

Record of Determinations: Panel Meeting, 19 January 2012

Modification	Vote Outcome	Shipper Voting Members					Transporter Voting Members					Determination Sought
		AG	CH	CWr	PB	RF	CWa	EM	JF	RH	ST	
0405 - Bottom Stop SOQ Appeal Mechanism for 2011/12	Not referred to a Workgroup - unanimous vote against	X	X	X	X	X	X	X	X	X	X	Refer modification topic to a Workgroup
0411S - Removal of the Obligation to Publish Firm Gas Monitor from the UNC	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
	Is a Self-Governance Modification - 9 votes in favour, 1 vote against	✓	✓	✓	✓	✓	✓	✓	✓	X	✓	Modification should follow Self-Governance Procedures
	Proposed self-governance determination date is 17 May 2012 - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Proposed self-governance determination date to be May 2012
	Issued to Workgroup 0411S - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Should be referred to Workgroup
	Workgroup to report by the May 2012 Panel - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Workgroup to report by the May 2012 Panel
0412 - Changes to the Stages of Emergency Resulting from Changes Introduced by Exit Reform	Is related to the Significant Code Review - 9 votes in favour, 1 vote against	✓	✓	✓	✓	✓	✓	✓	✓	X	✓	Modification is related to Significant Code Review
	Further consideration deferred - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Defer further consideration
0413S - DN Adjustment of notices for the reduction of Enduring Annual NTS Exit (Flat) Capacity	Considered at short notice - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Consider modification at short notice
	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
	Is a Self-Governance Modification - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Modification should follow Self-Governance Procedures
	Proposed self-governance determination date is 17 May 2012 - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Proposed self-governance determination date to be 17 May 2012
	Issued to Workgroup 0413S - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Should be referred to Workgroup

	Workgroup to report by the May 2012 Panel - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Workgroup to report by the May 2012 Panel
0396 - EU Third package: Three week switching	Consultation to close on 02 March 2012 - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Consultation to close on 02 March 2012
03975 - Amendments to Section I of the OAD to reflect Offtake Profile Notice rules & recognition of different NTS/LDZ Offtake sensitivities	Consideration deferred - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Defer consideration
0399 - Transparency of Theft Detection Performance	Consultation to close on 02 March 2012 - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Consultation to close on 02 March 2012
0338V - Remove the UNC requirement for a 'gas trader' User to hold a Gas Shipper	Proceed to consultation - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Issue to Consultation
0373 - Governance of NTS connection processes	Proceed to consultation - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Issue to Consultation
0400S - Removal of obligation to install duplicate Telemetry Equipment	Proceed to consultation - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Issue to Consultation
0403 - EU Third Package: 21 day switching with flexible objection period	Proceed to consultation - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Issue to Consultation
	Legal text not required - 9 votes in favour and 1 vote against	✓	✓	✓	✓	X	✓	✓	✓	✓	✓	✓	Legal text not required for inclusion in DMR
	Cost estimate not required - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Cost estimate not required for inclusion in DMR
	Consultation to close on 02 March 2012 - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Extend consultation to 02 March 2012
0368 - Smoothing of Distribution Charge Variation	Workgroup to report by May Panel - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Extension to May requested
0383 - Profiling payment of LDZ transportation charges	Workgroup to report by May Panel - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Extension to May requested
0384S - UNC Modification Rules; housekeeping, clarity and minor drafting changes	Workgroup to report by March Panel - unanimous vote in favour	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Extension to March requested

