

**UNC Workgroup 0551 Minutes**  
**Protecting consumers who are disaggregated under Modification**  
**0428 from Ratchet charges for Winter 2015/16**  
**Thursday 28 January 2016**  
**31 Homer Road, Solihull B91 3LT**

**Attendees**

Bob Fletcher (Chair)	(BF)	Joint Office
Lorna Dupont (Secretary)	(LD)	Joint Office
Alex Ross-Shaw	(ARS)	Northern Gas Networks
Andy Clasper	(AC)	National Grid Distribution
Angela Love*	(AL)	ScottishPower
Carl Whitehouse	(CWh)	First Utility
Chris Warner	(CW)	National Grid Distribution
Colette Baldwin	(CB)	E.ON UK
David Mitchell	(DM)	Scotia Gas Networks
David Reilly*	(DR)	Ofgem
Fraser Mathieson	(FM)	Scotia Gas Networks
Gareth Evans	(GE)	Waters Wye Associates
Gavin Anderson*	(GA)	EDF Energy
Hilary Chapman	(HC)	Xoserve
John Welch	(JW)	RWE npower
Jon Dixon*	(JD)	Ofgem
Kirandeep Samra	(KS)	RWE npower
Kirsten Elliott-Smith	(KES)	Cornwall Energy
Lorna Lewin	(LL)	DONG Energy
Mark Jones	(MJ)	SSE
Matt Jackson	(MJa)	British Gas
Mike Bagnall	(MB)	British Gas
Naomi Nathanael	(NN)	Plus Shipping
Nigel Winnan*	(NW)	Wales & West Utilities
Rachel Hinsley	(RH)	Xoserve
Richard Pomroy*	(RP)	Wales & West Utilities
Robert Wigginton	(RW)	Wales & West Utilities
Steve Mulinganie	(SM)	Gazprom

\* via teleconference

Copies of all papers are available at: <http://www.gasgovernance.co.uk/0551/280116>

The Final Modification Report including the Supplemental Report will be presented to the UNC Modification Panel on 18 February 2016.

**1.0 Introduction**

BF outlined the purpose of the meeting, explaining what was now expected of the Workgroup with regard to Ofgem's Send Back Letter and following direction from the January UNC Modification Panel.

## 2.0 Consideration of Ofgem's Send Back Letter

Referring to the letter and the points raised, SM observed that in any of the previous Workgroup meetings there not once been mention of the qualifying dates being an issue and no evidence had been provided to indicate that it would be a problem. In response to the Send Back he had drafted a Variation Request and an amended modification.

BF then clarified the process for the submission/consideration/progression of Variation Requests, and the consequences of acceptance by the UNC Modification Panel.

Following the receipt of Ofgem's Send Back Letter two actions (DX1201 and DX1202) had been raised at the December Distribution Workgroup. The subsequent reconvening of this Workgroup 0551 has enabled the transfer of responsibility for reviewing those actions to this meeting. The Workgroup reviewed the actions at appropriate points in its discussions.

**DX1202:** *Modification 0551* - Xoserve to provide supporting information (scale of ratchet charges, and number of sites to which these might be applied over the relevant period) to accompany the Variation Request.

**Update:** Xoserve provided the supporting information in a short presentation. The candidate MPRNs were defined along with the two Tests.

For Winter 2015/16 (October/November) 8 eligible candidates were assessed and all would qualify for relief from the ratchet incentive charge. The combined ratchet relief value is approximately £60,000 across the eligible MPRNs. Xoserve also confirmed that, if the candidate population were to be redefined based on 01 April 2014, the outcome would remain unchanged. HC added that the figures confirmed that there were no candidate sites within the relevant period going back to July 2013 either. **Closed**

### 2.1 Consider Potential Discriminatory Position of the Solution

The Workgroup considered the point raised in paragraph 3 of Ofgem's Send Back Letter:

*"...We also note that, although the modification is aimed at protecting customers affected by UNC428 which introduced the UNC rule permitting only one meter per supply point, it would not apply to any customers who were disaggregated between the decision date for UNC428 of 25 July 2013 and the proposed UNC551 application date of 1 October 2015. We are concerned that this could discriminate against those customers. We consider the workgroup needs to provide evidence as to why this is appropriate, or revise the application period to include all customers affected by UNC428 (if justification for any retrospective application is provided)..."*

It was believed the evidence provided by Xoserve under Action DX1201 (see 2, above) indicated there was no detriment and no undue discrimination, although technically the modification could have been considered discriminatory. In light of this BF asked if Ofgem still required the modification to be amended. DR responded that it was up to the Proposer to demonstrate no undue discrimination and provide relevant analysis to be presented to the Panel.

