

Modification proposal:	<b>Independent Gas Transporter Uniform Network Code (IGT UNC): Introducing the concept of a derogation into the IGT UNC for innovation projects (IGT154)</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:	21 January 2022	Implementation date:	n/a

## Background

Currently, the IGT UNC does not include the concept of derogation (relief from specific rules). However, the concept of derogation exists within some electricity industry codes already. For example, in Balancing & Settlement Code (BSC) and The Distribution Connection and Use of System Agreement (DCUSA).

## The modification proposal

Modification Proposal IGT154: Introducing the concept of a derogation into the IGT UNC for innovation projects (IGT154) was raised by Energy Assets Pipelines (“the Proposer”) in March 2021 in response to the proposed Uniform Network Code derogation modification UNC760. The Proposer states that, for an innovation trial to commence there either needs to be a Modification to amend the relevant part of the UNC/IGT UNC, which changes this for all on a non-time limited basis, or the trial needs to be amended or have additional unnecessary parameters to allow it to proceed.

<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.

IGT154 is seeking to a) ensure that any derogations to the UNC are applied appropriately within the IGT UNC where the derogation affects one or more IGT networks and b) introduce the concept of derogation as a framework within the IGT UNC and to introduce the concept of Use Cases.

Use Cases, will be defined in the IGT UNC with qualifying parameters defined within the IGT UNC Innovation Derogations Guidance Document (which outlines the process and requirements for derogation applicants). Removal or addition of Use Cases needs to be requested via IGT UNC standard modification process. Along with the concept of Use Cases, IGT154 will also introduce the first Use Case: "Net Zero Innovation".

The IGT154 Final Modification Report outlines Business Rules for the derogation framework describing the checks in place before a derogation is approved. The key steps are outlined below:

- Applications for derogations will only be deemed valid applications when made in accordance with the IGT UNC Innovation Derogations Guidance document as implemented with this modification and published on the IGT UNC website.
- Requests will then be submitted to the Code Administrator who will circulate to all IGT UNC Panel members and the Authority. Panel members will discuss the request at the first available IGT UNC Panel, following a period of at least eight days after submission of the request to the Code Administrator.
- Initial Panel meeting approves, by majority, the derogation request to go to an industry consultation. Panel can request additional consultations if necessary.
- At the final Panel meeting, which will be following consultation, derogation requests require a unanimous Panel vote in support of implementation to be approved.
- The derogation will take effect from the agreed date (no earlier than 16 days from date of decision), unless overruled by the Authority, or subject to an active appeal to the Authority.

The Proposer believes that the modification will have a positive impact on IGT UNC Relevant Code Objectives (b) and (f).

### **IGT UNC Panel<sup>3</sup> recommendation**

At the IGT UNC Panel meeting on 29 October 2021, the IGT UNC Panel unanimously agreed that IGT154 would better facilitate the IGT UNC Relevant Objectives and therefore recommended its approval.

### **Our decision**

We have considered the issues raised by the modification proposal and the Final Modification Report (FMR) dated 01 November 2021 and after careful consideration decided to reject the modification with our reasons set out below.<sup>4, 5</sup>

### **Reasons for our decision**

We consider this modification proposal would not better facilitate IGT UNC Relevant Code Objective (c) and would have a neutral impact on Relevant Code Objective (a), (b), (d), (e), (f), and (g).

***b. so far as is consistent with sub-paragraph (a), the coordinated, efficient and economic operation of the pipe-line system of one or more other relevant gas transporters***

We consider that proposal has a neutral impact on IGT UNC Relevant Code Objective (b).

The Proposer states that the modification's impact on the IGT UNC Relevant Code Objectives (b) would be positive. The Proposer expects that the proposal will have a positive impact as it will ensure that innovation trials within a geographic area that includes one or more IGT

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<sup>3</sup> The iGT UNC Panel is established and constituted from time to time pursuant to and in accordance with the iGT UNC Modification Rules.

<sup>4</sup> 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.

<sup>5</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)

networks are able to incorporate those networks. We think that this is a potential benefit of the derogation framework. However, as the Derogation Framework and IGT UNC Innovation Derogations Guidance document, as proposed in IGT154, does not satisfy us that licencees' obligations with regards to safety, especially gas quality, transportation and consumer safety, will be fully considered, we are not convinced innovation trials will be deployed more efficiently.

On balance, we conclude that the modification would have a neutral impact on UNC Relevant Code Objective (b).

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

We consider that, overall, the proposal as it stands does not better facilitate IGT UNC Relevant Code Objective (c).

The Proposer states that the modification's impact on the UNC Relevant Code Objective (c) would be 'none'. It could be argued that IGT154 would mitigate the need for a new modification to the IGT UNC every time a derogation is required, a process that takes a significant period of time.

We believe that IGT154 would allow licensees to more efficiently facilitate Net Zero Innovation trials. However, the Derogation Framework and IGT UNC Innovation Derogations Guidance document proposed in IGT154 does not satisfy us that licencees' obligations with regards to safety will be fully considered within derogation proposals. Appendix B (Supporting Information) of the IGT UNC Innovation Derogation Guidance document states that "Evidence that other, required Derogation applications have been made (e.g. Safety Case (HSE), Licence (Ofgem) and have not been rejected." In our view, a derogation to the IGT UNC should not be approved by the Panel until derogations for all relevant non-IGT UNC documents have also been granted. The way Appendix B is currently drafted leaves the opportunity for an IGT UNC derogation to be approved for a trial that is awaiting a non-IGT UNC derogation decision by another authority. This process leaves the risk of this associated non-IGT UNC derogation not being considered and taken into account and the IGT UNC derogation proceeding unlawfully.

