

**Record of Determinations: Panel Meeting, 17 March 2011**

| Modification  | Vote Outcome   | Shipper Voting Members |     |    |    |    | Transporter Voting Members |    |    |     |    | Consumer Member | Determination Sought  |
|---|--|------------------------|-----|----|----|----|----------------------------|----|----|-----|----|-----------------|---|
|   |  | AB (PB)                | CWr | PB | RF | SL | CWa                        | JF | JM | RHe | ST | RHa             |   |
| 0367A - Interruptible to Firm – Supply Point Transition - <b>renumber to 0374</b>       | Not related to the Significant Code Review - 10 votes against              | X                      | X   | X  | X  | X  | X                          | X  | X  | X   | X  | NV              | Modification is related to Significant Code Review                          |
|   | Not a Self-Governance Modification - 10 votes against                      | X                      | X   | X  | X  | X  | X                          | X  | X  | X   | X  | NV              | Modification should follow Self-Governance Procedures                       |
|   | Not issued to Workgroup 0367 - 4 votes in favour and 5 votes against       | ✓                      | ✓   | ✓  | ✓  | NV | X                          | X  | X  | X   | X  | NV              | Issue to Workgroup 0367 for assessment                                      |
|   | Issued to Workgroup for assesment - 10 votes in favour                     | ✓                      | ✓   | ✓  | ✓  | ✓  | ✓                          | ✓  | ✓  | ✓   | ✓  | NV              | Issue to workgroup  |
|   | Workgroup to report by May Panel - 10 votes in favour and 1 vote against   | ✓                      | ✓   | ✓  | ✓  | X  | ✓                          | ✓  | ✓  | ✓   | ✓  | ✓               | Workgroup to report by May Panel  |
| 0368 - Smoothing of Distribution Charge Variation                                       | Not related to the Significant Code Review - unanimous vote                | X                      | X   | X  | X  | X  | X                          | X  | X  | X   | X  | X               | Modification is related to Significant Code Review                          |
|   | Not a Self-Governance Modification - 10 votes in favour                    | X                      | X   | X  | X  | X  | X                          | X  | X  | X   | NV | X               | Modification should follow Self-Governance Procedures                       |
|   | Issued to Workgroup for assesment - 10 votes in favour                     | ✓                      | ✓   | ✓  | ✓  | ✓  | ✓                          | ✓  | ✓  | ✓   | NV | ✓               | Issue to Workgroup for assessment   |
|   | Workgroup to report by September Panel - 10 votes in favour                | ✓                      | ✓   | ✓  | ✓  | ✓  | ✓                          | ✓  | ✓  | ✓   | NV | ✓               | Workgroup to report by September Panel                                      |
| 0369 - Re-establishment of Supply Meter Points – measures to address shipperless sites  | Not related to the Significant Code Review - unanimous vote                | X                      | X   | X  | X  | X  | X                          | X  | X  | X   | X  | X               | Modification is related to Significant Code Review                          |
|   | Not a Self-Governance Modification - 2 votes in favour and 8 votes against | NV                     | X   | ✓  | X  | ✓  | X                          | X  | X  | X   | X  | X               | Modification should follow Self-Governance Procedures                       |
|   | Issued to Workgroup for assesment - unanimous vote                         | ✓                      | ✓   | ✓  | ✓  | ✓  | ✓                          | ✓  | ✓  | ✓   | ✓  | ✓               | Issue to Workgroup for assessment   |
|   | Workgroup to report by July Panel - unanimous vote                         | ✓                      | ✓   | ✓  | ✓  | ✓  | ✓                          | ✓  | ✓  | ✓   | ✓  | ✓               | Workgroup to report by July Panel   |
| 0370 – Continuation of CV determination by National Grid Transmission on behalf of DNOs | Not related to the Significant Code Review - unanimous vote                | X                      | X   | X  | X  | X  | X                          | X  | X  | X   | X  | X               | Modification is related to Significant Code Review                          |
|   | 0370 is a Self Governance Modification - unanimous vote                    | ✓                      | ✓   | ✓  | ✓  | ✓  | ✓                          | ✓  | ✓  | ✓   | ✓  | ✓               | Modification should follow Self-Governance Procedures                       |
|   | Issued to consultation - 9 votes in favour and 1 vote against              | ✓                      | NV  | ✓  | X  | ✓  | ✓                          | ✓  | ✓  | ✓   | ✓  | ✓               | Issue to consultation   |
|   | Legal text not required - 9 votes in favour and 1 vote against             | NV                     | ✓   | ✓  | ✓  | ✓  | ✓                          | ✓  | ✓  | ✓   | ✓  | X               | Not to prepare legal Text for inclusion in the Draft Modification Report    |
|   | Cost estimate not required - unanimous vote                                | ✓                      | ✓   | ✓  | ✓  | ✓  | ✓                          | ✓  | ✓  | ✓   | ✓  | ✓               | Not to prepare cost estimate for inclusion in the Draft Modification Report |
| 0371 - Unsecured Credit Limit allocated through payment history                         | Modification considered - unanimous vote                                   | ✓                      | ✓   | ✓  | ✓  | ✓  | ✓                          | ✓  | ✓  | ✓   | ✓  | ✓               | Consider modification in absence of Proposer's Representative               |