0326VV - Allocation of unidentified gas following the appointment of the Allocation of Unidentified Gas Expert (AUGE)	Not returned to Workgroup - no votes in favour	X	X	X	X	X	X	X	X	X	X	Did consultation raise new issues
	Implementation not recommended - 2 votes in favour and 8 votes against	X	X	✓	X	✓	X	X	X	X	X	Whether to recommend implementation
0356 - Demand Data for the NTS Exit Capacity Charges Methodology	Not returned to Workgroup - no votes in favour	X	X	X	X	X	X	X	X	X	X	Did consultation raise new issues
	Implementation recommended - 9 votes in favour and 1 abstention	✓	✓	NV	✓	✓	✓	✓	✓	✓	✓	Whether to recommend implementation
0356A - Demand Data for the NTS Exit (Flat) Capacity Charges Methodology	Not returned to Workgroup - no votes in favour	X	X	X	X	X	X	X	X	X	X	Did consultation raise new issues
	Implementation recommended - 9 votes in favour and 1 abstention	✓	✓	NV	✓	✓	✓	✓	✓	✓	✓	Whether to recommend implementation
	Prefer 0356 - 5 votes in favour	NV	NV	NV	X	✓	✓	X	✓	✓	✓	Which of the two better facilitates the Relevant Objectives
	Prefer 0356A - 2 votes in favour	NV	NV	NV	✓	X	X	✓	X	X	X	
0375 - Changes to how Unsecured Credit Limits are determined within UNC TPD Section V 3.1.7 (Independent Assessments)	Not returned to Workgroup - no votes in favour	X	X	X	X	X	X	X	X	X	X	Did consultation raise new issues
	Implementation recommended -	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Whether to recommend implementation
0376S - Increased Choice when Applying for NTS Exit Capacity	Not returned to Workgroup - no votes in favour	X	X	X	X	X	X	X	X	X	X	Did consultation raise new issues
	Better facilitates the Relevant Objectives than 0376SA - 5 votes in favour, 1 vote against and 4 abstentions	✓	NV	✓	✓	✓	NV	✓	NV	X	NV	Better facilitates the Relevant Objectives than 0376SA
	Implemented - 6 votes in favour, 3 votes against and 1 abstention	✓	NV	✓	✓	✓	✓	✓	X	X	✓	Whether to implement
0376SA - Increased Choice when Applying for NTS Exit Capacity	Not returned to Workgroup - no votes in favour	X	X	X	X	X	X	X	X	X	X	Did consultation raise new issues
	Does not better facilitates the Relevant Objectives than 0376S - 6 votes against, 1 vote in favour and 3 abstentions	X	NV	X	X	X	NV	X	NV	✓	X	Better facilitates the Relevant Objectives t
0378 - Greater Transparency over AQ	Not returned to Workgroup - no votes in favour	X	X	X	X	X	X	X	X	X	X	Did consultation raise new issues

Appeal Performance	Implementation recommended - 7 votes in favour and 3 against	X	X	✓	✓	✓	✓	✓	X	✓	✓	Whether to recommend implementation
0387 - Removal of Anonymity from Annual Quantity Appeal and Amendment Reports	Not returned to Workgroup - no votes in favour	X	X	X	X	X	X	X	X	X	X	Did consultation raise new issues
	Implementation not recommended - 2 votes in favour and 8 votes against	X	X	✓	✓	X	X	X	X	X	X	Whether to recommend implementation
0390 - Introduction of a Supply Point Offtake Rate Review and Monitoring Process	Not returned to Workgroup - no votes in favour	X	X	X	X	X	X	X	X	X	X	Did consultation raise new issues
	Implementation recommended - 6 votes in favour, 3 votes against and 1 abstention	X	X	✓	X	NV	✓	✓	✓	✓	✓	Whether to recommend implementation
0398 - Limitation on Retrospective Invoicing and Invoice Correction (3 to 4 year solution)	Not returned to Workgroup - no votes in favour	X	X	X	X	X	X	X	X	X	X	Did consultation raise new issues
	Implementation recommended - 6 votes in favour and 4 votes against	X	X	✓	X	✓	✓	✓	✓	X	✓	Whether to recommend implementation

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 E Melen (EM), Scotia Gas Networks J Ferguson (JF), Northern 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, A Raper (AR), National Grid Distribution, B Fletcher (BF), Panel Secretary, D Ianora (DI), Ofgem, D Mitchell (DM), Scotia Gas Networks, E Melen (EM), Scotia Gas Networks, M Arthur (MA), National Grid NTS and S Bradbury (SB), Ofgem.

By teleconference:

J Martin (JM) Scotia Gas Networks and S Leedham (SL) EDF Energy

Record of Discussions

121.1 Note of any alternates attending meeting

E Melen for A Gibson (Scotia Gas Networks)

121.2 Record of Apologies for absence

A Gibson and J Dixon, Ofgem

121.3 Consider Urgent Modifications

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

TD explained the Modification 0405 had been included on the agenda in order for the Panel to consider whether the subject matter should be referred to a Workgroup. ST asked if the number of consumers taking advantage of the modification was known, as this may influence whether it is discussed at a workgroup. AM advised it was too early to confirm numbers, but the DNs believed it was likely to be in single figures. DI indicated that Ofgem would like to see a more permanent solution agreed.