Health and safety in particular is paramount for gas. The full health and safety implications of a proposed derogation must, where relevant, be subject to a suitable and sufficient assessment prior to it being submitted to the UNC Panel for approval. The assessment must demonstrate that the derogation does not adversely impact on (1) the safe management of gas flow through a network; (2) the arrangements to minimise the risk of a gas supply emergency; (3) the arrangements for dealing with supply emergencies; and (4) the arrangements for dealing with reported gas escapes and gas incidents.

We therefore conclude that overall, the modification as it stands would have a negative impact on IGT UNC Relevant Code Objective (c).

***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 the proposal has a neutral impact on IGT UNC Relevant Code Objective (d).

The Proposer states that the modification's impact on the IGT UNC Relevant Code Objective (d) would be 'none'. However, the Proposer states, within its consultation response, that the proposed modification would facilitate innovation. Greater innovation may enable more effective competition. The modification proposed would further innovation and therefore have a positive impact on UNC Relevant Code Objective (d).

We think that this is a potential benefit of a derogation framework. However, given that the Derogation Framework and IGT UNC Innovation Derogations Guidance document, as proposed in IGT154, does not satisfy us that licencees' obligations with regards to safety will be fully considered, we are not convinced innovation trials will be deployed more efficiently.

On balance, we consider that the proposal as it stands has a neutral impact on IGT UNC Relevant Code Objective (d).

***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***

The Proposer states that the modification's impact on the IGT UNC Relevant Code Objectives (f) would be positive. The Proposer argues that IGT154 will reduce the need for further modifications. They consider that the proposed derogation framework outlined in IGT154 will make non-compliance visible positively impacting IGT UNC Relevant Code Objective (f). The Proposer also states that IGT154 would improve the efficiency of derogation approval. We agree in principle with these statements.

However, the derogation framework proposed may not promote efficiency in the implementation of the code as not all licencees' obligations with regards to safety will be considered as outlined in our response to IGT UNC Relevant Objective (c).

In their response to the IGT154 consultation, the Proposer stated that IGT154 'will facilitate innovation within the gas market by enabling ideas to be trialled for a limited period or within a restricted geography, without required code modifications to be raised each time. As this Modification has been developed in parallel with a Modification to the UNC, it will also support innovation projects where there is an interaction between GDN and IGT networks.'

Again, while we agree with this in principle, we think that proper consideration of licencees' obligations with regards to safety at the appropriate stage in the process is a necessary part of the process.

On balance, we consider that the proposal has a neutral impact on IGT UNC Relevant Code Objective (f).

### **Our principal objective and statutory duties**

The Authority's principal objective is to protect the interests of existing and future consumers in relation to gas conveyed through pipes and electricity conveyed by distribution or transmission systems. Those interests of existing and future consumers are their interests taken as a whole including their interests in the reduction of gas-supply emissions of targeted greenhouse gases.

We welcome the proposal to include a new section of the IGT UNC that would allow derogation requests for Net Zero innovation project to be made. However, the significantly shortened time frames proposed, compared to a standard IGT UNC modification process, in particular the 16-day overrule window, potentially impedes our ability to fully assess the impact of a derogation on the energy market. We do not think it is appropriate for us to be committed to approval in timeframes outside of our control.

Given the potential quantity of information and analysis we may need to assess, the 16-days overrule window may not in all cases allow us enough time in which we could assess the impacts of a derogation. An assessment of the impact on health and safety, consumers, security of supply, competition, efficiency of operation and impacts on other parties effected needs to be conducted. If we considered it necessary to consult further it would require the consultation to be open for a period of time, in line with our policy.<sup>6</sup> Further, we note that the BSC and DCUSA sandboxes impose no time limit for Ofgem to consider a derogation. The respective Panels of BSC and DCUSA make recommendations with regards to granting a derogation with the power to grant remaining with us.

If IGT154 is approved as is, we would be in a position where our default would be to overrule derogation proposals if we were unable to fully assess them within 16 days. An overrule would be the only way to mitigate risk to consumers. A system like this would be very inefficient.

In addition, the IGT UNC Innovation Derogations Guidance document for IGT154 does not satisfy us that licence obligations with regards to safety, especially gas quality and transportation will be fully considered. See UNC Relevant Objective (c) above.

IGT154 has the potential to undermine our ability to fully assess the impact of a derogation on the energy market. Therefore, we could not ensure the interests of existing and future consumers are protected. For this reason, we consider that directing that the modification be made would not be consistent with our principal objective and statutory duties.

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<sup>6</sup> [Ofgem's consultation policy | Ofgem](#)

## **Decision notice**

In accordance with Standard Condition 9 of the Gas Transporter Licence, the Authority has decided that modification proposal iGT UNC 154: *'Introducing the concept of a derogation into the IGT UNC for innovation projects'* should not be made.

**David O'Neill**

**Head of Gas Markets and Systems**

Signed on behalf of the Authority and authorised for that purpose