

Record of Determinations: Panel Meeting, 17 November 2011

Modification	Vote Outcome	Shipper Voting Members					Transporter Voting Members					Consumer Representative	Determination Sought
		AG	CH	CWr	PB	RF	CWa	JF	JM	RHe	ST		
0405 - Bottom Stop SOQ Appeal Mechanism for 2011/12	Should follow Urgent Procedures - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		Should follow Urgent Procedures
	Panel to meet on 09 December - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		Panel to Meet on 09 December
0404 - Profiling payment of LDZ capacity transportation charges for Small Shipper Organisations	Not related to the Significant Code Review - unanimous vote against	X	X	X	X	X	X	X	X	X	X		Modification is related to Significant Code Review
	Not a Self-Governance Modification - unanimous vote against	X	X	X	X	X	X	X	X	X	X		Modification should follow Self-Governance Procedures
	Issued to Workgroup 0404 - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		Issue to Workgroup for Assessment
	Workgroup to report by March Panel - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		Report by March Panel
0326VV - Allocation of unidentified gas following the appointment of the Allocation of Unidentified Gas Expert (AUGE)	Consultation to close on 06 January 2012 - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		Extend consultation to 06 January 2012
0338 - Remove the UNC requirement for a 'gas trader' User to hold a Gas Shipper Licence	Variation Request is not immaterial - no votes in favour.												Variation Request is immaterial.
0338V - Remove the UNC requirement for a 'gas trader' User to hold a Gas Shipper Licence	Does not relate to a matter that is the subject of an ongoing Significant Code Review - with no votes in favour, 8 against	X	X	X	X	NV	X	X	X	X	NV		Relates to a matter that is the subject of an ongoing Significant Code Review.
	Does not satisfy the Self-Governance Criteria - with no votes in favour, 8 against	X	X	X	X	X	NV	X	X	X	NV		Satisfies the Self-Governance Criteria.
	Referred to Workgroup 0338V for Assessment - unanimous vote	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		Refer to a Workgroup for Assessment.
	Workgroup 0338V to report by the February 2012 Panel - unanimous vote.	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		Workgroup should report by the February 2012 Panel.

0376(A) - Increased Choice when Applying for NTS Exit Capacity	Consultation to close on 06 January 2012 - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Extend consultation to 06 January 2012
0378 - Greater Transparency over AQ Appeal Performance	Consultation to close on 06 January 2012 - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Extend consultation to 06 January 2012
0387 - Removal of Anonymity from Annual Quantity Appeal and Amendment Reports	Consultation to close on 06 January 2012 - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Extend consultation to 06 January 2012
0390 - Introduction of a Supply point Offtake Rate Review and Monitoring Process	Consultation to close on 06 January 2012 - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Extend consultation to 06 January 2012
0356 0356A - Demand Data for the NTS Exit (Flat) Capacity Charges Methodology	Proceed to consultation - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Issue to Consultation
	Legal text not required - 9 votes in favour, 1 against	✓	✓	✓	✓	X	✓	✓	✓	✓	✓	✓	✓	Legal text not required for inclusion in DMR
	Cost estimate not required - 9 votes in favour, 1 against	✓	✓	✓	✓	X	✓	✓	✓	✓	✓	✓	✓	Cost estimate not required for inclusion in DMR
	Consultation to close on 06 January 2012 - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Extend consultation to 06 January 2012
0375 - Changes to how Unsecured Credit Limits are determined within UNC TPD Section V 3.1.7 (Independent Assessments)	Proceed to consultation - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Issue to Consultation
	Legal text not required - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Legal text not required for inclusion in DMR
	Cost estimate not required - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Cost estimate not required for inclusion in DMR
0393 - Interruptible to Firm – NTS Supply Points Transition	Proceed to consultation - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Issue to Consultation
0396 - EU Third package: Three week switching	Proceed to consultation - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Issue to Consultation
	Legal text required - 1 vote in favour of not providing text, 9 against	X	X	✓	X	X	X	X	X	X	X	X	X	Legal text not required for inclusion in DMR
0369 - Re-establishment of Supply Meter Points – measures to address shipperless sites to report by January 2012 Panel.	Extension to January Panel agreed - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Extension to January requested
0368 - Smoothing of Distribution Charge Variation I.	Extension to February Panel agreed - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Extension to February requested
0357 – Enhanced Supply Point Administration Process	Extension to March Panel agreed - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Extension to March requested

