

**FINAL DRAFT LEGAL TEXT CHANGES FOR IGT160 (v2.0)**

**Proposed legal text changes to Appendix K-2 (IGT UNC Ancillary Documents)**

**APPENDIX K-2 IGT UNC Ancillary Documents**

Pipeline Operator Standards of Service Query Management

Password Protection Protocols

IGT CSEP NExA Table Review Procedures

IGT Transportation Invoice Charges Template

CSEP NExA Tables

IGT's New Connections Domestic Sites Only

IGT Non-Domestic New Connections

**[IGT UNC Innovation Derogations Guidance](#)**

## **FINAL DRAFT LEGAL TEXT CHANGES FOR IGT160 (v2.0)**

### **Proposed legal text changes to Part L (Modification Rules)**

#### **Changes to paragraph 3**

#### **3 Critical Friend**

3.1 In carrying out its obligations including under these Modification Rules and in compliance with the Code of Practice, the Code Administrator shall act as Critical Friend and provide such assistance as a Pipeline User (and in particular Small Participants), a Pipeline Operator or a Consumers' Representative may reasonably require, which shall include but not be limited to assistance in relation to:

- (a) the drafting of a Modification Proposal;
- (b) the provision of advice in relation to the operation and effect of the IGT UNC or an Individual Network Code;
- (c) the Pipeline User or Pipeline Operator's participation, involvement and representation in the Modification Procedures (including but not limited to IGT UNC Modification Panel and/or Work Group meetings); and
- ~~(d)~~ accessing information relating to a Modification Proposal, Modifications and the Modification Procedures;
- ~~(e)~~ the drafting or application of a Derogation Application; and
- ~~(d)(f)~~ the provision of advice in relation to the operation and effect of an IGT UNC Derogation if implemented in the IGT UNC.

#### **Changes to paragraph 6**

#### **6 Determinations of and Convening Meetings of the IGT UNC Modification Panel**

6.1 Except as otherwise provided in the Modification Rules and Derogation Rules as set out in Part O:

- (a) determinations of the IGT UNC Modification Panel shall be made by Panel Majority;
- (b) Work Groups may be created or dissolved by Panel Majority.

6.2 Other than as expressly provided in the Modification Rules and Derogation Rules as set out in Part O, the IGT UNC Modification Panel shall have no ability to determine any matter and no competence to discharge any function or to exercise any power.

**Proposed legal text to be introduced into new Part O (Derogation Rules)**

**PART O – DEROGATION RULES**

**1 GENERAL**

**1.1 Introduction**

1.1.1 This Section O sets out:

- (a) provisions relating to application and implementation of IGT UNC derogations;
- (b) provisions relating to IGT UNC derogation appeals;
- (c) provisions relating to IGT UNC derogation impacts;
- (d) provisions relating to UNC derogation impacts;
- (e) provisions relating to derogation reporting and cessation; and
- (f) derogation use cases.

**1.2 Interpretation**

1.2.1 For the purposes of the Code:

- (a) "**Derogation Eligibility Criteria**" means the eligibility criteria set out in the IGT UNC Innovation Derogations Guidance;
- (b) "**Derogation Guidance Document**" is an IGT UNC Ancillary Document prepared and maintained under the Modification Procedures containing guidance in relation to IGT UNC Derogation Applications and called IGT UNC Innovation Derogations Guidance;
- (c) "**Derogation Party**" means in respect of an IGT UNC Derogation, each applicant Party, and where the scope of the proposed IGT UNC Derogation relates to the offtaking of gas at specific Supply Points, any Party undertaking such activity at any such points as described in the IGT UNC Derogation;
- (d) "**Excluded Code Provision**" means:
  - (i) Part L - Modification Rules;
  - (ii) Part K – General;
  - (iii) any provision of the Code which is, at the date the application is submitted, within the scope of a Significant Code Review or the subject of a Significant Code Review Modification Proposal;
  - (iv) any provision of the Code which facilitates a consumer changing supplier or shipper and which (in the opinion of the IGT UNC Modification Panel) may be adversely impacted by a proposed IGT UNC Derogation; and
  - (v) the terms of an IGT UNC Ancillary Document.
- (e) "**Industry Code**" means a multilateral code or agreement created and maintained pursuant to a licence granted by the Authority under sections 7, 7ZA or 7A of the Gas Act 1986 or section 6 of the Electricity Act 1989, including

