

UNC Final Modification Report	At what stage is this document in the process?
<h1>UNC 0760:</h1> <h2>Introducing the concept of a derogation framework into Uniform Network Code (UNC)</h2>	<div style="display: flex; flex-direction: column; gap: 5px;"> <div style="border: 1px solid #ccc; border-radius: 5px; padding: 5px; display: flex; align-items: center; gap: 10px;"> <span style="border: 1px solid #ccc; border-radius: 5px; padding: 2px 5px;">01</span> Modification         </div> <div style="border: 1px solid #ccc; border-radius: 5px; padding: 5px; display: flex; align-items: center; gap: 10px;"> <span style="border: 1px solid #ccc; border-radius: 5px; padding: 2px 5px;">02</span> Workgroup Report         </div> <div style="border: 1px solid #ccc; border-radius: 5px; padding: 5px; display: flex; align-items: center; gap: 10px;"> <span style="border: 1px solid #ccc; border-radius: 5px; padding: 2px 5px;">03</span> Draft Modification Report         </div> <div style="border: 1px solid #ccc; border-radius: 5px; padding: 5px; display: flex; align-items: center; gap: 10px;"> <span style="border: 1px solid #ccc; border-radius: 5px; padding: 2px 5px;">04</span> Final Modification Report         </div> </div>
<p><b>Purpose of Modification:</b></p> <p>This Modification seeks to introduce a framework for derogation as a concept in the Uniform Network Code (UNC), defining when and how these can be requested (Use Cases), as well as the process around consideration and approval or rejection of derogation requests. Also includes a Use Case for 'Net Zero Innovation' including the parameters, and evidence required.</p>	
	<p>The Panel recommends implementation.</p>
	<p><b>High Impact:</b></p> <p>Gas Transporters (including National Transmission System), Shippers, Central Data Service Provider (CDSP), &amp; 3<sup>rd</sup> parties involved in innovation projects may be consequentially impacted by any derogation requests approved by this framework.</p>
	<p><b>Medium Impact:</b></p> <p>None</p>
	<p><b>Low Impact:</b></p> <p>Suppliers, end consumers</p>

Contents		
1	Summary	3
2	Governance	4
3	Why Change?	5
4	Code Specific Matters	7
5	Solution	8
6	Impacts & Other Considerations	10
7	Relevant Objectives	13
8	Implementation	14
9	Legal Text	14
10	Consultation	14
11	Panel Discussions	15
12	Recommendations	16
13	Appended Representations	16
Timetable		
<b>Modification timetable:</b>		
Initial consideration by Workgroup	25 March 2021	
Workgroup Report presented to Panel	19 August 2021	
Draft Modification Report issued for consultation	20 August 2021	
Consultation Close-out for representations	20 September 2021	
Final Modification Report available for Panel	23 September 2021	
Modification Panel decision	21 October 2021	
Final Modification Report issued to Ofgem	22 October 2021	

 Any questions?

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## 1 Summary

The Proposer has looked to take the best practices from other energy Codes, and Ofgem's derogation process, and has discussed this proposal with a representative from Ofgem. The Proposer has also sought the opinion of the current Uniform Network Code (UNC) Panel Chair, who chairs many other industry Panels, including ones in the financial sector. The Chair has been able to offer valuable guidance based on her experience as to how derogation works in these other sectors.

### What

Currently there is no concept of derogation within the UNC, which means that where, for example, an innovation project need to be trialled there either needs to be a Modification to amend the relevant part of the UNC, which changes this for all on a non-time limited basis, or the trial needs to be amended or have additional unnecessary parameters to allow it to proceed.

The concept of derogations exist within Ofgem's Licence Conditions and other Codes (such as Distribution Connection and Use of System Agreement (DCUSA), Balancing & Settlement Code (BSC) & Supply Point Administration Agreement (SPAA)) and therefore it would seem logical that this principle should also exist within the UNC.

### Why

There are different scenarios, where there may be a need for a UNC Party to request a derogation. Currently this concept exists in other codes, with each code having specific cases where a party is eligible to apply. Without the concept of derogation, and a framework that lays out how this works, within UNC, there is no opportunity for derogation for any reason. Creation of the derogation framework should allow for different types of derogation categories 'Use Cases' to be defined as they are required by industry.

The Ofgem Sandbox exists in relation to licence derogations, and needs individual codes to also grant derogation where any project in the Sandbox impacts code, This is therefore restricted to codes that have the concept of Derogation, Ofgem have stated that the sandbox is currently aimed at electricity, and this is being addressed, however any changes are at least a number of years away, and therefore they can see there is a current and future need for derogations to be a concept within the UNC

The first Use Case, included in this proposal, would be in relation to Net Zero Innovation. Industry Codes are seen by many to prevent or restrict innovation. The process of requesting change can be lengthy and for new concepts, where there is no proof of benefit, it can be almost impossible to get positive decisions in a timely manner, if at all.

A large number of innovation projects and trials relate to facilitating the path to net zero. This is aligned with the Government's 10 Point Plan as well as Licence Conditions in place in RIIO (Revenue=Incentives+Innovation+Outputs) - 2.

Gas Transporters have obligations in the RIIO - 2 Licence amendments and their price control in relation to net zero, and innovation relating to net zero. Currently the innovation projects are hampered by the need to find solutions within the existing Code to allow for trials to take place. This not only restricts the solutions, but causes additional time and cost to the project, whilst not able to trial a complete solution (including changes to Code).

Facilitating innovation projects that further net zero is not only in line with Ofgem's, but also the United Kingdom's, strategic direction.

## How

This will be done via two separate, but associated elements within this modification request, both of which we expect to be implemented concurrently.

