














| UNC Workgroup Report | | At what stage is this document in the process? |
|--|---|--|
| <h1>UNC 0623:</h1> <h2>Governance Arrangements for Alternatives to Self-Governance Modification Proposals</h2> | | <div style="display: flex; flex-direction: column; align-items: flex-start;"> <div style="border: 1px solid #ccc; border-radius: 5px; padding: 5px; margin-bottom: 5px; width: 100%;">01 Modification</div> <div style="border: 1px solid #ccc; border-radius: 5px; padding: 5px; margin-bottom: 5px; width: 100%;">02 Workgroup Report</div> <div style="border: 1px solid #ccc; border-radius: 5px; padding: 5px; margin-bottom: 5px; width: 100%;">03 Draft Modification Report</div> <div style="border: 1px solid #ccc; border-radius: 5px; padding: 5px; width: 100%;">04 Final Modification Report</div> </div> |
| <p>Purpose of Modification:</p> <p>This is a Governance Modification proposal that seeks to amend the Self-Governance rules in the Modification Rules. Should a Self-Governance Modification proposal have alternatives, this modification sets out how they should be treated and clarifies Panel voting arrangements.</p> | | |
|  | <p>The Workgroup recommends that this modification should be:</p> <ul style="list-style-type: none"> considered a material change and not subject to self-governance proceed to Consultation <p>The Panel will consider this Workgroup Report on 21 December 2017. The Panel will consider the recommendations and determine the appropriate next steps.</p> | |
|  | <p>High Impact: None</p> | |
|  | <p>Medium Impact: UNC Modification Panel Members</p> | |
|  | <p>Low Impact: All Code Parties</p> | |

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| Timetable | | |
| Modification timetable: | | |
| Initial consideration by Workgroup | 21 August 2017 |  Contact: Joint Office of Gas Transporters |
| Amended Modification considered by Workgroup | 29 September 2017 |  enquiries@gasgovernance.co.uk |
| Workgroup Report presented to Panel | 21 December 2017 |  0121 288 2107 |
| Draft Modification Report issued for consultation | 21 December 2017 | Proposer: Richard Pomroy |
| Consultation Close-out for representations | 22 January 2018 |  Richard.Pomroy@wwutilities.co.uk |
| Final Modification Report available for Panel | 24 January 2018 |  029 2027 8552 Or 07812 973337 |
| Modification Panel decision | 15 February 2018 | Transporter: Wales & West Utilities |
| | |  Richard.Pomroy@wwutilities.co.uk |
| | |  029 2027 8552 Or 07812 973337 |
| | | Systems Provider: Xoserve |
| | |  commercial.enquiries@xoserve.com |

1 Summary

What

Clear governance arrangements are required for Self-Governance (SG) where there are Alternative modifications on a common matter. This proposal sets out rules that are consistent with how Authority Direction Alternative modifications are processed and seeks to enable the UNC Modification Panel to provide effective and timely governance of SG Alternatives. It also addresses the issues raised by modifications and alternatives that are not all Self-Governance or Authority Decision.

Why

With the implementation of UNC Modification 0596 (Implementing CGR3 decisions on Significant Code Reviews and self-governance) the higher materiality threshold for Authority Direction, leading to more SG modifications, means that it is more likely now that SG Alternatives will arise. Clear governance rules are required for SG Alternatives in particular what to do if there is not a Panel majority in favour of implementing the original SG modification or one of its Alternatives. This situation does not arise with Authority Direction modifications and Alternatives as the Modification Rules set out how to process Alternatives. It should be noted that the GT licence does not require an Alternate or the original Modification Proposal to be implemented although in the case of modifications that require an Authority Determination this has been the case in the vast majority of modifications.

Having modifications and alternatives that are not all Self-Governance or Authority Decision is not handled well by the current Modification Rules and it is sensible to look at this while making changes to the Modification Rules.

How

New arrangements are proposed to the Modification Rules that are consistent with how Authority Direction modifications proceed to an implementation decision.

The Modification Rules already contain provisions relating to alternatives, which apply equally to SG Alternatives. Changes are required to ensure that this is clear and to introduce new rules when required to deal with specific circumstances peculiar to SG Alternatives. For example, rules are provided that enable Panel to consider individually the SG Alternatives' suitability for implementation and then to determine which one best furthers the relevant objectives and therefore should be implemented. It also provides for the situation where Panel considers that none of the Alternatives should be implemented, and the implications for Appeals.

