

**Uniform Network Code Modification Panel**

**Minutes of the 101<sup>st</sup> Meeting**

**Held on Thursday 21 October 2010**

**Members Present:**

**Transporter Representatives:** R Hewitt (National Grid NTS), C Warner (National Grid Distribution), J Martin (Scotia Gas Networks), J Ferguson (Northern Gas Networks) and S Trivella (Wales & West Utilities)

**User Representatives:** C Wright (British Gas Trading), P Broom (GDF Suez) and R Fairholme (E.ON UK)

**Consumer Representative:** R Hall (Consumer Focus)

**Ofgem Representative:** J Dixon

**Joint Office:** T Davis (Chair) and B Fletcher (Secretary)

**Observers Present:** A Raper (National Grid Distribution), C Cameron (Ofgem), C Shanley (National Grid NTS), D Corby (National Grid NTS), G Evans (Gazprom), J Wisdom (RWE npower), J Vignola (Centrica Storage), L O'Shaughnessy (xoserve) by teleconference, M Rezvani (SSE) by teleconference, R Dutton (Total), S Ellwood (GasTerra) by teleconference and S McGoldrick (National Grid NTS).

**101.1 Note of any alternates attending meeting**

C Wright for S Leedham (EDF Energy), P Broom for A Bal (Shell) and J Martin for A Gibson (Scotia Gas Networks)

**101.2 Record of Invitees to the meeting**

None

**101.3 Record of apologies for absence**

A Bal, A Gibson and S Leedham

**101.4 Receive report on status of Urgent Modification Proposals**

None

**101.5 Consider New, Non-Urgent Modification Proposals**

- a) Proposal 0294 - Changes to UNC Modification Panel Constitution

Following a presentation by C Wright, Panel Members determined UNANIMOUSLY that the Proposal should be sent to the Governance Workstream for consideration and development. The Governance Workstream was requested to report by the April Panel.

- b) Proposal 0330 - Delivery of additional analysis and derivation of Seasonal normal weather

Following a presentation by M Rezvani, Panel Members did not determine that the Proposal should be sent to Consultation with no votes cast in favour. The Proposal was sent to the Distribution Workstream with a report requested by the January Panel.

R Hewitt raised a concern around the need for definition of the terms in the Proposal – for example, how climate change was to be defined. M Rezvani explained that the Proposal is not addressing climate change but is aimed at clarifying the best methodology for calculating seasonal normal demand. S Trivella did not consider the proposal to be sufficiently developed for consultation. C Warner was concerned legal text could not be drafted based on the current proposal.

M Rezvani responded that the proposal has been discussed at DESC and the Distribution Workstream. He had allowed plenty of time for further discussion and requested parties to provide comments prior to submission to the Panel. R Fairholme was concerned at the delay but agreed a Workstream Report may clarify the intent and suggested the Panel should list questions that needed to be addressed.

J Dixon asked when a decision needs to be made to allow implementation by 2012. M Rezvani considered this was needed within the next six months.

c) Proposal 0335 - Offtake Metering Error - Payment Timescales

Following a presentation by J Wisdom, Panel Members determined UNANIMOUSLY that the Proposal should be sent to the Distribution Workstream for consideration and development. The Distribution Workstream was requested to report by the January Panel.

In discussion, the following items were raised for consideration by the Workstream:

- i. How any RbD adjustments would be managed and associated timescales;
- ii. Consider the business rules for Offtake metering;
- iii. How the different Transporters and their roles are identified;
- iv. Clarification on interim shortfalls;
- v. Whether debits and credits should be treated identically.
- vi. Retrospective adjustments for errors following implementation of this proposal.

d) Proposal 0336 - The Introduction of a Balancing Neutrality Adjustment Charge for Cost Recovery Associated with Rating Services

Following a presentation by R Hewitt, Panel Members determined UNANIMOUSLY that the Proposal should be sent to the Transmission Workstream for consideration and development. The Transmission Workstream was requested to report by the January Panel.

S Trivella asked if credit checks are already undertaken. R Fairholme confirmed this was so, though the move to a chargeable service had occurred relatively recently. P Broom asked about the magnitude of the charge – this was confirmed as £40k.