For Modification 0405, Members determined that:

- the modification should not be issued to a workgroup;

121.4 Consider New, Non-Urgent Modifications

- a) Modification 0411 - Removal of the Obligation to Publish Firm Gas Monitor from the UNC

MA introduced the modification and explained its aims.

For Modification 0411, Members determined:

- the modification is not related to the Significant Code Review as it is not a related subject;
- meets the criteria for Self-Governance since the information that would otherwise be published would not be useful, and withdrawing it would therefore have no material impact;
- the Proposed Self-Governance Determination Date is 17 May 2012;
- Workgroup Assessment is required, with a report presented to Panel by May 2012.

- b) Modification 0412 - Changes to the Stages of Emergency Resulting from Changes Introduced by Exit Reform

POST MEETING NOTE: At the 16 February Panel, Members agreed to the following amendment to the minutes (highlighted in red):

MA introduced the modification and its aims. TD advised that a number of larger consumer representatives have raised concerns about the modification as currently proposed. ST suggested that he would like to understand where DN interruptible sites sit in the proposed process and, in particular, Network Sensitive Loads (NSLs) that have been identified because of location rather than general network impact. RHe **stated that the current treatment of DN Interruptible loads was not being changed by the proposal, but suggested that if the DN's felt that the current treatment of their Interruptible customers was an issue then perhaps the DN's could look to naming the NSLs as something other than interruptible to resolve any issues they have.** PB felt there is a case for DN connected sites to be excluded, as they were not envisaged to be included in this process during the recent review, and they should be managed in the same way as an NTS off peak loads.

Members debated whether or not the subject matter is related to Ofgem's ongoing Significant Code Review. RF noted that the proposed change is specifically referred in the SCR documentation and, given this, it would be hard to conclude other than that it is related. **RHe argued that the modification had been proposed to align the UNC with the NEC Safety Case changes currently being progressed to reflect the implementation of Modifications 0090 and 0195AV,** and reflected the move from interruptible to firm status **rather than any matter** arising from the SCR.

For Modification 0412, Members determined:

- is related to Significant Code Review;
- that further consideration be deferred.

- c) Modification 0413 - DN Adjustment of notices for the reduction of Enduring Annual NTS Exit (Flat) Capacity

RH explained the reasons why he wished Panel to consider the modification at short notice. National Grid NTS had identified a scenario which would prevent the DNs from optimising their exit capacity holding. In order to make the proposed opportunity available this year, implementation would need to be in the first half of July.

ST asked if this issue had been highlighted by any DN - he was unsure why the modification was raised and who would want to use the proposed option. RH advised that the service being offered was seen as a gap in current offerings, which parties may want to use.

For Modification 0413, Members determined:

- to consider the modification at short notice;
- the modification is not related to the Significant Code Review as it is not a related subject;

- meets the criteria for Self- Governance since this is a minor change to the existing provisions which may be useful in specific circumstances, but would not be expected to have a material impact;
- the Proposed Self-Governance determination date is 17 May 2012;
and
- Workgroup Assessment is required, with a report presented to Panel by May 2012.

121.5 Consider Legal Text

a) Modification 0396 - EU Third package: Three week switching

DI noted that the modification does not propose that User Pays applies, but that Ofgem had indicated that this is the appropriate funding route. Notwithstanding that User Pays was not proposed, the Transporters have put forward a draft ACS with a view to recovering these costs. She was concerned to ensure that this was clear during the consultation phase. It was agreed that the Draft Modification Report should explain this and that a cross reference should be provided to the location of the ACS. This could also be highlighted in the consultation response template.

DI also noted that, because of the timing, the new relevant objective g (compliance with the Regulation and any relevant legally binding decisions of the European Commission) had not been considered by the Workgroup. Since this modification sought to reflect the Third Package, it was agreed that the Draft Modification report should also be amended to include a note to this effect.

For Modification 0396, Members determined that consultation should close on 02 March 2012.

b) Modification 0397S - Amendments to Section I of the OAD to reflect Offtake Profile Notice rules & recognition of different NTS/LDZ Offtake sensitivities

TD advised that the text appears to have a number of errors and it may benefit from being updated before it is issued to consultation. RH advised that he also had some comments on the text. ST agreed to revisit and amend the text as necessary.

