

Modification proposal:	Uniform Network Code (UNC) 053: Extending established UNC governance arrangements to include the <i>Network Code Operations Reporting Manual</i> referenced in Section V9.4		
Decision:	The Authority ¹ directs that this proposal be made ²		
Target audience:	The Joint Office, Parties to the UNC and other interested parties		
Date of publication:	20 October 2006	Implementation Date:	To be confirmed by the Joint Office

Background to the modification proposal

There are a number of procedural documents referred to in the UNC which set out how both Gas Transporters (GTs) and Users are required to implement certain UNC obligations. However, whilst these documents may be referred to in the UNC, in some cases they are not themselves subject to joint ownership or governance; in particular change control has so far been largely at the discretion of the GTs. One such document is the Network Code Operations Reporting Manual (the Manual), which details a number of reports containing operational information administered by National Grid National Transmission System (NG NTS).

On 23 March 2005, the Authority directed the implementation of Network Code modification 730³, which had the effect of making revisions to certain specified procedural documents subject to the approval by panel majority of the Network Code Committee. It was recognised at the time that the list of documents referred to in modification 730 was not exhaustive, though the proposer also envisaged that any new procedural document setting out the detailed matters for the implementation of the Network Code obligations would also be covered by that proposal.

The modification proposal

This modification proposal seeks to extend the UNC governance arrangements to include the Manual. In particular, the proposal seeks to make changes to the Manual subject to approval by majority vote of what is now the UNC Committee (UNCC). The proposal would allow Users as well as NG NTS and other GTs to instigate such changes.

The proposal also seeks to place a generic obligation upon GTs to publish the Manual on the Joint Office of Gas Transporters website, and for subsequent revisions to the Manual to be appropriately version numbered, with previous versions remaining available.

The proposer considers that this will facilitate the relevant objectives of the UNC by improving transparency and accountability. They believe this will contribute both to the efficient and economic operation by the GTs of the pipeline system and increase certainty and confidence of all UNC parties, thereby facilitating competition between shippers and suppliers.

¹ The terms 'the Authority', 'Ofgem' and 'we' are used interchangeably in this document. Ofgem is the Office of the Gas and Electricity Markets Authority.

² This document is notice of the reasons for this decision as required by section 38A of the Gas Act 1986.

³ [Extending established Network Code governance arrangements to relevant Transco documents.](#)

UNC Panel⁴ recommendation

At its meeting of 16 March 2006, the UNC modification panel recommended by a majority that this proposal be implemented.

The Authority's decision

The Authority has considered the issues raised by the modification proposal and the Final Modification Report (FMR) version 3.0, dated 28 September 2006. The Authority has also considered and taken into account the responses to the Joint Office's consultation on the modification proposal⁵ and has concluded that:

1. implementation of the modification proposal will better facilitate the achievement of the relevant objectives of the UNC⁶; and
2. directing that the modification be made is consistent with the Authority's principal objective and statutory duties⁷.

Reasons for the Authority's decision

We note that the Joint Office received nine responses to its consultation on this modification proposal, of which seven were supportive, one was opposed and one provided comments only.

As set out in our decision on Network Code modification 730, we consider that the incorporation of documents referenced in what is now the UNC into UNC governance increases transparency and accountability. To the extent that this gives parties greater confidence in the UNC arrangements and demonstrates a level playing field, we agree with those respondents who suggested that this proposal will further facilitate effective competition.

We also welcome the fact that changes to these procedural documents will be subject to the approval of UNC parties themselves, by means of the UNCC, rather than requiring the consent of Ofgem. This is appropriate given the technical and operational nature of these documents and is also consistent with Ofgem's desire to adopt lighter touch regulation. Whilst this streamlined approach could be considered to further facilitate the efficient and economic operation by the GTs of the pipelines system, we agree with the majority of respondents (both for and against the proposal) who provided assessment of this proposal primarily against relevant objective f), the promotion of efficiency in the implementation and administration of the UNC.

Some aspects of this proposal appear to be superfluous, having already been achieved with the implementation of Network Code modification 730, which revised the governance arrangements around certain prescribed documents including the Manual. In particular, revisions to the Manual are already subject to the approval by panel majority of the UNCC.

⁴ The UNC Panel is established and constituted from time to time pursuant to and in accordance with the UNC Modification Rules.