R Hall asked if there was any intention to catch up through charges for costs that had already been incurred – is the Proposal retrospective?  
R Hewitt confirmed it would be a one off charge for each year, which would include recovery of already incurred costs.

S Trivella asked for confirmation that the envisaged cost recovery is not already provided for rather than requiring the UNC to be modified.  
R Hewitt agreed to confirm this.

e) Proposal 0337 - Introduction of an Inter-Day Linepack Product

Following a presentation by R Hewitt, Panel Members determined UNANIMOUSLY that the Proposal should be sent to the Transmission Workstream for consideration and development. The Transmission Workstream was requested to report by the January Panel.

There was a general discussion about the Proposal and meeting the associated NTS licence obligations, including the timetable. R Hall expressed a strong preference for the timetable to allow a properly developed Proposal to be brought forward rather than the timetable being set to meet an artificial date based on licence drafting.

f) Proposal 0339 - Clarification of the AUG Year in respect of UNC Modification 0229

Following a presentation by C Warner, Panel Members determined UNANIMOUSLY that consideration of the Proposal should be deferred until the November Panel.

C Warner requested Panel to defer its consideration of the Proposal, explaining that Transporters were seeking clarity from Ofgem on related Modifications. C Wright asked if Ofgem is likely to make its decisions on the Modifications as a group or individually based on the merits of each. J Dixon indicated that a number of the Modifications are incompatible and do not work together - this needs careful consideration within Ofgem to ensure the correct decision is reached. P Broom was concerned deferral may be delaying the process and impacting implementation.

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

Following a presentation by C Warner, Panel Members determined UNANIMOUSLY that consideration of the Proposal should be deferred until the November Panel.

h) Proposal 0341 - Manifest Errors in Entry Capacity Overrun

Following a presentation by S Ellwood, Panel Members determined UNANIMOUSLY that the Proposal should be sent to the Transmission Workstream for consideration and development. The Transmission Workstream was requested to report by the January Panel.

R Fairholme asked that, since the Proposal aims to change the UNCC role, the implications be discussed by the UNCC.

R Hall asked if the fees are representative of the cost. S Ellwood advised the proposed fee mirrors that used in the electricity industry, though it is difficult to identify actual costs in specific circumstances.

i) Proposal 0342 – Amendment to the DN Adjustment Window

Following a presentation by R Hewitt, Panel Members determined UNANIMOUSLY that the Proposal should proceed to the Consultation phase. Panel Members determine UNANIMOUSLY that legal text was required for inclusion in the Draft Modification Report.

### **101.6 Consider New Proposals for Review**

a) Review Proposal 0334 - Post Implementation Review of Central Systems Funding and Governance Arrangements

Following a presentation from Gareth Evan and a discussion, the Panel voted UNANIMOUSLY for the Proposal to proceed to Review. The Review Group was requested to report by the April 2011 Panel. It was agreed that Terms of Reference, for Panel approval, would be considered at the initial meeting.

P Broom asked what the output of the group would be. G Evans suggested the report should highlight best practice for managing the User Pays process and, more widely, should inform the next price control review in terms of funding for central systems. J Dixon confirmed that Ofgem intend to support the Review and expect the recommendations to feed into Ofgem's price control review process. S Trivella was concerned that the Review would be considering price control review issues, both going beyond the remit of a UNC Review and creating a risk of duplication. A Raper agreed, suggesting separation into two processes - one looking at central funding of xoserve systems and the other examining the issues associated with incremental change. P Broom felt there is a difference between any Transporter owned process and this Review, which is being driven by stakeholders.

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

Following a presentation by D Corby, Panel Members determined UNANIMOUSLY that the Proposal should be sent to the Transmission Workstream for consideration and development. The Transmission Workstream was requested to report by the March Panel.

R Hewitt confirmed to S Trivella asked if there is a requirement for Transporters to confirm a party has a Shipper licence, and C Cameron confirmed Ofgem always check with xoserve to ensure there are no outstanding issues prior to removing a licence.

