

Modification proposal:	Uniform Network Code (UNC) 056: Extending established UNC governance arrangements to include the Code Credit Rules document referenced in Section V3.1.2		
Decision:	The Authority ¹ has decided to reject this proposal		
Target audience:	The Joint Office, Parties to the UNC and other interested parties		
Date of publication:	28 September 2006	Implementation Date:	Not applicable

Background to the modification proposal

There are a number of procedural documents referred to in the UNC which set out how both Gas Transporters (GTs) and Users are required to implement certain UNC obligations. Whilst these documents may be referred to in the UNC, in some cases they are not themselves subject to joint ownership or governance; in particular change control has been entirely at the discretion of the GTs.

Currently, each GT is required to manage its transportation Code Credit Rules in accordance with Section V3.1.2 of the UNC. Section V3.1.3 goes on to state that the Code Credit Rules do not form a part of the UNC and that nothing in the UNC shall make compliance with such rules an obligation for the GT or Users.

On 23 March 2005, the Authority directed the implementation of Network Code modification 730², which had the effect of making revisions to certain documents subject to the approval by panel majority of the Network Code Committee. It was recognised at the time that the list of documents was not exhaustive, though the proposer also envisaged that any new procedural document setting out the detailed matters for the implementation of the Network Code obligations would also be covered by that proposal.

The modification proposal

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

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

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

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

² [Extending established Network Code governance arrangements to relevant Transco documents.](#)

UNC Panel³ recommendation

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

The Authority's decision

The Authority has considered the issues raised by the modification proposal and the Final Modification Report (FMR) version 3.0, dated 24 August 2006. The Authority has considered and taken into account the responses to the Joint Office's consultation on the modification proposal⁴ and has concluded that implementation of the modification proposal will not better facilitate the achievement of the relevant objectives of the UNC⁵.

Reasons for the Authority's decision

We note that the Joint Office received nine responses to its consultation on this modification proposal, of which seven were supportive. Those in support of the proposal generally commented that it would improve the relevant objectives of the UNC by improving transparency and accountability. Supporters variously felt that this would further facilitate effective competition between shippers and suppliers and/or promote efficiency in the administration of the UNC.

We would agree that the incorporation into of any document ancillary to what is now the UNC into the governance of the UNC increases transparency and accountability. To the extent that this gives parties greater confidence in the UNC arrangements and demonstrates a level playing field, we also agree with those respondents who suggested that this proposal could further facilitate effective competition. We also agree with those respondents who suggested that this proposal could appropriately be assessed against relevant objective f), the promotion of efficiency in the implementation and administration of the UNC.

Whilst we consider that certain aspects of this proposal could be beneficial, we have some concerns at its wider implications. We note that both of the respondents who opposed the proposal disagreed with the suggestion in the draft modification report that it would reduce the GTs level of contractual risk. One pointed out that whereas currently only GTs have the ability to instigate change to their own credit rules, this proposal would open this to Users. They considered that such change could result in significant financial detriment to GTs. They suggested that given the ability to raise changes to the Code Credit Rules, a potential debtor would be likely to seek relaxation of the GTs credit security policy. The other respondent stated that on all occasions proposed changes to the Code Credit Rules should be submitted to the Authority.

One of the respondents stated whilst they agreed with the principle of the proposals, they were unclear whether it would actually bring any benefit. They point out that several modifications to the UNC have recently been approved by the Authority which incorporated elements of the credit arrangements that were formerly set out in the Code Credit Rules. They also note that while the proposal seeks to involve the UNCC in

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

⁴ UNC Modification proposals, Modification Reports and Representations can be viewed on the Joint Office of Gas Transporters website at www.gasgovernance.com

⁵ As set out in Standard Special Condition A11(1) of the Gas Transporters Licence, see: http://62.173.69.60/document_fetch.php?documentid=6547

decision making, it in no way prevents a party from seeking to implement changes through the formal UNC modification process.

As referred to by one respondent, we have previously stated⁶ that the arrangements for credit cover should be governed by robust and transparent modification procedures. In this regard we believe that credit arrangements that have the potential for material impact on Users should be incorporated within the UNC, thereby providing a clear and consistent approach across relevant networks, making it easier for both new entrants and existing participants to familiarise themselves within the market rules and arrange their businesses accordingly.

Our view on this proposal is therefore based upon what we consider to be the materiality of its current content. As mentioned above, the Authority has recently approved a number of modifications which sought to bring UNC credit arrangements into line with what it considers to be best practice⁷. These modifications incorporated key elements of the credit arrangements, such as the assessment of credit limits into the UNC itself, rather than the ancillary Code Credit Rules. We also note that whilst the proposal seeks to amend Section V3.1.3 it does not seek to make the Code Credit Rules binding on any party. Given the above, we therefore consider that the Code Credit Rules will continue to have the status of guidance, rather than containing substantive provisions.

However, if the Code Credit Rules were to be binding upon parties, we would have greater sympathy with the views of the respondent who was concerned that material changes could be made without any recourse to the Authority. We note for instance that contemporaneous proposals to apply UNCC governance to a document such as the Uniform Network Code Validation Rules have retained the right of application to the Authority seeking Standard Special Condition A11 (18) disapproval of any modification to those rules. We consider such safeguards to be important, particularly where documents which are binding in their effect may be modified outside the UNC modification process.

Some aspects of this proposal have already been implemented, for instance the Code Credit Rules of the relevant GTs are now available on the Joint Office website⁸. We consider there is some merit in the publication of this document being clearly set out as an obligation in the UNC, thereby ensuring its ongoing provision rather than on a custom and practice basis.

⁶ UNC032: 'Adjustment to the number of days in the VAR calculation to bring the Code Credit Rules into line with the Best Practice Guidelines, Conclusions document Feb 2005'

⁷ [Best practice guidelines for gas and electricity network operator credit cover Conclusions document; February 2005](#)

⁸ www.gasgovernance.com/Code/UNCRel/

In conclusion, whilst we support measures that improve the transparency and accountability of UNC ancillary documents, we do not consider that the implementation of this proposal would better facilitate the relevant objectives of the UNC. If Users feel that there are elements of the Code Credit Rules which require revision or should more appropriately be subject to UNC governance, they are able to raise a UNC modification proposal to that effect.

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

Nick Simpson

Director, Industry Codes & Licensing

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