

DN Sales Development & Implementation Steering Group Minutes

Meeting 35

4 February 2005, 10:00 am – 4:00 pm

Ofgem's office, 9 Millbank

2:00 PM – AFTERNOON SESSION – UNIFORM NETWORK CODE

2:00 pm – 4:00 pm

Attendees – Afternoon Session

Sonia Brown	Ofgem (chair)	Julian Bagwell	Macquarie
Jason Mann	Ofgem	Tory Hunter	SSE
Jessica Hunt	Ofgem	James Lawson	Centrica Storage
Mark Feather	Ofgem	Peter Bingham	NGT
Amit Pathare	Ofgem	David Ashbourne	Ofgem
Karen Gribben	Ofgem	Alan Raper	NGT
Chris Train	NGT	Alex Wiseman	CKI/UU
Caroline Whitfield	ILEX	Nick Wye	Macquarie
Mike Young	Centrica	Mike Ashworth	NGT
Steve Ladle	Total Gas & Power	Bob Bruce	Electa Bruce Ltd
Peter Bolitho	Eon	Sam Parmar	Statoil UK
Nigel Nash	Ofgem	John Costa	EDF Energy

Sonia Brown started the session saying that since the UNC has involved an extensive piece of work, it was decided to have a separate session to discuss the related concerns and issues.

She listed the following items on the agenda for the session, in order of discussion:

- 1) Nigel Nash to present a report from the SPA workgroup
- 2) Review of DISG issues
- 3) Questions or issues in relation to UNC

1. Report from the SPA workgroup

Nigel stated that a report from the SPAWG had been circulated to DISG members. In summary, the key concern of the group was in relation to the stability of services that shippers have been receiving from Transco.

Nigel then listed the main mitigating actions (via changes to the network code) as follows:

- Modification Proposal 717: introduce supply point information service within the code
- Modification Proposal 730: issue document in respect of ancillary issues

Nigel also mentioned that, in relation to the list of activities, xoserve will be issuing a revised version in March.

He added that most other issues had already been discussed, and that a final meeting would be organised in mid-March to get closure on any remaining issues.

Peter Bolitho noted that shippers are diligently progressing the network code modifications.

2. Review of DISG issues log

Sonia explained at the outset that the reference file was "DN Sales Issues Log V2.1.xls", and that the shaded issues in that document are those that had actually been closed as of 26 July 2004. The group then reviewed the remaining open issues. Version 2.2 of the DN Sales Issues Log, which has been updated to include revisions discussed at the meeting, will be made available with DISG 35 minutes.

3. DISG members to raise questions for Transco regarding UNC

Jess Hunt provided an update on Ofgem's position on credit. She said that Ofgem intends to publish its conclusions and decision document on the credit arrangements in mid February 2005. Once this document is published, Ofgem expects network operators and their counter-parties to take steps to bring their credit arrangements into line with the decision document. Jess said that Ofgem anticipates that the revised arrangements will be implemented and effective by no later than 1 October 2005.

Jess explained that during the interim period, (and without fettering the discretion of the Authority in respect of any modification proposal it may receive) the credit related sections of the UNC should only contain the minimum changes required to give effect to DN sales, and that "minimum change" does not include "one-out-all-out".

Mike Young suggested that the current arrangements were actually "one-out-all-out". Sonia said that the existing arrangements were only one-out-all-out because there is only one gas transporter, and that post DN sales this would change. She added that the onus would be on Transco to bring forward the credit related proposals.

Peter Bolitho questioned the practicality of not adopting a "one out all out" approach. Alan Raper indicated that it is possible for sites to be transferred from one shipper's portfolio to another on a network by network basis.

Peter Bingham stated that to get a flavour of how a one-by-one approach would work, interested parties could have a look at the proposals put forward by Transco in September. Mike Ashworth noted that a key difference between the revised proposals and the September proposals is that Transco NTS and RDNs would now be treated as a single entity for credit purposes as they would both be contained within a single legal entity.

Tory Hunter expressed her view that October would be too early to try and implement full credit reform. Sonia stated that the credit team would provide clarity through the process.