R Fairholme suggested this was a proposal for development rather than being the subject of a review group, and this was supported by others. R Hewitt explained the intention was to identify the changes needed prior

to raising a Modification Proposal, but he would be happy for this to proceed without following the Review Procedures.

#### **101.7 Consider Terms of Reference**

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

Panel Members determined UNANIMOUSLY to approve the Terms of Reference.

#### **101.8 Existing Modification Proposals for Reconsideration**

None to report.

#### **101.9 Consent to Extend the Modification Proposal Development Phase**

- a) Proposal 0270 - Aggregated Monthly Reconciliation for Smart Meters

J Dixon indicated that the Authority is minded to extend the development timetable for Proposal 0270 as requested, but was likely to request specific actions to be undertaken during the extension.

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

J Dixon indicated that the Authority is minded to extend the development timetable for Proposal 0270 as requested.

#### **101.10 Consider Variation Requests**

- a) Proposal 0319 - Code Governance Review: Role of Code Administrators and Code Administration Code of Practice

Following a presentation by C Shanley, Panel Members did not determine unanimously that the Variation is immaterial, with the following voting in favour: R Hall, C Wright (also for S Leedham), R Hewitt, C Warner, J Ferguson, J Martin and S Trivella.

Members determined by PANEL MAJORITY that Proposal 0319V, the varied Proposal, should proceed to the Consultation phase with the following voting in favour: R Hall, C Wright (also for S Leedham), P Broom (also for A Bal), R Hewitt, C Warner, J Ferguson, J Martin and S Trivella. Panel Members did not determine legal text was required for inclusion in the Draft Modification Report with the following voting in favour: R Hall and R Fairholme.

Panel Members determined by Panel MAJORITY that the Consultation phase should close on 5<sup>th</sup> November 2010, with the following voting in favour: R Hall, P Broom (also for A Bal), C Wright for S Leedham, R Fairholme, R Hewitt, C Warner, J Ferguson, J Martin and S Trivella.

- b) Proposal 0320 - Code Governance Review: Appointment and Voting Rights for a Consumer Representative and Independent Panel Chair

Following a presentation by C Shanley, Panel Members determined UNANIMOUSLY that the Variation Request is immaterial.

- c) Proposal 0321 - Code Governance Review: Approach to environmental assessments within the UNC

Following a presentation by C Shanley, Panel Members determined UNANIMOUSLY that the Variation Request is immaterial.

- d) Proposal 0322 - Code Governance Review: Inclusion of the NTS Transportation and Connection Charging Methodologies within the UNC

Following a presentation by C Shanley, Panel Members did not determine unanimously that the Variation is immaterial, with C Warner voting in favour.

Panel Members determined by PANEL MAJORITY that Proposal 0322V, the varied Proposal, should proceed to the Consultation phase with the following voting in favour: R Hall, C Wright (also for S Leedham), P Broom (also for A Bal), R Hewitt, C Warner, J Ferguson, J Martin and S Trivella. Panel Members did not determine legal text was required for inclusion in the Draft Modification Report with the following voting in favour: R Hall and R Fairholme.

Panel Members determined UNANIMOUSLY that the Consultation phase should close on 5<sup>th</sup> November 2010.

- e) Proposal 0323 - Code Governance Review: Self Governance

Following a presentation by C Shanley, Panel Members did not determine unanimously that the Variation is immaterial with the following voting in favour: C Wright (also for S Leedham), R Hewitt, C Warner, J Ferguson, J Martin and S Trivella.

Panel Members determined UNANIMOUSLY that Proposal 0323V, the varied Proposal, should proceed to the Consultation phase. Panel Members did not determine legal text was required for inclusion in the Draft Modification Report with the following voting in favour: R Hall and R Fairholme.

Panel Members determined UNANIMOUSLY that the Consultation phase should close on 5<sup>th</sup> November 2010.

- f) Proposal 0324 - Code Governance Review: Significant Code Reviews

Following a presentation by C Shanley, Panel Members did not determine that the Variation is immaterial, with no votes cast in favour.