0359 – Use of Market Sector Flag to determine Customer Status	Extension to March Panel agreed - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Extension to March requested
0377 – Use of Daily Meter Reads	Extension to March Panel agreed - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Extension to March requested
0380 – Periodic Annual Quantity calculation	Extension to March Panel agreed - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Extension to March requested
0331 - Demand Estimation Section H Changes to Processes and Responsibilities	Consideration deferred - 8 votes in favour and 1 vote against	✓	✓	✓	✓	NV	✓	✓	✓	X	✓			Defer Consideration
0345 - Removal of Daily Metered voluntary regime	Consideration deferred - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Defer Consideration
0363V - Commercial Arrangements for NTS Commingling Facilities	Not returned to Workgroup - unanimous vote against	X	X	X	X	X	X	X	X	X	X	X	X	Did consultation raise new issues
	Implementation recommended - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Whether to recommend implementation
0372V - Code Governance Review Licence Compliance Changes	Not returned to Workgroup - unanimous vote against	X	X	X	X	X	X	X	X	X	X	X	X	Did consultation raise new issues
	Panel determined by unanimous vote to implement Self-Governance Modification 0372V	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Whether to implement Self Governance Modification

KEY	In favour	Not in Favour	No Vote Cast	Not Present
	✓	X	NV	NP

Attendees

Voting Members:

Shipper Representatives	Transporter Representatives	Consumer Representative
A Green (AG), Total C Hill (CH), First Utility C Wright (CWr), British Gas P Broom (PB), GDF Suez R Fairholme (RF), E.ON UK	C Warner (CWa), National Grid Distribution J Ferguson (JF), Northern Gas Networks J Martin (JM), Scotia Gas Networks R Hewitt (RHe), National Grid NTS S Trivella (ST), Wales & West Utilities	

Non-Voting Members:

Independent Suppliers' Representative	Ofgem Representative	Chairman
		T Davis (TD), Joint Office

Also in Attendance:

A Miller (AM), Xoserve, B Fletcher (BF), Panel Secretary, D Ianora (DI), Ofgem and E Melen (EM), Scotia Gas Networks.

Record of Discussions

118.1 Note of any alternates attending meeting

J Martin for A Gibson (Scotia Gas Networks)

118.2 Record of Apologies for absence

A Gibson and R Hall (Consumer Focus)

118.3 Voting Process

TD introduced the new electronic voting system, explaining its use and how individual votes are displayed and recorded.

118.4 Consider New, Urgent Modifications

a) Modification 0405 - Bottom Stop SOQ Appeal Mechanism for 2011/12

CWr introduced the modification and its aims. He advised that the economic issues which lead to the implementation of Modification 0275 were continuing. He was aware of at least one consumer who was facing difficulties, and may cease trading if they could not adjust their gas charges to reflect their expected usage. It was therefore proposed to extend the Modification 0275 process for a further year, although he felt consideration should also be given to a more permanent solution.

DI requested views on why Urgency should or should not be granted. Ofgem's initial view is that the modification meets the criteria since it has a material impact on consumers. The Panel's view on the proposed timetable would also be welcome.

TD explained the timetable and that the aim is to have consultation open until 01 December, with a Modification Report published the following day. Members felt that the suggested timetable was reasonable in the circumstances, and confirmed that a decision by 16 December would still leave only a small window of opportunity to complete all the necessary processes to reduce SOQs.

Members determined unanimously to recommend the modification should follow Urgent procedures, and agreed an additional Panel meeting should be planned to commence at 09.30hrs on Friday 09 December.