|   |   |   |   |   |   |   |   |   |   |   |   |   |  |
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| allocated through payment history - late payments   | Consideration deferred - unanimous vote   | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | Defer consideration  |
| 0372 – Code Governance Review Licence Compliance Changes  | Not related to the Significant Code Review - unanimous vote   | X | X | X | X | X | X | X | X | X | X | X | Modification is related to Significant Code Review                   |
|   | 0372 is a Self Governance Modification - unanimous vote   | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | Modification should follow Self-Governance Procedures                |
|   | Issued to Workgroup for assessment - unanimous vote   | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | Issue to Workgroup for assessment                                    |
|   | Workgroup to report by May Panel - unanimous vote   | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | Workgroup to report by May Panel                                     |
|   |   |   |   |   |   |   |   |   |   |   |   |   |  |
| 0326 - Allocation of unidentified gas following the appointment of the Allocation of Unidentified Gas Expert (AUGE) | Consideration deferred until April Panel - unanimous vote   | X | X | X | X | X | X | X | X | X | X | X | Issue to Consultation  |
| 0282(A) - Introduction of a process to manage Vacant sites  | Proceed to consultation - unanimous vote  | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | Issue to Consultation  |
|   | Cost estimate required - unanimous vote   | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | Prepare cost estimate for inclusion in the Draft Modification Report |
|   | Legal text required - unanimous vote  | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | Prepare legal text for inclusion in the Draft Modification Report    |
| 0312 - Introduction of Two-Thirds Majority Voting to the UNC Modification Panel                                     | Proceed to consultation - unanimous vote  | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | Issue to consultation  |
|   | Legal text required - unanimous vote  | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | Is legal text required   |
| 0331 - Demand Estimation Section H Changes to Processes and Responsibilities  | Not issued to consultation - 2 votes in favour. Returned to the Distribution Workgroup for assessment   |   |   |   | ✓ | ✓ |   |   |   |   |   |   | Issue to Consultation  |
|   | Workgroup to report by May Panel - unanimous vote   | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | Workgroup to report by May Panel                                     |
| 0337 – Introduction of an Inter-Day Linepack Product  | Code Administrator to write to Ofgem seeking their views on User-Pays Arrangements - 10 votes in favour | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |   | ✓ | ✓ | Seek a view from Ofgem on the User-Pays arrangements                 |
|   | Not issued to consultation - 4 votes in favour.   | ✓ |   | ✓ | ✓ |   |   |   |   | ✓ |   |   | Issue to consultation  |
|   | Consideration deferred - 10 votes in favour   | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |   | ✓ | ✓ | Defer consideration  |

|   |   |   |   |   |   |   |   |   |   |   |   |   |  |
|---|---|---|---|---|---|---|---|---|---|---|---|---|--|
| 0343 – The ability and requirement for Users and Transporters to raise issues to be considered by the Allocation of Unidentified Gas Expert as “known” issues | Not issued to consultation - 3 votes in favour. Returned to the Distribution Workgroup for assessment |   | ✓ |   | ✓ | ✓ |   |   |   |   |   |   | Issue to Consultation  |
|   | Workgroup to report by May Panel  | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | Workgroup to report by May Panel   |
| 0355 - Alignment of CV and Wobbe Limits at NTS System Entry Points  | Proceed to consultation - unanimous vote  | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | Issue to Consultation  |
|   | Cost estimate not required - unanimous vote   | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | Is cost estimate not required for inclusion in Draft Modification report |
|   | Legal text not required - unanimous vote  | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | Is legal text not required for inclusion in Draft Modification report    |
| 0209 - Rolling AQ   | Extension for 3 months agreed - unanimous vote  | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | Extension to June requested  |
| 0274 - Creation of a National Revenue Protection Service  | Code Administrator to contact Ofgem seeking an extension - unanimous vote                             | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | Seek extension from Ofgem  |
| 0294 - Changes to UNC Modification Panel Constitution   | Extension for 3 months agreed - unanimous vote  | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | Extension to June requested  |
| 0316 – Review of Section I of the Offtake Arrangements Document (OAD): NTS Operational Flows  | Extension for 2 months agreed - unanimous vote  | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | Extension to June requested  |
| 0338 – Remove the UNC requirement for a 'gas trader' User to hold a Gas Shipper Licence   | Extension for 3 months agreed - unanimous vote  | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | Extension to June requested  |
| 0329 - Review of Industry Charging and Contractual Arrangements – DM Supply Point Offtake Rates (shqs) and DM Supply Point Capacity (soqs)                    | Extension for 3 months agreed - unanimous vote  | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | Extension to June requested  |
| 0231V - Changes to the Reasonable Endeavours Scheme to better incentivise the detection of Theft  | Consideration deferred - unanimous vote   | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | Defer consideration  |
| 0314 - The provision of a “Data Update” to Non Code Parties   | No new issues identified with no votes cast in favour   |   |   |   |   |   |   |   |   |   |   |   | Did consultation raise new issues  |
|   | Implementation not recommended with 1 vote cast in favour   | ✓ |   |   |   |   |   |   |   |   |   |   | Whether to recommend implementation                                      |
| 0339 – Clarification of the AUG Year in respect of UNC Modification   | No new issues identified with no votes cast in favour   |   |   |   |   |   |   |   |   |   |   |   | Did consultation raise new issues  |