Panel Members determined by PANEL MAJORITY that Proposal 0324V, the varied Proposal, should proceed to the Consultation phase with the following voting in favour: R Hall, C Wright (also for S Leedham), P Broom (also for A Bal), R Hewitt, C Warner, J Ferguson, J Martin and S Trivella. Panel Members did not determine legal text was required for inclusion in the Draft Modification Report with the following voting in favour R Hall and R Fairholme.

Panel Members determined UNANIMOUSLY that the Consultation phase should close on 5<sup>th</sup> November 2010.

- g) Proposal 0325 - DN Transportation Charging Methodology and Change Governance

Following a presentation by C Warner, Panel Members did not determine that the Variation is immaterial, with no votes cast in favour.

Panel Members determined UNANIMOUSLY that Proposal 0325V, the varied Proposal, should proceed to the Consultation phase. Panel Members did not determine legal text was required for inclusion in the Draft Modification Report with the following members voting in favour: R Hall and R Fairholme.

Panel Members determined by UNANIMOUSLY that the Consultation phase should close on 5<sup>th</sup> November 2010.

## **101.11 Consider Workstream Monthly Reports**

### **Workstream Reports**

- a) Proposal 0296 – Facilitating a Supply Point Enquiry Service for Non-Domestic Supply Points

Panel Members UNANIMOUSLY accepted the Workstream Report. The Panel then determined UNANIMOUSLY for the Proposal to proceed to Consultation. The Panel determined by PANEL MAJORITY that legal text should be prepared for inclusion in the Draft Modification Report, with the following voting in favour: R Hall, P Broom (also for A Bal), R Fairholme, R Hewitt, C Warner, J Ferguson, J Martin and S Trivella.

R Hall asked if an audit process had been discussed. J Martin advised that the proposal envisages Shippers warranting they have the customer's permission to access the data. R Hall was concerned this was not sufficient and should be considered further to ensure mis-selling is not encouraged. He also suggested Ofgem should undertake an impact assessment with respect to the Proposal. C Wright indicated that the Proposal had been developed to address concerns previously raised by Ofgem and he believed sufficient safeguards were proposed.

- b) Proposal 0314 - The provision of a "Data Update" to Non Code Parties  
Panel Members accepted the Workstream Report.

The Panel determined UNANIMOUSLY to defer consideration of the

Workstream Report until an amended Proposal is available.

### **Review Group Reports for Consideration**

- a) Review Proposal 0280 – Review of Demand Estimation UNC Section H Processes and Responsibilities

The Panel determined UNANIMOUSLY to accept the Review Group Report and its recommendations.

- b) Review Proposal 0291 – NTS License Special Condition C27 - Balancing Arrangements

The Panel determined UNANIMOUSLY to accept the Review Group Report and its recommendations.

### **Extensions Requested**

- a) Proposal 0209 – Rolling AQ

Following a request, the Panel voted UNANIMOUSLY to extend the time for the Workstream to report until April 2011.

C Warner asked if the proposer could provide a view on whether the proposal should be withdrawn. R Fairholme agreed to discuss the options.

- b) Proposal 0282 - Introduction of a process to manage Vacant sites

Following a request, the Panel voted UNANIMOUSLY to extend the time for the Workstream to report until January 2011.

### **101.12 Panel Recommendations on Modification Proposals Arising from Licence Conditions**

R Fairholme explained that he had submitted the paper to raise awareness of a suggestion regarding Proposals raised in response to a licence condition. In these circumstances, it is not sufficient to recommend implementation if the only relevant objective furthered is that it is in line with that Licence Condition.

There was a general discussion and recognition of the issue. However, it was felt that the requirement was to look at all relevant objectives.

### **101.13 Consider Final Modification Reports**

- a) Proposal 0281 - Prevention of "Timing Out" of Authority decisions on Modification Proposals

Members considered the report was in the correct form and discussed whether or not to recommend implementation of the Proposal. They did not determine that new issues had been raised that justified seeking further views from a Workstream or Development Work Group, with no votes cast in favour.