Firstly, to introduce the concept of derogation as a framework within the UNC including the parameters around how this can be applied for, evidence required, restrictions, and decision-making criteria, into the UNC. There will be separate use cases for derogation, with each use case being defined within the UNC. The idea is to allow UNC parties to apply for a derogation, under the relevant Use Case which the derogation request qualifies under, for their organisation.

Derogation requests may be for one, or a combination, of:

- a limited time or specific outcome goal,
- a specific area of code, and or
- a regional exclusion.

Derogations may be applied against the majority of sections of UNC and its related documents, except the following:

- Modification Rules,
- General Terms A (Dispute Process),
- any part of the UNC covered by a live Significant Code Review (SCR),
- any part of the UNC that impacts the ability of Suppliers or end consumers to switch

Secondly, will be to introduce the concept / principle of Use Cases under the derogation framework, with the introduction of Net Zero Innovation being the first Use Case.

## 2 Governance

### Justification for Authority Direction

The Proposer believes that the Modification will cause a material change to the UNC governance procedures or Modification procedures by introduction of the concept of derogation throughout the UNC. This, under the Self-Governance criteria, as defined in the Gas Transporters Licence Standard Special Condition A11, *'excludes a proposal that, if implemented is likely to have a material affect on the Uniform Network Code governance procedures or the Network Code modification procedures'*.

In addition, whilst this Modification does not have a material impact on competition or operation of the pipeline system, should this modification be approved then derogations of material impact may be requested for consideration, therefore the Proposer believes this consequential impact supports the proposal that this modification should be sent for Authority Direction.

### Requested Next Steps

This modification should:

- be considered a material change and not subject to Self-Governance
- be assessed by a Workgroup

### 3 Why Change?

#### Derogation Framework

Currently there is no concept of derogation within the UNC, which means that where, for example, an innovation project needs to be trialled there either needs to be a Modification to amend the relevant part of the UNC, which changes this for all on a non time limited basis, or the trial needs to be amended or have additional unnecessary parameters to allow it to proceed, which in turn may hamper the ability for an accurate assessment of the validity of the outcomes.

Derogations already exist as a mechanism within Ofgem's Licence Conditions and other Codes (eg DCUSA, BSC & SPAA) and therefore it would seem logical that this principle should also exist within UNC. The Ofgem Sandbox exists in relation to licence derogations, and needs individual codes to also grant derogation where any project in the Sandbox impacts code, This is therefore restricted to codes that have the concept of Derogation, Ofgem have stated that the sandbox is currently aimed at electricity, and this is being addressed, however any changes are at least a number of years away, and therefore they can see there is a current and future need for derogations to be a concept within the UNC.

Derogations may be applied against the majority of sections of UNC and its related documents, except the following:

- Modification Rules, including rules around derogations (once added)
- General Terms A (Dispute Process),
- any part of the UNC covered by a live Significant Code Review (SCR), or
- any part of the UNC that by derogation being granted, would impact the ability of Suppliers or end consumers to switch

Derogations from Licence or HSE requirements are out of remit of this Modification, however any UNC derogation approved would be deemed to only be valid where the other relevant derogations have also been granted.

All derogations will need to have supporting evidence provided, as per *Derogation Guidance Document*, further changes to which will fall under Uniform Network Code Committee (UNCC) control.

#### **Below is a brief outline of how the derogation framework would work in code and the guidance document.**

Derogation requests would need to be submitted to the Joint Office in accordance with the Innovations Derogations Guidance Document, to be circulated to UNC Panel members. Panel members will discuss the request at the first available UNC Panel, following a period of at least ten 10 Business days after submission to the Joint Office. Derogation requests must be submitted using the derogation application form with all sections completed, along with appropriate accompanying evidence.

Should the submitted evidence meet the minimum criteria as stated in the guidance document, the panel will vote to send the derogation out for industry consultation. The derogation, along with consultation responses will then be brought to the next available UNC Panel.

Panel members have discretion based on majority to defer derogation to a future Panel or specifically convened Panel for any application/s with a large volume of supporting documentation, or more complex applications.

Following receipt and discussion of consultation responses, panel have the ability, at their discretion to request additional information, and/or request a new, additional, consultation,

Derogation requests require a unanimous Panel vote in support of implementation to be approved.

Interested Parties have the ability to raise an appeal to The Authority within 15 days of the Panel decision. The Authority have the ability to overrule any Panel decision as the outcome of any appeal.

The derogation will take effect from the agreed date (no earlier than 16 days from date of decision), subject to no appeal raised being upheld, or remain outstanding with The Authority.

Should a derogation request not be approved by Panel, the application can only resubmitted if there is a material change to the proposed derogation request or reasons for rejection have been addressed.

Once a derogation has been approved the derogation details, containing name and type of party that applied, the areas of code that the derogation applies to, length of derogation, and any other specific conditions (eg location), will be published on the Joint Office website.

Whilst a derogation is live, any specific Meter Point Reference Numbers (MPRNs) that are included in the trial will have a flag in Data Enquiry Service (DES) to indicate that they are part of an Innovation Trial. For the avoidance of doubt, should a derogation be granted that covers an MPRN, but the MPRN is not actually part of the trial, the flag will not be active.

All derogations are either time or goal bound, and should the derogation result in demonstrated feasibility then a code modification will be required to be raised, and go through standard UNC modification proposal governance to request enduring changes to the UNC. The evidence from the trial should be included as part of the modification proposal justification, to aid industries, UNC Modification Panel and, where applicable, Ofgem's assessment.

Derogation Use Cases will be clearly defined in code and the qualifying parameters defined within the Guidance documents. Should a new Use Case be requested this will require a UNC modification to approve it to be added to code, with UNCC approval of the guidance document amendment to include the relevant parameters. Any approved Use Case will not be deemed live until the relevant parameters have been approved by UNCC. It is expected that the proposed changes to the guidance document will be developed in UNC workgroup as part of the workgroup discussions and development of the Use Case modification proposal.