|  |   |   |   |   |    |   |   |    |    |    |   |   |                                     |
|--|---|---|---|---|----|---|---|----|----|----|---|---|-------------------------------------|
| in respect of UNC Modification 0229  | Implementation recommended with 8 vote cast in favour                 |   | ✓ |   |    | ✓ | ✓ | ✓  | ✓  | ✓  | ✓ | ✓ | Whether to recommend implementation |
| 0339A - Alternative to Mod 0339, "Clarification of the AUG Year in respect of UNC Modification 0229" | No new issues identified with no votes cast in favour                 |   |   |   |    |   |   |    |    |    |   |   | Did consultation raise new issues   |
|  | Implementation recommended with 6 votes cast in favour                |   | ✓ |   | ✓  | ✓ | ✓ |    |    | ✓  |   | ✓ | Whether to recommend implementation |
| 0340 - Clarification of the AUG Year in respect of UNC Modification 0229 (alternative)               | No new issues identified with no votes cast in favour                 |   |   |   |    |   |   |    |    |    |   |   | Did consultation raise new issues   |
|  | Implementation not recommended with 3 vote cast in favour             |   | ✓ |   | ✓  | ✓ |   |    |    |    |   |   | Whether to recommend implementation |
| Panel to consider a preference between Alternatives  | Prefer 0339 to 0339A  |   |   |   |    |   | ✓ | ✓  | ✓  |    | ✓ |   |                                     |
|  | Prefer 0339A to 0339  |   | ✓ |   | ✓  | ✓ |   |    |    |    |   | ✓ |                                     |
| Panel requested to consider a preference   | Prefer 0339   |   |   |   |    |   | ✓ | ✓  | ✓  |    |   |   |                                     |
|  | Prefer 0339A  |   |   |   | ✓  |   |   |    |    |    |   | ✓ |                                     |
|  | Prefer 0340   |   | ✓ |   |    | ✓ |   |    |    |    |   |   |                                     |
|  | Prefer 0366   | ✓ |   | ✓ |    |   |   |    |    |    | ✓ |   |                                     |
| 0353 - Population and Maintenance of the Market Sector Code within the Supply Point Register         | No new issues identified with 1 vote in favour                        |   |   |   |    | ✓ |   |    |    |    |   |   | Did consultation raise new issues   |
|  | Implementation recommended - unanimous vote                           | ✓ | ✓ | ✓ | ✓  | ✓ | ✓ | ✓  | ✓  | ✓  | ✓ | ✓ | Whether to recommend implementation |
| 0366 - Clarification of legal text for UNC Modification 0229   | No new issues identified with 11 votes against                        | X | X | X | X  | X | X | X  | X  | X  | X | X | Did consultation raise new issues   |
|  | Implementation recommended with 5 votes in favour and 2 votes against | ✓ | X | ✓ | NV | X | ✓ | NV | NV | NV | ✓ | ✓ | Whether to recommend implementation |

| KEY | In favour | Not in Favour | No Vote Cast |
|-----|-----------|---------------|--------------|
|     | ✓         | X             | NV           |

## Attendees

### Voting Members:

| Shipper Representatives   | Transporter Representatives   | Consumer Representative      |
|---|---|------------------------------|
| C Wright, British Gas (CWr)<br>P Broom, GDF Suez (PB) and alternate for A Bal, Shell<br>R Fairholme, E.ON UK (RF)<br>S Leedham, EDF Energy (SL) | C Warner, National Grid Distribution (CWa)<br>J Ferguson, Northern Gas Networks (JF)<br>J Martin, Scotia Gas Networks (JM)<br>R Hewitt, National Grid Transmission (RHe)<br>S Trivella, Wales & West Utilities (ST) | R Hall, Consumer Focus (RHa) |

### Non-Voting Members:

| Independent Suppliers' Representative | Ofgem Representative | Chairman                   |
|---------------------------------------|----------------------|----------------------------|
| C Hill, First Utility (CH)            | J Dixon (JD)         | T Davis, Joint Office (TD) |

### Also in Attendance:

B Fletcher, Panel Secretary (BF), A Raper, National Grid Distribution (AR), D Ianora (Ofgem) (DI), D Watson (British Gas) (DW), J Wisdom, RWE npower (JW) and R Dutton (Total) (RD)

## **Record of Discussions**

### **109.1 Note of any alternates attending meeting**

J Martin for A Gibson, Scotia Gas Networks

P Broom for A Bal, Shell

### **109.2 Record of Apologies for absence**

A Bal, Shell and A Gibson, Scotia Gas Networks

### **109.3 Consider New, Non-Urgent Modifications**

#### **a) Modification 0367A - Interruptible to Firm – Supply Point Transition**

PB introduced the modification on behalf of Gazprom and explained its aims. In addition to the obligations proposed in Modification 0367, it introduces a soft landing such that ratchet charges are not incurred for twelve months.

