

Draft Modification Report
Ability for User's to Vary their Modification Proposals
Modification Reference Number 0713
Version 1.0

This Draft Modification Report is made pursuant to Rule 7.3 of the Modification Rules and follows the format required under Rule 8.9.3.

1. The Modification Proposal

The Proposer states that proposal seeks:-

"To allow equal treatment for both Transco raised and User raised modification proposals."

The proposer provides the following draft legal text:-

"Section Y

Paragraph 2.1 Defined Terms

Amend definition of "User Proposal" as follows;

"User Proposal": any Modification Proposal made by a User pursuant to paragraph 6.1.2 which Proposal may be varied by such User pursuant to paragraph 11.4;

Amend paragraph 11.4 Variation of Modification Proposal as follows;

Transco will as it considers appropriate modify each Transco Proposal or User Proposal adopted by Transco (pursuant to paragraph 6.4) and a User will as it considers appropriate modify a User Proposal that it makes pursuant to paragraph 6.1.2 both having regard to better facilitating the achievement of the Relevant Objectives and having had regard to any other matter (including, but without limitation, representations (if any) received (in accordance with these Rules) from Users, Non-Code Parties, Third Party Participants and otherwise and the report of the relevant Workstream or Development Work Group and discussions at meetings of the Modification Panel) as appropriate."

2. Transco's Opinion

Transco supports the intent of the Modification Proposal and believes that such changes may improve efficiency in the context of appropriating better developed and considered changes to the Network Code.

Transco recognises that where the Panel has directed a User's Proposal to development, there is no clear means by which to amend a Proposal on the basis of the Workstream recommendation. The proposer is required to either withdraw the Proposal and re-submit, or request that Transco raise an alternate, within the permitted five day window of the original Proposal being raised. On this basis Transco believe that the intent of this Modification Proposal merits consideration.

Although Transco expresses support in principle of the Proposal it notes that there are some aspects of the proposed changes that are unclear, Transco therefore requests further clarity is provided as part of the consultation process. Transco notes that it is unclear when such changes to a Proposal may be submitted, or how the consultation process and timescales for such a consultation will be managed. Transco welcomes views from respondents in respect of the definition of when changes to a Proposal

can be initiated, and how such changes would be consulted upon with the community. For the purposes of clarity, Transco requests that respondents consider the provision of additional legal text specifying that changes to a Proposal will only be considered where it is in response to a specific representation provided during the consultation on the original Modification Proposal. Transco welcomes views from respondents regarding the proposed legal text and these points of clarification.

Transco observes that it has a licence obligation to ensure that any changes to the Network Code demonstrate that they better facilitate the relevant objectives and therefore any changes to a Proposal must also demonstrate that similar objectives are achieved. Transco questions whether permitting Shipper changes to Modification Proposals to the Network Code may require similar obligations to be reflected within Shipper licence obligations to ensure that Transco ability to ensure that they are acting in accordance with its licence are not compromised. Transco seeks views from Respondents on this issue.

Transco is mindful that changes to a Proposal imply a requirement for Transco to review and amend originally drafted legal text, if provided, and system impact assessments therefore would request that an extension to timescales is considered. The funding of further impact assessments and redrafting of legal text may also need to be considered. Transco welcomes views from respondents in respect of these issues.

To summarise Transco would welcome views from respondent on the following issues:-

- Transco seek views in respect of the legal text provided by the proposer.
- For the purposes of clarity Transco seeks views regarding:-
 - What point in the process can the proposer amend the Proposal.
 - Amendments to a Proposal may only be initiated where it is in response to a specific representation to the consultation on the original Modification Proposal.
- Transco would welcome views regarding whether permitting Shipper changes to Modification Proposals to the Network Code may require similar obligations to be reflected within Shipper licence obligations to ensure that Transco ability to ensure that they are acting in accordance with its licence are not compromised.
- Transco seeks views that consider extending Modification Process timescales to facilitate any requirement for Transco to review and amend originally drafted legal text, if provided, and system impact assessments. The funding of further impact assessments and redrafting of legal text may also need to be considered
- Transco seeks views in respect of how respondents consider that the Proposal better facilitates the relevant objectives.
- Transco welcomes views regarding an appropriate implementation date for this Proposal.

3. Extent to which the proposed modification would better facilitate the relevant objectives

The Proposal does not reference how it may better facilitate the relevant objectives. The proposer considers that the introduction of this Proposal would better facilitate the efficient operation of the Network Code governance processes and hence Transco's discharge of its licence condition 4D "Conduct of Transportation Business".

