

**UNC Request Workgroup 0683S Minutes
Offtake Arrangements Document (OAD) Review Updates – Phase 1**

Wednesday 03 July 2019

at Radcliffe House, Blenheim Court, Warwick Road, Solihull B91 2AA

Attendees

Alan Raper (Chair)	(AR)	Joint Office
Helen Cuin (Secretary)	(HCu)	Joint Office
Arran Poad*	(AP)	Northern Gas Networks
Ben Hanley*	(BH)	Northern Gas Networks
Bob Fletcher	(BF)	Joint Office
Darren Dunkley	(DD)	Cadent
David Mitchell	(DM)	SGN
Leteria Beccano	(LB)	Wales & West Utilities
Shiv Singh	(SS)	Cadent
Stephen Ruane	(SR)	National Grid NTS
Stevie Docherty *	(SD)	Northern Gas Networks

Copies of all papers are available at: <https://www.gasgovernance.co.uk/0683/030719>

The Workgroup Report is due to be presented at the UNC Modification Panel by 19 September 2019.

1. Introduction and Status Review

AR welcomed everyone to the meeting.

1.1. Approval of Minutes (05 June 2019)

The minutes from the previous meeting were approved.

2. Review of Outstanding Actions

Action 0403: Cadent (SS) to check with lawyers if Legal Text can be drafted based on criterion 3 of Section B3.1.1 and B3.6 in relation to the Request for Removal of Assets.

Update: SS confirmed Criteria 3 had been removed at the request of the Workgroup. **Closed.**

Action 0503: Reference Supplemental Agreement Document Section 4 amendments – Cadent (DD) to consider what changes might be required to the document in view of Workgroup discussions and feedback.

Update: DD confirmed the Section 4 ranges had been removed and the default text would be removed from the template. **Closed.**

Action 0504: Reference An 'Affected Party' – Cadent (DD) to consider removing bullet 5 relating to any impact to the gas flow from operator to operator from within the Modification.

Update: Modification amended. **Closed.**

Action 0601: Cadent (SS) to circulate any comments or advice from Dentons.

Update: Comments circulated. **Closed.**

Action 0602: Workgroup to provide comments on the LDZ to LDZ Recitals Template.

Update: DD, confirmed that the NTS to LDZ template had been mirrored. However other DNS needed to check the template and confirm it can be used. **Carried Forward.**

Action 0603: Cadent (DD) to remove all references in the OAD to recital annexes and replace them with the specific document titles for the recitals and supplemental agreements.

Update: DD confirmed this will be undertaken when providing the draft Legal Text. **Carried Forward.**

Action 0604: Cadent (SS) to clarify in the Modification solution that the process for removal of assets relates to operational sites only for the removal of redundant assets.

Update: Modification amended: See item 3.0. **Closed.**

Action 0605: Cadent (DD) to review paragraph 2.9 of the OAD to check if there are any conflicts in relation to current leases and the Modification. Also, to check that clauses 2.3 to 2.5 (OAD Offtake Subsidiary Document – Removal of Redundant Assets Process) align to the Business Rules in the Modification.

Update: See item 6.0. **Closed.**

Action 0606: Workgroup participants to look at historical examples to help identify possible split cost thresholds.

Update: DD proposed establishing a threshold for Redundant Asset to address the impasse on the allocation. The suggested threshold was £50k or less, anything above £50k would need to be negotiated and this would be referenced in the legal text. For further discussion on this item please refer to item 6.0. **Closed.**

3. Consideration of Amended Modification

SS provided the draft amended Modification for the Workgroup to consider, noting that the Workgroup Report submission date had been extended to 19 September 2019.

