
UNC Workgroup 0550 Minutes
Project Nexus: Incentivising Central Project Delivery
Tuesday 20 October 2015
31 Homer Road, Solihull B91 3LT

Attendees

Les Jenkins (Chair)	(LJ)	Joint Office
Lorna Dupont (Secretary)	(LD)	Joint Office
Alex Ross Shaw*	(ARS)	Northern Gas Networks
Andy Miller	(AM)	Xoserve
Angela Love	(AL)	ScottishPower
Chris Warner	(CW)	National Grid Distribution
Colette Baldwin	(CB)	E.ON UK
Colin Blair	(CBI)	ScottishPower
Ed Hunter	(EH)	RWE npower
Erika Melen	(EM)	Scotia Gas Networks
Hilary Chapman	(HC)	Xoserve
Jon Dixon*	(JD)	Ofgem
Lorna Lewin	(LL)	DONG Energy
Mark Jones*	(MJ)	SSE
Paul Waite*	(PW)	EDF Energy
Richard Pomroy	(RP)	Wales & West Utilities
Sean McGoldrick	(SMc)	National Grid NTS
Steve Mulinganie	(SM)	Gazprom

*via teleconference

Copies of all papers are available at: <http://www.gasgovernance.co.uk/0550/201015>

The Workgroup Report is due to be presented at the UNC Modification Panel by 21 January 2016.

1.0 Review of Minutes and Actions

1.1 Minutes (04 September 2015)

The minutes of the previous meeting were approved.

1.2 Actions

0101: AL to investigate the precedents within the electricity industry by contacting Ofgem direct.

Update: AL requested that this action be carried forward. **Carried forward**

0102: Parties to consider the wording and content with regards to a reciprocal arrangement, as a large cost would impact on the Shippers due to any delay.

Update: Scenarios that would require a reciprocal arrangement were discussed. Xoserve may have systems ready to go live and may not be able to switch on because

one or more Shipper parties may not be ready. In the event of a Shipper(s) causing a delay parties considered that a Shipper would be in breach of Licence, which Ofgem would deal with; and that Shippers not being ready for testing could also be a key scenario. It was observed that the Project Nexus Steering Group (PNSG) could recommend and prevent a 'ready state' from proceeding; this would not necessarily be a Transporter 'failure'.

It was affirmed that the redrafted modification did not include reciprocal arrangements, in the event that the cause(s) of any delay was established to be due to 'failure' by Shipper(s). **Closed**

0103: CW to work with the Transporters to look at the information to be given to the Shippers to provide clarity, transparency and confidence regarding future planning.

Update: CW reported that various routes were being employed to improve communications and the dissemination of information and increase confidence. **Closed**

0104: EH to review Modification 0550 and adapt/update accordingly to include the amendments as proposed by the Workgroup.

Update: The modification had been amended; see discussions at 2.1, below. **Closed**

2.0 Workgroup Report

2.1. Amended Modification

Following previous Workgroup discussions EH had amended the modification proposal, and explained the changes made.

The Workgroup reviewed the changes made to the various sections of the modification and EH noted the suggestions/comments for further consideration.

Section 2 Why Change

Discussion centred on the concept of 'failure' and 'Transporters' failure', which it was believed should be clearly defined, as there may potentially be a number of actions and circumstances and parties that may contribute to 'failure' but that would be outside a Transporter's control.

LJ clarified that the PNSG does not 'deliver' against anything - it was only checking and confirming that the Plan milestones had been successfully achieved, evaluating the performance of others, and then making recommendations. It was noted that the movement of a date was not necessarily a result of 'failure' by the Transporters. The PNSG would only recommend a change to the Plan if something were evidenced not to have worked; either a UNC Modification or a decision by Ofgem would be required to change the date.

The meaning of 'failure' needed to be clearly and unambiguously defined before it could be established if there was a valid claim by any party to justify any remedial payment.

Referring to the statement that "...any further delay to the Nexus programme will inflict unnecessary further costs on consumers..." LJ suggested that it followed that consideration should be given to the passing of any 'compensation payments' received by Shippers back to consumers. This was discussed. It may depend on what the 'compensation payments' were being made for; SM referred to the PwC analysis and the cost of Shippers retaining IT Teams for longer, not necessarily reflecting a 'cost of failure'

to a consumer or to a consumer's immediate detriment.

