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**UNC Workgroup 0550 Minutes**  
**Project Nexus: Incentivising Central Project Delivery**  
**Friday 05 February 2016**  
**31 Homer Road, Solihull B91 3LT**

**Attendees**

Les Jenkins (Chair)	(LJ)	Joint Office
Mike Berrisford (Secretary)	(MB)	Joint Office
Alex Ross Shaw*	(ARS)	Northern Gas Networks
Andrew Margan*	(AM)	British Gas
Angela Love*	(AL)	ScottishPower
Chris Warner	(CW)	National Grid Distribution
Colette Baldwin	(CB)	E.ON UK
Colin Blair*	(CBI)	ScottishPower
Edd Hunter	(EH)	RWE npower
Fraser Mathieson	(FM)	Scotia Gas Networks
Phil Lucas	(PL)	National Grid NTS
Richard Pomroy	(RP)	Wales & West Utilities
Steve Mulinganie*	(SM)	Gazprom
Sue Hilbourne	(SH)	Scotia Gas Networks

*\*via teleconference*

Copies of all papers are available at: <http://www.gasgovernance.co.uk/0550/050216>

The Workgroup Report is due to be presented at the UNC Modification Panel by 17 March 2016.

**1. Review of Minutes (13 January 2016)**

The minutes of the previous meeting were approved.

**2. Workgroup Report**

When asked, EH confirmed that the recent amendments made to the modification are commensurate with the previous Workgroup discussions.

**2.1 Review of Legal Text**

LJ opened by making reference to the draft legal text commentary (guidance) document published for the meeting before handing over to CW to provide a more detailed explanation behind the proposed legal text.

In explaining that the legal text proposes insertion of a new paragraph 22 into the UNC TDIIC Section, CW indicated that following work with the Proposer, EH there are a couple of points that need clarification.

Focusing on new paragraph 22.1(a), CW explained that this sees the introduction of a new defined term for “**Delay Modification**”. He then provided an explanation of the rationale behind moving from using Project Nexus Implementation Date (PNID) to inserting an actual date of 1<sup>st</sup> October 2016. When challenged, CW suggested that if any change was made to either the PNID or the 01 October 2016 date, the proposed regime would be triggered.

In looking to consider how the regime might be expected to work should a delay occur, SM pointed out that where a delay takes place he would envisage an urgent

modification being raised, especially when Ofgem (JD) has already hinted that a 'direction' from Ofgem would in essence, require / be deemed a new modification anyway.

In the end the Workgroup consensus favoured using an actual date, rather than a reference to PNID in this context – CW agreed to tweak the legal text to reflect this.

In moving on to look at new paragraphs 22.1(b) and (c), some parties wondered whether the descriptions needed to be expanded (by inserting the term 'in action'). Responding, SM suggested that this would not be necessary as the provisions of the text would trigger the (incentive) regime as it stands.

A few typographical tweaks to paragraph 22.1 were suggested which CW agreed to undertake.

Focusing on new paragraph 22.2, SM voiced his concern that should things start to go wrong, as written, the legal text infers that there might be a risk that we may inadvertently 'lock out' the incentive(s) where dates move back on multiple occasions – as drafted, the scheme closes on / after the first deferral.

During a brief and diverse discussion around how any delays would be catered for, it was noted that the modification introduces the concept of a 'window' from 01 October through to 30 November, which should go towards addressing such a concern. LJ reminded everyone that the business rules allow for multiple deferrals and the scheme runs until implementation. At this juncture, CW felt that it would be best to leave the legal text 'as-is' rather than seeking a complex resolution of something that may not be a problem anyway (i.e. trying to tease out more than one delay requirement). At this point LJ started to make some onscreen amendments to the draft legal text to take into account the discussions around the table. In the end, the Workgroup consensus was to stick with 01 October 2016.

LJ advised that he would send the change marked draft legal text to CW for him to prepare the (amended) formal legal text in due course, but as a minimum, in time for publication alongside the Draft Modification Report when that document is issued for consultation purposes.

