proposal is to make safe only whereby the Asset Owner completes an inspection and invoices accordingly;
 - No changes to the existing cost responsibility aspects (i.e. who is responsible);
 - Only involves a small change to the emergency requirements;
- Existing OADB 4.1.4(a)(ii) provisions are deemed to be sufficient and these proposals do not impact the current compatibility arrangements;
- The proposed 60 calendar day (backstop) provision refers to the time granted to the Asset Owner under which they should notify (the notification) the 'other' party of their intention to invoice and recover costs (after an event has occurred);
 - The aim of the 60 calendar day notification window is to avoid potential (delayed) funding and payment impacts;
 - The 60 calendar day window commences at the point where the Asset Owner becomes aware of an event having taken place – in short, the provision simply relates to notifying an intent to recover costs;
 - Concerns were raised over what would potentially happen should the notification be made after the 60 calendar day period and/or where additional costs come to light after the 60 calendar day period;
 - The proposal that cost recovery would be 'capped' at 60 calendar days and thereafter the option to recover the costs would no longer exist (i.e. would be forfeited) was not universally supported by those present;
 - Concerns were also voiced over potential financial (funding) year cross over provision impacts;
 - Some parties believe that the proposals would constrain the ability to recoup costs and as a consequence is a retrograde step from the current OAD provisions;
 - On the other hand, some parties believe that the proposals would / could prove beneficial in ensuring that events are closed in a timely fashion and thereby avoid 'corner field' requests for payment of costs;
 - It was noted that currently there is no existing OAD Closure provisions;
 - One alternative put forward was to adopt a 60 Business Day provision as a means of allowing sufficient time for parties to notify other parties of their intention to recoup costs – this suggestion was generally better supported;
 - In looking to consider whether these new provisions would 'cover' scope creep (i.e. where a project expands over time with a corresponding increase in costs), it was noted that discussions between the impacted parties would be undertaken and any associated Purchase Order(s) would / could be amended accordingly;

- When some parties reiterated that they remained concerned that the proposals present a barrier to Operators being able to recoup reasonable and recoverable costs, it was pointed out that the 60 calendar / business day provision only applies to the notification aspects and any actual invoice could be issued after the 60 day window;
 - It was also suggested that as far as retrospective billing is concerned, this mainly tends to involve smaller monetary values;
 - It was noted that any higher than originally quoted for costs would necessitate a discussion between the parties (Operators) concerned in order that any associated Purchase Order related changes could be agreed;
 - Should parties still disagree, existing OADL paragraph 3.7 provisions would be invoked in respect of a disputed invoice;
 - It was noted that under such conditions parties would be expected to pay the elements of the invoice that they are happy with whilst then disputing those elements they are not happy with – in short a part ‘pay and dispute’ mechanism;

BR5

- New sentence added;

BR6

- Now incorporates a subtle tweak to the wording;

BR7

- Changes covered in the main during discussions on BR4 above;

BRs 8 & 9

- Subject to discussions between Cadent and National Grid whereupon the decision to utilise / identify the ‘Asset Owner’ is the cleaner option;
- The existing (option for) defective equipment provisions still stand;

Section 7 Relevant Objectives

- It was noted that the Relevant Charging Methodology Objectives do not apply in this case;

Section 8 Implementation

- The 16 BD implementation timescale refers to the minimum time required following a Panel decision to approve the Modification – this allows for the appropriate Appeal Window provisions;

Section 9 Legal Text

- Proposer (Cadent) confirmed that legal text would be prepared once the Business Rules are established, and finally
- Engagement with Dentons Lawyers would commence at an appropriate time.

In looking to summarise discussions, BF advised the parties in attendance that Panel had stated previously that this Request Workgroup would not be allowed any further requests for an extension to its reporting date, and as a consequence the final reporting date is now set to be the 16 December 2021 Panel meeting.

BF then suggested that should Cadent wish to formally raise the new UNC Modification, the submission date is Friday 03 December 2021 for consideration at the 16 December 2021 Panel meeting. Furthermore, should the new Modification be formally raised in time, its provisions could also be captured within the 0646R Workgroup Report that would be presented at Panel.