Variations to approved (whether started or not) derogations may be requested by submission of a new derogation request via Joint office clearly showing it is intended to supersede the original derogation. This application should include clear change marking of differences to the already approved derogation, along with explanation and justification of the reason for the variation. It should be noted that an approved derogation does not need to be used in its entirety (eg 4500 MPRNs approved, only 2300 actually using derogation in reality,) and in these instances the proposer does not need to (but retains the option to) request a variation.

For example, a variation would be expected to be requested where evidence is unable to be provided to support a UNC modification proposal until late within the derogation, or the UNC modification proposal is taking longer than originally anticipated. In this case the proposer has the ability to request an extension to the derogation as a variation based on the raising and timeline of the modification proposal.

### **Net Zero Innovation Use Case**

The Ofgem Sandbox exists in relation to licence derogations, and needs individual codes to also grant derogation where any project in the Sandbox impacts code, This is therefore restricted to codes that have the concept of Derogation, Ofgem have stated that the sandbox is currently aimed at electricity, and this is being addressed, however any changes are at least a number of years away, and therefore they can see there is a current and future need for derogations to be a concept within the UNC.

Currently, Innovation projects need to come up with ways to ensure that they stay within the existing Code framework. However for more challenging items, e.g. net zero, this may not always be possible. This

'restriction' can cause lengthy delays to innovation projects whilst they come up with alternative solutions to ensure Code compliance. The other option available to them is to raise a modification to change existing Code, this is then done without fully knowing whether these changes work to fully facilitate the innovation project's intended outcomes. If any changes needed to be reversed a further new modification would then be required.

Without the concept of derogations within the UNC, multiple innovation projects could be delayed or abandoned as there could be no effective way to trial the benefits without needing Code changes. Gas Transporters have obligations in the RIIO - 2 licence amendments and their price control in relation to net zero, and innovation relating to net zero. Currently the innovation projects are hampered by the need to find solutions within existing code to allow for trials to take place. This not only restricts the solutions, but causes additional time and cost to the project, whilst not able to trial a complete solution (including changes to Code). These potential innovation projects and trials relate to facilitating the path to net zero and could be considered of national importance.

Facilitating Innovation projects that further net zero is not only in line with Ofgem's, but the United Kingdom's strategic direction. With the Prime Minister including in The Ten Point Plan for a Green Industrial Revolution *'Hydrogen: Working along side partners in industry aiming to generate 5GW of low carbon hydrogen production capacity by 2030 ..... Together this will develop resilient supply chains, support jobs and position UK companies at the forefront of an exciting growing global market, as well help things like industrial processes, industrial heat, power, shipping and trucking to make the shift to net zero.'* His pledge in support of Hydrogen as a green energy *'by a range of measures, including a £240 million net zero Hydrogen Fund'* can only be achieved by industry working together to facilitate the associated innovation projects that would allow targets including a hydrogen heating trials by 2023, and a hydrogen town by the end of the decade, to be met.

**Below is a brief outline of how the Net Zero Innovation Use Case would work in code and the guidance document.**

Net Zero Innovation derogations will be time, and possibly location, limited in nature to allow for a Net Zero project, trial or demonstration. The nature of these would usually be in relation to Innovation projects that have already been in place for a number of years and have met project related milestones before even considering a trial or demonstration.

The use case will be defined in code with clear qualifying criteria parameters, which will include it being for non-commercial innovation projects (ie, open Intellectual Property)

The evidence threshold will be clearly laid out within the guidance document with clear detail as to the type of evidence required.

## 4 Code Specific Matters

### Reference Documents

All areas of the Uniform Network Code and its related documents.

Data Services Contract

### Knowledge/Skills

Comprehensive understanding of the Uniform Network Code and related documents.

An understanding of the concept of Derogation, within energy or other industries, would be helpful.

## 5 Solution

### Business Rules

#### Derogation framework

1. Applications for derogations can only be made by valid UNC Parties defined in UNC General Terms A1.1.2(b)
2. Applications for derogations must clearly state which Use Case/s the derogation is made under. Derogation requests not submitted under, or meeting criteria of, a Use Case will be rejected.
3. Applications for derogations will only be deemed valid applications when made in accordance with the *Derogation Guidance Document (see appendix 1) as implemented with this modification and published on the Joint Office of Gas Transporters website.*
4. The following areas are out of scope for derogation applications
  - a) Modification Rules
  - b) General Terms A (Dispute Process)
  - c) Live Significant Code Review
  - d) Any part of Code that should a derogation be granted, would impact a supplier's, or end consumer's, ability to switch
  - e) 3<sup>rd</sup> party documents (eg NEXA, NEA etc) cannot be derogated from under this process
5. Derogation requests would need to be submitted to the Joint Office, to be circulated to each Transporter, each User, each Independent Gas Transporter, each Member, each Third Party Participant and each Non-Code Party (if any), the CDSP and the Authority. Panel members will discuss the request at the first available UNC Panel, following a period of at least ten 10 days after submission to the Joint Office
6. Initial Panel meeting will be to approve, by Panel majority, the Derogation request to be sent for industry consultation, with a second standard panel meeting to discuss responses received to consultation and vote on approving, by Panels unanimous consensus, the derogation request. The standard consultation period is 15 days, ending no more than 10 days before the scheduled Panel meeting where the Derogation is to be considered, however Panel have the discretion (by majority) to shorten or lengthen either or both of these this on a case by case basis.
  - a. Panel have the ability, to request additional consultation questions to be included on a case by case basis.
  - b. Panel have 'send back' abilities aligned to UNC MR 9.3.1 & 9.3.2 (Consultation) as well as the ability to send for an additional consultation which will defer any vote in relation to support of implementation until the next Panel, or 1<sup>st</sup> Panel no less than 5 Business Days after the Joint Office has received the relevant responses as requested by Panel.
7. A representative of the submitting party must be present at each of the relevant Panels to present a summary of the request and answer any questions Panel may have.
8. Panel members have discretion based on Panel majority to defer the vote to approve derogation to a future Panel (excluding extraordinary Panel) for any applications with a large volume or of supporting nature, or more complex applications.
9. Derogation requests require a unanimous Panel vote in support of implementation to be approved.