For Modification 0397S, Members determined that consideration should be deferred.

c) Modification 0399 - Transparency of Theft Detection Performance

For Modification 0396, Members determined that consultation should close on 02 March 2012.

121.6 Consider Workgroup Issues

Workgroup Reports for Consideration

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

Members accepted the Workgroup Report. RHe suggested that legal text should not be requested for inclusion in the Draft Modification Report. Other Members pointed out that National Grid had informed the Workgroup that further changes would be made to the text, and therefore felt that text should be requested.

Members determined Modification 0338V should proceed to consultation.

- b) Modification 0373 - Governance of NTS connection processes

Members accepted the Workgroup Report. DI advised that Ofgem had some concerns with the legal text and that it may require some revision. RF agreed with this view and that revised text should be provided before being issued to consultation. RH raised some concerns regarding the terminology in the modification and that it may not be possible to draft the legal text to mirror the intent. RF did not consider this was a new issue and understood that it could be resolved.

Members determined Modification 0373 should proceed to consultation.

- c) Modification 0400S - Removal of obligation to install duplicate Telemetry Equipment

Members accepted the Workgroup Report and, following discussion, determined Modification 0400S should proceed to consultation.

- d) Modification 0403 - EU Third Package: 21 day switching with flexible objection period

Members accepted the Workgroup Report. DI advised that the modification refers to draft regulations but they are now in place and the Draft Modification Report should reflect this point.

Members determined Modification 0403:

- should proceed to consultation with a close out date of 02 March 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.

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 0368 - Smoothing of Distribution Charge Variation is to report to the May Panel;
- b) Modification 0383 – Profiling payment of LDZ transportation charges is to report to the May Panel;
- c) Modification 0384S – UNC Modification Rules; housekeeping, clarity and minor drafting changes is to report to the March Panel.

121.8 Existing Modification Proposals for Reconsideration

DI advised that Ofgem were due to publish their conclusions soon on the theft related modifications.

121.9 Consider Final Modification Reports

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

TD summarised that the impact of specific new issues identified and established by the AUGE (Allocation of Unidentified Gas Expert) are not specifically reflected in adjustments for the historic period to which the issues relate – although, while a top down methodology is used, the impact will have been accounted for in the theft of gas allocation. This modification proposes that, in future, any issue identified by the AUGE is reconciled back to the period to which it relates, irrespective of when the issue was identified by the AUGE.

Some Members felt that reconciling issues back to the time when they first had an impact would be consistent with accurate apportionment of costs. As such they felt that implementation could facilitate the securing of effective competition by securing the allocation of costs to the appropriate party. However, other Members felt that retrospective adjustments are inappropriate and create risk and uncertainty for market participants. As such, implementation could work against the securing of effective competition.

Members then voted and, with 2 votes in favour and 8 opposed, did not determine to recommend implementation.

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

TD summarised that, to produce charges, the NTS charging model requires a supply demand balance. With the present assumptions (as set out in Section Y of the TPD), this will not always be achieved. Modification 0356 seeks to address this by using National Grid's forecasts to set the demand level, while 0356A proposes using booked capacity as the assumed level of demand.

Members recognised that the charging model should be capable of generating the information needed to set transportation charges and reserve prices. Consequently changing the assumptions such that charges would be defined would be expected to further the charging methodology relevant objectives – being able to calculate and update charges in light of changing data facilitates a charging methodology that; better reflects the cost incurred by National Grid NTS; secures effective competition by applying appropriate charges; and reflection of developments in the transportation business, both immediately to reflect that the charging methodology no longer works as intended, and potentially subsequent developments which will be reflected in charges that can be updated to reflect the impact of those developments.

Members also recognised that the publication of information under Modification 0356 would be expected to further the standard relevant objective of securing effective competition by providing additional information to the market.

One Member preferred to abstain since he noted that some responses had opposed implementation of each of the modifications and considered that the best outcome may be to develop a different solution, feeling unable to conclude that either would further the relevant objectives if implemented.

Members then voted as to whether or not to recommend implementation of each of Modifications 0356 and 0356A, based on whether, in isolation, implementation of each would be expected to better facilitate the achievement of the relevant objectives.

Nine votes were cast in favour of implementing Modification 0356, with one Member abstaining. Therefore the Panel determined to recommend implementation of 0356.