In view of the evidence SM indicated that he would not amend modification and instead he asked Ofgem to consider the supporting analysis provided by Xoserve alongside the Supplemental Report. HC confirmed that the Xoserve analysis will be revised to include data back to July 2013, and that this will be provided for publication alongside the Supplemental Report.

**DX1201:** *Modification 0551* - SM to consider submitting a Variation Request to January 2016 UNC Modification Panel.

**Update:** SM confirmed that in light of today's discussions he was no longer contemplating amending the modification or submitting a Variation Request. **Closed**

## **2.2 Provide a Justification for Retrospective Application**

The Workgroup considered the point raised in paragraph 2 of Ofgem's Send Back Letter:

*"...The legal text proposes that the provisions shall apply from 1 October 2015 to 31 May 2016, which means that, if approved, UNC551 would apply retrospectively. We have previously issued guidance on retrospective application of modifications, as part of wider guidance on urgent modifications, as there are only particular circumstances where we consider it to be appropriate. However, we note that the FMR does not include any reasons to support the proposed retrospective implementation date. As previously advised at the UNC Panel, we consider the workgroup needs to justify the retrospective implementation date with reference to our guidance. ..."*

To assist the Workgroup in coming to a view, DR drew attention to the criteria relating to the inclusion of retrospective elements as set out in the document, "*Ofgem Guidance on Code Modification Urgency Criteria*". It would be expected that the Proposer should make the case for materiality and refer to these criteria. DR reiterated that in most cases retrospectivity should be avoided.

GE observed that the responses made to the consultation (from both sides of the contract) were in support of the modification. It was also noted that, historically, modifications have been approved even where it was demonstrated there would only be benefit to one or a few consumers.

The criteria were considered in greater detail. It was suggested that this modification would not have been required if Modification 0428 had made provision for a soft landing. The similarity of arguments where individual consumers were being affected by changes in arrangements was discussed. Aspects of materiality were considered.

## **2.3 Completion of Final Modification Report (including Supplemental Report)**

The Workgroup then considered what additional statements it wished to make in light of the evidence presented, and BF added the Workgroup's views to the Supplemental Report section included in the Final Modification Report.

The Workgroup considered that the additional clarity was unlikely to change respondents' views and therefore did not recommend that Panel consider a further consultation.

## **3.0 Any Other Business**

None raised.

## **4.0 Next Steps**

The Final Modification Report including the Supplemental Report and the additional analysis to be provided by Xoserve will be submitted to the February 2016 UNC Modification Panel meeting for consideration.

## **5.0 Diary Planning**

No further meetings were planned.

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**Action Table (28 January 2016)**

<b>Action Ref</b>	<b>Meeting Date</b>	<b>Minute Ref</b>	<b>Action</b>	<b>Owner</b>	<b>Status Update</b>
<b>DX1201</b> <i>(transferred in from January Distribution Workgroup)</i>	(22/12/15)  28/01/16	(4.4)  2.0	<i>Modification 0551</i> - SM to consider submitting a Variation Request to January 2016 UNC Modification Panel.	Gazprom (SM)	<b>Closed</b>
<b>DX1202</b> <i>(transferred in from January Distribution Workgroup)</i>	(22/12/15)  28/01/16	(4.4)  2.1	<i>Modification 0551</i> - Xoserve to provide supporting information (scale of ratchet charges, and number of sites to which these might be applied over the relevant period) to accompany the Variation Request.	Xoserve (HC)	<b>Closed</b>