118.5 Consider New, Non-Urgent Modifications

a) Modification 0404 - Profiling payment of LDZ capacity transportation charges for Small Shipper Organisations

JM introduced the modification and its aims. He suggested that it should be sent to its own Workgroup rather than being treated as an Alternative and sent to Workgroup 0383.

Members determined that Modification 0404:

- is not related to the Significant Code Review as it is not a related subject;
- does not meet the Self-Governance criteria as it impacts competition between Shippers.
- should be issued to a Workgroup for assessment, with a report presented to Panel by 16 March 2012.

118.6 Consider Legal Text

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

Members noted that legal text had been provided for inclusion in the Draft Modification Report, which would now proceed to consultation.

Members voted unanimously to extend the consultation, with an end date of 06 January 2012.

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

RHe explained that National Grid NTS intend raising a Variation Request and he would propose the varied modification is sent to a Workgroup for assessment. The variation would introduce a requirement for Trader Users to hold and maintain FSA, or equivalent, registration. DI suggested that the modification should clearly state that parties should either be Shippers or hold FSA registration.

TD suggested that, rather than send Modification 0338 back to the Transmission Workgroup, it may be preferable to consider a verbal Variation Request, which RHe made and Members then considered.

Members determined for Modification 0338 that:

- the variation request is not immaterial;

Members then determined that Modification 0338V:

- is not related to the Significant Code Review as it is not a related subject;
- does not meet the Self-Governance criteria as it may have a material impact on market liquidity and competition; and
- should be issued to a Workgroup for assessment, with a report presented to Panel by 16 February 2012.

- c) Modification 0376(A) - Increased Choice when Applying for NTS Exit Capacity

Members noted that legal text had been provided for inclusion in the Draft Modification Report, which would now proceed to consultation.

ST felt that in his opinion, views expressed on the User Pays aspect of both modifications had not been taken into and this may impact support for the modification. In addition, there is a risk that the ACS change needed to support either modification may not be implemented.

Members then voted unanimously to extend the consultation, with an end date of 06 January 2012.

d) Modification 0378 - Greater Transparency over AQ Appeal Performance

DI suggested the industry might usefully consider a wider review of AQ processes in light of the number of modifications being raised on this subject. However, CWa felt that Project Nexus is developing an enduring regime and most modifications raised are interim arrangements.

Members noted that legal text had been provided for inclusion in the Draft Modification Report, which would now proceed to consultation.

Members voted unanimously to extend the consultation, with an end date of 06 January 2012.

e) Modification 0387 - Removal of Anonymity from Annual Quantity Appeal and Amendment Reports

Members noted that legal text had been provided for inclusion in the Draft Modification Report, which would now proceed to consultation.

Members voted unanimously to extend the consultation, with an end date of 06 January 2012.

f) Modification 0390 - Introduction of a Supply point Offtake Rate Review and Monitoring Process

Members noted that legal text had been provided for inclusion in the Draft Modification Report, which would now proceed to consultation. JM advised that there has been a Transitional Document oversight which implied the inclusion of National Grid NTS - revised legal text correcting this will be provided in due course.

Members voted unanimously to extend the consultation, with an end date of 06 January 2012.

118.7 Consider Workgroup Issues

Workgroup Reports for Consideration

a) Modification 0356 0356A - Demand Data for the NTS Exit (Flat) Capacity Charges Methodology

Members accepted the Workgroup Report.

Following discussion, Members determined Modifications 0356 0356A:

- should proceed to consultation with a close out date of 06 January 2012;
 - that legal text is not required for inclusion in the draft Modification Report; and
 - that a cost estimate is not required for inclusion in the draft Modification Report.
- b) Modification 0375 - Changes to how Unsecured Credit Limits are determined within UNC TPD Section V 3.1.7 (Independent Assessments)

Members accepted the Workgroup Report.

Following discussion, Members determined for Modification 0375:

- should proceed to consultation;
 - that legal text is not required for inclusion in the draft Modification Report; and
 - that a cost estimate is not required for inclusion in the draft Modification Report.
- c) Modification 0393 - Interruptible to Firm – NTS Supply Points Transition
- d) Modification 0396 - EU Third package: Three week switching

Members accepted the Workgroup Report and determined unanimously that Modification 0393 should proceed to consultation.