Nine votes were cast in favour of implementing Modification 0356A, with one Member abstaining. Therefore the Panel determined to recommend implementation of 0356A.

Members then considered which of the two modifications would best facilitate the achievement of the relevant objectives.

Some Members considered that using National Grid forecasts would mean using all the available information to inform the setting of charges and that not restricting the data used would be expected to lead to the most cost reflective charges. In addition these Members argued that since National Grid's investments are based on forecasts, using the same basis of information would also be expected to best reflect the costs incurred.

Other Members felt that markets produce the best information whereas forecasts can be changed and are, by definition, inaccurate. Relying on market driven information would remove subjectivity from the process, and would be expected to produce the most predictable, stable and cost reflective charges – including reflecting the costs of existing capacity.

Five Members voted in favour of Modification 0356 better facilitating the Relevant Objectives than Modification 0356A. Two Members voted in favour of Modification 0356A better facilitating the Relevant Objectives than Modification 0356.

Therefore the Panel determined that, in its opinion, implementation of Modification 0356 would be expected to better facilitate the achievement

of the Relevant Objectives than implementation of Modification 0356A.

- c) Modification 0375 - Changes to how Unsecured Credit Limits are determined within UNC TPD Section V 3.1.7 (Independent Assessments)

DI requested that the Panel consider deferring their consideration of the modification until Ofgem have decided whether they should be undertaking a wider review of industry credit arrangements.

Members were unwilling to defer consideration, as they were of the opinion that the delay would be unnecessary when considering the potential timescales of a wider industry review.

TD summarised that there is a gap between the Unsecured Credit Limit based on the value calculated by applying an Independent Assessment Score to a Transporters' Maximum Unsecured Credit Limit and the Unsecured Credit Limit that would result from using the credit value recommended within an Independent Assessment. The modification proposes to remove the use of the Independent Assessment Score and for the Unsecured Credit Limit to be based solely on the credit value contained within the Independent Assessment.

Members recognised that implementation of this modification would give clarity to how an Independent Assessment would result in the determination of a Users Unsecured Credit Limit. This would be achieved by removing a complicated process from the UNC that is not appropriate and has never been utilised to determine a User's Unsecured Credit Limit. Removing the double test would be expected to produce an appropriate level of credit for an affected User. Removal of a complex process that has never been used and which potentially acts against the intention within the UNC would be consistent with facilitating efficient administration and implementation of the UNC. In addition, by ensuring Users have access to an appropriate credit limit, implementation could help to secure effective competition by allowing all parties to face appropriate costs and for other Users to be suitably protected from default.

Members voted unanimously in favour of implementation. Therefore the Panel determined to recommend that Modification 0375 should be implemented.

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

RH raised a concern that these modifications should not be viewed as meeting the criteria for Self-Governance. However, no other members held similar concerns.

TD summarised that, to increase the level of choice available to Users when applying for enduring annual NTS exit (flat) capacity, Modification 0376S proposes, for the Ad hoc application Process, to extend the time for applications from Y+4 to Y+6; and to reduce the minimum threshold application from 10 GWh/day to 1 GWh/day. Modification 0376SA is identical, but excludes the threshold change. Both 0376S and 0376SA propose, for the Annual Application Window, to allow applications during the July Annual Application Window for start dates of the 1st of any month between October Y+4 and September Y+6 rather than just 1st October.

Members recognised that increasing flexibility and choice for Users would be expected to facilitate the securing of effective competition. This would be because costs with respect to connections would only be paid for the period in which the system is used and, with the reduced threshold, for the level of usage anticipated.

Increasing the choice of start dates that can be specified, and lowering the threshold in the case of 0376S, would enable Users to more accurately signal their requirements to National Grid NTS. More accurate signals may create opportunities in some circumstances for National Grid to adjust their investment plans, thereby supporting licence obligations with respect to economic and efficient development of the system.

While recognising the benefits of flexibility, some Members were concerned that the reduction in the threshold proposed under Modification 0376S could lead to a significant increase in the number of applications received, and a consequential increase in the costs of administration and system planning, which could outweigh the benefits delivered by implementation.

