

UNIFORM NETWORK CODE MODIFICATION PANEL

MINUTES OF THE 85th MEETING

HELD ON THURSDAY 17 September 2009

Members Present:

Transporter Representatives: C Shanley (National Grid NTS), A Raper (National Grid Distribution), J Ferguson (Northern Gas Networks), J Martin (Scotia Gas Networks) and S Trivella (Wales & West Utilities),

User Representatives: A Bal (Shell), C Wright (British Gas Trading) and R Fairholme (E.ON UK)

Ofgem Representative: J Dixon and A Olive

Consumers' Representative: A Hall (Consumer Focus)

Terminal Operators' Representative: R Monroe (Centrica Storage)

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

85.1 Note of any alternates attending meeting

A Bal for P Broom (GDF Suez), C Wright for A Barnes (Gazprom), A Raper for C Warner (National Grid Distribution), C Shanley for R Hewitt (National Grid NTS) and J Martin for A Gibson (Scotia Gas Networks)

85.2 Record of Invitees to the meeting

None

85.3 Record of apologies for absence

A Barnes, P Broom, A, Gibson, C Warner and R Hewitt

85.4 Receive report on status of Urgent Modification Proposals

None

85.5 Consider New, Non-Urgent Modification Proposals

- a) Proposal 0266: "Amendment to Gas Quality NTS Entry Specifications for the North Morecambe Terminal"

Following an introduction by C Wright, Members discussed whether a Modification Proposal was the appropriate route for modifying legacy entry arrangements that sit outside UNC. C Wright confirmed that BGT believed this was the appropriate route, which had been confirmed with National Grid NTS. If it transpired that this was not the case, the Proposal would be withdrawn. The Panel then voted UNANIMOUSLY for the Proposal to proceed to Consultation, with representations invited within 10 business days. Members did not determine that legal text was required, with no votes cast in favour.

85.6 Consider New Proposals for Review

None

85.7 Consider Terms of Reference.

None

85.8 Existing Modification Proposals for Reconsideration

None

85.9 Consider Variation Requests

None

85.10 Consider Workstream Monthly Reports

Matters for Panel's Attention

Extensions Requested

Proposal 0231: "Changes to the Reasonable Endeavours Scheme to better incentivise the detection of Theft"

Following a request, the Panel voted UNANIMOUSLY to extend the time for the Distribution Workstream to report until December 2009.

Review Proposal 0245: "Review of arrangements regarding the detection and investigation of Theft of Gas"

Following a request, the Panel voted UNANIMOUSLY to extend the time for the Review Group to report until December 2009.

Proposal 0263: "Enabling the Assignment of a Partial Quantity of Registered NTS Exit (Flat) Capacity"

Following a request, the Panel voted UNANIMOUSLY to extend the time for the Transmission Workstream to report until December 2009.

Workstream Reports for Consideration

Proposal 0258: "Facilitating the use of Remote Meter Reading Equipment for the Purposes of Demand Estimation Forecasting Techniques"

The Panel accepted UNANIMOUSLY the Workstream Report. S Trivella indicated that an alternative Proposal would be raised. This would go beyond the provisions of Proposal 0258 by additionally allowing transporters to procure information from other parties. The Panel then voted UNANIMOUSLY to send Proposal 0258 to Consultation. The Panel did not determine that legal text was required, with no votes cast in favour. Members agreed that the Final Modification Report would be considered at short notice at the October Panel meeting.

85.11 Consider Final Modification Reports

a) Proposal 0260: "Revision of the Post -emergency Claims Arrangements"

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.

C Shanley identified that the intended impact of implementing the Proposal was firstly to clarify the claims process for compensation in the event of an emergency; and secondly to target costs towards Users who

were short at the time when an emergency was declared. Members agreed that clarifying the claims process would be consistent with facilitating the 'code relevant objective' *"the promotion of efficiency in the implementation and administration of the network code and/or the uniform network code"*. While C Shanley suggested this clarification could also provide additional certainty such that additional gas supplies may be attracted, other Members felt implementation would have no impact on the already strong incentives for all available gas to be delivered.

C Shanley suggested that targeting costs on short Users in the event of an emergency would lead to a more appropriate cost allocation than presently provided for in the UNC, consistent with costs being faced by those who created them. By improving cost targeting, implementation of the Proposal would therefore be expected to facilitate achievement of the 'code relevant objective' *"the securing of effective competition between relevant shippers"*. R Fairholme pointed out that allocating costs based on User positions when an emergency was called meant that no action could be taken to alter this position and, in any event, the balance position may be beyond Users' control. Implementation may, therefore, make be deleterious to cost allocations and hence reduce as opposed to facilitate *"the securing of effective competition between relevant shippers"*.

Following discussion, Members agreed that whether cost targeting would be more or less appropriate were the Proposal to be implemented could vary depending on the precise circumstances leading to a particular emergency situation. The Ofgem Representative was asked if Ofgem felt any further analysis was required to inform judgements regarding the likely impacts, and J Dixon did not feel any further analysis would help Ofgem interpret which relevant objectives may be met by implementation.

C Wright emphasised that he had no mandate to vote or otherwise on behalf of A Barnes, who was therefore treated as absent for this section of the agenda. The Panel then voted whether to recommend implementation with the following votes cast in favour: A Bal (also proxy vote for P Broom), C Wright, C Shanley, A Raper and S Trivella. The Panel therefore determined by PANEL MAJORITY to recommend implementation.

b) Proposal 0261: "Annual NTS Exit (Flat) Capacity Credit Arrangements"

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.