ST raised a concern that the modification states that it is not User Pays but that costs should be recovered through transportation charges. While Ofgem have suggested that this should be a User Pays Modification, the proposer has not changed the modification in light of Ofgem's suggestion. Against this background, Transporters have no facility to recover their costs if Ofgem do not agree to allow this as a cost pass through item under the current price control. Transporters are therefore likely, notwithstanding the modification, to put forward a revised Agency Charging Statement (ACS) to create a user pays charge and so recover the cost of implementing this modification. This is possible given the different processes for UNC modifications and ACS changes, but ST wished to emphasise that this does not seem an appropriate way to continue.

Members accepted the Workgroup Report and determined unanimously that Modification 0396 should proceed to consultation.

Consider Workgroup Report Dates

The Panel reviewed the workplan for modifications currently under assessment and unanimously agreed to extend the following Workgroup reporting dates:

- a) Modification 0369 - Re-establishment of Supply Meter Points – measures to address shipperless sites to report by January 2012 Panel.

- b) Modification 0368 - Smoothing of Distribution Charge Variation to report by February 2012 Panel.
- c) Modification 0357 – Enhanced Supply Point Administration Process to report by March 2012 Panel.
- d) Modification 0359 – Use of Market Sector Flag to determine Customer Status to report by March 2012 Panel.
- e) Modification 0377 – Use of Daily Meter Reads to report by March 2012 Panel.
- f) Modification 0380 – Periodic Annual Quantity calculation to report by March 2012 Panel.

The Panel noted that Modifications 0357 and 0359 were approaching their 12 month reporting date and requested the Workgroups to provide their recommendations and report as soon as possible. DI advised that Ofgem would not expect to veto an extension to March 2012.

118.8 Existing Modification Proposals for Reconsideration

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

RHe was concerned that, by specifically defining an Expert Group, the revised legal text is not consistent with the modification. JM advised that Ofgem had requested inclusion of the Expert Group to clearly define its role. RHe responded that, while the Expert Group and its role may be more clearly defined in the revised legal text, this is not an appropriate test – the question should be whether or not the text implements what is stated in the modification and, in his opinion, it no longer does following the revisions that have been made. He suggested that if Ofgem consider the text that was consulted on in inappropriate, the modification should be rejected since the changes which would be introduced into the UNC by the latest version of the text had not been consulted upon, either as legal text or as part of the modification.

JM explained that the text provides for the Demand Estimation Sub Committee (DESC) to issue work to the Expert Group, and this is now defined. However, he accepted that the modification's intent was for a more informal role where the Expert Group was convened as and when required. CWa supported RHe's view that the text should reflect the modification and, therefore, that consideration should be given to reverting back to the previous version of the text.

Members then determined that consideration of the Modification should be deferred.

- b) Modification 0345 - Removal of Daily Metered voluntary regime

ST advised that there were some outstanding issues relating to the legal text, which was previously revised following formal consultation. The legal text has been amended again and a revised Final Modification Report created.

Members determined unanimously that consideration of the Modification should be deferred.

118.9 Consider Final Modification Reports

a) Modification 0363V - Commercial Arrangements for NTS Commingling Facilities

The Panel Chair summarised that the Modification seeks to apply the UNC regime on the basis of net rather than gross flows in defined circumstances. This is particularly targeted at prospective entry points where gas may be taken off the NTS, commingled with gas from the entry facility, and returned to the system. Basing the UNC regime on the net flow effectively applies all charges to the additional flow as if it had entered the NTS directly.

The gas that is offtaken for commingling purposes will already have attracted the appropriate charge when entering the system. Similarly, the gas that re-enters the NTS will subsequently be withdrawn and will attract exit charges as appropriate. Applying charges on a net basis therefore avoids the potential for what might be regarded as double charging, and can be regarded as ensuring the additional flow is treated on the same basis as other gas entering the system.

