



Joint Governance Arrangements Committee

21st March 2014

ICoSS response to Consultation on the Appointment Process for an Independent UNC Modification Panel Chair

The Industrial and Commercial Shippers and Suppliers (ICoSS) group represents the major non-domestic industrial and commercial (I&C) suppliers in the GB energy market, supplying 70% of the gas needs of the non-domestic sector; a number of our members also supply electricity to their customers¹.

We are writing in response to your consultation on the Appointment Process for an Independent Panel Chair.

Q1: Do you consider that a Selection Adviser should be used to identify the candidates to be the Panel Chair?

No. There should be no restriction on who may apply for this role, so as to ensure the widest possible selection of candidates and to remove any perception of bias. We support the use of an external recruitment professional for the process of categorizing such applications, but full visibility of all such candidates should be given to the Panel.

Q2: Do you have any views on what should be considered as a normal tenure of the Panel Chair?

Independence can be undermined by a short tenure if the incumbent begins to act in a way that is designed to secure reappointment. Rather than having a consultation half way through a presumed four year tenure, it may be preferable to include a process that allows for the Chair to be replaced at any time if the Panel votes that this is appropriate. As a representative body, and also the industry body most closely involved with the Panel Chair, this would seem to provide a suitable route through which a Chair could be replaced if any issues emerge at any time regarding the way in which the role is being undertaken.

¹ Current Membership: Co-Operative Energy (associate), Corona Energy, ENI, First Utility (associate), Hudson Energy (associate), Gazprom Energy, GDF Suez Energy UK, Statoil UK, Total Gas & Power, Wingas UK.

Q3: Do you consider that a Panel Subcommittee should be formed to oversee the appointment of the Panel Chair?

No. The appointment of the Panel Chair should be the responsibility of the Panel and any decisions made should be undertaken by the Panel as a whole.

Q4: Do you have any views on the make-up of the Panel Subcommittee?

In light of our views above we do not believe that the Panel Subcommittee should have a significant role in the appointment process. Our comments notwithstanding, we have concerns over the proposed composition of the Panel with four out of five members being employees of gas transporters. While access to HR and legal advice may be welcome for the Panel as a whole, the sub-committee's key role is to identify the best candidate. This would be better if undertaken by a balanced group of two user, two transporter and one consumer representative. Critically there should be equal representation between the two main parties to the UNC; shippers and transporters. In addition, it is surprising to see the suggestion that the JO Chief Executive should be closely involved in the selection process, given that the Transporters initially put the JO Chief Executive forward as appropriately independent and suitable to be the Panel Chair. If the selection process concludes that the JO Chief Executive is the best candidate, they should be appointed. Clearly the proposed role description includes "monitoring performance of the JO in supporting and facilitating Panel" which may be regarded as difficult if the JO Chief Executive and Panel Chair roles are carried out by the same person. However, this is the kind of trade off that is likely to be necessary in any assessment of the candidates and should not automatically preclude the JO Chief Executive also being the Panel Chair.

Q5: What are your views on the ideal candidate attributes? A table is provided in the response template for you to indicate your preferences for each of the attributes.

While the suggested attributes and the JGAC assessment of pros and cons are thoughtful and helpful, the issue is identifying the best available candidate. Hard and fast rules and expectations regarding particular attributes are unlikely to automatically yield the best candidate. It is quite possible, for example, that either a currently employed or retired person could be an effective and independent Panel Chair, or vice versa. The key attribute is someone in whom there is confidence that he or she values and encourages all Panel Members to contribute to decisions while recognising the need to keep focus on the decision making criteria specified in the UNC.

Q5 (sic): Do you consider that the general terms proposed for the Panel Chair appointment are appropriate?

Yes

Q6: Do you agree that the enduring Deputy Chair role should be assigned to the JO Chief Executive?

Yes – unless the JO Chief Executive is appointed as the Chair.

Q7: Do you have any views on the Responsibilities and Experience requirements for a Panel Chair?

As with the suggested candidate attributes, there is a risk that strict interpretation of the proposed responsibilities and experience may prevent the best candidate being appointed. The issue remains identifying the best candidate rather than looking to 'tick' arbitrary boxes. A clear understanding of the gas industry and the UNC governance process may be an advantage, for example, but it is not clear how this could be present if the candidate has never been employed by any gas industry party.

Q8: Do you have any views on the indicative timeline?

We believe there is some potential for the timetable to be compressed.

Q9: In light of the indicative costs provided, are you still of the opinion that it is correct to have an Independent Panel Chair?

We are still strongly of the view that an independent chairman should be appointed to oversee the Panel's activities. We do not believe the costs are disproportionate considering the materiality of issues which the Panel chairs overseas in a multi-billion pound industry.

Q10: Do you have any additional views you wish the JGAC to consider?

No.

Yours sincerely

A handwritten signature in black ink, appearing to read 'G. Ewan'.



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