10. The derogation will take effect from the agreed date (no earlier than 16 days from date of decision), unless overruled by the Authority, or subject to an active appeal to the Authority.
11. Should a derogation request be rejected by Panel, then there is no right of appeal to Panel, nor can the application be resubmitted without it containing material changes.
12. Authority appeal process is aligned with Modification Rules (MR) 13.5 – 13.11
13. Approved derogation requests will only be deemed to be valid once any other required and relevant licence, or mandated body, derogation has also been granted.
14. Where a derogation is approved for a stated length, with an unfixed start date, or is dependent on items as per the above business rule, this will be granted with a backstop date. The start date of the actual derogation within this period will be confirmed by the UNC Panel following consultation with the applicant and Code Administrator after the granting of the derogation has occurred. This date will be communicated to all relevant parties, including Ofgem, and published on the website no later than 16 working days before it is due to commence.
15. Once a derogation request has been rejected or approved the derogation details, containing name and type of party that applied, the areas of code that the derogation applies to, length of derogation, and any other specific conditions (eg location), will be published on the Joint Office website no sooner than the business day following the business day in which the notice in Business Rule 15 has been sent.
16. A notice of rejection or approval of Derogation, including the information included in Business Rule 14, or where applicable a notice of rejection of Derogation, will be issued to the applying party as soon as practicable.
17. An approved Derogation may be used in its entirety, or used in a limited capacity by the application party (eg a derogation may be approved for 4500 meter points, however only 2500 meter points may actually be part of the trial).
18. An approved derogation may be varied by submission of a new derogation request via Joint office clearly showing it is intended to supersede the original derogation, along with clear change marking of differences to approved derogation.
19. At the end of the derogation period/milestone the proposer must issue a statement to the Code Administrator confirming that they have now reverted back to standard UNC, including any system changes. This should be submitted on (or before) the date the derogation ends. (Should this not be received it will be assumed that the party is in breach of code).

## **Use Cases**

1. Use Cases, are defined in UNC, with additional information provided in the guidance documents
2. Removal. Updating of (UNC text), or addition of Use Cases needs to be requested via UNC standard modification process. (for the avoidance of doubt, changes to additional text in the Guidance Document is required to follow the standard UNCC process for Code Related Documents)

## **Net Zero Innovation Use Case**

1. A derogation request may only be submitted where is related to a project, trial or demonstration that is directly relating to net zero, as defined in the Gas Transporters Licence Special Condition 1.1, and in accordance with the required evidence and parameters as stated in the Derogations Guidance Document.

## 6 Impacts & Other Considerations

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

This Modification Proposal itself does not impact the current SCR. The Modification Proposal, should it be implemented, excludes any areas of Code relating to any live SCR from being included in a derogation request.

### Consumer Impacts

Derogation allows for temporary changes to specific parts of code under set parameters, this should cause less impact to the market, and therefore consumers, than a full modification change that affects all parties, allowing for more controlled and monitored temporary change.

In relation to the Net Zero Innovation Use Case, facilitating innovation should benefit end consumers of all types, as innovation projects are in general about either improving the end consumer experience, or at least facilitating this through the supply chain. Innovation directly relating to net zero, has long term benefits for not only industry as a whole and the end consumer, but also the environment.

Allowing derogation for Gas Transporter or Shipper net zero innovation projects would also facilitate improvements that could then be built upon by the Supplier and rest of the energy supply chain, which should result in further improvements for the end consumer.

### Cross Code Impacts

Whilst this Modification does not directly impact any other Codes, derogation requests received may impact areas of Code that the Independent Gas Transporters (IGT) UNC points to, and/or derogations may be more effective if they do not have additional constraints of needing to specifically exclude IGT sites, therefore the IGT UNC may wish to consider a similar, aligned Modification, to allow derogation within the IGT UNC.

For information: IGT Modification IGT154 has been raised and is expected to follow similar timelines to this Modification proposal. The initial drafting states that where a derogation is approved in the UNC this will also apply to any IGT where relevant.

Should this Modification be implemented, applications for derogation may need to be made across multiple Codes for the same project, any Cross Code impact across these derogation requests should be noted and managed on a case by case basis, and the proposer would be expected to identify these in their application.

### EU Code Impacts

Whilst we do not believe that this proposal impacts any EU energy code, individual derogation requests raised, should this Modification be implemented, might. Any impacts would need to be identified by the proposer and stated in the derogation request.

### Central Systems Impacts

Whilst this Modification itself does not have a direct impact on the CDSP, any individual derogations requested following the implementation of this Modification may have consequential impacts.

The CDSP may need to create a process for parties to enquire and receive information about the potential system impacts of any derogation request they are wishing to submit, as well as the CDSPs capability to facilitate required changes. The impact of each derogation request will depend on the area of Code and ultimately whether the derogation request is approved or not.

There is the potential ability for a flag to be utilised at MRPN level to indicate if a site is currently subject to a derogation applying.

At 04 August 2021 Workgroup discussed the involvement of the CDSP in the derogation application process, recognising that they would need to assess individual derogation requests to understand any impacts to processes, systems, file formats etc.

## Joint Office Impacts

Creation and maintenance of page and register on the [www.gasgovernance.co.uk](http://www.gasgovernance.co.uk) website.

Administration of applications and decisions, including critical friend role.

Creation of new processes and documentation.