The Panel determined by PANEL MAJORITY to recommend implementation of the Proposal, with the following voting in favour: R Hall, C Wright for S Leedham, P Broom (also for A Bal), R Fairholme, R Hewitt, C Warner, J Ferguson, J Martin and S Trivella.

T Davis summarised that the Proposal requires that when a proposed implementation date is included in a Modification Proposal, then it must be in a formal structure, which cannot time out, and must contain a justification for the dates.

Panel Members considered that the benefits of implementing the Proposal were marginal. While it would mandate a format for implementation dates, this format was not precluded under the existing provisions and the requirement may actually deter Proposers from putting forward desired implementation dates.

In terms of the Relevant Objectives, Members recognised that implementation could be regarded as facilitating the efficient administration of the UNC by providing for proposed implementation dates to be in a consistent format with no risk of timing out.

Being a change to the Modification Rules, Members also recognised that implementation of the Proposal should be judged against Para 9 of Condition A12, and it was suggested that:

- In respect of sub-paragraphs (a), (b), (c), (d) and (e) of Para 9, this proposal could improve the mechanism by which Modification Proposals, and any alternative or variation, are raised by ensuring clarity with regards to any suggested implementation dates;
- In respect of sub-paragraph (f) of Para 9, this proposal could provide greater clarification of a suggested implementation timescale to all interested parties. As such, interested parties would be able to include in their representations views on the effect of any suggested implementation date.

b) Proposal 0315 - To Enhance Section X of the UNC Transportation Principal Document to improve the Energy Balancing Further Security Process

The Panel determined UNANIMOUSLY to defer consideration of this Proposal.

On behalf of the EBCC, L O'Shaughnessy provided additional information regarding the questions raised at the previous Panel meeting. R Hall asked if the indicated values were worst case. L O'Shaughnessy confirmed the values provided were based on actual figures, though identities have been hidden.

J Ferguson and S Trivella suggested the specific rejection conditions for Proposal 0303 should be considered before the Final Modification Report is submitted to Ofgem.

c) Proposal 0317 - Interim Allocation of Unidentified Gas Cost

Members considered the report was in the correct form and discussed whether or not to recommend implementation of the Proposal. They did not determine that new issues had been raised that justified seeking further views from a Workstream or Development Work Group, with no votes cast in favour.

Members determined by PANEL MAJORITY to recommend implementation of the Proposal, with the following voting in favour: C Wright for S Leedham, P Broom (also for A Bal), C Warner, J Ferguson, J Martin and S Trivella.

T Davis summarised that, recognising that not all unallocated gas should be attributed to the SSP sector, the Proposal seeks to allocate additional gas from the SSP sector to the LSP sector. The proposed amount to be moved is based on an independent report. This would be expected to lead to a more accurate allocation of costs and, through increased cost reflectivity, would be expected to facilitate the achievement of effective competition.

R Fairholme challenged how moving money around different markets necessarily benefits competition. T Davis suggested that this potentially addresses a cross subsidy. Avoiding cross subsidies would be expected to support effective competition. However, the opposite would be the case if the reallocation over-compensated and so created or increased a cross-subsidy.

C Wright argued that implementation would unpick the benefits introduced by Modification 0229. The correct value which should be assigned to the LSP sector is unknown but will be reconciled by Modification 0229. By implementing a fixed value which was likely to be incorrect, implementation would not facilitate competition. However, S Trivella suggested the value presented in the Proposal is more accurate than zero as currently set out in UNC.

P Broom considered the principles in the decision for Proposal 0229 were that known values would be assigned by an independent expert, and these would be built into pricing structures. By setting a known value for the forthcoming AUG year, implementation of 0317 would be in line with these principles and facilitate effective competition.

R Hall advised that consumer focus were unable to support this or other proposals in the same area since the information provided with each is inconsistent and therefore adds no real value to the process, as each may be inappropriate or inaccurate.

d) Proposal 0317A - Interim Allocation of Unidentified Gas Costs

Members considered the report was in the correct form and discussed whether or not to recommend implementation of the Proposal. They did not determine that new issues had been raised that justified seeking further views from a Workstream or Development Work Group, with no votes cast in favour.

