

Modification proposal:	Uniform Network Code (UNC) 800: Introducing the concept of a derogation framework into Uniform Network Code (UNC) (Authority Direction)		
Decision:	The Authority ¹ directs this modification be made ²		
Target audience:	UNC Panel, Parties to the UNC and other interested parties		
Date of publication:	30 May 2022	Implementation date:	To be confirmed by the code administrator

Background

Currently, the UNC does not include the concept of derogation (relief from specific rules). However, the concept of derogation exists within some electricity industry codes already. For example, in Balancing & Settlement Code (BSC) and The Distribution Connection and Use of System Agreement (DCUSA).

The modification proposal

Modification proposal UNC 800: Introducing the concept of a derogation framework into Uniform Network Code (UNC) (Authority Direction) was raised by Northern Gas Networks (NGN) ("the Proposer") in February 2022. The Proposer states that, for a Net Zero innovation trial to commence, there either needs to be a Modification to amend the relevant part of the UNC for all users on a non-time limited basis, or the trial needs to be amended or have additional unnecessary parameters to allow it to proceed. Adjusting the trial in this way may hamper the ability for an accurate assessment of the validity of the outcomes.

¹ References to the "Authority", "Ofgem", "we" and "our" are used interchangeably in this document. The Authority refers to GEMA, the Gas and Electricity Markets Authority. The Office of Gas and Electricity Markets (Ofgem) supports GEMA in its day to day work. This decision is made by or on behalf of GEMA.

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

UNC800 is seeking to a) introduce the concept of a derogation as a framework within the UNC; b) introduce the concept of Use Cases to set the scope of areas that can use the derogation powers and; c) introduce the first use case for “Net Zero innovation”.

Derogation Use Cases will be clearly defined in code and the qualifying parameters defined within the UNC Derogation Guidance Document. The removal or addition of Use Cases needs to be requested via UNC standard modification processes.

The Proposer states that the modification will 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.

The UNC800 Final Modification Report outlines the Business Rules for the derogation framework describing the checks in place before a derogation is approved. The key steps include submission of the application for derogation to the Joint Office, an initial Panel meeting, industry consultation, final Panel meeting and, finally an Authority decision.

UNC Panel³ recommendation

At the UNC Panel meeting on 21 April 2022 the UNC Panel considered that UNC800 would better facilitate the UNC objectives and recommended its approval unanimously. Among the Panel members representing consumers, both the domestic consumer voting member and the non-domestic consumer voting member recommended implementation.⁴

UNC Panel members considered that UNC800 would better facilitate UNC Relevant Objectives (c) and (f).

Our decision

We have considered the issues raised by the modification proposal and the Final Modification Report (FMR) dated 22 April 2022. We have considered and taken into account the responses

³ The UNC Panel is established and constituted from time to time pursuant to and in accordance with the UNC Modification Rules.

⁴ [Determinations Record 21 April 2022.pdf \(gasgovernance.co.uk\)](#)

to the industry consultation on the modification proposal which are attached to the FMR⁵. We have concluded that:

- implementation of the modification proposal will better facilitate the achievement of the relevant objectives of the UNC;⁶ and
- directing that the modification be made is consistent with our principal objective and statutory duties.⁷

Reasons for our decision

UNC 760: Introducing the concept of a derogation framework into Uniform Network Code (UNC) was rejected by Ofgem on the 21 January 2022.⁸ UNC800 is the follow-up modification to the rejection of UNC760.

UNC760

Our reasons for rejecting UNC760 were three-fold: Firstly, we considered that all non-UNC derogations should have been granted before the UNC Modification panel reaches a decision. Secondly, the health and safety implications of a proposed derogation must, where relevant, be subject to a suitable and sufficient assessment prior to it being submitted to the UNC Panel for approval. Lastly, the derogation framework should align more closely with BSC and DCUSA arrangements in which Ofgem has an affirmative role in derogation decision making.