## Workgroup Impact Assessment

Panel Questions to be addressed in Workgroup:

Q1. Consider Ofgem's Energy Regulation Sandbox.

The Workgroup discussed the concept of Ofgem's Energy Regulation Sandbox and how it has been applied to other codes. It was also suggested that other industry codes such as the BSC (Balancing and Settlement Code), DCUSA (Distribution Connection and Use of System Agreement) and CUSC (Connection and Use of System Code) should be reviewed to gain a better understanding of how the Sandbox arrangements have been applied to them. The proposer confirmed that how derogations operate in other industry codes had been reviewed and also that they had discussed the sandbox with Ofgem and confirmed that it was more relevant to the electricity industry and therefore not suitable for this Modification.

Q2. Consider scope and whether restriction to the stated net zero type projects is appropriate.

A participant suggested broadening the scope of developing this Modification, which would be more beneficial for the industry and during discussions workgroup agreed that the scope of the Modification should be wider than just Net Zero. Following workgroup discussions between March 2021 and June 2021 the proposer agreed to amend the Modification to a framework agreement which would accommodate all derogations. The framework would then link to a specific 'use case' and in this case it would be for Net Zero. The revised Modification 0760 introduces the concept of derogation and the first 'use case'.

The Ofgem representative confirmed that Ofgem would prefer a narrow scope (Net Zero) for the moment but would consider broadening in the future.

Q3. Consider whether other areas of code in addition to those identified should also be ring fenced.

The workgroup discussed the ringfenced areas and particularly the section that facilitates a consumer changing supplier or shipper. It was agreed that this should be ringfenced to protect consumers from not being able to switch supplier or shipper. The proposer pointed out that as each derogation would be unique it was difficult to fully assess which areas of code should be ringfenced. They also explained that the derogation application process required that full details of the areas of code impacted are provided as mandatory:

- *A clear description of the non-compliance including reference and text of section or sections that the derogation from is required*

Following discussion at workgroup it was agreed that the following areas would be ringfenced. It was also noted that future Modifications could be raised if other areas of code were deemed to need ringfencing / excluded.

(a) **"Excluded Code Provision"** means:

- (i) the provisions of GT Section B;
- (ii) the Modification Rules;
- (iii) any provision of the Code which is, at the date the application is submitted, within the scope of a Significant Code Review or the subject of a Significant Code Review Modification Proposal; and
- (iv) any provision of the Code which facilitates a consumer changing supplier or shipper and which (in the opinion of the Modification Panel) could be adversely impacted by a proposed UNC Derogation;

Q4. Consider whether Panel is the correct place for these derogations to be discussed and if so, should any terms of reference be updated.

The Workgroup considered the role of the UNC Modification Panel and its powers to make decisions on derogation projects. Some participants suggested that the Modification Panel may be more suited to carrying out a check of administrative requirements rather than assessing the actual merit of a project. One participant mentioned other code Panels which had more stringent oversight and decision-making abilities including having a “kill switch” option.

Following review of the guidance document one workgroup participant agreed with the checklist but questioned as a UNC Panel member how they would consider consumer impacts v other parties v competition when there is a conflict, requesting that it is made as easy as possible for Panel to come to a decision. The Ofgem representative confirmed that Ofgem want most decisions to be made by Panel, therefore, UNC Panel need clear guidance. The proposer clarified that the Guidance Document contained details of the minimum information required to satisfy the derogation application.

Following workgroup discussion, it was agreed that Panel were best placed to approve derogation requests and the proposer confirmed that derogation applications would only be approved if it was a unanimous decision by Panel.

The level of Ofgem’s involvement in the process was also discussed, including their role in approving the final project and their role if an appeal was made. The proposer confirmed that any party, following a decision by Panel, could raise an appeal to Ofgem regardless of whether the Panel decision was approval or rejection.

Q5. Consider constraints in terms of size of project eligible.

Workgroup noted that for the UNC Modification Panel to approve or reject a project requesting derogation, it would need to see evidence of what work has been carried out and other relevant information with workgroup agreeing that it was difficult to determine the size and scope of a project before the project was sufficiently developed. The proposer confirmed that this would all form part of the application process as was detailed within the guidance document which had quite stringent conditions that needed to be met as defined within the legal text:

- (b) "Derogation Eligibility Criteria" means the eligibility criteria set out in the Derogation Guidance Document;

Questions from PAC

Q1. Modification 0760 has the potential to impact PAC reporting and careful consideration should be given to how any solution would interact with PAC notification.

The CDSP representative explained that they would need a reasonable level of understanding in order to assess the impact of a derogation on (e.g. system, process, file formats, reporting etc) and suggested that they ‘shall’ be included as part of the impact assessment rather than ‘should’. The proposer agreed with the

suggestion and the process flow and application form would be amended to ensure any CDSP impact be reported. They also confirmed that, where appropriate, the start date of the derogation could be linked to other considerations (e.g. system changes, HSE approval etc).

Q2. Monitoring of Code obligations and settlement impacts is vital to PAC these should be carefully considered by the Workgroup

The concerns from PAC were noted by workgroup and as outlined above the individual reporting requirements and impacts of any derogation should be clearly outlined within the application process including any specific reporting requirements as identified.

Other Points Discussed:

A Workgroup participant asked if a party must be fully licenced before they can put forward a request and the Workgroup discussed the merits of allowing non-UNC Parties to raise derogations. The proposer advised the User must be a valid licensed party acceded fully to the Uniform Network Code but did suggest that a later modification could be raised to add non-UNC Parties if required.

Following discussion at workgroup it was agreed to restrict the access to UNC Parties, noting that a change could be made at some point in the future if it needed to be widened.

## 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

Currently under UNC there is no ability to allow derogations from sections of Code, which often restricts, for example, innovation projects and related trials. A large number of innovation projects relate to working towards net zero, which Gas Transporters have specific Licence Conditions under RIIO2 to deliver. This Modification helps facilitate this and furthers Relevant Objective c) *efficient discharge of the licensee’s obligations*.

