

UNIFORM NETWORK CODE MODIFICATION PANEL
MINUTES OF THE 38th MEETING HELD ON THURSDAY
21 DECEMBER 2006

Members Present:

Transporter Representatives: R Hewitt (National Grid NTS), A Raper (National Grid UKD), L Spierling (Wales & West Utilities) and R Cameron-Higgs (Northern Gas Networks)

User Representatives: A Barnes (BG Group), P Broom (Gaz de France), C Wright (British Gas Trading), C Sykes (Statoil) and P Bolitho (EON).

Ofgem Representative(s):

David Edward, Paul Smith and Mark Copley

Consumers Representative(s):

None

Joint Office:

T Davis (Chairman) and L Dupont (Deputy Secretary)

Members by Telephone:

B Grubb (Scotia Gas Networks) for discussion of Proposal 0090 and derivatives of 0116 only.

38.1 Note of any alternates attending meeting:

C Wright for M Young (British Gas Trading) and C Sykes for S Rouse (Statoil);

and at various points and for various topics:

M Freeman for A Raper (National Grid UKD); R Cameron-Higgs (Northern Gas Networks) for L Spierling (Wales & West Utilities); A Raper (National Grid UKD) for B Grubb (Scotia Gas Networks); L Spierling (Wales & West Utilities) for R Cameron-Higgs (Northern Gas Networks) and C Sykes (Statoil) for C Wright (British Gas Trading).

38.2 Record of apologies for absence:

S Rouse (Statoil) and J Majdanski (Joint Office)

38.3 Record invitees to meeting:

38.4 Receive report on status of Urgent Modification Proposals:

- a) Proposal 0117 "Amendment to Invoice Billing Period"
Status = Rejected 21/12/2006
- b) Proposal 0122 "Restriction of invoice billing period to Price Control"
Status = Rejected 21/12/2006
- c) Proposal 0123 "Provision of Demand Information to Meet the 14:00 Total System Demand Forecast"
Status = Ofgem directed implementation 29/11/2006

38.5 Consider New, Non-Urgent Modification Proposals.

- a) Proposal 0127 "Introduction of a DN Pensions Deficit Charge on DNO Users"

Following a presentation from A Raper (National Grid UKD), the Panel voted by Panel majority for the Proposal to proceed to consultation. The following members cast votes (P Broom, A Barnes, C Wright, C Sykes, R Hewitt, A Raper also for B Grubb, R Cameron-Higgs also for L Spierling)

The Panel did not determine that legal text was required, with no votes cast in favour.

38.6 Consider New Proposals for Review.

- a) Proposal 0126: "Restriction of Invoice Billing Period"

Following a presentation from A Raper (National Grid UKD) and a short discussion, the Panel voted by Panel Majority for the Proposal to proceed to Review. The following nine Members cast votes: P Broom, A Barnes, P Bolitho, C Wright, C Sykes, R Hewitt, A Raper also for B Grubb, R Cameron-Higgs.

38.7 Consider Terms of Reference.

- a) Proposal 0126: "Restriction of Invoice Billing Period"

After a short discussion it was agreed that minor amendments would be made to the draft Terms of Reference and further nominations for Group members sought.

38.8 Existing Modification Proposals for Reconsideration.

None

38.9 Consider Variation Requests

- a) Proposal 0116CV "Reform of the NTS Offtake Arrangements"
Following a discussion the Panel failed to make a unanimous determination that the variation request was immaterial, with seven Members casting votes: P Broom, A Barnes, P Bolitho, C Wright, C Sykes, R Hewitt, A Raper. Therefore Modification Proposal 0116CV was deemed withdrawn and replaced by Modification Proposal 0116CVV "Reform of the NTS Offtake Arrangements".
- b) Proposal 0116CVV "Reform of the NTS Offtake Arrangements"
The Panel voted UNANIMOUSLY for this Proposal to go to Consultation, with a shortened period for representations (invited by 03/01/07).
- c) Proposal 0120 "Introduction of an SO Commodity Charge for NTS Storage Exit Flows"
Following a discussion the Panel determined UNANIMOUSLY that the Variation Request was immaterial. Therefore Modification Proposal 0120 was deemed withdrawn and replaced by Modification Proposal 0120V "Introduction of an SO Commodity Charge for NTS Storage Exit Flows"

which is to continue forward from the same point in the modification process (see item 38.11).