Since this was the first time revised arrangements for alternative have been applied, TD explained the Modification Rules with respect to alternative modifications. The modification could be sent to Workgroup 0367 that would produce a single Workgroup Report covering both modifications, which would be equivalent to the previous alternative process. Alternatively, the Panel could decide to send the modification to its own workgroup for assessment as a standalone modification.

ST suggested that the modification was not a true alternative to Modification 0367 and argued it should stand alone since there were significant differences between the two modifications. He believed that 0367A should be sent to a Workgroup for assessment. ST also raised a potential conflict if, unlike 0367, 0367A did not follow the self-governance route. TD indicated that the Modification Rules provide a number of routes by which modifications could be moved in or out of self-governance, such that the two modifications could be aligned if that was considered necessary or desirable.

PB suggested that if 0367A were not progressed as an alternative, it would be contingent on implementation of Modification 0367 – and it is preferable to avoid contingent modifications such that it should be progressed as an alternative. AR disagreed that 0367A would be contingent on 0367, arguing the modification could have been raised at any time following the direction to implement Modification 0090. ST added that Modification 0367 could be withdrawn but this would not prevent 0367A progressing.

PB did not accept this view and felt that both should be progressed together recognising the common requirement as well as the additional elements in Modification 0367A.

SL was sympathetic to the transporters view but felt the modification had been raised as an alternative and should be considered as such.

On the modification itself, RHe was unclear if it were proposed that the ratchet mechanism is affected or just charges, and sought clarity as to whether NTS supply points were included. PB confirmed it was the charges and not ratchets, and that NTS supply points are unaffected by the modification.

Following discussion, Members determined that Modification 0367A:

- is not related to the Significant Code Review as it is not a related subject;
- does not meet the criteria for Self-Governance;
- should be issued to a Workgroup for assessment, with a report presented by the May Panel.

The Panel requests the Workgroup to consider

- the impacts on Distribution Networks;
- clarify which supply points are affected;
- consider the impact on ratchet charges.

TD indicated that, since the modification was not to be progressed as an alternative to 0367, it would be renumbered to 0374.

b) Modification 0368 - Smoothing of Distribution Charge Variation

RD introduced the modification and its aims.

ST advised that a number of aspects that the modification seeks to address are licence requirements and therefore not easily changed. A number of the points have also been raised in RIIO discussions and suggested the issues would be better discussed through that forum rather than a UNC Workgroup. PB considered it is preferable to discuss issues in an open forum, such as a UNC Workgroup, to facilitate visibility. SL requested clarity on the potential impacts on licence obligations, identifying the specific issues.

Regarding the potential for conflict with the Licence, JD asked for an opportunity to consider the Terms of Reference prior to the first Workgroup meeting. This would enable Ofgem to reach an informal view as to whether or not it appeared inappropriate for the issues to be progressed through the UNC.

Following discussion, Members determined that Modification 0368:

- is not related to the Significant Code Review as it is not a related subject;
- does not meet the criteria for Self-Governance;
- should be issued to a Workgroup for assessment, with a report presented by the September Panel.

The Panel requests the Workgroup to consider

- potential Licence conflicts;
- whether the suggested 4 year period be extended to 8 years;
- clarify the impact of price control reviews, including when any period starts (e.g. a fixed or rolling period).

- c) Modification 0369 - Re-establishment of Supply Meter Points – measures to address shipperless sites

CWa introduced the modification and its aims.

SL asked if the modification is applicable to existing meters only. CWa confirmed this was correct, though future meters could be considered if appropriate.

RHa asked for an indication of the volume of energy concerned within the modification. CWa could not confirm the volume at this stage, but this could be provided to the Workgroup.

Following discussion, Members determined that Modification 0369:

- is not related to the Significant Code Review as it is not a related subject;
- does not meet the criteria for Self-Governance;
- should be issued to a Workgroup for assessment, with a report presented by the July Panel.

The Panel requests the Workgroup to consider

- the materiality of the modification.

- d) Modification 0370 – Continuation of CV determination by National Grid Transmission on behalf of DNOs

AR introduced the modification and its aims.

CWr asked if the modification relates to a no cost service. RHe advised that it is not charged. DNs provide information through their operations on site and National Grid NTS process the information and calculate the values.

Following discussion, Members determined that Modification 0370:

- is not related to the Significant Code Review as it is not a related subject;
- meets the criteria for Self-Governance - the existing service will be maintained such that there will be no material impact, although the service will be properly reflected in the UNC with the existing (2007) deadline removed;
- should proceed to consultation, with a proposed Self-Governance determination date of 21 April;



- does not require a cost estimate for inclusion in the draft Modification Report;
- does not require legal text for inclusion in the draft Modification Report.

e) Modification 0371 - Unsecured Credit Limit allocated through payment history – late payments

TD introduced the modification on behalf of the proposer, explaining that they would prefer the modification to have a retrospective effect, though at this stage the modification does not reflect this requirement.

