

Modification proposal:	Uniform Network Code (UNC) 0325V: DN Transportation Charging Methodology and Change Governance (UNC0325V)		
Decision:	The Authority ¹ directs that UNC0325V is made ²		
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

Many of the rules for participating in the gas and electricity markets in Great Britain ('GB') are set out in the industry codes. These codes also contain rules on their change management. Over the last two years, we have reviewed these rules on change management (the 'Code Governance Review' ('CGR'))³. Our aim is ensuring the change management rules stay fit for purpose; especially given the challenges facing the industry in the next ten years.

We published our final proposals on the CGR in March 2010⁴. These set out amendments to improve the change management of codes, such as the Uniform Network Code ('UNC'). To give effect to our final proposals, we made changes to National Grid Gas plc's ('NGG') Licence⁵ which come into force on 31 December 2010. Along with the Final Proposals, a 'Code Administration Code of Practice' ('the Code of Practice') was created⁶.

In response to the licence changes and Code of Practice, NGG has raised eight UNC code modification proposals⁷.

The modification proposal

This proposal seeks to move the prevailing gas distribution network transportation charging methodologies into the UNC, as a new Section Y Part B (referred to as 'the Charging Methodologies' below).

The proposal also seeks to change the UNC modification process as follows:

- (i) Requiring a meeting of a DN Charging Methodology Forum ('the Forum') at least every three months⁸.
- (ii) Prescribing that the forum will be a workstream to discuss "the further development of the applicable Charging Methodologies (and other charging related matters...)", includes representatives of materially affected parties ('MAP')⁹ (if any) and cannot be dissolved by the UNC Panel (the Panel).

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

³ Documents on the CGR can be viewed on our website at <http://www.ofgem.gov.uk/Licensing/IndCodes/CGR/Pages/GCR.aspx>

⁴ Final Proposals 43/10 - <http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=297&refer=Licensing/IndCodes/CGR>

⁵ Gas Transportation Licence.

⁶ <http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=328&refer=Licensing/IndCodes/CGR>

⁷ <http://www.gasgovernance.co.uk/CGR>

⁸ Unless there is no matter for discussion.

⁹ Materially affected parties are defined in Standard Special Condition A11 of the Gas Transporter Licence as: "any person or class of persons designated by the Authority for this purpose".

- (iii) Requiring the relevant transporter to provide information or assistance to a MAP (for the purpose of preparing a charging methodology modification proposal in respect of its network). This obligation is subject to a reasonable request and it being reasonably practicable for the transporter to provide the assistance/information asked for.
- (iv) To allow code signatories and MAPs to raise proposals to change the Charging Methodologies.
- (v) Requiring consideration of why a proposal to change the Charging Methodologies does not conflict with paragraphs 2, 2A and 3 of Standard Special Condition A4 of the Gas Transporter Licence. This will need to be provided by the proposer, the Panel (at the meeting when the proposal is first raised) and in the final modification report.
- (vi) Updating the definition of the relevant objectives of the UNC to reflect paragraph 24(a) of Standard Special Condition A11 of the Gas Transporter Licence (ie to include those relating the Charging Methodologies).

The proposer considers UNC0325V will better facilitate relevant objectives (c) and (d)¹⁰.

UNC Panel¹¹ recommendation

Consultation respondents generally supported UNC0325V and the proposed opening up of the ability to propose changes to the Charging Methodologies.

The Panel met on 18 November 2010 and unanimously voted to recommend implementation of UNC0325V. The Panel considers UNC0325V furthers the achievement of the new licence obligations and facilitation of competition; relevant objectives (c) and (d) respectively of Standard Special Condition A11(1) of the Gas Transporter Licence.

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 taken into account the responses to the Joint Office's consultation on the modification proposal which are attached to the FMR¹². The Authority has concluded that:

1. implementation of UNC0325V would better facilitate the achievement of the relevant objectives of the UNC¹³; and
2. directing that UNC0325V be made is consistent with the Authority's principal objective and statutory duties¹⁴.