## **2.2 Terms of Reference - Panel Questions**

Legal text will be prepared following the provision of the amended modification, ready for review at the next meeting on 05 February 2016.

### **2.2.1 Review previous industry precedents (electricity)**

In explaining that he had written out to seek the views of the other Code Administration bodies on this matter, LJ reported that it would appear that there are no other industry precedents that we could follow, even though DCUSA does have a form of compensation scheme, it is not in the same vein as the incentive scheme proposed under this modification. RP provided a quick overview of how the DCUSA scheme works and confirmed that in his opinion, it is fundamentally different to the 0550 requirements.

### **2.2.2 How will damages be identified/proven**

The Workgroup considered that this matter had been sufficiently addressed during consideration of item 2.1 above.

## **2.3 Completion of Workgroup Report**

The Workgroup undertook an onscreen review of the draft report, with the main focus of the discussions being presented by exception.

### Section 3 – Solution - User Pays

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When asked, there were no adverse comments against the user pays statement.

#### Section 4 – Relevant Objectives

When asked, there were no adverse comments against the relevant objective statements other than a request for additional clarity / transparency around the Ofgem decision making processes associated with this scheme. In response, LJ added a new statement at the end (on page 7) of the relevant objectives section.

#### Section 6 – Impacts – Precedents

Discussions initially focused on the use of the term ‘incentive’ with some parties questioning the validity behind its use. In comparing 0550 with the previous SPAA (0273) modification<sup>1</sup>, it was noted that that modification was different on the grounds that it is a smearing related modification. It was recognised that parties would be able to state their respective views during the consultation process.

It was suggested, and agreed to remove the reference to ‘regulated sector’, as there are already commercial arrangements in place anyway.

At this point in the discussion, LJ added two new statements at the end of this section; one catering for the ‘TRAS Incentive Scheme’ and the other under a new sub heading entitled the ‘Typical Commercial Incentives’. The consensus was that the TRAS statement was fine, but further discussion relating to the commercial incentives took place.

In explaining the rationale behind the proposed wording for the new sub heading, LJ clarified what the term ‘supplier’ means in the context of this statement. Some parties remained uncomfortable with the use of the term and also requested insertion of additional clarity around potential risk premiums. When it was suggested that matters such as these would ‘normally’ be agreed upfront via the contracts, LJ responded by explaining that this is potentially a difficult issue, especially as the Transporters have not included a level of risk in the Project Nexus delay. It was also noted that Ofgem will not allow offset by any pass through related mechanisms.

When challenged as to where any monies land, LJ explained that Xoserve would not retain any recovered incentive payments. He also reminded everyone that Ofgem has the ability to prevent recovery of monies – at this point the statement was amended to better reflect the discussions / concerns raised.

When RP explained the background to the Wales & West Utilities analysis of the cost of funding their debt, and suggested how the implementation of 0550 could / would impact on this, resulting in customers potentially being worse off, SM presented a counter argument that Transporter inefficiencies also increase customer costs – it was agreed that this is really a matter for parties to consider as part of their response to the consultation.

When asked whether anyone had any further points they wished to raise, or suggested amendments to the report, no adverse comments were forthcoming.

LJ explained that the Workgroup Report was now complete, and would at this time include the ‘as-is’ legal text as suggested text until such a point that National Grid Distribution (CW) provides the final version of the legal text. It is anticipated that the final legal text would be published alongside the Draft Modification Report when the consultation process begins.

### **3. Next Steps**

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<sup>1</sup> Copies of all SPAA related documentation can be found at: <https://spaa.co.uk/SitePages/Home.aspx>

The Workgroup Report will be submitted to the February UNC Modification Panel, with the recommendation that this modification be issued for Consultation.

**4. Diary Planning**

*Further details of planned meetings are available at: [www.gasgovernance.co.uk/Diary](http://www.gasgovernance.co.uk/Diary)*

No further Workgroup meetings are required at this time.