## **FINAL DRAFT LEGAL TEXT CHANGES FOR IGT160 (v2.0)**

- the Uniform Network Code, the Retail Energy Code and the Smart Energy Code;
- (f) "**Derogation Use Case**" means a use for which a derogation might be applied and is listed in Part O paragraph 2.5 of the IGT UNC.
  - (g) the "**Performance Assurance Committee**" or "**PAC**" is the UNC sub-committee established and described in TPD Sections V16.2 and V16.3 of the UNC;
  - (h) "**Relevant Day**" means in relation to a Derogation Period, a Day in such period when a conditional derogation (if any) is also in force;
  - (i) "**Relevant Person**" means all Parties, all Third Party Participants, such Non-Code Parties as the Code Administrator considers appropriate in the context of a IGT UNC Derogation Application and the CDSP;

## **2 DEROGATIONS**

### **2.1 IGT UNC Derogation Application**

- 2.1.1 A Party may make a written application for an IGT UNC Derogation to the Code Administrator ("**Derogation Application**").
- 2.1.2 A Derogation Application shall be in the form specified in the IGT UNC Innovation Derogations Guidance and shall include (inter alia) the following details:
  - (a) the identity of the Party making the application ("**applicant Party**");
  - (b) the applicable Derogation Use Case;
  - (c) each and all individual provisions of the Code from which an IGT UNC Derogation is required;
  - (d) the period in respect of which the applicant Party proposes the IGT UNC Derogation ~~Period~~ should be in force, being either:
    - i. a period commencing on a specific date and ending on a later specified date (a "**fixed date period**"); or
    - ii. a specified number of consecutive days (not commencing or ending on a specified date) (an "**unspecified period**")
  - (e) the date after which the IGT UNC Derogation (if implemented) is no longer to apply ("**backstop date**");
  - (f) whether the implementation of the proposed IGT UNC Derogation is conditional on the approval and coming into force of another

## **FINAL DRAFT LEGAL TEXT CHANGES FOR IGT160 (v2.0)**

derogation in respect of any other Legal Requirement ("**conditional**" derogation);

- (g) the basis on which applicant Party demonstrates compliance with the health and safety requirements described in the Derogation Guidance Document; and
- (h) such other matters as required by the Derogation Guidance Document.

2.1.3 Following receipt of a Derogation Application the Code Administrator shall:

- (a) send a copy of the application to each Relevant Person, each Member, each Non-voting Member and the Authority;
- (b) provide Critical Friend guidance in relation to the applicable Derogation Use Case and satisfaction of the Derogation Eligibility Criteria; and
- (c) schedule consideration of the IGT UNC Derogation Application at a meeting of the IGT UNC Modification Panel occurring not less than eight (8) Business Days after a copy of the application has been sent in accordance with 2.1.3 (a). A representative from the applicant Party must be present when the IGT UNC Modification Panel consider the IGT UNC Derogation Application.

2.1.4 At least seven (7) days before the IGT UNC Modification Panel meeting referred to in paragraph 2.1.3 (c) the Code Administrator shall give notice to all Relevant Persons, each Panel Member and the Authority of the date on which the Modification Panel will first consider the IGT UNC Derogation Application.

2.1.5 At the meeting referred to in paragraph 2.1.3 (c) the IGT UNC Modification Panel will either:

- (a) reject the IGT UNC Derogation Application in accordance with paragraph 2.1.6; or
- (b) make a determination in respect the IGT UNC Derogation Application in accordance with paragraph 2.1.7;

provided the IGT UNC Modification Panel shall not be required to independently verify any statement or representation made by the applicant Party regarding health and safety matters contained in the IGT UNC Derogation Application.

2.1.6 The IGT UNC Modification Panel will reject the IGT UNC Derogation Application:

- (a) any of the requirements of paragraph 2.1.2 are not complied with;
- (b) the application proposes the IGT UNC Derogation apply in respect of an Excluded Provision; and/or

## **FINAL DRAFT LEGAL TEXT CHANGES FOR IGT160 (v2.0)**

- (c) the IGT UNC Derogation Application is not materially different from an earlier application which the should not to implemented.

2.1.7 In respect of a IGT UNC Derogation Application which is not rejected in accordance with paragraph 2.1.6 the IGT UNC Modification Panel will make a determination under paragraph 2.1.8 having:

- (a) discussed the IGT UNC Derogation Application and considered whether or not the application complies with a IGT UNC Derogation Use Case;
- (b) considered all the information submitted by the applicant Party in support of the IGT UNC Derogation Application; and
- (c) considered the representations of the applicant Party's representative and the responses to any questions raised by the IGT UNC Modification Panel relating to the IGT UNC Derogation Proposal.

