

Modification proposal:	<b>Independent Gas Transporter Uniform Network Code (iGT UNC): Changes to the iGT Panel Rules (iGT UNC140)</b>		
Decision:	The Authority <sup>1</sup> has decided <sup>2</sup> to reject this modification		
Target audience:	iGT UNC Panel, Parties to the iGT UNC and other interested parties		
Date of publication:	31 August 2021	Implementation date:	n/a

## Background

The iGT UNC Panel (Panel) oversees, among other things, the modification process to the iGT UNC (the Code). It initially considers modification proposals as they are raised, oversees their development at workgroup, and makes either determinations or recommendations to the Authority on whether proposals should be implemented.

The Panel is comprised of six voting members: three IGTs and three shippers.<sup>3</sup> Two attendees from each constituency constitutes a quorum. There are other Panel places for non-voting members representing the large gas transporters<sup>4</sup>, the Authority, a consumer representative, and independent suppliers.

In September 2020 the number of shipper members on the Panel reduced from two to one following a Panel member's term ending. Continued efforts by Panel members and the code administrator to advertise vacancies and encourage parties to join the Panel have been unsuccessful.

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<sup>1</sup> 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.

<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> We use the term shipper to refer to the iGTUNC term 'Pipeline Users'.

<sup>4</sup> The gas distribution networks

Panel meetings are currently non-quorate. For decision making to continue, in line with the Code, meetings are convened and then adjourned, and then reconvened where quoracy rules no longer apply.

### **The modification proposal**

Eon Energy ("the Proposer") raised iGT140 on 11 May 2020 and it proposes several changes to existing Panel arrangements:

1. where there are Panel member vacancies, allow those votes to be shared within respective constituencies to elected panel members
2. requires meetings to meet new quoracy arrangements, removing the ability to hold non-quorate meetings. It will also reduce the panel quoracy limit for shipper members from two to one whilst maintaining at two for iGTs
3. introduces proxy voting
4. creates a code ancillary guidance document to assist Panel members in understanding how to apply the proposed new arrangements
5. updates some instances of code language, ie 'chairman' to 'chairperson'

The aim of the modification is to ensure that the panel can continue to efficiently make decisions in circumstances where a shipper or iGT constituency has a reduced membership due to unfilled vacancies without the need for rescheduled meetings.

The Proposer considers these changes are a pragmatic approach to help address the issue of quoracy in the IGT UNC and that iGT140 better facilitates relevant objectives (d) and (f).<sup>5</sup>

### **iGT UNC Panel<sup>6</sup> recommendation**

At the iGT UNC Panel meeting on 23 October 2020, a majority of the iGT UNC Panel considered that iGT140 would not better facilitate the iGT UNC objectives and the Panel therefore did not recommend its approval.

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<sup>5</sup> Securing effective competition, and promotion of efficiency in the implementation and administration of the Code respectively. Discussed below.

<sup>6</sup> The iGT UNC Panel is established and constituted from time to time pursuant to and in accordance with the iGT UNC Modification Rules

## Our decision

We have considered the issues raised by the modification proposal and the Final Modification Report (FMR) submitted to us on 26 October 2020. We have considered and taken into account the responses to the industry consultation on the modification proposal which are attached to the FMR<sup>7</sup>. We have concluded that implementation of the modification proposal will not better facilitate the achievement of the relevant objectives of the iGT UNC.<sup>8</sup>

## Reasons for our decision

We consider this modification proposal has a neutral impact on the relevant objectives.

### ***d. so far as is consistent with sub-paragraphs (a) to (c) the securing of effective competition between relevant shippers and between relevant suppliers***

The Proposer considers that this modification better facilitates this objective by, among other things, introducing flexibility and addressing the current issue of underrepresented shipper constituency. We note that the views of the workgroup and respondents were mixed with one party (the Proposer) considering it would positively impact this objective while another thought it would have a negative impact. In the FMR provided to us there was no clear assessment of the impact of this modification in securing effective competition. We consider that this has a neutral impact on relevant objective (d) and our view is that this modification should be assessed against relevant objective (f).

### ***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 referred to in paragraphs 2 and 5 respectively of this condition***

We recognise that this modification was raised in response to shippers not coming forward to join the Panel and is intended to better facilitate the efficient administration of the code by

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<sup>7</sup> iGT UNC modification proposals, modification reports and representations can be viewed on the iGT UNC website at <http://www.igt-unc.co.uk/>

<sup>8</sup> As set out in Standard Special Condition 9 of the Gas Transporters Licence, available at: [Gas Transporter Standard Licence Conditions 08 04 2021 \(ofgem.gov.uk\)](https://www.ofgem.gov.uk/gas-transporter-standard-licence-conditions-08-04-2021)

creating additional flexibilities around the allocation of votes to constituency representatives and changing the quoracy requirements.

The proposal looks to amend the existing quoracy requirements which allows for meetings to be reconvened if the minimum requirement for attendees is not reached with reconvened meetings not having quoracy requirements applied to them. Instead the proposal creates a requirement for all future meetings to be quorate. We note comments made by respondents that this proposal may result in meetings having to be reconvened a number of times if Panel members are unable to attend or send an alternate, thereby inhibiting or delaying decision making. This risk is partially mitigated by the ability of a panel member to send a proxy vote but not completely removed.

We consider there is a possible unintended consequence of this proposal if shipper attendance declines further as the requirement for quoracy in initial and also in re-convened meetings (where it is not required now) could result in the work of the Panel being stymied. This would also be the case if the number of IGT representatives falls below two. We note that the Proposer acknowledges that this modification would not address all possible scenarios including a reduction in panel membership below the quoracy level and that further modifications would need to be raised to address this if it happened. Overall we are concerned that this proposal could have a number of unintended consequences.

We agree that some other elements of the modification are positive against this objective. For example, in principle we would support the introduction of proxy voting in limited, appropriate circumstances and we are supportive of changes to de-gender language in the Code.

However, on balance we do not consider this modification better facilitates this objective than the current baseline for the reasons set out above.

## **Other Issues**

In our joint consultation with BEIS on Reforming the Energy Industry Codes, we set out our view that fragmentation of the current codes landscape results in complex institutional arrangements. This was followed on 20 July 2021 with our joint consultation on the Design and Delivery of the Energy Code Reform which focuses on proposals for a new overall

governance framework for codes and potential next steps. These next steps would include consideration of how codes could be consolidated.

Some respondents to the industry consultation on this proposal included support for the merging of the iGTUNC with the Uniform Network Code. If stakeholders consider there are changes to the existing arrangements that have broad support and would bring benefits while aligning with the direction of travel set out in our proposals, we would encourage further investigation of these options. We would be open to discussion of such proposals with relevant stakeholders.

In the meantime we encourage shippers to put forward Panel members to ensure quoracy requirements are met and shipper views properly represented.

### **Decision notice**

In accordance with Standard Condition 9 of the Gas Transporter Licence, the Authority has decided that modification proposal iGT UNC140: 'Changes to the iGT Panel Rules' should not be made.

**David Hall**

**Head of Industry Codes and Licensing**

Signed on behalf of the Authority and authorised for that purpose