

Modification proposal:	<b>Uniform Network Code (UNC) 0321V: Approach to environmental assessments within the UNC (UNC0321V)</b>		
Decision:	The Authority <sup>1</sup> directs that UNC0321V is made <sup>2</sup>		
Target audience:	The Joint Office, Parties to the UNC and other interested parties		
Date of publication:	17 December 2010	Implementation Date:	31 December 2010

## Background to the modification proposal

In June 2008, we published guidance on the treatment of greenhouse gas emissions under the industry code objectives<sup>3</sup> (the 'GHG guidance'). Our GHG guidance set out how greenhouse gas emissions should be valued in the assessment of a code modification. We stated that, like Ofgem, code panels and workgroups should assess, against the relevant code objective<sup>4</sup>, the likely costs of emissions of code modification proposals. Our GHG guidance set out practical ways in which panels and workgroups should undertake this assessment.

We also noted that the GHG guidance was subject to development following further consultation. This consultation took place as part of our Industry Codes Governance Review ('CGR') and focused on whether panels and industry participants should formally take responsibility to assess the wider environmental impacts of code modification proposals as there appeared to be a continuing perception of this being desirable rather than essential.

In July 2009, the Government published revised guidance on the valuation of carbon emissions<sup>5</sup> (the 'DECC guidance'). The DECC guidance reflected changes to the way that greenhouse gas emissions would be valued:

- emissions in sectors covered by the EU ETS would generally be valued using a 'traded price of carbon';
- emissions in sectors outside of the EU ETS would be valued using a 'non-traded price of carbon' instead of using the shadow price of carbon.

Initial values for both prices were set out in the DECC guidance.

In March 2010, we published the final proposals of the CGR<sup>6</sup>. These proposals were given effect through changes to the network licence provisions. These changes were implemented on 5 July 2010 and take full effect on 31 December 2010.

As part of these proposals we restated our view that code panels and workgroups should assess the quantifiable impact on greenhouse gas emissions of any change proposals raised, where the impact is likely to be material. We reiterated that any assessment

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

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

<sup>3</sup> This guidance appears on the Ofgem website at:

<http://www.ofgem.gov.uk/Licensing/IndCodes/Governance/Documents1/Open%20letter%20response-%20final%20version%20of%20letter%2030%20June.pdf>

<sup>4</sup> Assessment should be made under the efficient and economic network operation code objective or related objective.

<sup>5</sup> DECC's guidance, 'Carbon Valuation in UK Policy Appraisal: A Revised Approach', is available at:

[http://www.decc.gov.uk/en/content/cms/what\\_we\\_do/lc\\_uk/valuation/valuation.aspx](http://www.decc.gov.uk/en/content/cms/what_we_do/lc_uk/valuation/valuation.aspx)

<sup>6</sup> The final proposals appear at:

[http://www.ofgem.gov.uk/Licensing/IndCodes/CGR/Documents1/CGR\\_Finalproposals\\_310310.pdf](http://www.ofgem.gov.uk/Licensing/IndCodes/CGR/Documents1/CGR_Finalproposals_310310.pdf)

should occur by reference to our published GHG guidance, which was itself updated to align with the DECC guidance<sup>7</sup>.

### **The modification proposal**

This proposal brings in an express requirement for the Panel and anyone who raises a modification proposal (the 'proposer') to consider whether there will be any material impact on GHG emissions. If so, there will be a requirement on the Panel and the proposer to assess the quantifiable impact. This will then be taken into account when assessing whether the modification better facilitates the applicable UNC objectives.

Assessments under this proposal will be carried out in line with Ofgem guidance published from time to time<sup>8</sup>.

The proposer considers UNC0321V will better facilitate relevant objectives (c) and (f)<sup>9</sup> and paragraph 9 of Standard Special Condition A11<sup>10</sup>. They believe the proposal will efficiently meet the licence obligation to assess the quantifiable impact on GHG emissions where applicable and will reduce 'unnecessary barriers and red tape', thus simplifying the change management process.

### **UNC Panel<sup>11</sup> recommendation**

The majority of consultation respondents felt that UNC0321V is better than baseline.

The UNC Panel (the Panel) met on 21 October 2010 and unanimously voted to recommend implementation of UNC0321V. The Panel and the some consultation respondents consider UNC0321V furthers paragraph 9 of Standard Special Condition A11<sup>12</sup> and relevant objective (f)<sup>13</sup>. This is because the industry are providing assessment of an additional element that the Authority will have to consider where applicable in reaching its decision. This proposal therefore seeks to provide more alignment between Panel and Ofgem considerations.

One dissenting view was that this proposal adds additional process and complexity. On balance the majority view in response to this proposal is that it furthers the relevant UNC objectives as set out in the paragraph above.

### **The Authority's decision**

The Authority has considered the issues raised by the modification proposal and the Final Modification Report (FMR) dated 6 December 2010. The Authority has considered and

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<sup>7</sup> The latest version of our GHG guidance (July 2010) to reflect updated values for the traded and non-traded prices of carbon appears at:

[http://www.ofgem.gov.uk/Licensing/IndCodes/Governance/Documents1/GHG\\_guidance\\_July2010update\\_final\\_080710.pdf](http://www.ofgem.gov.uk/Licensing/IndCodes/Governance/Documents1/GHG_guidance_July2010update_final_080710.pdf).

<sup>8</sup> See link in footnote 7 above.