When asked, BF confirmed that the Proposer (Cadent) could always set out the 60 Business Day provisions within the Modification which the Workgroup would then consider in due course, and should any other party still disapprove of the proposal, they are free to raise an Alternate Modification.

3. Offtake Subsidiary Documents Committee

3.1 Review of Draft Terms of Reference

Introducing this item, BF advised that an updated version (including title change and amendments to Section 6 Recommendation / Determinations of the OTC) had been published following the 27 October 2021 Workgroup meeting.

When asked, BF confirmed that any new proposals for change might theoretically originate from the new 'Offtake Technical Committee' (the OTC), but also pointed out that the current provisions are unclear around approval of new Offtake Subsidiary Documents by the Offtake Committee (OC).

BF went on to suggest that in essence the OTC would / could function as a development committee and in theory, any current Subsidiary Document amendments could / would be discussed within the OTC culminating in a vote to recommend approval to the (higher) Offtake Committee.

Moving on, BF explained that whilst the approval mechanisms supporting the raising of new Subsidiary Documents remains largely unclear, discussions with Stephen Ruane of National Grid have focused on looking at various options and recognises that a formal approval process for new Subsidiary Documents does not currently exist. The ongoing discussions have also highlighted some key points of note, as follows:

- This is a Transporter only provision;
- Expectation is that any Proposer of a change to a Subsidiary Document would attend the appropriate OTC meeting;
- The OTC performs and provides a Workgroup style of function;
- Approval of new Subsidiary Documents would require a unanimous (affirmative) vote;
 - National Grid are still considering the matter especially around interpretation of what constitutes an 'agreement', and how this might impact the OAD provisions – further discussions are expected to take place at the 01 December 2021 0646R Workgroup meeting;
 - It was noted that care would be needed around any Subsidiary Documents referring (or not, as the case maybe) to OAD provisions;
 - A new process is needed to support approval of new Subsidiary Documents going forward;
 - It was noted that a new Subsidiary Document appended to a UNC Modification would / could gain approval via a majority vote and anything outside of this process would require a unanimous vote (excluding ones raised outside of the formal OAD process and thereafter 'adopted' as a new Subsidiary Document without a formal vote);

- It is noted that the Offtake Arrangements Workgroup (OAW) is a Shipper / Transporter forum aimed mostly at the management and resolution of Measurement Errors and any associated UNC Modifications, and as such, sits outside of the scope of either the OTC or OC;
 - It was noted that the OAW has only met five (5) times during 2021, largely due to the relatively low number of Measurement Errors being raised;
- Most pre-Modification discussions are expected to take place within the Distribution Workgroup arena;
 - Where there are two (2) or more (related) Modifications, efforts would be made to ensure that their respective Workgroups would meet on the same day;

In looking to summarise the discussions, BF advised that any suitable (qualifying) Proposers have a right to raise a Modification and thereafter parties can raise concerns during the consultation phase. Any other matters specifically relating to the Modification would not necessarily need approval within either the OTC or OC, although it should be noted that Panel can always request such a provision.

BF explained that under the current provisions, changing an existing Subsidiary Document would be via '*Section 6 Recommendation / Determinations of the OTC*' route of the Terms of Reference document, otherwise it would be via the Modification route. Another possible option would be to consider potential tweaks to the current OC governance arrangements which could result in the OTC becoming more of a technical sub-committee.

Concluding discussions, all parties agreed to review the Terms of Reference with a view to providing feedback at the 01 December 2021 Workgroup meeting in order to enable inclusion within the 0646R Request Workgroup Report.

4. Discussion on Process for Updating Supplemental Agreements

When Darren Dunkley (DD) advised that whilst he did not have anything over and above the information provided under discussions on the actions under item 1.2 above, and that he would now like to ask for feedback from the Operators on his wording for paragraph 2.6.4, Louise McGoldrick (LM) raised some concerns relating to the proposed process flow map.

Responding, DD reiterated that these (process step 1) concerns had been debated at length at previous Workgroup meetings – he remains convinced that a form of 'closure process' is needed in order to prevent one party potentially impacting upon a second party via an OAD Notice, as in Cadent's opinion the process is being inconsistently managed.