2.1.8 The IGT UNC Modification Panel may determine (by Panel Majority):

- (a) the IGT UNC Derogation Application does not comply with a IGT UNC Derogation Use Case, in which case the IGT UNC Derogation Application shall lapse and have no further effect;
- (b) additional steps need to be undertaken, or additional analysis or information is required, before the IGT UNC Derogation Application can proceed to consultation, in which case the applicant Party;
- (c) shall be invited to revise and re-submit the IGT UNC Derogation Application. Once it is so further developed, it shall be placed on the Agenda of the next following meeting of the IGT UNC Modification Panel or at a meeting of the IGT UNC Modification Panel occurring not less than eight (8) Business Days after a copy of the revised application has been sent in;
- (d) the IGT UNC Derogation Application should proceed to consultation, in which case the Code Administrator shall invite each Relevant Person to make representations in respect of the IGT UNC Derogation Application to the Code Administrator within fifteen (15) Business Days (or such other period as the IGT UNC Modification Panel may determine) of the Code Administrator's invitation. The IGT UNC Modification Panel may also determine additional consultation questions to be added to the standard consultation; or
- (e) consideration of the IGT UNC Derogation Application should be deferred to a subsequent meeting of the IGT UNC Modification Panel.

2.1.9 Where the IGT UNC Modification Panel has determined the IGT UNC Derogation Application should proceed to consultation:

## **FINAL DRAFT LEGAL TEXT CHANGES FOR IGT160 (v2.0)**

- (a) the Code Administrator shall schedule consideration of the IGT UNC Derogation Application and all representations received following consultation at the next relevant meeting of the IGT UNC Modification Panel following the end of the period referred to in paragraph 2.1.8(c) (or as the IGT UNC Modification Panel may otherwise agree);
- (b) at the meeting referred to in paragraph (a) the IGT UNC Modification Panel shall first considered and assessed the requested non-compliance with the IGT UNC against:
  - (i) the impact on gas consumers including costs and risks to supply;
  - (ii) the impact on competition identifying advantages and disadvantages; and
  - (iii) the effect on other Parties including but not limited to:
    - 1) the CDSP
    - 2) Large Transporters
    - 3) Pipeline Operators
    - 4) Pipeline Users
- (c) at the meeting referred to in paragraph (a) and having considered the and assessed the IGT UNC Derogation Application in line with paragraph 2.1.9(b) the IGT UNC Modification Panel shall determine:
  - (i) by a majority vote to recommend to the Authority that the IGT UNC Derogation Application should be implemented, in which case paragraph 2.2 will apply
  - (ii) by a majority vote to recommend to the Authority that the IGT UNC Derogation Application be rejected and the IGT UNC Derogation Application lapse and have no further effect
  - (iii) a final recommendation in respect of the IGT UNC Derogation Application should be made at a further meeting of the IGT UNC Modification Panel-
  - (iv) where an issue highlighted in the consultation responses is determined by the IGT UNC Modification Panel to be material by majority vote, the IGT UNC Modification Panel by majority vote may
    - 1) request additional information in which case the Code Administrator shall schedule consideration of the IGT UNC Derogation Application at a meeting of the IGT

## FINAL DRAFT LEGAL TEXT CHANGES FOR IGT160 (v2.0)

UNC Modification Panel occurring not less than eight (8) Business Days after the additional information is received and paragraph 2.1.8 shall apply; and/or

- 2) determine that the IGT UNC Derogation Application be sent out for further consultation in which case paragraph 2.1.7(c) and 2.1.8 shall apply.

2.1.10 Following the IGT UNC Modification Panel's recommendation to the Authority under paragraphs 2.1.8 and 2.1.9 in relation to an IGT UNC Derogation Application, the Code Administrator shall promptly publish on the IGT UNC website and notify the applicant Party, all Relevant Person and the Authority of:

- (a) the IGT UNC Modification Panel's recommendation to the Authority to approve or not approve the UNC Derogation Application;
- (b) where the IGT UNC Modification Panel recommends implementation of the IGT UNC Derogation Application to the Authority:
  - (i) the scope and nature of the IGT UNC Derogation, the Derogation Period, the Derogation Parties and the provisions of the Code which each Derogation Party shall not be required to comply with for the Derogation Period;
  - (ii) the details of the IGT UNC Modification Panel's recommendation on the matters referred to in paragraph 2.1.9;
- (c) where the IGT UNC Modification Panel does not recommend approval of the IGT UNC Derogation Application the reasons for its recommendation.