<sup>9</sup> As set out in Standard Special Condition A11(1) of the Gas Transporters Licence, see:

[http://epr.ofgem.gov.uk/document\\_fetch.php?documentid=6547](http://epr.ofgem.gov.uk/document_fetch.php?documentid=6547)

<sup>10</sup> Of the Gas Transporters Licence

<sup>11</sup> The UNC Panel is established and constituted from time to time pursuant to and in accordance with the UNC Modification Rules

<sup>12</sup> Of the Gas Transporter Licence.

<sup>13</sup> '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'

taken into account the responses to the Joint Office's consultation on the modification proposal which are attached to the FMR<sup>14</sup>. The Authority has concluded that:

1. implementation of UNC0321V would better facilitate the achievement of the relevant objectives of the UNC<sup>15</sup>; and
2. directing that UNC0321V be made is consistent with the Authority's principal objective and statutory duties<sup>16</sup>.

### **Reasons for the Authority's decision**

We consider this proposal will further objectives (c) and (f) and paragraph 9 of Standard Special Condition A11 of the Gas Transporter Licence. We consider that the proposal is neutral regarding the remaining objectives.

#### *Paragraph 9 of Standard Special Condition A11*

Paragraph 9 of Standard Special Condition A11 sets the minimum requirements for the UNC change management process. This proposal requires the proposer and Panel to provide assessment of the quantifiable impact on greenhouse gas emissions of a proposal, where the impact is material, which is a factor considered by the Authority where applicable in reaching its decision. We consider that this will therefore improve the robustness of the recommendations and analysis contained in modification reports sent to the Authority for decision, which is the mechanism by which the UNC may be modified under paragraph 9(a) of standard special condition A11. Also, the UNC modification procedures will be more in line with the spirit of the Code of Practice in this respect<sup>17</sup>, furthering paragraph 9(h) of standard special condition A11. We consider that this proposal will therefore better facilitate achievement of paragraph 9 of Standard Special Condition A11.

*Standard Special Condition A11.1(c): so far as is consistent with sub-paragraphs (a) and (b), the efficient discharge of the licensee's obligations under this licence*

We agree with the proposer and majority of consultation respondents that this proposal better meets this objective. NGG is obliged by its licence to provide in the modification report a recommendation by the panel of whether to approve or reject a proposal. This must contain the factors justifying the making of the recommendation and those factors must include assessment of the quantifiable impact on GHG emissions of a proposal conducted in accordance with any guidance (on treatment of carbon costs and evaluation of greenhouse gas emissions) as may be issued by the Authority from time to time<sup>18</sup>. This is only where the impact is likely to be material. The assessment is to be in accordance with the latest version of the GHG guidance. We consider that this proposal improves consistency of the UNC modification procedures with these licence requirements as compared to the baseline.

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<sup>14</sup> UNC modification proposals, modification reports and representations can be viewed on the Joint Office of Gas Transporters website at [www.gasgovernance.co.uk](http://www.gasgovernance.co.uk)

<sup>15</sup> As set out in Standard Special Condition A11(1) of the Gas Transporters Licence, see: [http://epr.ofgem.gov.uk/document\\_fetch.php?documentid=6547](http://epr.ofgem.gov.uk/document_fetch.php?documentid=6547)

<sup>16</sup> 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.

<sup>17</sup> The introduction to the Code of Practice says that it is based on principles including the provision of 'rigorous high quality analysis of any case for Modification'.

<sup>18</sup> Standard Special Condition A11(15)(a)(iv)(bb) of the Gas Transporters Licence

Whilst noting that there are outstanding issues in relation to the legal text accompanying this proposal (see below), we consider that this proposal improves alignment of the UNC modification procedures with the licence requirements set out above as compared to the baseline and therefore does better facilitate efficient discharge of NGG's licence obligations as compared to the baseline.

*Standard Special Condition A11.1 (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*

We note that recent changes to the Authority's statutory duties clarified that our principal objective to protect the interests of existing and future gas and electricity consumers includes their interests in the reduction of greenhouse gases. The proposal would therefore not only improve alignment of the UNC modification procedures with NGG's licence obligations, but also help align the industry's assessment with this particular element of the Authority's own decision making process. This would be by obliging the Panel and workstreams to assess the impact on GHG emissions of modification proposals, where that impact is likely to be material. We consider this would have a broader beneficial impact on the efficiency of the UNC governance process therefore we consider better meeting objective (f) than the current baseline.

*Consolidated suggested legal text*

We note that NGG has produced consolidated legal text covering all of the CGR related proposals. This is to help others understand how the code rules will look if we were to direct implementation of all of the proposals (and not their alternatives where applicable). We consider this has been helpful. We also note that if NGG consider the consolidated text accurately reflects all of the CGR related proposals and we direct implementation of all of the CGR related proposals and not their alternatives where applicable (as the consolidated text does not reflect those alternatives), NGG/the Joint Office may choose to implement using the consolidated text.

We have raised a number of issues with NGG regarding compliance of certain aspects of the legal text for this proposal with requirements of standard special condition A11 in NGG's licence. We note NGG's letter of 15 December 2010<sup>19</sup> which sets out a process for dealing with the outstanding legal text issues through a further modification proposal. We note that NGG will meet with Ofgem to review the outstanding comments and gain a common understanding of the further change required. We consider that this is an appropriate way forward.

## **Decision notice**

In accordance with Standard Special Condition A11 of the Gas Transporters Licence, the Authority, hereby directs that modification proposal UNC0321V: Code Governance Review: Approach to environmental assessments within the UNC be made.

**Mark Cox**

**Associate Partner, Licensing and Industry Codes**

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

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<sup>19</sup> <http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=372&refer=LICENSING/INDCODES/CGR>