CHi suggested that the modification should not proceed to consultation without legal text and that, as it does not appear to deliver the proposer's requirements as he understood them, it would be better to defer consideration rather than send the modification to a Workgroup.

SL suggested that the Panel should not delay the process and, to help the proposer, it should be sent to a Workgroup for assessment.

Following discussion, Members determined to defer consideration of Modification 0371.

f) Modification 0372 – Code Governance Review Licence Compliance Changes

RHe introduced the modification and explained the proposal was being raised following discussions with Ofgem.

SL felt that the modification should be Self-Governance and should be issued to a Workgroup for assessment. RHe provided an overview of the main changes in the modification and suggested that, relative to the criteria for Self-Governance, while each change may be immaterial, the cumulative effect could be considered material.

The Panel requested the Joint Office to arrange a meeting to discuss this modification, and other live Governance modifications, prior to the next Panel meeting.

Following discussion, Members determined that Modification 0372:

- is not related to the Significant Code Review as it is not a related subject;
- meets the criteria for Self-Governance – it was felt that the proposed changes were largely clarifications rather than being likely to have a material impact on the modification process;
- should be issued to a Workgroup for assessment, with a report presented by the May Panel and a proposed Self-Governance determination date of 21 July.

#### **109.4 Consider Legal Text**

- f) Modification 0326 - Allocation of unidentified gas following the appointment of the Allocation of Unidentified Gas Expert (AUGE)

CWa advised it is impractical to produce legal text until there is an outcome on the other, date related, AUGE modifications.

Panel members determined unanimously to defer consideration of the modification.

#### **109.5 Consider Workgroup Issues**

##### **Workgroup Reports for Consideration**

- a) Modification 0282(A) - Introduction of a process to manage Vacant sites

ST advised that due to the recent changes to 0282 there were likely to be significant changes to the legal text, plus 0282A required a ROM and legal text – therefore neither should not be issued to consultation.

Members determined that Modification 0282(A):

- should proceed to consultation;
- that legal text was required for inclusion in the draft Modification Report;
- that cost estimates were required for inclusion in the draft Modification Report.

- b) Modification 0312 - Introduction of Two-Thirds Majority Voting to the UNC Modification Panel

RF felt the modification should now be issued to consultation, as the awaited legal advice/information from other code administrators had now been published. JD agreed to circulate information received from DECC on the interpretation of the Statutory Instrument and whether this is likely to be amended in the near future – which DECC had suggested was unlikely.

Members determined that Modification 0312:

- should proceed to consultation;
- that legal text was required for inclusion in the draft Modification Report.

- c) Modification 0331 - Demand Estimation Section H Changes to Processes and Responsibilities

RF asked for a progress report on the preparation of legal text and why it had not been prepared earlier, following meetings between the proposer and transporters. JM advised that production of the text was in progress but was proving to be problematic and may not be possible without the modification being amended.

RHe suggested he remained unsure regarding what the modification was trying to achieve based on what was written in the modification - he felt it

lacked the clarity and precision necessary to define what was to be implemented. SL felt any uncertainty could be clarified in the legal text.

Members failed to determine that Modification 0331 should proceed to consultation and it will therefore be returned to the Workgroup for assessment, with a report requested by the May Panel. The Panel requests the Workgroup to review the legal text which is presently being prepared.

d) Modification 0337 – Introduction of an Inter-Day Linepack Product

SL suggested that, in line with the Workgroup recommendation, Ofgem should be asked for a formal View regarding the appropriateness of the User Pays charges and their proposed apportionment. RHa supported seeking a view from Ofgem to help with understanding the implications of the modification.

For Modification 0337, Members:

- determined to request a View from Ofgem on the appropriateness of the proposed User Pays charges and their apportionment;
- failed to determine that it should proceed to consultation;
- determined that consideration should be deferred.

e) Modification 0343 – The ability and requirement for Users and Transporters to raise issues to be considered by the Allocation of Unidentified Gas Expert as “known” issues

For Modification 0343, Members:

- failed to determine that it should proceed to consultation;
- determined that it should be returned to the Workgroup for assessment, with a report presented by the May Panel;
- requested that the Workgroup review the legal text.

f) Modification 0355 - Alignment of CV and Wobbe Limits at NTS System Entry Points

Following discussion, Members determined that Modification 0355:

- should proceed to consultation;
- does not require legal text for inclusion in the draft Modification Report;
- does not require a cost estimate for inclusion in the draft Modification Report.

Members requested that the response template clarifies that legal text is not required since the modification does not require the UNC to be amended.

### **Extensions Requested**

a) Modification 0209 - Rolling AQ

CWa advised that the Transporters are considering raising a new modification to take forward the issues proposed in Modification 0209. Discussions with the proposer had taken place and it is hoped that Modification 0209 will be withdrawn.