The Panel did not determine to recommend implementation of the Proposal, with the following voting in favour: C Wright (also for S Leedham).

T Davis summarised that, recognising that not all unallocated gas should be attributed to the SSP sector, the Proposal seeks to allocate additional gas from the SSP sector to the LSP sector. However, this would be a “payment on account” with subsequent reconciliation based on an independently commissioned assessment, in accordance with Modification 0229. This would be expected to lead to a more accurate allocation of costs and, through increased cost reflectivity, would be expected to facilitate the achievement of effective competition. implementation of Proposal 0317A.

R Fairholme was concerned that there is no substantive evidence to support the Proposal. S Trivella added that there is no precedent for retrospective charging, and introducing this does not further the relevant objectives of facilitating competition nor efficient administration of the UNC.

P Broom argued that introducing retrospective adjustments created uncertainty and so would be detrimental to effective competition. C Wright did not believe that retrospectivity would be introduced by Proposal 0317A since the concept was already within the UNC following implementation of Modification 0229. J Wisdom also did not agree a fixed value was required - SSP Shippers face reconciled values now and they can be forecast and allowed for.

P Broom disagreed, suggesting that AQs are within the SSP market's control. R Dutton added that it is impossible for LSP shippers to recover retrospective costs from customers, particularly if they are no longer a customer.

When requested to express a preference for Proposal 0317, 0317A and 0327, Panel Members voted as follows:

Six votes were cast to prefer 0317 to 0317A: P Broom (also for A Bal), C Warner, J Ferguson, J Martin and S Trivella.

Two votes were cast to prefer 0317A to 0317: C Wright (also for S Leedham).

One Vote was cast to prefer 0327 to 0317A: C Wright.

Therefore, among the alternatives available, the Panel determined that implementation of Proposal 0317 would best facilitate achievement of the Relevant objectives.

- e) Proposal 0318 - Code Governance Review: The approach to be taken when raising alternative Modification Proposals

Members considered the report was in the correct form and discussed whether or not to recommend implementation of the Proposal. They did not determine that new issues had been raised that justified seeking further views from a Workstream or Development Work Group, with no votes cast in favour.

The Panel determined by PANEL MAJORITY to recommend implementation of the Proposal, with the following voting in favour: R Hall, P Broom (also for A Bal), R Fairholme, R Hewitt, C Warner, J Ferguson, J Martin and S Trivella.

T Davis summarised that the Proposal seeks to bring the process for raising Alternative Proposals in line with the Code Administration Code of Practice. Rather than being able to raise alternatives only within five business days of a Proposal being sent to consultation or development, alternatives would be able to be raised prior to a Workstream report for proposals issued to a Workstream; or prior to five business days ahead of the final meeting of a Development Workgroup for proposals sent to development. However, alternatives would not be permissible for Proposals issued directly to Consultation. This would, therefore, facilitate the relevant objective of efficient administration of the UNC by facilitating alternatives being developed alongside the main Proposal. However, removing the ability to raise an alternative when Proposals are issued to consultation could lead to informal alternatives being raised and developed as freestanding proposals. This would reduce flexibility compared to the existing position and could prolong the period before Modification decisions are issued by Ofgem, and so be detrimental to the relevant objective of efficient administration of the UNC.

Being a change to the Modification Rules, Members also recognised that implementation of the Proposal should be judged against Para 9 of Condition A12, and it was suggested that the same case could be made as for facilitating, or harming, the efficient administration of the UNC.

The Proposal also includes transitional rules such that the new approach would only apply to Proposals raised subsequent to implementation of this Proposal. T Davis questioned how, if implementation facilitated the relevant objectives, it could be considered that not applying the approach to existing Proposals could be justified. R Hewitt argued that having a clean cut off would ensure that each Proposal would follow a holistic process throughout its life cycle, and this would be consistent with efficient administration of the UNC.

- f) Proposal 0318A - Code Governance Review: The approach to be taken when raising alternative Modification Proposals

Members considered the report was in the correct form and discussed whether or not to recommend implementation of the Proposal. They did not determine that new issues had been raised that justified seeking further views from a Workstream or Development Work Group, with no votes cast in favour.