In its decision letter to Modification Proposal 0679 - 'Formally Include the Network Code rules within the Network Code', Ofgem states that:-

"Ofgem notes that the Balancing & Settlement Code refers specifically to promoting efficiency in the implementation and administration of the balancing and settlement arrangements. However, in judging whether a change to the modification rules themselves would or would not be worthwhile it does not seem that an objective of this type adds any particular clarity. Ofgem holds the view that the current objectives as defined in Standard Condition 9 of the Gas Transporters Licence, in particular objective b), are adequate for judging the benefits of a modification proposal on rule changes, though Ofgem will continue to monitor the situation and give further consideration to the possibility of reviewing the Network Code objectives at a future date, if appropriate".

On the basis of Ofgem's decision letter for Modification Proposal 0679, Transco believes that the Proposal may better facilitate the relevant objectives as defined under amended licence standard condition 9 (b).

Transco would welcome views from respondents as to how they believe this Proposal may better facilitate the relevant objectives.

4. The implications for Transco of implementing the Modification Proposal, including
a) implications for the operation of the System:

No such implications have been identified.

b) development and capital cost and operating cost implications:

There are cost implications associated with the provision of amended IS impact assessments and the redrafting of legal text.

c) extent to which it is appropriate for Transco to recover the costs, and proposal for the most appropriate way for Transco to recover the costs:

The Proposal does not state how such costs will be funded. Transco would welcome views from respondents regarding appropriate means by which costs for the impact assessments should be funded.

d) analysis of the consequences (if any) this proposal would have on price regulation:

No such consequences have been identified.

5. The consequence of implementing the Modification Proposal on the level of contractual risk to Transco under the Network Code as modified by the Modification Proposal

It is not anticipated that there will be a change to the level of contractual risk to Transco as a consequence of this Proposal.

6. The development implications and other implications for computer systems of Transco and related computer systems of Users

Any changes to user generated of Proposals via the internet gateway would require development of the existing registered Users website. No development implications on the related computer systems of Users are anticipated.

7. The implications of implementing the Modification Proposal for Users

Users will be able to vary their Modification Proposals.

8. The implications of implementing the Modification Proposal for Terminal Operators, Consumers, Connected System Operators, Suppliers, producers and, any Non-Network Code Party

Transco would welcome views from the above parties on any anticipated implications.

9. Consequences on the legislative and regulatory obligations and contractual relationships of Transco and each User and Non-Network Code Party of implementing the Modification Proposal

No major consequences on the legislative and regulatory obligations and contractual relationships of Transco and each User and Non-Network Code Party are anticipated as a result of the implementation of this Proposal.

10. Analysis of any advantages or disadvantages of implementation of the Modification Proposal

Advantage

- Users will be able to vary their Modification Proposals.
- May provide a more responsive change process that permits changes in response to view express during consultation

Disadvantage

- A possible disadvantage could be that the presently provided draft legal text in support of this Proposal would allow unconstrained changes to User's Proposals without recourse by the proposer to the relevant objectives or representations received and therefore may compromise Transco obligations under its Licence to ensure that changes better facilitate the relevant objectives

11. Summary of the Representations (to the extent that the import of those representations are not reflected elsewhere in the Modification Report)

Representations are now sought

12. The extent to which the implementation is required to enable Transco to facilitate compliance with safety or other legislation

This Modification Proposal is not required to facilitate any such change.

13. The extent to which the implementation is required having regard to any proposed change in the methodology established under Standard Condition 4(5) or the statement furnished by Transco under Standard Condition 4(1) of the Licence

This Modification Proposal is not required to facilitate any such change.

14. Programme of works required as a consequence of implementing the Modification Proposal

A program of works would need to be developed.

15. Proposed implementation timetable (including timetable for any necessary information systems changes)

Transco notes that an implementation date is not provided as part of the Proposal. Transco seeks views from respondents regarding an appropriate implementation timetable.

16. Recommendation concerning the implementation of the Modification Proposal

Transco supports the intent of this Proposal, however Transco's recommendation cannot be determined until it has fully considered the views of respondents to the Proposal.

17. Text

Transco seeks views, from respondents, in respect of the draft legal text provided by the proposer.

Representations are now sought in respect of this Draft Report and prior to Transco finalising the Report

Signed for and on behalf of Transco.

Signature:

Richard Court
Commercial Frameworks Manager
NT & T

Date: