

UNC Workgroup 0495 Minutes
Introduction of a Change Board for the UNC
Friday 23 May 2014
at 31 Homer Road, Solihull, B91 3LT

Attendees

Les Jenkins (Chair)	(LJ)	Joint Office
Bob Fletcher (Secretary)	(BF)	Joint Office
Andrew Margan	(AM)	British Gas
Amanda Rooney*	(AR)	Ofgem
Chris Warner	(CWA)	National Grid Distribution
Colette Baldwin	(CB)	E.ON UK
Erika Melen	(EM)	Scotia Gas Networks
Gareth Evans	(GE)	WatersWye
Jeff Chandler	(JCh)	SSE
Joanna Ferguson	(JF)	Northern Gas Networks
Julie Cox*	(JCo)	Energy UK
Lorna Lewin	(LL)	DONG Energy
Martin Baker	(MB)	Xoserve
Sean McGoldrick	(SMc)	National Grid NTS

* by teleconference

Copies of all papers are available at: www.gasgovernance.co.uk/0495/230514

The Workgroup Report is due to be presented at the UNC Modification Panel by 16 April 2015.

1.0 Outline of Modification

CB introduced the modification to the Workgroup, explaining that the proposed change board is building on established industry models adopted by other codes.

CB felt that the existing Panel model does not fully represent Shippers and other Users views due to the limitation of constituency models, where Panel members may not always provide a constituency view. The proposal of a change board appears to offer a good match with all representatives having an opportunity to vote.

CW asked how self-governance would be managed under such a process? CB advised that the aim of the Workgroup is to draw out such details and incorporate them into the business rules. JC asked if the process would still include written representations. CB confirmed it would.

2.0 Initial Discussion

JC asked how voting would work and how many corporate representatives would parties be able to vote with? CB offered that there were about 47 shippers, 5 iGTs, 4 DNOs and 1 NTS parties, which would be eligible to vote.

LJ asked if Ofgem had a view on UNC representatives. AR advised that there were around 256 shipper licences but not all these were UNC parties and wanted to know more about how each type of licenced party would be voting? CB explained that the proposal was Shippers in one constituency and transporters in another. It was not proposed to offer weighting as in the SPAA model.

LJ asked what constitutes a party vote? CB advised that EON has 5 licenses but should only have 1 vote as an organisation.

SMc was concerned about the differences in transporters and perhaps this should be based on a different constituency model, as there could be conflicts between iGTs, DNOs and NTS requirements and interests.

AM felt this was a voting issue and how you apply the voting rules and whether a non-vote was a no vote – should abstentions be allowed? Should it be a NTS issue and the other DNOs don't vote, their non-votes may be classed as a vote against and may not carry the modification forward.

LJ asked if it could be clarified what organisations were going to be asked to vote on, is it to support their commercial aims for modification or whether it meets the relevant objectives. SMc was concerned that the Final Modification Report (FMR) would not set out a Panel view based on a consolidated view of the representations received measured against the relevant objectives.

LJ asked how the report process would work. CB explained it would be down to the workgroup to decide if a modification required legal text and if it was ready to issue to consultation, this would followed by the voting process. AM asked if there should be a balance with Panel considering if the modification should be issued to consultation? CB advised there wouldn't be an efficiency gain unless there is a reduction in the steps currently set out in the process.

JC asked if the Panel is being changed in terms of membership? CB advised that Panel would be there to filter the modifications and are not involved unless there is an appeal and membership would be limited to 6 in total.

CB did have concerns that the consumer representative has reservations with the process proposed, they are very rarely seen at meetings and Panel membership should be seen as a way of avoiding this responsibility to support the whole process. AR felt that this might not be possible for Citizens Advice as they are not resourced to attend every meeting and the existing Panel model helps with their involvement with the process. CB was concerned that it could be seen that the cost of attendance at meetings is restricting change in the process to make it more efficient.

AM asked if consumer representatives have what appears to be a casing vote on other codes. There was no general view as to whether this was the situation.

CW raised a number of legislation issues:

The Electricity and Gas Appeals (Designation and Exclusion) Order 2013 (SI)

This defines how competition appeals are managed. National Grid's initial view is there needs to be a Panel decision/recommendation to comply with this statutory instrument (SI), they can't be there just to manage or rubber stamp the process.

JF explained the SI needs to be changed as it currently mirrors the existing UNC and licence mechanisms.

GT licence

SSC A11 - requires a recommendation by Panel as this is linked to the SI and would require amendment at the same time. It contains the requirements for the Modification

Rules and Self Governance etc.

In addition consideration should be given to SSC A15 Parts A, B and C.