38.10 Consider Workstream Monthly Reports.

a) Distribution

Proposal 0115 "Correct Apportionment of NDM Error"

Following a discussion, the Panel voted UNANIMOUSLY to extend the time the Distribution Workstream had to prepare the report back to Panel by three months (April 2007).

b) Transmission

Proposal 0121 "The Provision of Ex-Post Demand Information for all NTS Offtakes"

Following a discussion, the Panel voted UNANIMOUSLY for the Proposal to proceed to Consultation. The Panel also voted by Panel majority that legal text was required, with the following seven Members casting votes: P Bolitho, C Wright, C Sykes, R Hewitt, A Raper also for B Grubb, R Cameron-Higgs.

38.11 Consideration of Final Modification Reports* .

a) Proposal 0090 "Revised DN Interruption Arrangements"

Panel Members considered the report was in the correct form and discussed whether new issues had been raised in representations and whether or not to recommend implementation of the Proposal.

C Sykes raised an environmental issue, whereby taking on Interruptible terms when intending to switch to distillate could be regarded by the Environment Agency as 'commercial' and hence the necessary licences to cover emissions may not be granted. This militates against participation in an Interruptible tender process.

C Sykes also raised concerns relating to security of supply, which would detrimentally affect the relevant objective "economic and efficient operation of the pipeline system". In her view the OCM would be suspended earlier and the market would not be given sufficient opportunity to balance. Firm Load Shedding would also be reached at an earlier stage. There was also concern that the DNs would make uneconomic investment in the event of non-participation in the tender process.

P Bolitho suggested that a reduction in Shipper competition could be expected as the complexity introduced would militate against continued participation in this sector of the market and would also be a barrier to entry such that Shippers may not seek to enter this market sector.

A number of Panel Members raised concerns about a potential conflict of interest since Ofgem was seen to be driving forward the changes envisaged in the Modification Proposal. It was suggested that Ofgem had in effect forced the DNs to raise the Proposal by making reform of DN Interruption one of the 'gateways' upon which the sales of the networks had been predicated and through the imposition of Licence obligations. As such, arguing that implementation would facilitate achievement of these Licence Obligations, and so further the Relevant Objectives, was inappropriate.

It was acknowledged that Ofgem was carrying out an Impact Assessment which would look beyond the Modification Proposal; B Grubb suggested Ofgem should take into account all costs, not just implementation costs, and should quantify the net benefits that could be expected. L Spierling voiced concerns relating to the potential costs associated with Network Sensitive Loads – Ofgem had not gathered all the appropriate and necessary information and would therefore not take the full impact into account to inform the decision making process.

The Panel did not determine that new issues had been raised that justified seeking further views from a Workstream or Workgroup.

Some Panel Members considered that by introducing price discovery into the interruption arrangements implementation of the Proposal could be expected to further the GT Licence 'code relevant objectives' "facilitate efficient and economical operation of the pipeline system" and "the securing of effective competition between relevant shippers" whereas others did not. The Panel then voted and five votes were cast in favour of implementation (C Wright, R Hewitt, R Cameron-Higgs, B Grubb, M Freeman for A Raper). Therefore the Panel did not recommend implementation of this Proposal.

- b) Proposal 0097 "Modification to release aggregate ex-post information for pipeline interconnector offtake flows"

Panel Members considered the report was in the correct form and discussed whether new issues had been raised in representations and whether or not to recommend implementation of the Proposal.

The Panel did not determine that new issues had been raised that justified seeking further views from a Workstream or Workgroup.

Most Panel Members considered that implementation of the Proposal could be expected to further the GT Licence 'code relevant objectives' "facilitate efficient and economical operation of the pipeline system" and "the securing of effective competition between relevant shippers". Others were concerned that the associated costs militated against this. They then voted by Panel majority to recommend implementation of this Proposal, with eight votes cast in favour of implementation (P Broom, A Barnes, P Bolitho, C Wright, C Sykes, R Hewitt, A Raper, R Cameron-Higgs).

- c) Proposal 0097A "Modification to release aggregate ex-post information for pipeline interconnector offtake flows"

Panel Members considered the report was in the correct form and discussed whether new issues had been raised in representations and whether or not to recommend implementation of the Proposal.