Members identified that, at present, if a User fails to provide security to cover future exit capacity liabilities, capacity rights for the forthcoming year lapse. This Proposal would instead provide that failure to provide security would lead to the established sanctions for non-payment, including termination. Some Members argued that this would discourage inappropriate speculation. In addition, by removing the ability to effectively defer capacity obligations for a year, costs would be borne by the appropriate party. Hence implementation could be expected to facilitate achievement of the 'code relevant objective' *"the securing of effective competition between relevant shippers"*. However, A Bal was concerned that implementation would pass an unacceptable level of risk from the Transporter to Users and hence not facilitate this objective. A Hall sought

clarification regarding any impacts on consumers, and it was indicated that the issue was about cost allocations between Users with no direct consumer impact anticipated.

The Panel then voted whether to recommend implementation with the following votes cast in favour: C Wright, R Fairholme, C Shanley, A Raper, J Martin, J Ferguson and S Trivella. The Panel therefore determined by PANEL MAJORITY to recommend implementation.

c) Proposal 0262: "Treatment of Capacity affected by Force Majeure"

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.

By effectively removing the liability to pay charges for capacity that was unavailable due to force majeure, most Panel Members expected implementation to improve cost allocations (passing force majeure risk from those impacted to the community as a whole) and so facilitate achievement of the 'code relevant objective' "*the securing of effective competition between relevant shippers*". However, Panel Members also expressed concern that implementation could incentivise National Grid NTS to declare force majeure more readily, thereby driving inappropriate behaviour. This would not facilitate competition. S Trivella argued that it was unclear how the Proposal might be expected to facilitate the relevant objectives with respect to exit, as opposed to entry, points, although he felt any impact would be nugatory.

The Panel then voted whether to recommend implementation with the following votes cast in favour: A Bal (also proxy vote for P Broom), C Wright, C Shanley, A Raper, J Martin, J Ferguson and S Trivella. The Panel therefore determined by PANEL MAJORITY to recommend implementation

d) Proposal 0265: "Creation of a NTS Entry Capacity Retention Charge within the Uniform Network Code"

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.

The Panel recognised that this was a facilitating Proposal that would support the proposed substitution methodology. However, if that methodology is not introduced, implementation of the Proposal would have no effect and hence not be expected to facilitate achievement of the 'code relevant objectives'. A Bal asked if there was a pressing need to make a recommendation at this stage, and suggested that it may be prudent to defer a Panel decision until the anticipated Ofgem Impact Assessment is issued and the likely way forward for substitution is better understood.

The Panel then voted whether to defer consideration of the Proposal, with the following votes cast in favour: A Bal also proxy vote for P Broom, C Wright, R Fairholme, A Raper, J Martin, J Ferguson and S Trivella. The

Panel therefore determined by PANEL MAJORITY to defer consideration.

85.12 Receive report on status of Consents.

None

85.13 Any Other Business

a) Response to Code Governance Review Initial proposals

T Davis asked if Panel Members wished to make any changes to the draft response. A Hall asked if an addition could be made that the views enclosed are on behalf of the Panel as a whole and not necessarily the views of individual Panel Members or their organisations. A Raper suggested making it clear that some Panel Members thought that an organisation should not be precluded from voting on a Proposal they have raised due to the requirements of a Major Policy Review. ST thought it might be an advantage to delete the reference and its counter in the letter; this was agreed.

S Trivella thought the letter should stress that Panel Members regard both the JO and Panel Chair as impartial. J Dixon suggested considering long-term aspects and not the present incumbents. While impartiality may be present now, it was not necessarily the case that this had been institutionalised. A Bal asked how Ofgem propose to appoint an impartial chair, and whether it might incorporate voting by interested parties. J Dixon thought this was likely to follow the BSC model, and so be an Ofgem appointment following advertising and interview.

A Bal then asked that the response highlight that there was no call by industry or Panel Members to appoint an independent Chair.

The response was then approved.

b) Review of Report Templates

T Davis explained how, as part of the development of a Code Administrator Code of Practice, consistent modification templates were being considered across the gas and electricity industries. The JO had looked at the modification reporting templates and an example of a revised approach had been published to see if Panel Members thought this was a suitable way forward irrespective of the Code of practice.

In discussion, T Davis indicated that the intention would be to create a single template for Modification Proposals and Reports, with the Proposal itself only amended by the Proposer, but the remainder managed by the Code Administrator. This form would be frozen and published at various process stages, and be clear as to its status.

Members felt the template was effective in highlighting issues and was easier to read than the existing documentation. It was agreed that the JO should provide an updated version for further review and consideration.

T Davis highlighted that Ofgem's Initial Proposals for the Governance Review had suggested leaving a number of issues to the industry, and asked if a Review Proposal should be raised to consider impacts on the

Modification Rules. J Dixon suggesting awaiting the reconvening of CAWG (Code Administrators Working Group) and, potentially, an indication of Ofgem's likely conclusions in light of responses to the Initial Proposals. C Wright considered now may be an appropriate time to begin considering Panel representation and its constitution, which J Dixon supported in light of the proposed increase in self governance and changes in voting, incorporating a consumer vote.

85.14 Conclude Meeting and Agree Date of Next Meeting:

The Panel noted that the next meeting was planned for 15 October 2009.