

Modification proposal:	Uniform Network Code (UNC) 0656: Changes to Modification Panel arrangements		
Decision:	The Authority ¹ directs this modification be made ²		
Target audience:	UNC Panel, Parties to the UNC and other interested parties		
Date of publication:	23 November 2018	Implementation date:	To be confirmed by the code administrator

Background

The UNC Modification Panel is composed of a Chair and representatives of a number of different parties.³ Not all representatives on the Panel are voting members.⁴ Historically, panel members have been nominated by the companies they work for to represent a relevant constituency. Should the panel member have a material change in circumstances, for example leave their current employment, the expectation was that they would also resign from the Panel.

In addition, the current governance arrangements allow a Panel member to delegate their role to an Alternate. However, the Alternate cannot then delegate to someone else in the event that they are unable to attend, for example, due to unforeseen circumstances.

The modification proposal

The modification proposal, UNC0656, aims to remove the risk that a conflict of interest could occur if a voting Panel member or their Alternate is representing a particular constituency but may be employed by, work for or otherwise act for a party who are part of another constituency on a day to day or ad hoc basis. The proposal looks to introduce a requirement on voting Panel members to confirm, prior to attending their first Modification Panel meeting, that they do not have any conflicting appointments. Failure to provide this will exclude them from the meeting. In addition, potential conflicts of interests may be raised with the Panel Chair and it is proposed the Panel Chair will investigate any claim and determine if in their reasonable option a conflict of interest exists. In the event that a conflict is identified, either by the voting Panel member themselves or the Panel Chair, the relevant Panel member must cease to be a Panel member and their Alternate (assuming they do not have a conflict) will be appointed to the Panel. In the event that there is no appropriate Alternate an urgent election will take place.

The proposal also looks to allow a voting Panel member to nominate two Alternates. In addition UNC0656 looks to extend the term of appointment for voting Panel members from 1 to 2 years. Lastly, it proposes that if a voting Panel member fails to participate in three consecutive Modification Panel meetings, they will cease to be a voting member and an urgent election undertaken to replace them.

¹ References to the "Authority", "Ofgem", "we" and "our" are used interchangeably in this document. The Authority refers to GEMA, the Gas and Electricity Markets Authority. The Office of Gas and Electricity Markets (Ofgem) supports GEMA in its day to day work. This decision is made by or on behalf of GEMA.

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

³ Gas Transporters, Users, Terminal Operators, Consumers, independent suppliers and independent gas transporters, the Authority.

⁴ The UNC states there can be for each group up to 5 gas transporter representatives, 6 User representatives, 2 consumer representatives, an independent gas transporter representative voting members.

UNC Panel⁵ recommendation

At the UNC Panel meeting on 18 October 2018, a majority of the UNC Panel considered that UNC0656 would better facilitate the UNC objectives and the Panel therefore recommended its approval.

Our decision

We have considered the issues raised by the modification proposal and the Final Modification Report (FMR) dated 19 October 2018. We have considered and taken into account the responses to the industry consultation on the modification proposal which are attached to the FMR.⁶ We have concluded that:

- implementation of the modification proposal will better facilitate the achievement of the relevant objectives of the UNC;⁷ and
- directing that the modification be made is consistent with our principal objective and statutory duties.⁸

Reasons for our decision

We consider this modification proposal will better facilitate UNC objective (f) and has a neutral impact on the other relevant objectives.

(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 agree with the majority of the Panel and most respondents that this modification should be implemented. UNC656 proposes a number of changes with an overarching aim to address concerns with the current arrangements as they apply to Voting Panel Members and their Alternates. The new provisions should allay concerns about possible conflicts of interests of voting panel members and should improve transparency in the governance arrangements. We also support the extension of voting panel member appointments from 1 to 2 years thereby reducing the administrative burden of the electoral process.

We note the concerns raised by a Panel member and respondents around the nomination of two Alternates by a voting panel member. We consider, however, that this new provision, alongside those concerning panel attendance, should encourage panel attendance effectively and ensure that constituencies are represented at each meeting, thereby better facilitating the implementation of the UNC.

⁵ The UNC Panel is established and constituted from time to time pursuant to and in accordance with the UNC Modification Rules.

⁶ UNC modification proposals, modification reports and representations can be viewed on the Joint Office of Gas Transporters website at www.gasgovernance.co.uk

⁷ As set out in Standard Special Condition A11(1) of the Gas Transporters Licence, available at: <https://epr.ofgem.gov.uk/Content/Documents/Standard%20Special%20Condition%20-%20PART%20A%20Consolidated%20-%20Current%20Version.pdf>

⁸ 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 as amended.

Decision notice

In accordance with Standard Special Condition A11 of the Gas Transporters licence, the Authority hereby directs that modification proposal UNC0656: Changes to Modification Panel arrangements be made.

Lesley Nugent

Head of Industry Codes and Licensing

Signed on behalf of the Authority and authorised for that purpose