The Panel did not determine that new issues had been raised that justified seeking further views from a Workstream or Workgroup.

Members considered that implementation of the Proposal could be expected to further the GT Licence 'code relevant objectives' "facilitate efficient and economical operation of the pipeline system" and "the securing of effective competition between relevant shippers" and voted UNANIMOUSLY to recommend implementation of this Proposal.

- d) The Panel was asked to vote as to which of the two Modification Proposals (0097 and 0097A) best facilitated achievement of the relevant objectives. Two votes were cast in favour of 0097 (P Bolitho and C Wright) and eight

were cast in favour of 0097A (P Broom, A Barnes, C Sykes, R Hewitt, A Raper also for B Grubb, R Cameron-Higgs). Therefore the Panel considered that Modification Proposal 0097A best facilitated the relevant objectives.

e) Proposal 0099 "Management of erroneous Domestic AQs during the Registration process"

Panel Members considered the report was in the correct form and discussed whether new issues had been raised in representations.

Chris Wright raised some concerns relating to the legal text and, following a short discussion, the Panel UNANIMOUSLY agreed that consideration of this Modification Proposal should be deferred to permit consideration of legal text changes and then be revisited at the next full Panel meeting.

f) Proposal 0104 "Storage Information at LNG Importation Facilities"

Chris Wright pointed out that the Modification Report incorrectly referred to BGT as being 'In support', whereas the true position was 'Not in support'. The Joint Office undertook to correct this.

Panel Members considered the report was in the correct form and discussed whether new issues had been raised in representations and whether or not to recommend implementation of the Proposal.

The Panel did not determine that new issues had been raised that justified seeking further views from a Workstream or Workgroup.

Members considered that implementation of the Proposal could not be expected to yield useful information and hence could not be expected to further the GT Licence 'code relevant objectives' to efficiently discharge Licence obligations or "facilitate efficient and economical operation of the pipeline system" or "the securing of effective competition between relevant shippers". No votes were cast in favour of recommending implementation.

g) Proposal 0109 "Acceptable Security Tools available to Users for Transportation Credit Arrangements"

Panel Members considered the report was in the correct form and discussed whether new issues had been raised in representations and whether or not to recommend implementation of the Proposal.

The Panel did not determine that new issues had been raised that justified seeking further views from a Workstream or Workgroup.

Members considered that implementation of the Proposal could be expected to further the GT Licence 'code relevant objective' "the securing of effective competition between relevant shippers" and voted UNANIMOUSLY to recommend implementation of the Proposal.

h) Proposal 0111 "Management of Users Approaching and exceeding Upper Limits of Credit Limit"

Panel Members considered the report was in the correct form and discussed whether new issues had been raised in representations and whether or not to recommend implementation of the Proposal.

The Panel did not determine that new issues had been raised that justified seeking further views from a Workstream or Workgroup.

Some Members considered that implementation of the Proposal could be expected to further the GT Licence 'code relevant objective' "the securing of effective competition between relevant shippers" whereas the majority did not since risk would be increased by implementation. Members failed to recommend implementation of the Proposal, with two votes cast in favour (A Raper also for B Grubb).

- i) Proposal 0112 "Aggregation of Credit Positions or Use of Group Ratings"
Panel Members considered the report was in the correct form and discussed whether new issues had been raised in representations and whether or not to recommend implementation of the Proposal.

The Panel did not determine that new issues had been raised that justified seeking further views from a Workstream or Workgroup.

Members considered that implementation of the Proposal could be expected to further the GT Licence 'code relevant objective' "the securing of effective competition between relevant shippers" and voted UNANIMOUSLY to recommend implementation of this Proposal.

- j) Proposal 0113 "Availability of Unsecured Credit Based on User Payment Record or Independent Assessment"
Panel Members considered the report was in the correct form and discussed whether new issues had been raised in representations and whether or not to recommend implementation of the Proposal.

The Panel did not determine that new issues had been raised that justified seeking further views from a Workstream or Workgroup.

Some members considered that implementation of the Proposal could be expected to further the GT Licence 'code relevant objective' "the securing of effective competition between relevant shippers" whereas others did not since risk would be increased by implementation. They then voted by Panel majority to recommend implementation of this Proposal, with seven votes cast in favour (P Broom, A Barnes, P Bolitho, C Sykes, R Hewitt, A Raper also for B Grubb).