The Panel determined UNANIMOUSLY to recommend implementation of the Proposal.

T Davis summarised that Proposal 0318A sought to build on Proposal 0318 by providing guidance to the Panel when considering if a Proposal should be issued to Consultation. This should mean that Proposals would not be issued directly to Consultation if there was a likelihood of an Alternative being raised, or if, notwithstanding that a Proposal is clear, the issues were complex and merited assessment by a Workgroup. This would be expected to facilitate the efficient administration of the UNC by ensuring all Proposals are adequately assessed and that an opportunity

to put forward alternative solutions is available.

When requested to express a preference for Proposal 0318 or 0318A, S Trivella voted in favour of 0318 while the remaining ten votes were cast in favour of 0318A. Therefore, among the alternatives available, the Panel determined that implementation of Proposal 0318A would best facilitate achievement of the Relevant objectives

g) Proposal 0320V – Code Governance Review: Appointment and Voting Rights for a Consumer Representative and Independent Panel Chair

Members considered the report was in the correct form and discussed whether or not to recommend implementation of the Proposal. They did not determine that new issues had been raised that justified seeking further views from a Workstream or Development Work Group, with no votes cast in favour.

The Panel determined by PANEL MAJORITY to recommend implementation of the Proposal, with the following voting in favour: R Hall, P Broom (also for A Bal), R Hewitt, C Warner, J Ferguson, J Martin and S Trivella.

T Davis summarised that the Proposal seeks to implement a number of aspects of Ofgem's Codes Governance Review. Instead of the National Consumer Council being able to appoint two consumer representatives as Members of the Modification Panel (one of which has voting rights), one would be able to be appointed by each of the Consumer Council and the Authority. Both Consumer Representatives would have full voting rights, removing the exclusions which apply to the existing voting Consumer Representative. In addition, the Panel voting rules would be changed such that votes in favour and opposed to a determination would be recorded. This would introduce the possibility of a tied vote, and the Proposal would introduce a casting vote to be exercised by the Panel Chair other than in the case of recommendations on whether or not to implement a Modification Proposal.

Implementation would, therefore, be expected to facilitate the relevant objective of efficient administration of the UNC by bringing the UNC into line with best practice as identified by Ofgem during their Codes Governance Review. However, the Proposal could be regarded as creating a lack of transparency, leading to uncertainty, since the process by which the Authority would appoint a Consumer Representative is not specified. In addition, the change in the voting process creates the possibility of a tied vote which is not possible under the existing arrangements. As such, implementation of the Proposal may be considered to introduce inefficiency in the administration of the UNC.

Being a change to the Modification Rules, Members also recognised that implementation of the Proposal should be judged against Para 9 of Condition A12, and it was suggested that the same case could be made as for facilitating, or harming, the efficient administration of the UNC.

The Proposal also includes transitional rules such that the new approach would only apply to Proposals raised subsequent to implementation of this Proposal. T Davis questioned how, if implementation facilitated the relevant objectives, it could be considered that not applying the approach to existing Proposals could be justified. R Hewitt argued that having a clean cut off would ensure that each Proposal would follow a holistic

process throughout its life cycle, and this would be consistent with efficient administration of the UNC.

h) Proposal 0321V – Code Governance Review: Approach to environmental assessments within the UNC

Members considered the report was in the correct form and discussed whether or not to recommend implementation of the Proposal. They did not determine that new issues had been raised that justified seeking further views from a Workstream or Development Work Group, with no votes cast in favour.

The Panel determined UNANIMOUSLY to recommend implementation of the Proposal.

T Davis summarised that the Proposal seeks to introduce a requirement that where the Proposer or the UNC Panel members (through a majority vote) consider that the impact is likely to be material, the evaluation of the proposed modification in respect of the relevant objectives and or its suitability to enter the Consultation Phase shall include an assessment of the quantifiable impact of the proposed modification on greenhouse gas emissions. This should be carried out in accordance with any relevant guidance that has been issued by the Authority. By ensuring that relevant impacts are considered and consistently assessed, implementation would be expected to facilitate the relevant objective of efficient administration of the UNC.

