

Modification proposal:	Uniform Network Code (UNC) 462: Introducing Fast Track Self Governance into the Uniform Network Code (UNC462)		
Decision:	The Authority ¹ directs that this proposal be made ²		
Target audience:	The Joint Office, Parties to the UNC and other interested parties		
Date of publication:	30 December 2013	Implementation Date:	To be confirmed by the Joint Office

Background to the modification proposal

Ofgem's Code Governance Review³ (CGR) sought to update and improve the industry code governance arrangements to ensure that they could effectively meet the challenges facing the industry, and to reduce complexity in order to increase transparency and accessibility for all industry participants.

The CGR final proposals in March 2010 included the introduction of a self-governance process into the UNC. Under this process, a modification proposal that would be unlikely to have material impacts on, for example, consumers, competition or sustainable development, could be determined by the UNC Panel without reference to the Authority for decision. We considered that allowing such modifications to be determined by industry would reduce costs and improve efficiency by facilitating faster implementation of modification proposals. We also considered it would ensure that our resources are focused on matters that are more material to consumers (and/or our other statutory duties), which is consistent with our Better Regulation duties.

In April 2012, we initiated a second phase CGR (CGR Phase 2) with the aim of extending the arrangements implemented through the CGR to other industry codes.⁴ At the same time, we considered whether any improvements could be made to the self-governance processes introduced by the CGR. Our CGR2 final proposals,⁵ which were implemented through licence modifications,⁶ introduced the requirement for a 'fast track' self-governance process to be included within the UNC. This process is aimed at ensuring further efficiencies in order that very minor 'housekeeping' changes could be made by the UNC Panel without the requirement to follow the full code modification process.⁷

The modification proposal

UNC462 was raised by the Scotia Gas Networks in order to implement the new 'fast track' self-governance process into the UNC.

The modification proposal recognises that the fast track self-governance modification process would only be used for minor housekeeping type changes. The proposed solution

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 CGR final proposals are here: <https://www.ofgem.gov.uk/publications-and-updates/code-governance-review-final-proposals-4310>

⁴ The CGR focussed primarily on the BSC, CUSC and UNC.

⁵ CGR Phase 2 final proposals are here: <https://www.ofgem.gov.uk/publications-and-updates/code-governance-review-phase-2-final-proposals>

⁶ In effect 5 August 2013.

ensures that modifications made through the fast track process would require unanimous support from the UNC Panel and that the modification may not be made via the fast track process if a party or the Authority objects to this within 15 working days of being notified. If an objection is received the modification may still be proposed, but may not proceed via the fast track self-governance modification process.

UNC Panel⁸ recommendation

The UNC Panel voted on UNC462 at their meeting on 19 December 2013. The Panel considered that UNC462 would better facilitate achievement of relevant objectives (c) and (f) and therefore recommended that the proposed modification be approved.

The Authority's decision

We have considered the issues raised by the modification proposal and the Final Modification Report (FMR) dated 19 December 2013. We have considered and taken into account the responses to the consultation which are attached to the FMR. We have concluded that:

1. Implementation of the modification proposal will better facilitate the achievement of the relevant objectives of the UNC;¹¹
2. Directing that the modification be made is consistent with our principal objective and statutory duties.¹²

Reasons for the Authority's decision

We agree with the proposer, the UNC Panel and those respondents who considered that the modification proposal better facilitates achievement of relevant objectives (c) and (f). We consider that the modification proposal is neutral in relation to the other relevant objectives.

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

The recent Gas Transporter licence modifications made to introduce the fast track self-governance process into the UNC are now in force. The changes proposed by UNC462 will ensure that gas transporters can efficiently discharge their licence obligations relating to the fast track process through the UNC governance procedures. We therefore consider that this modification better facilitates UNC objective (c).

Relevant Objective (f) promotion of efficiency in the implementation and administration of the Code

We agree with the UNC Panel and consultation respondents that UNC462 will enhance the discharge of relevant objective (f). It will avoid unnecessary use of industry resource in undertaking and responding to consultations where a very minor housekeeping change to the code is required, for example, due to a typographical error or some factual change. We consider that the introduction of this process provides a proportionate and pragmatic way of dealing with very minor changes. The fast track self-governance criteria, set out in the licence, will ensure that there are appropriate safeguards against any changes that might have a material impact on parties being progressed in this way.

Additional comments

It was discussed by the UNC462 workgroup that it was not necessary to set out in the code the required contents of the notice to parties under UNC clause 9.10.3(c) in the context of fast track self-governance modifications. Standard Special condition A11 15G(e) of the Gas Transporter licence specifies the requirements of such notice. In the event that the existing format of notices under 9.10.3(c) does not achieve compliance with this licence condition in the case of fast track modifications, we expect the licensees or code administrator to propose amendments to the existing notice template as appropriate.

We also note that the FMR for this proposal does not specify an implementation timescale, however, we expect that it will be implemented as soon as possible in line with the licence requirements.⁹

Decision notice

In accordance with Standard Special Condition A11 of the Gas Transporters Licence, the Authority hereby directs that modification proposal UNC462: *'Introducing Fast Track Self Governance into the Uniform Network Code'* be made.

Lesley Nugent

Head of Industry Codes and Licensing

Signed on behalf of the Authority and authorised for that purpose

⁹ Standard Special condition A11 23A of the Gas Transporter licence requires the licensee to use its best endeavours to ensure that procedures are in place that facilitate its compliance with the requirements of condition A11 no later than 31 December 2013.