- k) Proposal 0114 "Quantification of Value At Risk (VAR) to determine maximum User Credit Security Requirements"
Panel Members considered the report was in the correct form and discussed whether new issues had been raised in representations and whether or not to recommend implementation of the Proposal.

The Panel did not determine that new issues had been raised that justified seeking further views from a Workstream or Workgroup.

Some Members considered that implementation of the Proposal could be expected to further the GT Licence 'code relevant objectives' "the securing of effective competition between relevant shippers" whereas others did not since risk would be increased by implementation. They then voted by Panel majority to recommend implementation of this Proposal, with seven votes cast in favour (P Broom, A Barnes, P Bolitho, C Sykes, R Hewitt, A Raper also for B Grubb).

- l) Proposal 0116V "Reform of the NTS Offtake Arrangements"

Panel Members considered the report was in the correct form and discussed whether new issues had been raised in representations and whether or not to recommend implementation of the Proposal.

The Panel did not determine that new issues had been raised that justified seeking further views from a Workstream or Workgroup.

R Hewitt considered that implementation of this Proposal would facilitate efficient and economic operation of the pipeline system, whereas P Bolitho suggested it would lead to spurious investment signals - clarifying that it would better facilitate achievement of the Relevant Objectives to have no process in the UNC rather than the arrangements envisaged in the Proposal. Mike Young observed that the introduction of a flexibility product would worsen the commercial regime and, as such, implementation would not facilitate economic and efficient operation. It was also argued that implementation would lead to inappropriate cost allocation among market participants which would be damaging to competition rather than facilitating the achievement of the associated relevant objective.

The Panel did not recommend implementation of the Proposal, with two votes cast in favour (R Hewitt, A Raper).

m) Proposal 0116A "Reform of the NTS Offtake Arrangements"

Panel Members considered the report was in the correct form and discussed whether new issues had been raised in representations and whether or not to recommend implementation of the Proposal.

The Panel did not determine that new issues had been raised that justified seeking further views from a Workstream or Workgroup.

Some Shippers evinced concerns that consideration of the content of the NERA report was very material to the 0116 suite of Modification Proposals, and supported implementation of Modification Proposal 0116A. Ofgem said that due regard was being given to the NERA report and that this would continue to be the case, along with all other representations made in respect of these Modification Proposals.

The majority of Members considered that the existing UNC provisions are preferable to having no process in the UNC, and hence, by continuing their application beyond the presently envisaged end date, implementation of the Proposal could be expected to further the GT Licence 'code relevant objectives' "facilitate efficient and economical operation of the pipeline system" and "the securing of effective competition between relevant shippers". They then voted by Panel majority to recommend implementation of this Proposal, with nine votes cast in favour (P Broom, A Barnes, P Bolitho, C Wright, C Sykes, R Hewitt, A Raper, R Cameron-Higgs, L Spierling).

n) Proposal 0116BV "Reform of the NTS Offtake Arrangements"

Panel Members considered the report was in the correct form and discussed whether new issues had been raised in representations and whether or not to recommend implementation of the Proposal.

The Panel did not determine that new issues had been raised that justified seeking further views from a Workstream or Workgroup.

It was agreed that the same key arguments applied to this Modification Proposal as to 0116V and 0116VD. P Bolitho suggested this Proposal was marginally less damaging than 0116V. The Panel did not recommend implementation of the Proposal, with no votes cast in favour.

o) Proposal 0116VD “Reform of the NTS Offtake Arrangements”

Panel Members considered the report was in the correct form and discussed whether new issues had been raised in representations and whether or not to recommend implementation of the Proposal.

The Panel did not determine that new issues had been raised that justified seeking further views from a Workstream or Workgroup.

It was agreed that the same key arguments applied to this Modification Proposal as to 0116V and 0116BV. B Grubb and R Cameron-Higgs stated that, in their judgement, implementation of this Proposal would improve efficient operation of their systems. However, R Hewitt observed that in his view this would increase risk to the operation of the NTS.

The Panel did not recommend implementation of the Proposal, with three votes cast in favour (B Grubb, R Cameron-Higgs, A Raper).