Reasons for the Authority's decision

¹⁰ 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

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

¹² UNC modification proposals, modification reports and representations can be viewed on the Joint Office of Gas Transporters website at www.gasgovernance.co.uk

¹³ 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

¹⁴ 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.

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

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

NGG must ensure that the UNC includes the Charging Methodologies¹⁵. Therefore the UNC modification process applies to Charging Methodologies. NGG must also ensure that the UNC modification rules provide for the convening of a charging methodology forum for the purpose of discussing further the Charging Methodologies and provision of assistance by the licensee on reasonable request by a MAP for the purposes of preparing a proposal to modify the Charging Methodologies¹⁶. We consider that the proposal improves consistency of the modification rules with these requirements in the UNC.

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(d): so far as is consistent with sub-paragraphs (a) to (c), the 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

We consider that introducing the Charging Methodologies into the UNC opens up an equal ability for all code parties and MAPs to raise modification proposals to the Charging Methodologies. This may facilitate changes being proposed that could encourage or facilitate competition. In addition, by requiring a forum for discussion and development of proposals to modify the Charging Methodologies and providing assistance, this may in turn foster greater participation, give opportunity to develop proposals which may propose more competitive solutions where appropriate and therefore encourage competition. Therefore we consider the proposal does better facilitate objective (d).

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 consider this proposal also furthers the UNC's efficient administration under objective (f). For example, ensuring the availability of a forum for discussion and assessment of proposals to modify the Charging Methodologies could facilitate better analysis and preparation of both modification proposals and reports for panel recommendation/Authority decision. It is anticipated that the proposed changes will also facilitate transparency and access to the Charging Methodologies and associated change processes.

We note that a couple of respondents, whilst supporting UNC325V, considered that further rules may be needed around timings of modification proposals and what would happen in the case of differing opinions between proposers and the relevant transporter

¹⁵ Standard special condition A11(1) of the Gas Transporter Licence.

¹⁶ Standard special condition A11(9)(ab) and (ac) of the Gas Transporter Licence.

concerning potential conflicts with licence obligations. We note that parties can consider additional business rules if they feel that they are necessary in practice.

Paragraph 9 of Standard Special Condition A11

Paragraph 9 of Standard Special Condition A11 sets the minimum requirements for the UNC change management process. Paragraph A11(9)(ab) and (ac) require the UNC modification rules to provide for convening of a charging methodology forum for the purpose of discussing further the Charging Methodologies and provision of assistance by the licensee on reasonable request by a MAP for the purposes of preparing a proposal to modify the Charging Methodologies. We consider that this proposal improves consistency between these requirements and the UNC modification procedures. Also, the UNC modification procedures will be more in line with the spirit of the Code of Practice in this respect¹⁷, furthering paragraph 9(h) of standard special condition A11. Therefore, we consider this proposal better facilitates achievement of paragraph 9 of Standard Special Condition A11.

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 particular issues with NGG regarding compliance of certain aspects of the legal text for UNC modification proposal 0322V (Inclusion of 'The Gas Transmission Transportation Charging Methodology' and 'The Gas Transmission Connection Charging Methodology' within the UNC)¹⁸ with requirements of standard special condition A11 in NGG's licence. Our comments are set out in NGG's letter of 15 December 2010¹⁹. We consider that our comment in relation to "conflicts" between the legal text of proposal 0322V and proposal 0319V (Role of Code Administrators and Code Administration Code of Practice)²⁰ also arises in relation this proposal²¹.

We note that NGG's letter of 15 December 2010 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 UNC0325V: Inclusion of 'The Gas

¹⁷ 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'.

¹⁸ The Authority issued its decision on this proposal today. This can be found on our website.

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

²⁰ The Authority issued its decision on this proposal today. This can be found on our website.

²¹ Our comments are set out in NGG's letter of 15 December 2010

Transmission Transportation Charging Methodology' and 'The Gas Transmission Connection Charging Methodology' within the UNC be made.

Mark Cox
Associate Partner, Licensing and Industry Codes

Signed on behalf of the Authority and authorised for that purpose