Some Members considered that while implementation would be expected to facilitate the relevant objectives if the costs were apportioned appropriately, the proposed allocation of costs would lead to DNs meeting the majority of costs and hence implementation would be detrimental to the securing of effective competition between Transporters, since National Grid NTS would benefit while the distribution networks would meet the costs, with inappropriate cost allocations being detrimental to competition.

Members then voted regarding which of the two modifications would best facilitate achievement of the Relevant Objectives. With five votes cast in support of 0376S facilitating the relevant objectives better than 0376SA, and one vote in support of 0376SA facilitating the relevant objectives better than 0376, the Panel then voted whether or not to implement Self-Governance Modification 0376S.

With nine votes in favour and one abstention, the Panel determined that Self-Governance Modification 0376S should be implemented.

As a result of this outcome, no vote was taken on the alternative modification, which will not be implemented.

e) Modification 0378 - Greater Transparency over AQ Appeal Performance

TD summarised that this modification seeks to increase the amount of data provided about the AQ Review process, with the increased transparency supporting scrutiny of the process.

Members recognised that providing greater transparency could help to demonstrate the degree to which Shippers are compliant with existing Code obligations, and this could be regarded as facilitating efficiency in the implementation and administration of the Code. There were, however, some concerns about the potential for different interpretations of the results that would act against this.

Members also recognised that publication of additional information is generally expected to support a well-informed and functioning market, such that implementation could be expected to facilitate the securing of effective competition. However, some Members were unclear that the information would have any market value and hence implementation may not facilitate the securing of effective competition. Other Members felt the

publication of additional information would provide assurance that the AQ review process is operating as intended. This could deter potential misuse of the process, and support the industry in identifying and resolving any issues. This may be expected, in turn, to ensure that cost allocation in the gas market will be as accurate as possible thus facilitating effective competition between Shippers. Members recognised, however, that any benefit would only accrue if misuse would occur in the absence of the modification but not following its implementation. Ofgem is able to scrutinise the AQ process and has access to the proposed information but, to date, has not suggested that any misuse has been identified. In the absence of any evidence that there would be any change in behaviour, some Members felt it was difficult to conclude that there would be any impact on the Relevant Objectives as a result of implementation.

Members commented that the impact on the relevant objectives is finely balanced, but then voted and, with 7 votes in favour and 3 against, determined to recommend that Modification 0378 be implemented.

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

TD summarised that, while AQ Appeal and Amendment Reports do not name Shippers, the larger Shippers in particular may be identifiable through educated guesses. This could mean that some Shippers are afforded more protection than others and are party to more information than others. Modification 0387 proposes that Shipper performance in the AQ Appeals or Amendments processes is published without anonymity. This would allow a degree of “naming and shaming”, and that may be expected to discourage any abuse of the process.

Members recognised that the deterrent effect of revealing Shipper’s performance in managing the AQ processes may change Shipper behaviour and hence help ensure that costs are allocated appropriately, thus facilitating the securing of effective competition. However, Members also recognised that the information may not be straightforward to interpret and inappropriate conclusions may be drawn regarding an individual party’s behaviour. This may lead to an inappropriate reputational impact and so be detrimental to the securing of effective competition. Members also noted that there is no firm evidence that the current process is being abused, and hence there may be no change in present or future behaviour as a result of implementing the modification, and consequently there would be no benefits.

Members noted that publication of the proposed information could reveal the commercial strategies of, in particular, the smallest Shippers. This could be regarded as disadvantaging these Shippers and hence implementation may be detrimental to the securing of effective competition.

Some Members considered that publishing additional information to support assurance about compliance with the UNC would be consistent with facilitating efficiency in the implementation and administration of the Code.

Members then voted and, with 2 votes cast in favour and 8 against, did not determine to recommend that Modification 0387 be implemented.

g) Modification 0390 - Introduction of a Supply Point Offtake Rate Review and Monitoring Process

On behalf of Ofgem, DI requested the provision of legal text for inclusion in the Final Modification Report.

TD summarised that capacity charges are broadly independent of the contracted (Supply Point Offtake Rate) SPOR and so do not provide an incentive against overstatement. SPOR values are one of the factors used for network planning purposes, and overstated SPORs may lead to unnecessary investment. Modification 0390 proposes that SPORs are reviewed on an annual basis to help ensure they accurately reflect end consumer requirements. The modification would also oblige Shippers to apply for a revised SPOR where they became aware that the maximum offtake rate may be or has been subject to any reduction, and to take all reasonable steps to ensure they become aware of any such reduction.