The Panel then proceeded to vote on the extent, relative to each other, to which these four Modification Proposals and Modification Proposal 0116CV (which, following a variation, would be subject to further consultation as Proposal 0116CVV) would be expected to better facilitate achievement of the Relevant Objectives. Panel Members emphasised that this should not be interpreted as implying that all the Proposals would better facilitate the Relevant Objectives if implemented.

- 7 votes were cast in favour of implementing Proposal 0116A in preference to the other Modification Proposals.
- 2 votes were cast in favour of implementing Proposal 0116V in preference to Proposal 0116A.
- 7 votes were cast in favour of implementing Proposal 0116A in preference to Proposal 0116V.
- 1 vote was cast in favour of implementing Proposal 0116V in preference to Proposal 0116VD.
- 8 votes were cast in favour of implementing Proposal 0116VD in preference to Proposal 0116V.
- 5 votes were cast in favour of implementing Proposal 0116BV in preference to Proposal 0116VD.
- 3 votes were cast in favour of implementing Proposal 0116VD in preference to Proposal 0116BV.
- Subject to the forthcoming consultation, 6 votes were cast in favour of implementing 0116CVV in preference to any of 0116V, 0116VD or 0116BV.

Therefore, the Panel indicated the following order of preference by which each Modification Proposal would better facilitate the achievement of the Relevant Objectives in comparison with the other related Modification Proposals, with implementation of only 0116A having been recommended by the Panel:

0116A (most favoured), 0116CV, 0116BV, 0116VD, 0116V (least favoured).

p) Proposal 0119 “Amendment to the Entry Overrun Charge”

Panel Members considered the report was in the correct form and discussed whether new issues had been raised in representations and whether or not to recommend implementation of the Proposal.

The Panel did not determine that new issues had been raised that justified seeking further views from a Workstream or Workgroup.

The majority of Members considered that, by removing a potentially perverse incentive, implementation of the Proposal could be expected to further the GT Licence 'code relevant objective' “facilitate efficient and economical operation of the pipeline system”. Others considered this would be outweighed by the potential risk introduced, including through manifest errors. Members then voted by Panel majority to recommend implementation of this Proposal, with eight votes cast in favour (P Broom, A Barnes, C Sykes for M Young, R Hewitt, A Raper also for B Grubb, R Cameron-Higgs, L Spierling).

q) Proposal 0120 “Introduction of an SO Commodity Charge for NTS Storage

Panel Members considered the report was in the correct form and discussed whether new issues had been raised in representations and whether or not to recommend implementation of the Proposal.

The Panel did not determine that new issues had been raised that justified seeking further views from a Workstream or Workgroup.

P Bolitho observed that the charge attributable to Users should be set out in Code, otherwise it allowed inappropriate cost allocation. C Sykes stated that adding complexity would lead to less investment in storage. It was also thought that this could lead to the introduction of undue discrimination.

Members were divided as to whether implementation would improve or worsen costs reflectivity and so could be expected to further the GT Licence 'code relevant objective' “the efficient discharge of the licensee’s obligations under this licence”. Some Members also felt this objective would not be furthered because undue discrimination would be introduced, with investment in storage discouraged. The Panel did not recommend implementation of the Proposal, with four votes cast in favour (R Hewitt, R Cameron-Higgs, A Raper, L Spierling).

38.12 Receive report on status of Consents.

No new consents.

38.13 Any Other Business

Form of Modification Proposals.

The Panel discussed a proposed new format for Modification Proposals seeking to proceed directly to consultation. Some were of the view that it was over-engineered and contained too many headings. It was questioned if the Panel was empowered to effect any changes to this; the Chair advised that the proposed format reflect the Modification Rules as introduced by Modification 0084. As for changes to other parts of the UNC, changes to the Modification Rules would require the raising of a Modification Proposal.

It was agreed UNANIMOUSLY that the Joint Office should publish the revised form of Modification Proposal together with a guidance note.

38.14 Conclude Meeting and Agree Date of Next Meeting:

The next Panel meeting will be by teleconference only, on Monday 8 January 2007, to make recommendations on the implementation of Modification Proposals 0128 "Amendment to Entry Capacity Baselines" and 0116CVV "Reform of the NTS Offtake Arrangements".

The Panel noted that the next full monthly Panel meeting is due to be held at Elexon, 350 Euston Road, on 18 January 2007.