This mechanism will allow parties to apply for derogations making non-compliance visible. It will allow the impacts on other parties to be known and considered, as well as the actions the applying party is taking to mitigate these. Therefore, by ensuring these are considered, and by adding transparency, this furthers f) *promotion of efficiency in the implementation and administration of the Code*.

## 8 Implementation

It is proposed that this Modification is implemented at the earliest opportunity upon the direction of the Authority.

## 9 Legal Text

Legal Text has been provided by Northern gas Networks and is published alongside this report, here: <https://www.gasgovernance.co.uk/0760>

The Workgroup considered the Legal Text at its meeting on 06 July 2021 and is satisfied that it meets the intent of the Solution. Northern Gas Networks as Proposer assured Workgroup on 04 August 2021 that the changes to Legal Text since 06 July 2021 were minimal with Workgroup in agreement.

## 10 Consultation

Panel invited representations from interested parties on 19 August 2021. The following table provides a high-level summary of the representations received and are provided for reference on a ‘reasonable endeavours’ basis only. It is recommended that all representations are read in full when considering this Report. Representations are appended to this Final Modification Report.

Implementation was unanimously supported in the 6 representations received.

Representations were received from the following parties:

Organisation	Response	Relevant Objectives
National Grid	Support	f) - positive
Northern Gas Networks	Support	c) - positive f) - positive
Oil & Gas UK	Generally Supportive	
ScottishPower	Support	c) - positive f) - positive
Scotland Gas Networks and Southern Gas Networks	Support	c) - positive f) - positive

Wales & West Utilities	Support	c) - positive f) - positive
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Please note that late submitted representations will not be included or referred to in this Final Modification Report. However, all representations received in response to this consultation (including late submissions) are published in full alongside this Report and will be taken into account when the UNC Modification Panel makes its assessment and recommendation.

## 11 Panel Discussions

### Discussion

The Panel Chair summarised that Modification 0760 introduce a framework for derogation as a concept in the Uniform Network Code (UNC), defining when and how these can be requested (Use Cases), as well as the process around consideration and approval or rejection of derogation requests. Also includes a Use Case for 'Net Zero Innovation' including the parameters, and evidence required.

The Panel Chair noted that there were 6 consultation responses supporting implementation.

Panel Members recognised that innovation is likely to play a major role in progressing the UK's Net Zero ambitions and this Modification supported that aim.

This Modification creates a framework to support wider use of derogations, however the Use Case criteria being established at this time is focused on Net Zero innovation.

Panel Members also recognised that derogations may become a key enabler in new technologies and processes and this Modification provides the means to test new ways of working, in a managed and controlled way, prior to making any enduring changes.

Panel Members noted that clarity and tight controls around derogations was needed to avoid any adverse impacts to UNC Parties.

### Consideration of the Relevant Objectives

Panel Members agreed that this Modification had a positive impact on objective f) Promotion of efficiency in the implementation and administration of the Code and c) Efficient discharge of the licensee's obligations for Distribution Network Operators.

### Determinations

Panel Members voted unanimously that no new issues were identified as part of the consultation.

Panel Members voted unanimously that Modification 0760 does not have an SCR impact.

Panel Members noted that Modification 0760 does have Cross Code impacts as there is an equivalent IGT UNC Modification in progress and implementation should be coordinated.

Panel Members voted unanimously to recommend implementation of Modification 0760.

## 12 Recommendations

### Panel Recommendation

Panel Members recommended that Modification 0760 should be implemented

## 13 Appended Representations

Representation - National Grid NTS

Representation - NGN

Representation - Oil & Gas UK

Representation - ScottishPower

Representation - Scotland Gas Networks and Southern Gas Networks

Representation - Wales & West Utilities Ltd

## Representation - Draft Modification Report UNC 0760

### Introducing the concept of a derogation framework into Uniform Network Code (UNC)

Responses invited by: **5pm on 20 September 2021**

To: [enquiries@gasgovernance.co.uk](mailto:enquiries@gasgovernance.co.uk)

*Please note submission of your representation confirms your consent for publication/circulation.*

<b>Representative:</b>	Darren Lond
<b>Organisation:</b>	National Grid NTS
<b>Date of Representation:</b>	20 <sup>th</sup> September 2021
<b>Support or oppose implementation?</b>	Support
<b>Relevant Objective:</b>	f) Positive

#### Reason for support/opposition: Please summarise (in one paragraph) the key reason(s)

National Grid NTS supports the implementation of this Modification Proposal, innovation is likely to play a major role in UK plc progressing towards its Net Zero ambitions and therefore the industry processes and UNC will need to evolve to support the UK's journey. However, not all innovation will be successful, therefore the introduction of derogations in a balanced and controlled way, in order to facilitate trials and/or demonstrations will allow this, without the time needed for enduring change to be progressed for something which may not be ultimately be successful.

National Grid NTS is of the opinion that derogations may become a key enabler in new technologies and processes demonstrating success and justifying an enduring requirement to change and the use of derogation will support the provision of the evidence required to support a future modification.

The Modification Proposal includes detailed process steps to ensure that any application for derogation is well developed and has been subject to industry consultation and UNC Modification Panel consideration prior to any approval. Additionally, the inclusion of the requirement for a unanimous decision from the UNC Modification Panel for any approval should ensure that only those applications which are fully developed progress. We feel this is an important safeguard but recognise the importance of an appeal process which is also a component of the Proposal.

We note that this Proposal is primarily focussed on facilitating the introduction of Net Zero related innovation into UNC but welcome the inclusion of an element of future proofing through the introduction of the concept of Use Cases and the opportunity to add further Use Cases via a UNC Modification process should they be required in the future.