LJ reminded that everything is deliverable, but at what cost - and this was not to be seen as a 'deliver everything at whatever/all costs' programme.

Section 3 Solution

It was questioned what sort of 'payment' was being considered - was it an incentive, a penalty, liquidated damages, a claim for indemnity or liability (assessed after the event), etc, or what? This needed to be clearly framed and appropriately termed, and may require confirmation through Legal Opinion. If it was to be termed an incentive scheme could it be justified? Legal challenges should be considered.

It was reiterated that absolute clarity on what might constitute 'failure' and how it should be appropriately measured was required, and how any form of recompense should be established, quantified and distributed (frequency). It was agreed the modification should provide clear definitions, including a proposed payment calculation/mechanism.

Drawing attention to *Section 6 Impacts*, CW commented that the industry had obligations (under UNC Modification 0548) regarding the Project Nexus Implementation Date rather than the Programme. A discussion ensued. It was pointed out this was delivering the system as opposed to the legal text. LJ observed that remedies in respect of failure to deliver the Code were available through Ofgem; a party would find it extremely difficult to penalise the Transporters by instituting a mechanism for failure of Code.

System failure required definition; it is about system delivery and a failure to do this and should not be predicated on other modifications. Should it be focused more on failure of delivery against the PwC Implementation Plan?

It was suggested that 'system' and 'system delivery failure' would need defining, as would the test(s) to be applied to see where/when 'failure' occurred, its cause and responsible party, against what version of the Plan, and the point at which it should be relevant to be considered 'failure', etc.

As a first step towards definition and clarity, it was suggested that the Transporter facing elements of the Go/No Go (GONG) criteria be provided for the Workgroup to review and assess if these were valid and sufficiently objective as components against which success/failure (material) might be tested/quantified and if any could/should be used as a trigger point(s). An appropriate adjudication process might also then be established.

It was observed that changes to the criteria might also occur over time as the project progresses - this should also be borne in mind, and it was noted that the Transporters had 'Best Endeavours' obligations under UNC Modification 0548. It was also suggested that a view from PwC be sought as to how robust the current criteria were and if they were likely to be subject to change.

Action 1001: Transporters and Xoserve to provide the Transporter facing elements of the GONG criteria for consideration at the next meeting (06 November 2015).

The discussion then moved on to consider how any payment/financial remedy might be calculated. LJ drew attention to the reference to the PwC RAASP Report, pointing out that reliance should not be placed on it as being a robust source on which to base any assessments, and explained the various reasons why it should not be used. EH noted the concerns expressed regarding permission for use and degree of reliability and will reconsider the use of this source information.

Various suggestions were made to take this forward including:

- establishing the total contract value and what percentage might be put at risk by failure

- verifying the use of PwC's figures in the draft RAASP report (subject to a number of considerations to be discussed with PwC)
- the seeking of independent advice (PwC)
- reflecting 'lost' benefits (the Workgroup subsequently discounted this as an option)
- understanding the Service Provider's existing contractual liabilities.

Action 1002: Xoserve to confirm whether information can be provided to the Proposer and the Workgroup regarding the Service Provider's existing contractual liabilities.

The Workgroup then considered how any such payment/financial remedy might be apportioned to appropriate recipients.

Various suggestions were made, including:

- market share based on AQ or SOQ
- market share based on MPRs (the Workgroup subsequently discounted this as an option since number of meter points did not directly correlate to costs incurred)
- proportionate according to IT costs/exposure.

It was reiterated that the industry did not really want to reach the point of 'failure' where the rulings in this modification (if approved) had to be enacted.

How the Transporters might have to contribute to/fund the payment/financial remedy regime was then considered, the suggestion being that it be by size of shareholding in Xoserve. An appropriate mechanism/route for notification/settlement from/to Xoserve would also require consideration.

2.2. Review of Relevant Objectives

The Workgroup considered if and how this modification would further the relevant objectives.

c) Efficient discharge of the licensee's obligations.