Moving to a discussion on the governance arrangements, Jessica related that a letter had been sent to Ofgem on behalf of the UNC development forum members, expressing the view that Ofgem should adopt a more step-by-step approach to UNC governance rather than proposing significant changes through the DN sales process. In response, Ofgem's view was that the approach developed through numerous discussions in the DISG and consulted upon through the Final IA was required to support a multi-transporter environment, and that any consequential amendments required to support the appeals mechanism should be made separate to the DN sales process.

Peter Bolitho remarked that the discussions with the DISG were based on the assumption that the panel that made recommendations would carry some weight in terms of appeals. Sonia explained that in the context of DN sales, Ofgem needed to be satisfied that it had a set of workable governance arrangements to protect customers in a diversified industry structure. She added that it would be possible for parties to the UNC to raise further UNC modifications after hive-down to address in the ongoing DTI appeals process. However, she stated a baseline would be required in order to develop the UNC in such a way that it will work in a divested structure.

As regards the process, Sonia pointed out that all Ofgem position papers and DISG minutes had been clearly posted on the Ofgem website. Mark Feather further elaborated the importance of the proposed governance arrangements in terms of preventing bias and ensuring no undue discrimination. Sonia stated that all comments which shippers had made had been considered carefully through the consultative process. She reiterated Ofgem's view that having appropriate governance measures was key, and reaffirmed her belief that the proposals that had been sent out were balanced.

Chris Train stated that the current proposals incorporated Eon's earlier DISG comments. Peter Bolitho said that the Eon proposals were made in the context of appeals. Sonia stated that since there still existed some uncertainty about the DTI process, Ofgem needed to ensure that their proposals protected the interests of customers in a multi-transporter environment. Sonia also stated that the industry would have a chance to respond in the UNC consultation.

Sonia then opened up the floor, asking whether anyone wanted to ask Transco any questions.

Mike Young began, stating that he had concerns about the process being followed by Transco in relation to the legal drafting. Elaborating on this point, he expressed his view that it would be difficult to frame rules in the current process, given that a number of the business rules had not been agreed and yet the UNC was being drafted at the same time (with an 18th February deadline). Mike had further questions on how the panel was to be constituted, and that minimum change was desirable.

He noted areas where the business rules weren't finalised, including governance, exit reform and transitional arrangements. Mike said that industry participants felt that they were not given sufficient time to review documents prior to being asked to provide feedback at workgroup sessions.

In relation to the transitional arrangements, Mike said that Transco has not responded to outstanding shipper concerns associated with the ramp-down of credit requirements, nor had they made clear the mechanism by which Transco's network code would be replaced with the UNC.

Chris Train stated that he was surprised at the concern in relation to exit reform, given that there had been an exit forum for some time. He further stated that he understood concerns related to the enduring regime, however, given the Authority's January decision, the current drafting amendments relate only to the interim arrangements and these rules had been framed at the beginning of the UNC development process. In relation to the legal drafting issue, Chris explained that the UNC drafting process involves taking business rules that have been agreed upon, and converting them into legal drafting. On credit determination and governance, he acknowledged the concerns that were raised, and stated that there would be a lot more work in this area over the next two weeks. He further expressed his confidence that the stated concerns would be addressed within that timeframe.

Mike Young then reminded Chris that he still had not addressed the issue of transition from the current code to the short-form code, expressing concern at the lack of visibility. Elaborating the point, he stated that it seemed that they had a view of where they were going to be, but no map of how they would get there, which critical points were to be covered, and how they would eventually transition to the UNC.

Chris replied that the high-level framework had been discussed and was a requirement for signing new agreements with other network operators. He added that Transco would consider preparing a paper on the transition process from the current code to the short-form codes.

Mike Ashworth stated that Transco saw the transition from the Transco network code to the UNC as being a simple process. He explained that since the Transco network code would not be closing, but would rather be modified into a short form code, it would be relatively easy to implement the UNC.

Regarding reconciliation, Mike Ashworth explained that invoices would need to be issued up to the period until the end of the Transco Network Code and then from the commencement of the UNC. He said that the sale agreements provided for invoices to be picked up by the relevant transporter. Mike said that a line in the sand was not required, as reconciliations would be resolved between GTs.