Finally, National Grid NTS believes that transparency in this process is key to ensuring all parties are aware of any derogations, both within the approval process and once active. We therefore support the inclusion within the proposal of the Joint Office, holding and publishing a central register of all derogations and appropriately flagging them against the relevant provision(s) within the prevailing version of UNC, ensuring that key element of transparency to all interested stakeholders is delivered.

As a result, National Grid NTS believes that the Modification Proposal furthers Relevant Objective (f) – Promotion of efficiency in the implementation and administration of the Code.

### **Implementation:**

Implementation can be following an approval from Ofgem, however any implementation should take account of the lead time required by the Joint Office to support its administration of the process.

### **Impacts and Costs:**

None identified

### **Legal Text:**

National Grid NTS is satisfied that the legal text meets the intent of the solution

### **Are there any errors or omissions in this Modification Report that you think should be taken into account?**

None

### **Please provide below any additional analysis or information to support your representation**

None

Joint Office

[enquiries@gasgovernance.co.uk](mailto:enquiries@gasgovernance.co.uk)

15<sup>th</sup> September 2021

Dear Sir or Madam,

**Re: 0760 Introducing the concept of a derogation framework into Uniform Network Code (UNC)**

Thank you for the opportunity to provide representation on the above noted Modification Proposal. Please find below Northern Gas Network's (NGN) comments in respect of this change.

**NGN supports this Modification Proposal.**

**Reason for support/opposition:**

Please summarise (in one paragraph) the key reason(s)

We support this proposal as we believe the introduction to UNC of a derogation framework within UNC, along with a Use Case for Net Zero Innovation, will aid in the UK being able to achieve net zero targets. This modification will allow trials for solutions, that are on the pathways towards net zero (eg Hydeploy, H100, and H21), to be carried out in a controlled way. This will aid in assessing the feasibility of both the physical and regulatory solution without enduring code changes that would impact all and require costly system changes. In addition this should also aid in proof of concept, so that should a solution be deemed viable and beneficial, the evidence and analysis to justify an enduring UNC code change is available. For these reasons we believe this furthers Relevant Objective f) *the promotion of efficiency in the implementation and administration of the Code.*

Additionally, RIIO-2 has introduced obligations for Gas Transporters relating to progression towards net zero targets through innovation. The introduction of the Net Zero Innovation Use Case, to be used under the derogation framework therefore furthers Relevant Objective c) *Efficient discharge of the licensee's obligations.*

**Implementation:**

What lead-time do you wish to see prior to implementation and why?

This proposal could be implemented upon receipt of approval from Ofgem. We note, however, that any timetable should take into account the Joint Offices timeline for setting up forms and process to support the application and other administrative processes required for derogation requests.

**Impacts and Costs:**

What analysis, development and ongoing costs would you face?

NGN has identified no analysis or development required and no ongoing costs incurred as a result of this proposal. However should this proposal not be implemented there is a risk of

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the network**

currently unquantifiable costs in relation to having to find alternative ways to test innovation solutions. There is also the additional risk that, due to enduring solutions not being able to be trialed, this could lead to extensive delays to the timelines of these projects.

### **Legal Text:**

Are you satisfied that the legal text will deliver the intent of the Solution?

We agree that the legal text will deliver the solution, and the addition of the guidance document should aid parties to understand the process and what is required by applicants.

### **Are there any errors or omissions in this Modification Report that you think should be taken into account?**

Include details of any impacts/costs to your organisation that are directly related to this.

None identified.

### **Please provide below any additional analysis or information to support your representation.**

As the proposer of this modification proposal I confirm that the proposal has been discussed at length in industry workgroups and, as a result of the invaluable input from other workgroup participants, has been considerably amended in scope from its initial draft to take into account feedback and suggestions from workgroup parties.

Whilst this proposal introduces a framework for derogation, which should allow for additional Use Cases to be added in the future should parties so wish, the primary focus of this proposal has been to facilitate derogation within the UNC for net zero related innovation. This focus is due to the commitment that the United Kingdom, along with many other countries, have on reaching net zero in the coming decades, with the Prime Minister publishing his 10 point plan. This plan has placed specific timelines on the energy industry in relation to hydrogen trials and a hydrogen town, this proposal will better enable these objectives to be met.

I hope these comments will be of assistance and please contact me should you require any further information in respect of this response.

Yours sincerely,

Tracey Saunders (via email)  
Market Services Manager (Industry Codes)  
Mobile: 07580 215 743

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**Submitted via email by OGUK**

Hi all,

We discussed these at our most recent member forum but have not had time to fill in the template but on the above mods.

0760 – we are generally supportive.

Best regards

Will

**Will Webster**  
Energy Policy Manager

## Representation - Draft Modification Report UNC 0760

### Introducing the concept of a derogation framework into Uniform Network Code (UNC)

Responses invited by: **5pm on 20 September 2021**

To: [enquiries@gasgovernance.co.uk](mailto:enquiries@gasgovernance.co.uk)

*Please note submission of your representation confirms your consent for publication/circulation.*

<b>Representative:</b>	Claire Louise Roberts
<b>Organisation:</b>	ScottishPower
<b>Date of Representation:</b>	20 September 2021
<b>Support or oppose implementation?</b>	Support
<b>Relevant Objective:</b>	<b>c)</b> Positive <b>f)</b> Positive

#### Reason for support: Please summarise (in one paragraph) the key reason(s)

ScottishPower agrees with the principle of the modification and what it seeks to achieve. This is a good idea to promote innovative developments and the modification would align the UNC with the BSC sand-box arrangements.

However, clarity will be needed on exactly what derogations are being requested and tight controls in place to avoid any adverse impacts to UNC Parties (e.g. system, process, file formats, reporting, cost etc).

Each application should be considered on its own merits, there should only be one application for any particular proposal, to ensure there is no duplication of the same derogation.