The Workgroup believed that the modification did not further this relevant objective since it is focussed on system delivery, which is not a Licence matter..

d) Securing of effective competition:

- (i) between relevant shippers;*
- (ii) between relevant suppliers; and/or*
- (iii) between DN operators (who have entered into transportation arrangements with other relevant gas transporters) and relevant shippers.*

The Workgroup believed that the modification did not further this relevant objective since it was an incentive scheme focussed on system delivery.

f) Promotion of efficiency in the implementation and administration of the Code.

The Workgroup expressed disparate views. The obligations were to deliver the system through the Plan, and it was recognised that the Transporters may find themselves in a quandary, whether to deliver a 'poorer quality' system but on time, or a 'higher quality'

system at a delayed date. The modification should not drive perverse behaviours or result in unintended consequences through inappropriate impositions.

Difficult dilemmas may occur, and reference was made to the example of iGT data cleansing. Unless the data could be fully cleansed there was likely to be an adverse effect on the industry - the question might then arise should systems therefore be implemented to meet the date in full knowledge of inadequate cleansing for quality system purposes or be held back, i.e. delayed, to address the major shortcomings and then implemented. Would this constitute 'failure', if done in the best interests of the industry? Movement of the date and cause/responsibility for the movement should be established by a valid and fair test; a number of factors may need to be taken into account.

It was suggested that the Proposer should clarify why he believed this relevant objective to be positively facilitated.

It was also suggested that the GONG criteria be sourced from PwC, highlighting what is/is not relevant.

Action 1003: The Chair to contact PwC to source the GONG criteria and establish what is/is not relevant.

2.3. Review of Impacts

See discussions at 2.1, above.

2.4. Consideration of Wider Industry Impacts

Other factors to be considered were noted, including:

- the setting of any precedent
- the setting of a time limit for closure of this exercise/scheme
- incentives - capped (uncapped liabilities are not favoured by the Authority)
- incentives - reward (for successful/earlier delivery)
- overall standards of service - Code obligations on Transporters.

3.0 Next Steps

The Proposer will consider further amendments to the modification as suggested in discussions, and in particular whether the modification is seeking to reimburse costs or to incentivise parties.

The Workgroup will consider the Transporter facing elements of the GONG criteria; how failure and fault are to be identified and attributed; how any payment scheme should then be triggered; and to consider eligibility for payment.

4.0 Diary Planning

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

Workgroup meetings will take place as follows:

Time/Date	Venue	Workgroup Programme
10:30, Friday 06 November 2015	31 Homer Road, Solihull B91 3LT	<ul style="list-style-type: none"> • <i>Amended Modification</i> • <i>Consideration of Business Rules</i> • <i>Review of Impacts and Costs</i> • <i>Review of Relevant Objectives</i> • <i>Consideration of Wider Industry Impacts</i> • <i>Development of Workgroup Report</i>

Action Table (20 October 2015)

Action Ref	Meeting Date	Minute Ref	Action	Owner	Status Update
0101	04/09/15	1.0	AL to investigate the precedents within the electricity industry by contacting Ofgem direct.	ScottishPower (AL)	Carried forward
0102	04/09/15	1.0	Parties to consider the wording and content with regards to a reciprocal arrangement, as a large cost would impact on the Shippers due to any delay.	All Shippers	Closed
0103	04/09/15	1.0	CW to work with the Transporters to look at the information to be given to the Shippers to provide clarity, transparency and confidence regarding future planning.	National Grid Distribution (CW)	Closed
0104	04/09/15	1.0	EH to review Modification 0550 and adapt/update accordingly to include the amendments as proposed by the Workgroup.	RWE npower (EH)	Closed
1001	20/10/15	2.1	Transporters and Xoserve to provide the Transporter	Transporters and Xoserve	Due at 06 November

Action Table (20 October 2015)

Action Ref	Meeting Date	Minute Ref	Action	Owner	Status Update
			facing elements of the GO/NG criteria for consideration at the next meeting (06 November 2015).		<i>meeting</i> Pending
1002	20/10/15	2.1	Xoserve to confirm whether information can be provided to the Proposer and the Workgroup regarding the Service Provider's existing contractual liabilities.	Xoserve (AM/HC)	<i>Due at 06 November meeting</i> Pending
1003	20/10/15	2.2	The Chair to contact PwC to source the GO/NG criteria and establish what is/is not relevant.	Chair (LJ)	<i>Due at 06 November meeting</i> Pending