However, not all parties in attendance agreed with this view and continued to voice concerns around potentially developing dual governance elements (i.e. other regulatory compliance aspects) when existing OAD provisions are already available. Some parties suggested moving step 1 to later in the flow chart might prove beneficial whilst others felt that removal of the statement all together and replacing this with improved communications between parties is the preferred option.

When DD explained that the OAD Notice only truly closes once everything is completed (including site plans / drawings updates etc.) and that Cadent have experienced significant issues in this area, especially where Supplemental Agreements (SA) are also concerned, LM remained steadfast in her view that this is a communications matter, rather than a process one.

During an extended debate, the consensus amongst those in attendance was in support of the removal of the statement on the grounds that it does not add any real value – accepting the points being put forward, DD outlined that he was disappointed that this SA related matter is not being resolved but would agree to remove the statement. However, he would continue to monitor the matter going forward. BF observed that a balanced co-operative approach is always preferable for all concerned.

In acknowledging a typographical error in paragraph 2.8, DD confirmed that he would now look to amend the document inline with the feedback provided ready for (final) consideration at the 01 December 2021 Workgroup meeting.

5. Development of Request Workgroup Report

In pointing out that a draft Request Workgroup Report had been published ahead of the meeting, BF requested that parties take time to review the document with a view to providing feedback at the 01 December 2021 Workgroup meeting. Thereafter, the intention would be to finalise the 0646R Request Workgroup Report and submit this for consideration at the 16 December 2021 Panel.

6. Next Steps

BF identified the next steps as being as follows:

- Consideration of the Associated UNC Modification
- Consideration and Approval of the Process for Updating Supplemental Agreement
- Consideration and Approval of the Drawings Process Flow
- Consideration and Approval of the Terms of Reference
- Finalisation of the Request Workgroup Report

7. Any Other Business

7.1 SGN Update on Flow Weighted Average CV Process Modification

Dave Mitchell (DM) provided the following brief update:

- From April 2022 the provisions / obligations will move from National Grid to the DNs;
- Discussions previously took place within the 0719R Workgroup;
- Subject matter will also be highlighted at the 25 November 2021 Distribution Workgroup meeting;
- There are some potential 'light touch' OAD aspects;
- UNC Modification to be raised intime for submission to the 16 December 2021 Panel meeting.

7.2 Log of Issues Document

When BF enquired whether this document would reside under the remit of the OTC, DD advised that whilst consideration is still ongoing, the matter could always be raised as an AOB item for OTC consideration in due course.

DD confirmed that the document would include some Maintenance elements based around previous industry discussions.

8. Diary Planning

Further details of planned meetings are available at: www.gasgovernance.co.uk/events-calendar/month

Time/Date	Paper Publication Deadline	Venue	Programme
10:00, Wednesday 01 December 2021	17:00 Friday 26 November 2021	Teleconference	Standard Agenda

Action Table (as at 24 November 2021)

Action Ref	Meeting Date	Minute Ref	Action	Owner	Status Update
1001	27/10/21	1.2	Joint Office (BF) to circulate the amended Transmission System Operator to Distribution System Operator Agreement Guidelines to the Offtake Committee via email for approval.	Joint Office (BF)	Update provided. Closed
1002	27/10/21	2.	Cadent (DD) to review the options for an escalation process if Cost Recovery could not be agreed.	Cadent (DD)	Update provided. Closed
1003	27/10/21	2.	Cadent (DD) to amend wording in Business Rule 9 of the Cost Recover Pre-Modification by removing the use of 'i.e'.	Cadent (DD)	Update provided. Closed
1004	27/10/21	2.	Cadent (DD) to reference emergency parties with a small 'e'.	Cadent (DD)	Update provided. Closed
1005	27/10/21	2.	Cadent (DD) to review BR bullet points around emergency parties so they align and complement existing clauses in OAD.	Cadent (DD)	Update provided. Closed
1006	27/10/21	5.	National Grid (SR) to confirm the process for updating Appendix D in the Supplemental Agreement so that prerequisite information will only be provided upon request when Appendix D changes are submitted.	National Grid (SR)	Update provided. Closed