Members determined unanimously to extend the time for the Workgroup to report until June 2011.

b) Modification 0274 - Creation of a National Revenue Protection Service

RHa asked if Ofgem are reliant on the modification to complete the Regulatory Impact Assessment for other theft related modifications. JD confirmed it was not reliant as they were aware of the development of the NRPS service outside of the UNC requirements. JD advised that Ofgem would provide a timeline of the different Workgroups, which impact this modification, which should hopefully inform the discussion and progress of this and related developments.

Members determined unanimously to request the Joint Office to write to Ofgem seeking an extension for Modification 0274.

c) Modification 0294 - Changes to UNC Modification Panel Constitution

Members determined unanimously to extend the time for the Workgroup to report until June 2011.

d) Review 0316 – Review of Section I of the Offtake Arrangements Document (OAD): NTS Operational Flows

Members determined unanimously to extend the time for the Workgroup to report until June 2011.

e) Modification 0338 – Remove the UNC requirement for a 'gas trader' User to hold a Gas Shipper Licence

Members determined unanimously to extend the time for the Workgroup to report until June 2011.

f) Review 0329 - Review of Industry Charging and Contractual Arrangements – DM Supply Point Offtake Rates (shqs) and DM Supply Point Capacity (soqs)

Members determined unanimously to extend the time for the Workgroup to report until June 2011.

## 109.6 Existing Modification Proposals for Reconsideration

- a) Modification 0231V - Changes to the Reasonable Endeavours Scheme to better incentivise the detection of Theft

JD advised that Modification 0231V would be included in the forthcoming Regulatory Impact Assessment regarding theft, along with Modifications 0277 and 0346.

Panel members determined unanimously to defer consideration of the modification until the Regulatory Impact Assessment process has been concluded.

## 109.7 Consider Final Modification Reports

- a) Modification 0314 - The provision of a “Data Update” to Non Code Parties

The Panel Chair summarised that this is a facilitating modification. It would permit the Transporters to provide specific data items relating to I&C sites to ESTA. That provision would, however, be subject to establishment of a separate agreement.

By ensuring the Transporters are in a position to make data available should it be requested, implementation could be regarded as facilitating efficient administration and implementation of the UNC. However, this would not be efficient if the data is never requested and the provision is redundant. Also data could be regarded as uncontrolled once released, and it could be regarded as inappropriate to facilitate data release prior to receiving assurance about the surrounding control and use of that data.

Implementation could also be considered as facilitating the securing of effective competition since the data can subsequently be used by ESTA to establish a consistent dataset, and this dataset can be used to support the development of effective competition. However, implementation would only facilitate data release to ESTA. Since alternative suppliers of services could be envisaged, implementation could be regarded as discriminatory since it would provide a competitive advantage to ESTA. Implementation could, therefore, be regarded as adversely impacting the facilitation of effective competition.

One vote was cast in favour of implementing Modification 0314. Therefore the Panel did not determine to recommend implementation of Modification 0314.

| Panel’s view of the benefits of implementation against the Code Relevant Objectives  |                   |
|--|-------------------|
| Description of Relevant Objective  | Identified impact |
| a) Efficient and economic operation of the pipe-line system.   | None              |
| b) Coordinated, efficient and economic operation of<br>(i) the combined pipe-line system, and/ or<br>(ii) the pipe-line system of one or more other relevant gas transporters. | None              |
| c) Efficient discharge of the licensee's obligations.  | None              |

|  |          |
|--|----------|
| d) Securing of effective competition:<br>(i) between relevant shippers;<br>(ii) between relevant suppliers; and/or<br>(iii) between DN operators (who have entered into transportation arrangements with other relevant gas transporters) and relevant shippers. | Impacted |
| e) Provision of reasonable economic incentives for relevant suppliers to secure that the domestic customer supply security standards... are satisfied as respects the availability of gas to their domestic customers.   | None     |
| f) Promotion of efficiency in the implementation and administration of the Code  | Impacted |

b) Modification 0339 – Clarification of the AUG Year in respect of UNC Modification 0229

The Panel Chair summarised that both the original and alternative modification seek to clarify the application date for energy reconciliations in accordance with the first Allocation of Unidentified Gas Statement. Modification 0339 proposes this should be 1<sup>st</sup> April 2012. Modification 0339A proposes this should be 1<sup>st</sup> October 2011, with the AUG year being redefined to commence on 1<sup>st</sup> October rather than 1<sup>st</sup> April.

Members recognised that either modification seeks to clarify the existing UNC text, which some have suggested is ambiguous. To this extent, therefore, implementation could be regarded as consistent with promotion of efficiency in the implementation and administration of the Code.

Members also recognised that implementing either modification would deliver certainty regarding the initial date for the energy reallocations. This would therefore provide some certainty, and increasing certainty regarding the market arrangements could be expected to facilitate the securing of effective competition.

However, some Members considered that, while the initial date would be certain, the value of any reconciliation would be uncertain. This is because the initial AUGS may not be available prior to these dates such that there may be retrospective reconciliations. Retrospectivity creates uncertainty and could undermine the securing of effective competition.

Other Members were concerned that costs are being incorrectly allocated at present and wished to see this corrected at the earliest possible opportunity, with more accurate cost targeting being expected to remove cross subsidies and facilitate the securing of effective competition. They therefore considered that implementation of either modification would facilitate effective competition even if costs were to be reallocated retrospectively.