Before reviewing the amended Modification, LB wished to note at the recent DN forum Richard Pomroy / Tracey Saunders had raised some concerns about the proposed changes to the OAD potentially over-riding pre-existing Lease Agreements. LB stressed that where there is a Lease Agreement in place the OAD Redundant Asset process should not apply. This is because the landowner cannot dictate to the lease holder how to operate the site. It was suggested that the Modification should be amended to make sites with Lease Arrangements out of scope. DM concurred with WWU. LB further clarified that if the Lease holder is satisfied with a redundant asset being on site, and they do not wish to remove it, then they should not be forced to do so.

DD clarified the principle of the change and that site users may want use of the land. He suggested where there needs to be a change on site this would have to be negotiated and the Lease Agreement updated. LB stressed there should not be a process in OAD to replace pre-existing Lease Arrangements. The option of raising an Alternative Modification was briefly considered.

SR stressed the need to keep OAD balanced and there should be a level playing field. It was challenged that if Cadent agreed Leases for all sites then a change to OAD would not be necessary. The use of DN Leases was discussed further recognising that Cadent don't have Lease Agreements for many sites and are seeking to use the proposed OAD as the method for establishing the rules. DD explained the intention of the change is principally to provide parties a process and framework to interact.

It was recognised that the ability to relocate an asset was already covered within Lease Agreements. However, to remove an asset this would require the Lease Agreement to be changed. This would need to be negotiated separately. It was understood by the DNs that exclusion of this specific activity from Lease Agreements does not prevent parties entering into a dialogue about asset removal.

DD expressed concern about other DNs not being able to remove redundant assets. LB believed that the current process to re-negotiate Lease Agreements is available, and further stated that the Proposal must be clear; where there are no pre-existing conditions, the proposed OAD changes could be used, but where there any pre-existing Lease Agreements, OAD should not over-ride these.

It was challenged how the removal of assets was prevented by OAD. BH believed that where an element is silent or not included within the UNC, it would not prevent the removal of assets for commercial reasons. DD was however of the opinion that OAD needed to be amended to help facilitate the removal of assets. It was further challenged how a Lease Agreement being silent on the removal of assets issues was actually a deficiency, as it did not prevent Lease re-negotiations.

In acknowledgement of the points raised SS agreed to amend the Modification to make it clear where there are pre-existing Lease Agreements OAD would not over-ride these.

BF enquired about tri-partite agreements. LB confirmed that work is being undertaken on this with National Grid, (in particular with Ross on Wye), to put a Lease Agreement in place. DD clarified for Ross on Wye that Cadent are the site owner but are not party to the current Lease. It was determined that the Lease will need to be agreed between all three parties. This applies to a small number of other similar sites.

The Workgroup continued to review the draft amended Modification. It was clarified that the changes would only apply to operational sites not de-commissioned sites and this was now captured.

SR enquired about the site services only and if changes can be made to the recitals.

SR also enquired about the costs of removing assets, in particular for Health & Safety (H&S) reasons, bearing in mind Transporters over-arching responsibility for safety. SS clarified where the removal is done due to H&S it will be at the expense of the asset owner. This change is not intended to place any additional obligations that already exist for H&S, it is simply to record how costs will be treated.

Referring to the supplemental agreement template on Page 10, SR asked if Dentons can clarify that the OAD will not be changing and that there will not be an obligation to use a specified template. DD clarified it will not be mandatory to use the template and the template is simply here for guidance, although he expected existing variants would broadly similar.

SR suggested that the reduction in pressures may wish to be considered within the Modification. DD confirmed this has been removed from the Modification. Where there is a need to restrict gas offtakes this will need to be communicated in the PAD notice on the maintenance plan.

Following discussion on the amended Modification SS confirmed a further amended Modification Proposal would be submitted to capture discussions.

4. Consideration of Draft Legal Text

SS anticipated circulating the Draft Legal Text for the next meeting, dependant on the lawyer's availability.

5. Consideration of Lease Agreements and other options and Updating Supplemental Agreements (SAs)

Discussion of primacy of Lease Arrangements versus proposed OAD changes discussed under Agenda Item 3.0 - No further discussion.