There needs to be clear time limits on each application depending on the merits and risk of the application being made. Clearly defined reporting requirements need to be in place prior to any proposal being approved and the right for UNCC to make recommendation conditional on a variation of the applicants requested derogations.

**Implementation:** *What lead-time do you wish to see prior to implementation and why?*

ScottishPower agrees implementation could be as soon as the authority make their decision. IGT UNC 154 is following a similar timetable to UNC 0760, to keep both modifications aligned, it would be good if the authority could consider them together.

**Impacts and Costs:** *What analysis, development and ongoing costs would you face?*

We are unable to quantify or identify any impacts at this stage. As we move towards Net Zero this type of request is anticipated to become more frequent and an impact assessment would be completed on a case by case basis.

**Legal Text:** *Are you satisfied that the legal text will deliver the intent of the Solution?*

No assessment of the legal text has been undertaken

**Are there any errors or omissions in this Modification Report that you think should be taken into account?** *Include details of any impacts/costs to your organisation that are directly related to this.*

None

**Please provide below any additional analysis or information to support your representation**

No further comments

## David Representation - Draft Modification Report UNC 0760

### Introducing the concept of a derogation framework into Uniform Network Code (UNC)

Responses invited by: **5pm on 20 September 2021**

To: [enquiries@gasgovernance.co.uk](mailto:enquiries@gasgovernance.co.uk)

*Please note submission of your representation confirms your consent for publication/circulation.*

<b>Representative:</b>	David Mitchell
<b>Organisation:</b>	Scotland Gas Networks and Southern Gas Networks
<b>Date of Representation:</b>	20 <sup>th</sup> September 2021
<b>Support or oppose implementation?</b>	Support
<b>Relevant Objective:</b>	c) Positive f) Positive

#### Reason for support/opposition: Please summarise (in one paragraph) the key reason(s)

SGN supports this modification proposal as it will facilitate a derogation framework within Uniform Network Code (UNC). Having a derogation process within the UNC will enable innovation projects to be trialled without having to raise a UNC modification which would need a period of time to be developed. The concept of allowing a derogation for concepts to be trialled is something that is present in other industry codes where there is a risk that the benefits from the concept may not materialise which can be a barrier to the concept being tried. This modification proposal will allow Gas Transporters who have obligations in RIIO-2 to trial innovation projects relating to Net Zero which will aid the UK in being able to achieve its net zero targets. If approved this modification will provide Gas Transporters the flexibility to test the concepts of their projects without a requirement for code changes that may require costly system changes that would impact code parties. We believe that this change would facilitate Relevant Objective f) the promotion of efficiency in the implementation and administration of the Code. In addition to fulfilling this code objective we believe that Relevant Objective c) Efficient discharge of the licensee's obligations is also discharged as it would allow Gas Transporters to fulfil our RIIO-2 obligations.

#### Implementation: *What lead-time do you wish to see prior to implementation and why?*

Following an authority decision to implement this modification we would recommend that the modification is implemented at the earliest opportunity once the necessary processes are in place.

**Impacts and Costs:** *What analysis, development and ongoing costs would you face?*

If this modification is not implemented there would be a risk to our H100 innovation project keeping to its planned delivery dates, as we would need to look at alternative means of implementing the project from a codes perspective which could result in a number of code modifications being required.

SGN does not envisage any development or ongoing costs from this modification.

**Legal Text:** *Are you satisfied that the legal text will deliver the intent of the Solution?*

We are satisfied with legal text.

**Are there any errors or omissions in this Modification Report that you think should be taken into account?** *Include details of any impacts/costs to your organisation that are directly related to this.*

None identified

**Please provide below any additional analysis or information to support your representation**

We have no further analysis to provide.

## Representation - Draft Modification Report UNC 0760

### Introducing the concept of a derogation framework into Uniform Network Code (UNC)

Responses invited by: **5pm on 20 September 2021**

To: [enquiries@gasgovernance.co.uk](mailto:enquiries@gasgovernance.co.uk)

*Please note submission of your representation confirms your consent for publication/circulation.*

<b>Representative:</b>	Richard Pomroy
<b>Organisation:</b>	Wales & West Utilities
<b>Date of Representation:</b>	20 <sup>th</sup> September 2021
<b>Support or oppose implementation?</b>	Support
<b>Relevant Objective:</b>	c) Positive f) Positive

#### Reason for support/opposition: Please summarise (in one paragraph) the key reason(s)

We agree that that the introduction of a derogation process in the UNC will facilitate innovation. The initial use case is for Net Zero but we expect further use cases could be developed in future. This modification will further relevant objective (c) *efficient discharge of the licensee's obligations* by enabling Transporters to develop Net Zero projects such as hydrogen blending or villages as desired by the UK government's Net Zero strategy. It will also further relevant objective (f) *promotion of efficiency in the implementation and administration of the Code* by providing a clear process for derogations in the UNC avoiding the need for a time limited UNC modification. The information required for a derogation request is significant and we think that this and the requirement for a unanimous UNC panel vote in favour of granting the derogation provide sufficient safeguards for all interested stakeholders.

#### Implementation: *What lead-time do you wish to see prior to implementation and why?*

We agree that implementation can be no earlier than 16 day after an Authority direction to implement.

#### Impacts and Costs: *What analysis, development and ongoing costs would you face?*

None immediately, adjustments may be required for individual derogations but these will be assessed at the time.

**Legal Text:** *Are you satisfied that the legal text will deliver the intent of the Solution?*

Yes.

**Are there any errors or omissions in this Modification Report that you think should be taken into account?** *Include details of any impacts/costs to your organisation that are directly related to this.*

No.

**Please provide below any additional analysis or information to support your representation**

We expect that the Guidance Document may need some minor amendments following experience gained from the first derogation application.