Chris Train stated that disputed reconciliations would need to be sorted out by the relevant transporter; in other words, the new owner would assume the responsibilities as well as the liabilities of the network.

Alan Raper stated the need to further develop the transitional rules for modification proposals currently in progress. Nick Wye enquired as to whether it was necessary for the UNC drafting process to be complete by 18 February, as there might be some issues that would need revisiting.

Chris Train replied that since the purpose of consultation was to concentrate the effort, Transco could not afford to fetter the outcome. He added that given the extensive consultation Ofgem had already done, he expected all issues to be addressed in the planned timescale.

Sonia then explained how all decisions were interrelated. She said that the Authority would not be able to direct the licence modifications unless they were comfortable with the decision to direct the network code modification. She added that Ofgem's UNC consultation would consist of a short covering letter to Transco's draft UNC which describes the process followed to date and invites interested parties to provide comments on the various aspects of the DN sales workstrands. She reiterated that a stable baseline would be needed and cautioned that if the UNC was not ready by 1st March, there would be an impact in terms of reaching a decision in April.

Steve Ladle expressed his concern that while Transco were checking the legal text which reflected the business rules, they were not being clear on the business rules themselves. To this, Chris Train replied that if there were any concerns where they could better explain, Transco would be happy to do so in the course of the next week's industry meeting.

Sonia said that once Transco is satisfied with the UNC and the process, Ofgem would consult on the same for 28 days alongside licence modifications and, having considered respondents' views, would then make a decision in April on whether to allow Transco to hive-down its assets on 1st May. Steve asked in response if that meant that the consultation could potentially be publishing the UNC in its then-existing form. Sonia replied that Ofgem would consult on the UNC as developed through Transco's process, and that views received through this consultation would form part of their (Ofgem's) decision-making process on hive-down.

Peter Bolitho asked if Ofgem had received copies of all responses to Transco's consultation. Sonia confirmed that they had, but clarified that it was up to Transco to decide whether or not to accept them. Chris added that they were on the Transco website.

James Lawson asked what would happen in a scenario where the UNC document was not fully developed. Sonia replied that having parallel processes for network code modification and the UNC would help maintain clarity of the overall process, which would, however, be up to Transco to manage.

John Costa enquired whether governance for Gemini would be incorporated in the UNC. Mike Ashworth indicated that Gemini was a part of the UK Link System and therefore would be subject to Section U of the Code. Sonia noted that as Gemini

was still in the process of being developed, NGT would initially take responsibility for Gemini; however once the system is up and running it would be passed through to xoserve (or other agency) to manage.

John further enquired as to how the costs of developing Gemini would be allocated between transporters, to which Sonia replied that it would be part of the agency agreement, which Transco would release in a short time. Peter Bingham confirmed the expected date as near the end of February.

Sonia stated that if Ofgem are concerned about discrepancies in cost allocation between networks, then they will check, but Ofgem would not otherwise interfere. She reiterated that Ofgem would only act to ensure that customer interests are protected.

Peter Bolitho expressed a number of concerns in relation to the scope of NTS/DN operator arrangements. He said that there appeared to be inconsistencies between the scope of the broad categories of issues set out in Section J of the UNC in relation to NExAs and the scope of the Offtake Arrangements, for instance in relation to ramp rates, notice periods and pressure commitments.

He emphasised that there was a need to ensure equivalence between the role of the NExAs and the role of the Offtake Arrangements. He therefore recommended that bilateral arrangements be kept short and technical.

Sonia said that Ofgem's position is consistent with Peter's view. Both Chris Train and Peter Bingham replied that they would take consideration of these issues.

Steve Ladle remarked that the whole of section J seemed to have changed, and that he would like to have a document that highlighted what had changed and what had moved to other locations. Mike Ashworth replied that they had put in revision markings to indicate the same.

Since there were no further issues, Sonia declared the DISG meeting closed, and stated that the next meeting would potentially be in two weeks (given the impending licence deadline on 14th February).