AR agreed that SSC A11 appears to conflict with the modification and though the licence is changeable it does require consultation which may or may not impact the modification. Ofgem usually allow at least 18 months for a licence change.

It was noted that changes to legislation/statutory instruments usually take a significant amount of time and elections may extend the timeline further.

SMc is concerned that the modification is moving away from focusing on relevant objectives and the overall good of the industry and more towards individual commercial positions.

LJ asked if more thought could be given to the nature of the constituencies and more granularity about the complexity of the industry. E.g. should there be two votes, one seeking support or not and one based on the relevant objectives.

SMc was also concerned about the management of European-type modifications, which are required by law. The change board could be against recommending a position, which is contrary to the required position. JC differed with this view, as the current process allows for this to happen and it is down to Ofgem to make the final decision on implementation.

GE noted that the SI is to be amended soon to reflect SMART metering requirements so it may be possible to make the necessary changes for this modification at the same time. He also challenged whether a Panel needs to be sat in a room putting their hands in the air or could a wider group be considered to be a Panel. He would like a proposers legal view and what constitutes a panel.

NEW ACTION 0501 – CB to seek a legal view what constitutes a Panel based on the SI, GT Licence and UNC.

JF felt that that the proposed changes to the SI were specifically related to SMART Code and driven by specific requirements. GE did not think the changes would be restricted in its entirety and there may be room for additional changes.

CW asked if Ofgem's lawyers would be prepared to give a view on the SI by delegating responsibility of the Panel to the change board. AR advised that they would consider the request and provide an update.

NEW ACTION 0502 – AR to provide a legal view on the delegation of Panel responsibilities to the change board and its impact on the SI.

GE asked if it's possible to get a view of options that could be done now by comparing the existing SI against the modification. LJ felt it would be more beneficial to offer options and then seek a view from a lawyer what would meet the SI requirements, rather than asking legal representatives to develop the modification.

CW's view is that the modification appears to set aside the Panel voting responsibilities and this does not meet the SI requirements. It does not mean the Panel can't be changed, but the recommendations on modifications need to be on the Panel vote.

LJ asked how the existing proposal could be modified to make the panel work. He asked

CB to consider whether the change board should be renamed Modification Panel to comply with the requirements of the UNC, Licence and SI – would this work?

NEW ACTION 0503 – CB to consider renaming Panel and change board to see if the roles can fit with the legal requirements.

AM was concerned that the existing Panel decisions do not always reflect the representation outcomes or Workgroup views. CW felt some Panel members are not always giving an informed view at meetings and could be better prepared.

There was a general discussion on the individual Panel member responsibilities and whom they represent at Panel.

GE noted the modification makes a link between the parties' commercial position, its vote and its ability to influence that change. In the existing process Panel Members represent the industry when making recommendations on implementation - this is a philosophical discussion on the method people prefer.

GE raised the point that the existing process is mismatched as currently shippers are based on constituency votes yet each transporter has a representative.

AR wants to see the best decision reached and wanted to understand which of the two methods proposed offers the best solution for quality of analysis and furthering the relevant objectives. AR also wanted to understand how smaller parties be included in the process if they cant resource every meeting.

CB felt that currently industry representation at Panel for smaller parties is low as they have no say. The modification proposes to allow all parties to vote so it should facilitate more involvement from those who have an interest in particular changes.

SMc wanted to understand what the quoracy levels would be for the Panel/change board. He also wanted to know how the modification furthers Relevant Objectives as this modification appears to be removing them. CB agreed to provide views on how to demonstrate this.

NEW ACTION 0504 – CB to demonstrate how this modification furthers the Relevant Objectives when it proposes to remove them.

SMc asked if the Relevant Objectives are impacted both + /-, how do Panel members/Ofgem weight this for implementation. AR advised that they consider the impacts on all the Relevant Objectives before making a decision – they need to be considered in the round.

GE challenged whether it was beneficial for the consumer representative to have 1 vote in 11 as now, or should it have a clear appeal status so its view is clearly defined from the rest of the industry and whether this is an informed vote. GE agreed to provide a mechanism as to how it could work.

NEW ACTION 0505 – GE to provide a mechanism to allow the Consumer representative to provide a view without the need to vote.

GE asked if the constituency vote proposed in the modification could be seen as a mandated vote to the Panel representative and therefore offer a solution to the SI issues. CW was concerned that the Panel would be obliged to vote in a particular way and it would not be seen as a free vote.

LJ felt there would be some costs associated with implementation, mainly a system to manage the voting process and possibly additional resources but this would need further consideration once the rules were clearer.

