

Governance Workstream Minutes

Thursday 16 September 2010

Elexon, 350 Euston Road, London

Attendees

Tim Davis (Chair)	TD	Joint Office
Bob Fletcher (Secretary)	BF	Joint Office
C Warner	AR	National Grid Distribution
Chris Shanley	CS	National Grid NTS
Joanna Ferguson	JF	Northern Gas Networks
Joel Martin	JM	Scotia Gas Networks
Jon Dixon	JD	Ofgem
Phil Broom	PB	GdF Suez
Richard Fairholme	RF	E.ON UK
Richard Healey	RH	RWE Npower
Simon Trivella	ST	Wales & West Utilities
Shelley Rouse	SR	Statoil
Stefan Leedham	SL	EDF Energy

1 Introduction and Status Review

1.1 Minutes from the previous meeting were approved.

1.2 Actions updates from the previous meeting were discussed.

GOV1056: Consider if the UNC Code Governance changes should be implemented before or at the same time as the licence changes.

UPDATE: CGR Proposals have amended dates. **Closed**

2 Code Governance Review Proposals

2.1 Proposal 0312 - Introduction of Two-Thirds Majority Voting to the UNC Modification Panel

Prior to the Workstream discussing the Workstream Report, RF explained the amendments made to the Proposal. SL asked if the voting arrangements were a vote in favour unless 2 thirds vote against. This was confirmed as correct.

CWr asked if external legal advice was being sought regarding the impact on the right to Appeal were the Proposal to be implemented. RF advised that the BSC Panel can seek legal advice unlike the UNC Panel, and has done so in this case. JD suggested that, due to differences in the Statutory Instrument reflecting the nuances of each code, any legal interpretation has to be treated with caution and is likely to be code specific. The advice provided by Ofgem legal was that the case was arguable and was only likely to be settled if and when tested. CWr was concerned how the Panel could decide on the impact on the relevant objectives without the benefit of clear legal advice indicating whether or not implementation would impact the right to Appeal.

JD suggested he was not unsympathetic to having higher hurdles for any proposal that has significant impacts on the industry and has been instigated by Ofgem. However, it was not clear how Modification 0312 could be shown to demonstrably facilitate achievement of the relevant objectives. JD challenged the reasons demonstrate the relevant objectives would be facilitated and felt the reasons

presented were unlikely to be sufficient on their own for the Authority to direct implementation. TD asked whether a case could be made that higher hurdles ensure the UNC is managed/administered more efficiently.

ST indicated that he was still concerned that the Proposal indicates Panel members will vote for implementation when a Proposal is related to an Ofgem direction. He did not believe there was any evidence to support this. Consequently he could not support any argument that relied on this to suggest that implementation would further the Relevant Objectives.

JD mused that if the aim was to raise the threshold to protect appeal rights other avenues may be worth investigating, such as increasing the number of voting Panel Members who are not licence holders.

The Workstream then agreed to defer completing the report to enable further consideration to be given to the impact on the relevant objectives were the Proposal to be implemented.

3 Topics

There were no topics to be discussed at this meeting.

4 Any other business

No other business raised.

5 Diary Planning for Workstream

Next Meeting

21 October 2010, ENA, following the UNC Committee meeting.

Action Ref	Meeting Date(s)	Minute Ref	Action	Owner*	Status Update
GOV1056	29/07/10	2.0	Consider if the UNC Code Governance changes should be implemented before or at the same time as the licence changes.	Ofgem (CC)	Closed.