Eight votes were cast in favour of implementing Modification 0339. Therefore the Panel determined to recommend implementation of Modification 0339.

Six votes were cast in favour of implementing Modification 0339A.

Therefore the Panel determined to recommend implementation of Modification 0339A.

Members then considered which of the two modifications would, if one were implemented, better facilitate the achievement of the Relevant Objectives. 4 votes were cast in favour of 0339, and 4 in favour of 0339A.

| Panel's view of the benefits of implementation against the Code Relevant Objectives  |                   |
|--|-------------------|
| Description of Relevant Objective  | Identified impact |
| a) Efficient and economic operation of the pipe-line system.   | None              |
| b) Coordinated, efficient and economic operation of<br>(i) the combined pipe-line system, and/ or<br>(ii) the pipe-line system of one or more other relevant gas transporters.   | None              |
| c) Efficient discharge of the licensee's obligations.  | None              |
| d) Securing of effective competition:<br>(i) between relevant shippers;<br>(ii) between relevant suppliers; and/or<br>(iii) between DN operators (who have entered into transportation arrangements with other relevant gas transporters) and relevant shippers. | Impacted          |
| e) Provision of reasonable economic incentives for relevant suppliers to secure that the domestic customer supply security standards... are satisfied as respects the availability of gas to their domestic customers.   | None              |
| f) Promotion of efficiency in the implementation and administration of the Code  | Impacted          |

- c) Modification 0339A - Alternative to Mod 0339, "Clarification of the AUG Year in respect of UNC Modification 0229"

See Modification 0339 above for details on Panel Members recommendations.

- d) Modification 0340 - Clarification of the AUG Year in respect of UNC Modification 0229 (alternative)

The Panel Chair summarised that the modification seeks to clarify the application date for energy reconciliations in accordance with the first Allocation of Unidentified Gas Statement. Modification 0340 proposes this should be 1<sup>st</sup> April 2011.

Members recognised that the modification seeks to clarify the existing UNC text, which some have suggested is ambiguous. To this extent, therefore, implementation could be regarded as consistent with

promotion of efficiency in the implementation and administration of the Code.

Members also recognised that implementing the modification would deliver certainty regarding the initial date for the energy reallocations. Implementation would therefore provide some certainty, and increasing certainty regarding the market arrangements could be expected to facilitate the securing of effective competition.

However, some Members considered that, while the initial date would be certain, the value of any reconciliation would be uncertain. This is because the initial AUGS will not be available prior to this date such that there will be retrospective reconciliations. Retrospectivity creates uncertainty and would undermine the securing of effective competition.

Other Members were concerned that costs are being incorrectly allocated at present and wished to see this corrected at the earliest possible opportunity, with more accurate cost targeting being expected to remove cross subsidies and facilitate the securing of effective competition. They therefore considered that implementation of the modification would facilitate effective competition even though costs would be reallocated retrospectively.

Three votes were cast in favour of implementing Modification 0340. Therefore the Panel did not determine to recommend implementation of Modification 0340.

| Panel's view of the benefits of implementation against the Code Relevant Objectives  |                   |
|--|-------------------|
| Description of Relevant Objective  | Identified impact |
| a) Efficient and economic operation of the pipe-line system.   | None              |
| b) Coordinated, efficient and economic operation of<br>(i) the combined pipe-line system, and/ or<br>(ii) the pipe-line system of one or more other relevant gas transporters.   | None              |
| c) Efficient discharge of the licensee's obligations.  | None              |
| d) Securing of effective competition:<br>(i) between relevant shippers;<br>(ii) between relevant suppliers; and/or<br>(iii) between DN operators (who have entered into transportation arrangements with other relevant gas transporters) and relevant shippers. | Impacted          |
| e) Provision of reasonable economic incentives for relevant suppliers to secure that the domestic customer supply security standards... are satisfied as respects the availability of gas to their domestic customers.   | None              |
| f) Promotion of efficiency in the implementation and administration of the Code  | Impacted          |



e) Modification 0353 - Population and Maintenance of the Market Sector Code within the Supply Point Register

The Panel Chair summarised that the modification seeks to oblige Shippers to populate and maintain Market Sector Code (MSC) values. In addition, an automated process is envisaged to populate any blank values that remain six months after implementation.

Members recognised that accurate and complete market sector data is potentially valuable and could support a range of services. However, it was also recognised that the majority of UNC processes do not rely on the MSC such that short-term benefits in terms of improved information and more accurate cost allocations are likely to be limited. Implementation could, however, be expected to be consistent with facilitating system operation, effective competition and efficient discharge of the Transporters' licence obligations. In the longer term, more services could be developed which rely on the MSC and, as a facilitating modification, implementation would be consistent with efficient administration and implementation of the UNC.