2 Governance

Justification for Self-Governance, Authority Direction or Urgency

Panel determined the modification is likely to have a material effect on the UNC Modification Rules because they introduce additional rules to accommodate Alternatives to Self-Governance Modification Proposals and for Panel to determine their implementation. Consequently, this represents a material impact on self-governance criterion (e) 'the uniform network code governance procedures or the network code modification procedures' and Authority Direction is appropriate.

Modification 0623 will therefore follow Authority Direction procedures.

Requested Next Steps

This modification should:

- be considered a material change and not subject to self-governance
- proceed to Consultation

The Workgroup agreed with the Panels view that the proposals in this modification are likely to have a material impact on the Modification Rules as they would impact the implementation rules for Self-Governance Modifications, their alternates and the appeals procedures. Therefore, Authority Direction is appropriate.

The proposals in this modification are sufficiently developed for the modification to proceed to consultation.

3 Why Change?

Background

The GT licence Standard Special Condition A11 (7) requires Gas Transporters to establish and operate modification procedures so as to better facilitate the achievement of the Uniform Network Code or Network Code relevant objectives. A11 (9) (ac) (c) requires that the modification rules provide for the making of alternative modification proposals and A11 (9) (ac) (da) requires proper evaluation of whether Self-Governance is appropriate. The licence does not require an Alternate or the original Modification Proposal to be implemented although in the case of modifications that require an Authority Determination this has been the case in the vast majority of modifications. Since the implementation of the UNC in June 2005 there have been 12 cases where the authority has rejected both a Modification Proposal and its Alternatives.¹

The recent changes to the Self-Governance arrangements as a result of UNC Modification 0596 (Implementing CGR3 decisions on Significant Code Reviews and self-governance), mean that more modification proposals are likely to follow the Self-Governance route, with a corresponding increase in likelihood that Alternate proposals will arise. This means that providing clear governance for Alternatives to Self-Governance Modification Proposals is increasingly important.

There is also the possibility of “mixed modifications” where the original is SG or Authority Decision but the Alternative is the other. Although rare this has occurred in the past.² The existing governance process does not fully handle this situation.

Why Change

Should a party wish to propose an Alternate to a SG proposal now the Joint Office, as Code Administrator, is of the opinion that it would not be able to accept that Alternative since the Modification Rules do not explicitly provide for it. This is unsatisfactory and inefficient.

¹ 0054, 0115, 0150, 0151, 0156, 0194, 0228, 0246 (including two alternatives), 0282, 0335, 0369 and 0418 (information provided by Joint Office).

² 0479S was raised as an alternative to 0479, it was later, in December 2014, determined not to be an alternative and was re-numbered 0522

Amendment to the Modification Rules is the preferred route to ensure that the intent of the Self-Governance procedures are maintained; that Panel determines implementation for matters that are not likely to have a material impact on the Self-Governance Criteria that are described in the GT Licence. The option to escalate such SG (competing) Alternatives to Ofgem for Direction is not considered to be a suitable solution simply because the presence of an Alternative does not, in itself, constitute a material impact on one or more of the SG Criteria.

Without the change then Self Governance Modifications with Alternatives might fail before even being considered at Panel and this is potentially contrary to the obligations set out in the GT Licence. It is sensible to put in place Modification Panel processes that allow some reconsideration of these proposals with the aim maximising the implementation of a modification that satisfies the Relevant Objectives rather than none being implemented.

“Mixed modifications” will result in conflicting governance which is at best undesirable.

The **section** below discusses options **for** Panel voting and “mixed modifications”

Options

Panel voting

The key issue is the voting arrangements at Panel in relation to determining which should be implemented if Panel determines that two or more modifications satisfy the relevant objectives. Currently Modification Rules (MR) 9.4.2 provides a process for Panel to provide a view to the Authority in the case of Authority Decision modifications. This needs to be replicated for Self-Governance proposals except that in this case Panel needs to make a determination. A problem occurs where Panel voting does not result in a Panel Determination to implement one of the proposals but the proposals facilitated the relevant objectives and as a result no proposal is implemented because panel could not make a determination. There are two possible ways forward for SG Modifications Proposals with one or more Alternatives:

- 1) Resolve the issue at the panel meeting.
- 2) Resolve elsewhere and / or at a future panel meeting.

Resolve at the panel meeting:

This is the fastest path to resolution and includes:

1. Do nothing – this is the current position, no majority exists and none can be implemented. A new modification proposal would need to be raised to address the issue.
2. Have a second Panel Vote on the tied mods only (in case there are two or more alternatives). This does not work in the case of one alternative and is therefore incomplete in itself.
3. The Chairperson to have a casting vote only in this specific circumstance. It should be noted that the Chairperson does not have the casting vote on implementation matters for Authority Direction Modifications Proposals.