⁵ UNC Modification proposals, Modification Reports and Representations can be viewed on the Joint Office of Gas Transporters website at www.gasgovernance.com

⁶ As set out in Standard Special Condition A11(1) of the Gas Transporters Licence, see: http://62.173.69.60/document_fetch.php?documentid=6547

⁷ The Authority's statutory duties are wider than matters which the Panel must take into consideration and are detailed primarily in the Gas Act 1986.

The Manual is also already available on the Joint Office website⁸, and according to its version history it was first made available on the National Grid website when version 4.0 was published in April 2005. However we consider there is some merit in the publication of this document being clearly set out as an obligation, thereby ensuring its ongoing provision.

Whilst not being opposed to the modification proposal, NG NTS noted that under the current arrangements it could already raise revisions to the Manual based on the additional or amended reports requested by Users. It went on to raise a concern that in the absence of clear governance procedures, GTs may be required to provide additional information and/or revise the timing of the provision of such information without due consideration of the impacts of such changes. NG NTS felt that the lack of clarity in respect of governance does not clearly demonstrate that this proposal would better facilitate the relevant objectives, specifically relevant objective f).

We would have some sympathy with this view if evidence were to emerge that Users were requesting unreasonable revisions to the Manual. However, we consider that the requirement for changes to be supported by panel majority should provide a safeguard against this. The procedures of the UNCC are largely in line with those of the UNC modification panel, with provisions covering membership and voting etc being identical. The GTs will therefore have 5 votes on the UNCC, the same number as Users.

Whilst acknowledging that there may currently be a lack of clarity around the procedures that the UNCC will follow in discharging this new role, we also note that where any procedure of the UNCC is not already adequately provided for, it may, by panel majority decide upon the procedures to be adopted⁹. Therefore, to the extent the UNCC considers it is not currently equipped to take on any role in approving revisions to documentation, it could if necessary produce specific procedures to accommodate that role.

The response provided by National Grid Distribution (NG D) highlighted that where NG NTS currently proposes a change to the Manual, a User may object to that change and it will not be implemented unless the Authority shall give Standard Special Condition A11(18) approval¹⁰. NG D considered that this provision gives Users an appropriate degree of protection that a change cannot be unilaterally implemented without recourse to challenge. They went on to suggest that it would be inappropriate to remove the Authority from being the arbiter in the change process for the Manual. NG D also consider that it is not good governance to have two change processes, with the UNCC route being run in parallel to that of the usual modification procedures. NG D raises a concern that the UNCC may instigate or veto a change against the wishes of GTs, and bypass the regulatory process for determination.

We note that nothing in the proposal or the accompanying legal text proposes to remove the ability for Users to object to a change to the Manual. Given that all UNC Parties are now able to raise a change to the Manual, further consideration could be given to also extending to all UNC Parties the right to refer matters to the Authority.

Whilst the existence of two possible methods of progressing change to the Manual may suggest a degree of duplication and possible confusion, we consider that they can appropriately operate in tandem. Moreover, this is not a problem created by this modification proposal. Nothing in this proposal precludes a UNC party from raising a

⁸ www.gasgovernance.com/NR/rdonlyres/81B5B8F1-A98C-4B6A-B201-875BFA0553CA/9965/NCORMv50.pdf

⁹ UNC General Terms Section 4.2

¹⁰ UNC TPD Section V 9.4.5

modification to the UNC if they consider it appropriate. Indeed this may be the outcome if the UNCC is unable to reach a panel majority. However, this proposal does establish what should prove to be a more streamlined process, with UNC parties themselves playing a greater role in determining whether revisions to the document should be made, and retains a means of escalating matters to the Authority should it be necessary.

We consider that the implementation of this proposal would be consistent with the Authority's duty to have regard to the principles of best regulatory practice. As mentioned, the UNCC role in approving the revision to the Manual and other operational documents will improve transparency and accountability. Moreover, the UNCCs ability to approve changes rather than them necessarily being referred to Ofgem, whether as formal UNC modification proposal or otherwise, will ensure that our involvement is more appropriately targeted on those cases where it is necessary; i.e. where the UNC parties cannot agree to a revision to the Manual amongst themselves.

Decision notice

In accordance with Standard Special Condition A11 of the Gas Transporters Licence, the Authority, hereby directs that modification proposal UNC053: *'Extending established UNC governance arrangements to include the Network Code Operations Reporting Manual referenced in Section V9.4'* be made.

A handwritten signature in black ink, appearing to read 'A. N. Simpson', written over a horizontal line.

Nick Simpson

Director, Industry Codes & Licensing

Signed on behalf of the Authority and authorised for that purpose.