Being a change to the Modification Rules, Members also recognised that implementation of the Proposal should be judged against Para 9 of Condition A12, and it was suggested that the same case could be made as for facilitating the efficient administration of the UNC.

The Proposal also includes transitional rules such that the new approach would only apply to Proposals raised subsequent to implementation of this Proposal. T Davis questioned how, if implementation facilitated the relevant objectives, it could be considered that not applying the approach to existing Proposals could be justified. R Hewitt argued that having a clean cut off would ensure that each Proposal would follow a holistic process throughout its life cycle, and this would be consistent with efficient administration of the UNC.

i) Proposal 0327 - Alternative to Interim Allocation of Unidentified Gas Costs

Members considered the report was in the correct form and discussed whether or not to recommend implementation of the Proposal. They did not determine that new issues had been raised that justified seeking further views from a Workstream or Development Work Group, with no votes cast in favour.

The Panel did not determine to recommend implementation of the Proposal, with the following voting in favour: C Wright (also for S Leedham).

T Davis summarised that, recognising that not all unallocated gas should be attributed to the SSP sector, the Proposal seeks to allocate additional gas from the SSP sector to the LSP sector. However, this would be a “payment on account” with subsequent reconciliation based on an

independently commissioned assessment, in accordance with Modification 0229. This would be expected to lead to a more accurate allocation of costs and, through increased cost reflectivity, would be expected to facilitate the achievement of effective competition.

Members recognised that the initial allocation from the SSP to LSP sector was greater than under Proposal 0317. There was less confidence that the amount suggested would deliver a more accurate allocation and hence a concern that implementation may reduce costs reflectivity and so not facilitate the achievement of effective competition.

R Dutton was concerned the methodology does not work and it is difficult to reach the same conclusion as the examples set out in the Proposal. C Wright did not agree and felt this was an issue for representations. R Dutton also challenged the values detailed in Proposal 0317A as they exceed any information previously provided by British Gas, and suggested that the value at risk for LSP shippers should be nearer to £3m based on information provided during discussions for Modification 0194.

- j) Proposal 0328 - Proposal to amend Annex A of the CSEP NExA by replacing the current version of the AQ Table

Members considered the report was in the correct form and discussed whether or not to recommend implementation of the Proposal. They did not determine that new issues had been raised that justified seeking further views from a Workstream or Development Work Group, with no votes cast in favour.

The Panel determined UNANIMOUSLY to recommend implementation of the Proposal.

T Davis summarised that the Proposal seek to update the AQ values to be more reflective of actual usage. This will lead to more accurate and cost reflective allocation of energy, which would be expected to facilitate competition by allocating costs appropriately and therefore reducing potential cross-subsidies.

#### **100.12 Receive report on status of Consents**

- a) Draft Consent - Revision to the legal text associated with the implementation of UNC Modification 0224

J Martin introduced the draft Consent and its justification for meeting the business rules as intended in the Modification 0224. P Broom supported the change.

T Davis asked if Members considered this should be pursued as a Consent rather than as a Modification Proposal: this was supported, and Members noted the Consent would have no impact on work to implement Modification 0224.

#### **101.14 Any Other Business**

- a) Approval of revised Templates (adoption of Code of Practice formats, as used for Proposal 0281)

Members determined UNANIMOUSLY to approve the new form in which Modification Proposals should be raised in future. This format will flow through to subsequent Reports.

- b) Approval of User Pays Guidance Document

S Trivella introduced the proposed changes to the User Pays Guidance document. J Ferguson pointed out a typing error, which required amendment. R Fairholme asked if there is a formal consultation process. S Trivella confirmed there is no formal consultation process, though comments have been sought and taken into account.

The Panel Members determined UNANIMOUSLY to approve the revised User Pays Guidance Document.

#### **101.15 Conclude Meeting and Agree Date of Next Meeting**

The Panel noted that the next meeting is planned for 10.00 on 18 November 2010 at the Energy Networks Association.