Eleven votes were cast in favour of implementing Modification 0353. Therefore the Panel determined unanimously to recommend implementation of Modification 0353.

| Panel's view of the benefits of implementation against the Code Relevant Objectives  |                   |
|--|-------------------|
| Description of Relevant Objective  | Identified impact |
| a) Efficient and economic operation of the pipe-line system.   | Minor impact      |
| b) Coordinated, efficient and economic operation of<br>(i) the combined pipe-line system, and/ or<br>(ii) the pipe-line system of one or more other relevant gas transporters.   | Minor impact      |
| c) Efficient discharge of the licensee's obligations.  | Impacted          |
| d) Securing of effective competition:<br>(i) between relevant shippers;<br>(ii) between relevant suppliers; and/or<br>(iii) between DN operators (who have entered into transportation arrangements with other relevant gas transporters) and relevant shippers. | Minor impact      |
| e) Provision of reasonable economic incentives for relevant suppliers to secure that the domestic customer supply security standards... are satisfied as respects the availability of gas to their domestic customers.   | None              |
| f) Promotion of efficiency in the implementation and administration of the Code  | Impacted          |

f) Modification 0366 - Clarification of legal text for UNC Modification 0229

The Panel Chair summarised that the modification seeks to clarify the application date for energy reconciliations in accordance with the first Allocation of Unidentified Gas Statement. It is proposed that this will be from the first 1<sup>st</sup> April following approval of the initial AUGS.

Members recognised that the modification seeks to clarify the existing UNC text, which some have suggested is ambiguous. To this extent, therefore, implementation could be regarded as consistent with promotion of efficiency in the implementation and administration of the Code.

Some Members considered that the avoidance of retrospective reconciliations under any circumstances would provide certainty and reduce risk, and therefore facilitate the securing of effective competition.

Other Members were concerned that costs are being incorrectly allocated at present and wished to see this corrected at the earliest possible opportunity, with more accurate cost targeting being expected to remove cross subsidies and facilitate the securing of effective competition. They considered that implementation could introduce a significant delay before reconciliations are undertaken in line with the initial AUGS, and could therefore incentivise some parties to seek to delay completion of the AUG process. They did not consider, therefore, that implementation would be expected to facilitate effective competition.

5 votes were cast in favour of implementing Modification 0366.

2 votes were cast against implementation of Modification 0366.

Therefore the Panel determined to recommend implementation of Modification 0366.

| Panel's view of the benefits of implementation against the Code Relevant Objectives  |                   |
|--|-------------------|
| Description of Relevant Objective  | Identified impact |
| a) Efficient and economic operation of the pipe-line system.   | None              |
| b) Coordinated, efficient and economic operation of<br>(i) the combined pipe-line system, and/ or<br>(ii) the pipe-line system of one or more other relevant gas transporters.   | None              |
| c) Efficient discharge of the licensee's obligations.  | None              |
| d) Securing of effective competition:<br>(i) between relevant shippers;<br>(ii) between relevant suppliers; and/or<br>(iii) between DN operators (who have entered into transportation arrangements with other relevant gas transporters) and relevant shippers. | Impacted          |
| e) Provision of reasonable economic incentives for relevant  | None              |

|  |          |
|--|----------|
| suppliers to secure that the domestic customer supply security standards... are satisfied as respects the availability of gas to their domestic customers. |          |
| f) Promotion of efficiency in the implementation and administration of the Code  | Impacted |

## 109.8 Consents to modify

TD introduced the proposed consents and the reasons why they were required and asked if anyone considers that the consents should be progressed as modifications. SL considered self-governance to be a more appropriate route. RHa was of the opinion that these are not policy issues and following the consents process would be efficient.

- a) Consent 040 – 0308 – RG0252 Proposal 11: Appropriate use of the terms Surety and Security in UNC TPD Section V

ST advised that it is clear what needs to be done to amend the text due to the intent of the modifications concerned. Issues had arisen because a series of modifications were implemented and this created some minor inconsistencies. Hence a consent is the appropriate way forward. Members agreed.

- b) Consent 041 – Revision to the legal text associated with the implementation of 0320V Code Governance Review: Appointment and Voting Rights for a Consumer Representative and Independent Chair

JW was concerned that parties are not being given the opportunity to vote on this aspect when they previously were, through the consultation process for the modification, and this change appears to be a variation which should not be pursued as a consent. ST also felt that there has been insufficient discussion on voting rights for consumer representatives in the UNCC. However, SL was of the opinion they were allowed by intent and the consent to modify was appropriate.

JF considered deleting the word “not” is a material change and, as such, out of scope for a consent. CWr agreed that the change was sufficient to justify further consultation by the industry.

RHe felt that the proposal in the modification was clear and it is the legal text that is not correct. A consent to modify is the appropriate route for correcting a clear legal drafting error. A modification should be raised if parties have a different view regarding the implications, which Ofgem had directed should be implemented.

RHa supported the view that the modification was clear and the text to implement it clearly wrong and should be amended. Therefore a consent is appropriate.

JD thought it would be useful to review the history of the modification and its versions and consider how the UNCC has operated recently since the implementation of the modification before considering the other

implications. Following this, Ofgem will respond to the application.

**109.9 Any Other Business**

None raised.

**109.10 Conclude Meeting and Agree Date of Next Meeting**

10:30 21 April 2011, at the ENA