Members recognised that establishing more accurate SPORs, reflecting actual or intended usage, would enable Transporters to effectively plan the development of the distribution network system on a more efficient and economic basis. By avoiding investment in the system to meet overstated SPORs the Transporters would be utilising capital investment in a more efficient and economic manner. Also, by facilitating a reduction in SPORs, where capacity is not required, the Transporters would be able to make available such capacity to other Users thus utilising existing capacity more effectively and avoiding capacity sterilisation.

More accurate capacity requirements communicated by Users to the DNs could also result in more accurate and reflective NTS Exit capacity requirements. Accurate NTS Exit Capacity requirements would allow National Grid NTS to plan their pipeline system in a more efficient and economic manner and so better meet their licence obligations in this respect.

By introducing a process to give assurance about the accuracy of SPORs, the relevant objective of licence compliance may therefore be furthered provided that there is a change in recorded SPORs and subsequent investment. Members accepted that evidence had been presented that suggested inappropriate levels appear to be recorded in some cases, such that some change may be anticipated as a result of implementation.

Some members were concerned that the administrative costs are unduly onerous and would outweigh the benefits of implementation. This would put undue requirements on Shippers and be inconsistent with efficient administration and implementation of the UNC.

Members then voted and, with 6 votes in favour, 3 against and one abstention, determined to recommend that Modification 0390 be implemented.

h) Modification 0398 - Limitation on Retrospective Invoicing and Invoice Correction (3 to 4 year solution)

DI advised that Ofgem were considering a wider review on back billing, adding that there is likely to be insufficient information in the Final Modification Report for Ofgem to make a decision. It was recognised, however, that further information on the potential risks and costs of implementation was only likely to be provided on a confidential basis in

light of commercial sensitivities.

ST asked if it would be possible for Ofgem to present its views to the Panel once they have undertaken their review. JF asked if the current arrangements need to be reviewed, as they would not meet the Statute of Limitations regulations should advice lead to that view for this modification.

TD summarised that the UNC provides that retrospective invoices are limited to a period between 4 years to 4 years and 365 days. This Modification proposes reducing this period by one year, such that retrospective invoices are limited to a period between 3 years to 3 years and 365 days.

Some Members considered that, by reducing the scope for retrospective adjustments, implementation could be expected to reduce the risk faced by some Shippers. The prospective of retrospective adjustments creates uncertainty and leads to risk premiums being included in prices. Reducing risk and uncertainty can be expected to facilitate the securing of effective competition.

Members also recognised that any adjustment to Shippers at the DN end of the process would be offset by a change to NTS Shrinkage, with the risk potentially being moved rather than reduced.

Some Members were concerned that risk would be increased since implementation would increase the discrepancy between the UNC and the Statute of Limitations - customers may have to be recompensed for any error in a period despite there being no reconciliation of costs allocated under the UNC. Increasing risk would be detrimental to the securing of effective competition.

Members then voted and, with six votes in favour and 4 against, determined to recommend that Modification 0398 be implemented.

121.10 Consents to Modify

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

DI advised that Ofgem recognised there was a mistake within the modification and legal text. However, following further reflection, the intent of the modification is clear and they were now minded, subject to the Panel's view, to progress this change as a consent.

Members felt this was a manifest error and that the consent route was appropriate.

- b) C046 - Correction to the Legal Text Implemented for UNC Modification 0300: RG0252 Proposal 3: Introduction of Fitch as an allowable Credit Rating Agency for the purposes of Code Credit Arrangements

JF advised that the error was in formatting rather than content of the modification. Members agreed the consent route for the change should be recommended to Ofgem.

121.11 Any Other Business

a) Code Administration Code of Practice

i. 2011 KPIs

TD apologised that there were a number of errors in the published report and summarised the updated version.

There was some discussion around the ROM costs and their accuracy. AM pointed out that the ROM provides justification for a business case - not an accurate estimate for delivery.

ii. Ofgem Consultation

TD explained the Ofgem consultation on the Code of practice and asked if there were any views Members would like to make known as a Panel. For example, are the KPIs useful? ST felt that a number of the KPIs were useful for understanding the process and the resources required to support it.

121.12 Conclude Meeting and Agree Date of Next Meeting

10:30 16 February 2012, at the ENA.