2.1.11 Where the Authority receives an IGT UNC Derogation Application and the IGT UNC Modification Panel's recommendation pursuant to paragraph 2.1.9 or this paragraph 2.1.11, the Authority:

- (a) may direct whether or not the proposed IGT UNC Derogation should be implemented (and whether a different backstop date should apply to that proposed by the applicant Party ("**Authority backstop date**") and the Code Administrator shall circulate to each Relevant Person and each Member notice of:
  - i. the Authority's direction;
  - ii. where directed, any Authority backstop; and
  - iii. details of any conditional derogation for which approval is a condition of an IGT UNC Derogation coming into force.



## FINAL DRAFT LEGAL TEXT CHANGES FOR IGT160 (v2.0)

- (b) may direct the IGT UNC Derogation Application should be amended and re-submitted, and where it makes such a direction it shall give notice of its decision to the Code Administrator and:
  - i. the Code Administrator shall notify the applicant Party, each Relevant Person and each Member of the Authority's direction
  - ii. the IGT UNC Modification Panel will discuss the IGT UNC Derogation at the next meeting of the IGT UNC Modification Panel and re-submit the IGT UNC Derogation Application in accordance with the Authority's direction; and
  - iii. the Code Administrator shall send the revised IGT UNC Derogation Application to the Authority as soon as practicable.

2.1.12 An applicant Party may withdraw an IGT UNC Derogation Application by notice to the Code Administrator at any time prior to the IGT UNC Derogation coming into force, in which case the IGT UNC Derogation Application (or if already approved but not yet in force, the IGT UNC Derogation) shall lapse and have no further effect.

2.1.13 A Party may submit an IGT UNC Derogation Application notwithstanding any other IGT UNC Derogation submitted by such Party remains under consideration by the IGT UNC Modification Panel or the Authority.

2.1.14 Where a Party submits an IGT UNC Derogation Application ("**second application**") which is intended to replace an earlier application ("**first application**") submitted by the same Party:

- (a) where the IGT UNC Modification Panel has yet to make a recommendation to the Authority under paragraph 2.1.8 in respect of the first application, the first application shall lapse and have no further effect; or
- (b) where the IGT UNC Modification Panel has made a decision with regard to the first application, the first application and the second application shall each be considered by the IGT UNC Modification Panel and the Authority in accordance with the provisions of this paragraph 2.

2.1.15 An applicant Party shall ensure a representative attends each meeting of the IGT UNC Modification Panel at which the applicant Party's IGT UNC Derogation Application is considered and matters will be deferred to the next scheduled meeting of the IGT UNC Modification Panel if they are not present.

2.1.16 Notwithstanding any provision of this paragraph 1, the IGT UNC Modification Panel may determine, in its absolute discretion, the priority and timetable for any steps proposed to be undertaken by the IGT UNC Modification Panel in relation to an IGT UNC Derogation Application.

## **2.2 Impact of IGT UNC Derogation**

2.2.1 Any IGT UNC Derogation Application that has been approved by the Authority shall be an IGT UNC Derogation and such IGT UNC Derogation shall, subject to any conditional derogation coming into force, remain in force for each Relevant Day during the period relating to such IGT UNC Derogation (“**Derogation Period**”).

2.2.2 In relation to an IGT UNC Derogation the Derogation Period shall be:

- (a) where the applicant Party specified a fixed date period in the IGT UNC Derogation Application:
  - (i) and the Authority did not direct an Authority backstop date, the fixed date period;
  - (ii) and the Authority directed an Authority backstop date, (provided the fixed date period started before the Authority backstop date) the period:
    - (A) from the start of the fixed date period;
    - (B) ending on the earlier of the end of the fixed date period and the Authority backstop date
- (b) where the applicant Party specified an unspecified period in the IGT UNC Derogation Application, the period (provided such period commences before any Authority backstop date):
  - (i) commencing on the date, no earlier than sixteen (16) Business Days after that date by which:
    - (A) the applicant Party notifies the Code Administrator the IGT UNC Derogation shall come into force; and
    - (B) the applicant Party or another Party notifies the Code Administrator a conditional derogation shall come into force;
  - (ii) ending on;
    - (A) the earlier of the end of the unspecified period and the applicant backstop date;
    - (B) where any Authority backstop date is earlier than the applicant backstop date, the earlier of the end of the unspecified period and the Authority backstop date; or
    - (C) where any Authority backstop date is later than the applicant backstop date, the later of the end of the unspecified period and the Authority backstop date, and the Code Administrator shall notify each Relevant Person, each Member and the Authority of the Derogation Period in relation to a IGT UNC Derogation.