CB felt there wouldn't need to be a monthly Panel meeting in London to manage the process as Panel responsibilities would be reduced and that this could possibly be managed by video or teleconference, which would improve efficiency.

AM asked if there is a possibility of aligning industry change board processes.

AR explained the DCUSA process and how the panel operates. AR noted a number of issues such as who can amend the report should it be sent back by Ofgem, if parties don't vote are they considered to be against the change - this is difficult for Ofgem to manage.

AR set out a number of questions to aid understanding the modification:

How does the election process work for Panel;

How are representatives nominated for membership of Panel/change board;

Quality of reports, how can they be safeguarded;

Clearly demonstrate what is wrong now.

NEW ACTION 0506 - CB agreed to consider these questions and amend the modification if required.

CW wants to see a conclusion to the legal views/questions before legal drafting is started.

LJ asked if there should be an initial assessment or view provided by Ofgem before extensive work is undertaken. AR could not offer an opinion at this stage as they needed more information.

NEW ACTION 0507 - CB to consider if the workgroup should vote on a modification to go to consultation or is it a consensus view. Set out the process for the preferred method.

CW asked what happens to the UNCC as currently membership is the same as Panel although the role is different.

NEW ACTION 0508 – CB to review UNCC impacts such as membership and its role going forward.

SMc asked how governance changes would be managed in future, would this be an issue for this model. CB felt it would be similar, as a Workgroup would be established to progress the modification.

SMc asked if the key driver is participation, does voting then prevent or run contrary to competition – should this be considered, as this will be based on commercial or relevant objectives drivers.

NEW ACTION 0509 – CB should implementation voting be based on commercial drivers, relevant objectives or a combination of factors.

NEW ACTION 0510 – the following are to provide an update on the operation of the following codes:

CB – SPAA, JF – SEC, AM – MRA

NEW ACTION 0511 - MB to provide an overview of registered parties, traders, shippers and what the likely voting numbers would be.

MB felt that the impacts of the FGO should be considered once known, as Xoserve may be a party to UNC. However, at this time consideration should be deferred until Ofgem provide their decisions and conclusions.

3.0 Any Other Business

None.

4.0 Diary Planning

Further details of planned meetings are available at: www.gasgovernance.co.uk/Diary

The next meetings will take place within the Governance Workgroup on:

Thursday 23 July 2014 at 10:30, 31 Homer Road, Solihull B91 3LT

Action Table

Action Ref	Meeting Date	Minute Ref	Action	Owner	Status Update
0501	23/05/14	2.0	CB to seek a legal view what constitutes a Panel based on the SI, GT Licence and UNC.	EON UK (CB)	Pending
0502	23/05/14	2.0	AR to provide a legal view on the delegation of Panel responsibilities to the change board and its impact on the SI.	Ofgem (AR)	Pending
0503	23/05/14	2.0	CB to consider renaming Panel and change board to see if the roles can fit with the legal requirements.	EON UK (CB)	Pending
0504	23/05/14	2.0	CB to demonstrate how this modification furthers the Relevant Objectives when it proposes to remove them.	EON UK (CB)	Pending
0505	23/05/14	2.0	GE to provide a mechanism to allow the Consumer representative to provide a view without the need to vote.	WatersWye (GE)	Pending

Action Ref	Meeting Date	Minute Ref	Action	Owner	Status Update
0506	23/05/14	2.0	<p>CB agreed to consider these questions and amend the modification if required.</p> <ol style="list-style-type: none"> 1. How does the election process work for Panel; 2. How are representatives nominated for membership of Panel/change board; 3. Quality of reports, how can they be safeguarded; 4. Clearly demonstrate what is wrong now. 	EON UK (CB)	Pending
0507	23/05/14	2.0	CB to consider if the workgroup should vote on a modification to go to consultation or is it a consensus view. Set out the process for the preferred method	EON UK (CB)	Pending
0508	23/05/14	2.0	CB to review UNCC impacts such as membership and its role going forward	EON UK (CB)	Pending
0509	23/05/14	2.0	CB should implementation voting be based on commercial drivers, relevant objectives or a combination of factors.	EON UK (CB)	Pending
0510	23/05/14	2.0	<p>The following are to provide an update on the operation of the following codes:</p> <p>CB – SPAA;</p> <p>JF – SEC;</p> <p>AM – MRA.</p>	<p>EON UK (CB)</p> <p>NGN (JF)</p> <p>British Gas (AM)</p>	Pending
0511	23/05/14	2.0	MB to provide an overview of registered parties, traders, shippers and what the likely voting numbers would be.	Xoserve (MB)	Pending