National Grid NTS does not anticipate any material impact on transportation and system operation costs associated with the gross, as opposed to net, flows of gas. Charges based on the net flow are therefore consistent with the principle that charges should be cost reflective, and that Users should face charges that are commensurate with the costs they impose on the system.

Implementation would therefore be expected to facilitate effective competition since costs would be appropriately allocated, avoiding inappropriate discrimination and cross subsidies. In addition, maintaining cost reflective charges would facilitate achievement of National Grid's licence obligations with respect to this element.

Implementation could also better facilitate the securing of effective competition between shippers to the extent that it enables additional supplies of gas to be delivered to the market that may be uneconomic to produce if the UNC regime were applied without netting off. These additional sources will compete with existing supplies and will thus potentially displace other higher cost supplies, to the benefit of GB gas consumers.

Panel Members then voted unanimously in favour of recommending implementation.

The benefits 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	None

Joint Office of Gas Transporters

(i) the combined pipe-line system, and/ or (ii) the pipe-line system of one or more other relevant gas transporters.	
c) Efficient discharge of the licensee's obligations.	Positive
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.	Positive
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	None
g) Compliance with the Regulation and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators	None

b) Modification 0372V - Code Governance Review Licence Compliance Changes

The Panel Chair summarised that the Modification seeks to implement a number of changes to the Modification Rules with a view to increasing consistency with Licence conditions and Ofgem's proposals following the Codes Governance Review.

Modifying the Modification Rules to increase consistency with Standard Special Condition A11 of the Transporter Licence avoids the prospect of differing interpretations. Implementation is therefore consistent with facilitating the efficient discharge of the licensee's obligations.

The Codes Governance Review sought to support efficient administration of the UNC and other major codes by establishing a common modification process. Modifying the UNC to increase consistency with the licence could therefore be expected to increase consistency with other codes, to the extent that the wording in other codes and licences is consistent with the Transporter Licence. Implementation may therefore be expected to facilitate efficient administration of the UNC since parties impacted by multiple codes will only need to be familiar with one form of terminology.

Panel Members then determined unanimously that Self-Governance Modification 0372V be implemented.

The benefits 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 (i) the combined pipe-line system, and/ or (ii) the pipe-line system of one or more other relevant gas transporters.	None
c) Efficient discharge of the licensee's obligations.	Yes
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.	None
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	Yes
g) Compliance with the Regulation and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators	None

118.10 Consents to Modify

- a) C041 - Revision to the legal text associated with the implementation of 0320V Code Governance Review: Appointment and Voting Rights for a Consumer Representative and Independent Panel Chair

DI confirmed the Consent will not be accepted.

- b) C045 – Corrections to UNC TPD Section F – System Clearing, Balancing Charges and Neutrality

The Consent is with Ofgem for consideration.

118.11 Any Other Business

- 118.1 Modification 0392 - Proposal to amend Annex A of the CSEP NExA table, by replacing the current version of the AQ table

CWa was concerned that this modification, which had been issued to consultation, includes references to possible changes in the UNC despite the

proposer having acknowledged these were not needed. He asked if Members were content for legal text to be provided based solely on the Solution detailed in Section 3 of the Modification, or whether lawyers should also consider other sections of the modification?

TD gave an overview of the discussions which had informed development of the Code Administration Code of Practice (CoP), including the modification templates. Principle 6 of the CoP is that "A proposer of a Modification will retain ownership of the detail of their solution". The templates were designed such that the solution would be contained in one Section (Section 3) and this would be the only part of Modification Reports that the Proposer alone could modify. He also noted that representations are invited in response to the Draft Modification Report, not the proposal document. In the case of Modification 0392, there are no references to UNC changes in either the Workgroup Report nor the Draft Modification Report, and the Solution is consistent with the remainder of these Reports.

118.12 Conclude Meeting and Agree Date of Next Meeting

09:30 09 December 2011, by teleconference

10:30 15 December 2011, at the ENA.