Refer elsewhere and / or resolve at a future panel meeting

4. The modifications become Material and require Authority – this would require a change to the Self-Governance criteria which would require a change to the GT licence, it also abrogates the Panel's responsibilities in respect of Self-Governance.
5. Refer to the Authority for a View (existing Modification Rules 12.8 would need extending) and return to a subsequent Panel for re-vote. Note that a View is generally binding on Panel – this

abrogates the Panel's responsibilities in respect of Self-Governance.

6. Defer to a future Panel meeting to allow for wider informal consideration by the proposers, Shipper and IGT parties and re-vote. Also allow the one or more of the proposers to request, or for Panel to decide, that Panel refers the issue back to workgroup if the Panel has a reasonable expectation that this further period will result in a revised proposal that has more support.
7. Amend the call in rules to allow Ofgem to call in the proposals after a Panel vote.
8. Clarify the Appeal provisions to allow a Party to appeal to Ofgem in the case where the new rule on making a Panel Determination of which proposal it prefers does not lead to a determination to implement one of them. The current Appeal Criteria (see Appendix 1) is written to refer to the case of one SG Modification Proposal and this needs amending to clarify that this also applies to the case where the Panel does not determine a preference where there are Alternatives.

Of the above options 1, 3, 6, 7, 8 and possibly 5 are feasible. Option 1 is the current unsatisfactory position. Option 3 means a decision is made but not by panel members and is preferable to option 5 and 7 which passes the responsibility to the Authority. As noted above the Chairperson does not have a casting vote on implementation for Authority Decision Modification Proposals so to introduce it for Self-Governance Modification Proposals only would not be consistent. Option 6 means Panel Representatives and the wider UNC Parties take responsibility for making the decision but it would not necessarily result in decision to implement one proposal. Option 8 is the proposed option as this maintains the decision making with industry parties, which enables a party to appeal a non-implementation decision to Ofgem for resolution, but does not require it and allows industry parties to raise another proposal, should they wish, which they believe would have more support.

Mixed Modifications

For mixed modifications options include:

1. Redefining them all as Authority Direction modifications but it is difficult to justify changing from Self-Governance to Authority Direction solely because another proposal has been raised.
2. Treating (as opposed to defining them as Authority Decision) the Self-Governance Modification Proposals as Authority Direction and have them follow the Authority Direction route.
3. Giving Panel the power to request that the Authority reject the Self-Governance statement on the grounds that all proposals should follow the same governance process.

Option 1 will require a change to the Self-Governance criteria which would require a change to the GT licence and option 3 seems overly cumbersome. This leaves option 2 as the preferred way forward if change is required.

4 Code Specific Matters

Reference Documents

UNC Modification Rules: [https://www.gasgovernance.co.uk/sites/default/files/ggf/Modification Rules_30.pdf](https://www.gasgovernance.co.uk/sites/default/files/ggf/Modification_Rules_30.pdf) published at <https://www.gasgovernance.co.uk/general>

Knowledge/Skills

No special knowledge or skills are required.

5 Solution

Panel voting

The Modification Rules are amended

- 1) To put in place a new clause describing the process for Panel to determine its preferred modification status. This will be identical to 9.4.2 which describes how Panel forms a view on which proposal is preferred for Authority Decision proposals except were required to allow Panel to make a determination. 9.4.2 will be dis_applied for Self-Governance proposals.
- 2) ~~Amend the Appeal Criteria to allow an appeal where the new rule from (1) does not result in a Panel determination to implement one of the proposals. The appealing Party would be able to appeal any of the proposals included in the preference vote.~~

The proposed solution puts the responsibility for progressing the issue in the hands of the Parties to the UNC. This is consistent with the concept of Self-Governance.

Mixed Modifications

For mixed governance modifications, the Modification Rules will be amended to enable the Panel to treat the Self-Governance Modification Proposals or Alternatives as following the Authority Decision path. The Modification Rules need to cater for both the case where the first proposal was Self Governance and a subsequent proposal was Authority Decision and the case where the first proposal was Authority Decision and a subsequent proposal was Self Governance.