## **FINAL DRAFT LEGAL TEXT CHANGES FOR IGT160 (v2.0)**

2.2.3 Subject to paragraph 2.2.3, for the duration of the Derogation Period:

- (a) each Derogation Party shall be relieved of their obligation to comply with the Code to the extent permitted by the IGT UNC Derogation; and
- (b) no act or omission by a Derogation Party that would be a breach (or in the case of a User, a User Default) shall be deemed to be a breach (or User Default) of the Code to the extent only that such act or omission is permitted by an IGT UNC Derogation.

2.2.4 In respect of an IGT UNC Derogation:

- (a) a Derogation Party shall be required to comply with all provisions of the Code that are relevant to such Party and which are outside the scope of such IGT UNC Derogation;
- (b) a Derogation Party shall be required to comply with any conditions included in such IGT UNC Derogation;
- (c) such IGT UNC Derogation shall have no effect to the extent that it purports to derogate from:
  - (i) any conditions of a Pipeline Operator's Gas Transporters' Licence or a Pipeline User's Shipper Licence;
  - (ii) any other Industry Code (but without prejudice to any other regulatory derogation arrangements);
  - (iii) any Legal Requirement; or
  - (iv) any provision of this paragraph 2,

and each Derogation Party acknowledges and agrees that it shall be responsible for its compliance with any such Code provision, Licence Condition or Legal Requirement.

2.2.5 With effect from 05:00 on the day following the Derogation Period End Date, such IGT UNC Derogation shall no longer be in force and each Derogation Party shall comply with the Code in full from such time and such date.

2.2.6 The approval of an IGT UNC Derogation in respect of any Derogation Party shall not relieve any other Party (not being a Derogation Party) of all or any of its obligations under the Code.

2.2.7 Once approved by the Authority no variation to an IGT UNC Derogation shall be permitted.

### **2.3 Impact of UNC Derogation**

2.3.1 Where:

## **FINAL DRAFT LEGAL TEXT CHANGES FOR IGT160 (v2.0)**

- (a) a derogation is implemented according to General Terms Section B paragraph 7 of the UNC;
- (b) that derogation is applicable to provisions under the UNC which are also relevant provisions under the IGT UNC; and
- (c) the project for which the UNC Derogation is required will be impacting one or more Pipeline Operator's networks;

the derogation under the UNC will also be applicable in the IGT UNC where it relates to an IGT UNC Derogation Use Case in accordance with paragraph 2.5.

### **2.4 IGT UNC Derogation Reporting and Cessation**

- 2.4.1 A Derogation Party shall provide the IGT UNC Modification Panel with such reports as the IGT UNC Modification Panel may require. The IGT UNC Panel may provide this report to the Performance Assurance Committee.
- 2.4.2 On expiry of the Derogation Period or on achievement of the objective requiring the Derogation, a Derogation Party shall provide the IGT UNC Modification Panel with a report setting out the actions it will take to resume continued compliance with the enduring Code requirements.
- 2.4.3 The Authority may determine following a request made by the IGT UNC Modification Panel that an IGT UNC Derogation cease to apply, as a result of being made aware that:
  - (a) a Derogation Party is in breach of the IGT UNC Derogation.
  - (b) there is no progress being made towards the achievement of the objective requiring the Derogation.
- 2.4.4 Where the Authority makes a determination in accordance with paragraph 2.4.3 the IGT UNC Derogation shall cease to apply from the date specified by the Authority.

### **2.5 IGT UNC Derogation Use Cases**

An IGT UNC Derogation Application may only be made for or in relation to one or more of the Derogation Use Cases listed in this paragraph 2.5.

#### **2.5.1 Derogation Use Case A**

The IGT UNC Derogation Application relates to a project which is consistent with:

- (a) a change in national government policy (including policy of the national devolved parliaments);
- (b) a change in local government policy;

## **FINAL DRAFT LEGAL TEXT CHANGES FOR IGT160 (v2.0)**

- (c) the trialling of new technologies or the making of technological advances;
- (d) facilitating the uptake of low carbon technologies;
- (e) any requirement contained in a local area energy plan or equivalent arrangement;

the purpose of which is to facilitate net zero and the achievement of a 100% reduction of greenhouse gas emissions (compared to 1990 levels) in the United Kingdom by 2050.