UNC800 – Reason One

Turning to the first reason (all derogations being granted before a UNC modification Panel decision) we believe UNC800 has addressed this concern. Panel approved UNC derogation

⁵ UNC modification proposals, modification reports and representations can be viewed on the Joint Office of Gas Transporters website at www.gasgovernance.co.uk

⁶ As set out in Standard Special Condition A11(1) of the Gas Transporters Licence, available at: <https://epr.ofgem.gov.uk//Content/Documents/Standard%20Special%20Condition%20-%20PART%20A%20Consolidated%20-%20Current%20Version.pdf>

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

⁸ <https://www.ofgem.gov.uk/publications/decision-reject-uniform-network-code-unc-760-introducing-concept-derogation-framework-uniform-network-code-unc>

requests will only be accepted by ourselves once any other required and relevant licence, or mandated body, derogations have also been granted. Unless consented to by the Authority.⁹

UNC800 – Reason Two

On the second reason, UNC800 also addresses our concerns with regards to safety which previously we felt were not adequately addressed. The FMR states that safety related matters, as stated in, but not limited to, the Derogation Guidance document must be satisfactorily concluded before the Panel is able to make a recommendation to us. Furthermore, Derogation applications must demonstrate the derogation does not adversely impact on the safe management of gas flow through a network, the arrangements to minimise the risk of a gas supply emergency, the arrangements for dealing with supply emergencies, and the arrangements for dealing with reported gas escapes and gas incidents. This includes hydrogen which is part of the Gas Act and is explicitly stated in the Derogation Guidance Document. We consider that these requirements will ensure that suitable and sufficient assessment, with regards to safety, will have been completed prior to a decision by the Panel.

UNC800 – Reason Three

Finally, UNC760's framework needed to be more closely aligned to the BSC sandbox and DUCSA. We feel that UNC800 addresses this requirement. Under the derogation framework proposed in UNC800 Ofgem is the deciding body in relation to Derogation requests, with the UNC Panel voting to make recommendations to us. We can approve, reject, or send back a derogation request that has been sent to us by the Panel. The new framework aligns to the derogation procedures in the BSC and DCUSA and gives us adequate scope to fully assess the impact of a derogation on the energy market.

Overall

We consider that the risk and interaction with other derogation requests, or similar, would be minimal. The process proposed in UNC800 is suitably robust to ensure that derogations are well justified and in the consumers' interest. We consider that our previous reasons for rejection have been addressed.

⁹This clause has been added to the framework to allow Ofgem the power to grant a derogation, and allow it to come into force, even if a non-UNC derogation is still waiting approval. This adds flexibility to us to progress innovation trials, if in our opinion, non-consequential non-UNC derogations are still outstanding.

UNC Relevant Code Objectives

We consider this modification proposal would better facilitate UNC Relevant Code Objective (c) and (f).

(c) so far as is consistent with sub-paragraphs (a) and (b), the efficient discharge of the licensee's obligations under this licence

The Proposer states that the modification's impact on the UNC Relevant Code Objective (c) would be positive.

The Proposer argues that a large number of innovation projects relate to working towards Net Zero, which Gas Transporters have specific Licence Conditions under RIIO2 to deliver. Therefore, this modification helps facilitate working towards Net Zero and so furthers UNC Relevant Objective (c).

Panel Members agreed that implementing UNC800 would have a positive impact because it helps support Net Zero targets. Modification consultation responses also agreed that the modification would further Relevant Objective (c).

We agree that UNC800 would allow licensees to facilitate Net Zero Innovation trials more efficiently under RIIO-2. We therefore conclude that the modification would have a positive impact on UNC Relevant Code Objective (c).

(f) so far as is consistent with sub-paragraphs (a) to (e), the promotion of efficiency in the implementation and administration of the network code and/or the uniform network code

The Proposer states that the modification's impact on the UNC Relevant Code Objectives (f) would be positive. This Proposer states that '[the derogation framework] 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 further (f)'. In their consultation response the Proposer notes that the

modification will allow for the assessment of both the physical and regulatory solutions for Net Zero trials, without the need to make enduring code changes. In addition, the evidence gathered in such trials will be beneficial to considering enduring UNC code changes if deemed necessary. The Proposer argues that both these reasons further Relevant Objective (f).

Panel Members agreed that implementation of UNC800 would have a positive impact because it would act as an enabler to progress innovation projects in the industry (potentially avoiding some Modifications) and provide an easier path towards Net Zero targets.

We agree that the Modification will allow trials to proceed more efficiently compared to current procedure. The evidence gathered in such trials could help inform wider Code changes that could in turn promote greater efficiency in the administration of the UNC. The framework proposed will improve transparency.

We consider the modification proposal will better facilitate this UNC relevant objective (f).

Decision notice

In accordance with Standard Special Condition A11 of the Gas Transporters licence, the Authority hereby directs that modification proposal UNC800: '*Introducing the concept of a derogation framework into Uniform Network Code (UNC) (Authority Direction)*' be made.

Chris Unsworth

Head of Stakeholder Engagement and Hydrogen

Signed on behalf of the Authority and authorised for that purpose