~~Amendments Required to Modification Rules~~

| Modification Rules paragraph | Purpose | Amendment required? |
|--|---|---|
| Panel voting on SG preference | | |
| Appeals Criteria | Describes the criteria for an appeal | -Yes Probably requires clarification to allow an appeal if there is a non implementation determination for a Self Governance Modification Proposal with Alternatives |
| 9.3.9 | Dis-applies some of the previous provisions in the case of Self-Governance modifications | Add 9.4.2 to this carve out |
| New clause | Mirrors 9.4.2 but relates to process by which Panel Determines a Self Governance preference (rather than a view on an Authority Determined proposal) | |
| 9.3.10(a) | Process by which panel makes an implementation decision on Self Governance Modifications. | May need amending or deleting to work with the new clause above. |
| 13 | Appeals | No. No changes to the appeal |

| | | |
|--------------------------------|--|---|
| | | process are proposed. |
| Mixed modifications | | |
| 6.6.1 | Process for Panel to issue Self-Governance statement | Yes. Modified to say that Panel cannot issue a Self-Governance statement for alternative to an Authority-Decision-Modification Proposal and that it should be treated as Authority-Decision. |
| 6.6.7 | Process for Panel to issue materiality statement where Self-Governance criteria are not satisfied | Yes. Needs to be modified in case where Panel has issued a Self-Governance statement for a Modification Proposal but an alternative proposal is raised that Panel believes should be Authority-Decision. This would require the original proposal to be treated as Authority-Decision. |
| 7.2.3 | Process for determining whether Self-Governance statement should be issued | Yes. Required if “mixed modification” solution is to treat Self-Governance proposals as Authority-Decision. |

6 Impacts & Other Considerations

Does this modification impact a Significant Code Review (SCR) or other significant industry change projects, if so, how?

This modification does not impact a Significant Code Review (SCR) or other significant industry change projects.

Consumer Impacts

There is no direct impact on consumers, although since this proposal will improve the modification process there will be some indirect benefit for consumers as some modifications are likely to be implemented more quickly.

Consumer Impact Assessment

Criteria

Extent of Impact

Which Consumer groups are affected?

No consumers are directly impacted by this modification.

What costs or benefits will pass through to them?

None identified.

| | |
|---|--|
| When will these costs/benefits impact upon consumers? | No costs or benefits directly impacting consumers. |
| Are there any other Consumer Impacts? | None identified. |

Cross Code Impacts

No Cross Code impacts identified.

EU Code Impacts

None identified.

Central Systems Impacts

There would be no Central System impact should this modification be implemented.

Workgroup Impact Assessment

The Workgroup considers this modification clarifies the UNC Modification Rules and associated change process to manage Self Governance modifications and their associated alternatives, or in scenarios where the one or more of the modifications and its alternatives is Self Governance and one or more Authority Direction.

Rough Order of Magnitude (ROM) Assessment

Not applicable.

7 Relevant Objectives

| Impact of the modification on the Relevant Objectives: | |
|--|-------------------|
| Relevant Objective | Identified impact |
| a) Efficient and economic operation of the pipe-line system. | None |
| b) Coordinated, efficient and economic operation of (i) the combined pipe-line system, and/ or (ii) the pipe-line system of one or more other relevant gas transporters. | None |
| c) Efficient discharge of the licensee's obligations. | Positive |
| d) Securing of effective competition: (i) between relevant shippers; (ii) between relevant suppliers; and/or (iii) between DN operators (who have entered into transportation arrangements with other relevant gas transporters) and relevant shippers. | None |
| e) Provision of reasonable economic incentives for relevant suppliers to secure that the domestic customer supply security standards... are satisfied as respects the availability of gas to their domestic customers. | None |

| | |
|--|----------|
| f) Promotion of efficiency in the implementation and administration of the Code. | Positive |
| g) Compliance with the Regulation and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators. | None |

This proposal is positive for relevant objective (c) as it supports compliance with A11 (9) (ac) (c). It is positive for relevant objective (f) as it makes the process for making determinations for Self-Governance Modification Proposals which have Alternatives more likely to produce a decision to implement one of the proposals.

8 Implementation

No implementation timescales are proposed. This modification would be best implemented at a quiet time in the monthly cycle of Modification Panel meetings subject to an Authority decision to do so.

9 Legal Text

Insert Proposers Suggested Legal Text where provided and not superseded by Transporters Text.

Legal text will be drawn up by the relevant Transporter at a time when the modification is sufficiently developed in line with the [Legal Text Guidance Document](#).

Legal Text has been provided by [name] and is [included below/published alongside this report]. The Workgroup has considered the Legal Text and is satisfied that it meets the intent of the Solution.

Text Commentary

~~Insert text here~~ [Legal Text Commentary has been published alongside this Workgroup Report.](#)

Text

~~Insert text here~~ [Legal Text has been published alongside this Workgroup Report.](#)

10 Recommendations

Workgroup's Recommendation to Panel

The Workgroup asks Panel to agree that:

- This modification should proceed to consultation.