6. Consideration of Redundant Assets Process

SR asked if there was more information on the materiality of this issue and if Cadent had considered what sites/assets would be captured by this process. He wanted to gauge the size of the issue and the likely impact on costs where the costs could come under £50k. DD believed redundant assets may increase more in the future as more assets come to the end of their life. However, the larger scale sites, (over £50k), would be limited.

The Workgroup briefly considered the thresholds. SR confirmed National Grid are still considering the threshold. At present National Grid could not commit to agreeing a threshold without further analysis and understanding the likely impact. SR enquired if there would be an impact assessment to quantify the likely take-up and to help parties better understand the materiality.

SR enquired about the H&S aspects for removing assets. DD confirmed this will be a separate process and is likely to be moved to Section G and dealt with under the “fix and repair” protocol.

DD confirmed that two papers had been published for information prior to today's meeting. These will need further refinement following discussions today.

It was agreed that the Cost Allocation Threshold would need further consideration at the next meeting. This would be added as a separate agenda item.

7. Development of Workgroup Report

Consideration deferred.

8. Next Steps

AR summarised the anticipated next steps as follows:

- Amendment to Modification Proposal 0683S
- Consideration of Cost Allocation Threshold & Apportionment
- Amendment to Subsidiary document (removal of redundant assets)
- Consideration of draft legal text

9. Any Other Business

None

10. Diary Planning

Further details of planned meetings are available at: <https://www.gasgovernance.co.uk/events-calendar/month>

Workgroup meetings will take place as follows:

Time / Date	Venue	Workgroup Programme
10:00 Wednesday 31 July 2019	Radcliffe House, Blenheim Court, Warwick Road, Solihull B91 2AA	Amendment to Modification Proposal 0683S Consideration of Cost Allocation Amended Subsidiary document (removal of redundant assets) Consideration of draft legal text Development of draft Workgroup Report.
10:00 Wednesday 04 September 2019	Radcliffe House, Blenheim Court, Warwick Road, Solihull B91 2AA	Conclude Workgroup Report.

Action Table (as at 03 July 2019)

Action Ref	Meeting Date	Minute Ref	Action	Owner	Status Update
0403	11/04/19	1.0	Cadent (SS) to check with lawyers if legal text can be drafted based on criterion 3 of Section B3.1.1 and B3.6 in relation to the Request for Removal of Assets.	Cadent (SS)	Closed
0503	09/05/19	2.0	<i>Reference Supplemental Agreement Document Section 4 amendments</i> – Cadent (DD) to consider what changes might be required to the document in view of Workgroup discussions and feedback.	Cadent (DD)	Closed
0504	09/05/19	2.0	<i>Reference An 'Affected Party'</i> – Cadent (DD) to consider removing bullet 5 relating to any impact to the gas flow from operator to operator from within the Modification.	Cadent (DD)	Closed
0601	05/06/19	2.0	Cadent (SS) to circulate any comments or advice from Dentons.	Cadent (SS)	Closed
0602	05/06/19	2.0	Workgroup to provide comments on the LDZ to LDZ Recitals Template.	ALL	Carried Forward
0603	05/06/19	2.0	Cadent (DD) to remove all references in the OAD to recital annexes and replace them with the specific document titles for the recitals and supplemental agreements.	Cadent (DD)	Carried Forward
0604	05/06/19	2.0	Cadent (SS) to clarify in the Modification solution that the process for removal of assets relates to operational sites only for the removal of redundant assets.	Cadent (SS)	Closed
0605	05/06/19	2.0	Cadent (DD) to review paragraph 2.9 of the OAD to check if there are any conflicts in relation to current leases and the Modification. Also, to check that clauses 2.3 to 2.5 (OAD Offtake Subsidiary Document – Removal of Redundant Assets Process) align to the Business Rules in the Modification.	Cadent (DD)	Closed
0606	05/06/19	2.0	Workgroup participants to look at historical examples to help identify possible split cost thresholds.	ALL	Closed