

# 0484S:

## Guidance for the production of legal text



By introducing a Legal Text Guidance Document, this modification seeks to clarify responsibilities with respect to the production of legal text in support of modification proposals. This will create a more transparent and consistent approach, helping to address concerns about the production of legal text.



The Workgroup recommends that this self-governance modification should now proceed to consultation.



High Impact:



Medium Impact:



Low Impact:  
UNC Modification Rules

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## About this document:

This report will be presented to the panel on 17 April 2014.

The panel will consider whether the modification should proceed to consultation or be returned to the workgroup for further assessment.


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# 1 Summary

## Is this a Self-Governance Modification?

The Modification Panel determined that this is a self-governance modification. Whilst implementation would have an impact on the Uniform Network Code (UNC) governance procedures and modification procedures, the impact would not be material.

## Why Change?

The UNC is largely silent regarding the expectations on all parties for ensuring appropriate legal text is produced in support of proposed modifications. This lack of transparency creates uncertainty, and potentially leads to inconsistency that can impair the quality of text that is provided as well as adversely impacting the efficiency with which it is produced.

## Solution

It is proposed that the modification rules be amended to require the creation of a legal text guidance document and that Parties are to have regard to that guidance document when producing text in support of a UNC Modification.

## Relevant Objectives

Implementation would further Relevant Objective f) Promote efficiency in the implementation and administration of the Code.

## Implementation

No implementation timescale are proposed.

There is no evidence that the costs of providing legal text would alter materially (either upwards or downwards) as a result of implementing the modification and subsequent compliance with the proposed guidance document.

# 2 Why Change?

The UNC Modification Rules are largely silent on the requirements of parties for ensuring that appropriate legal text is produced in support of proposed modifications. This creates ambiguity, and the potential for inconsistency and a lack of agreement regarding responsibilities. In turn this may create difficulties for those responsible for the drafting of legal text, and can create concerns that the quality and timeliness of legal text provided is not of the standard that might reasonably be expected for a contract such as the UNC.

A number of concerns regarding legal text have been expressed in recent months:

- Transporters have argued that the cost of producing legal text may be unduly high because of inefficiencies in the present process;
- Shippers have expressed concerns about the quality, consistency, impartiality and timeliness of text production; and
- Ofgem has quoted legal text concerns when exercising the Authority's power to send two recent Final Modification Reports back to the Modification Panel for amendment (Modification 0425V and 0451(A)).

The range of concerns expressed, and parties expressing them, suggests that the existing UNC provisions are not working economically and efficiently.

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### 3 Solution

To begin to address the range of concerns that have been identified, it is proposed that the Modification Rules are modified to introduce a new guidance document, the “Legal Text Guidance Document”. This does not represent a comprehensive change to the current process, but seeks to codify expectations and document the approach which parties are expected to take to ensure that consistent, high quality text is produced in a timely and efficient fashion. Creating a guidance document that can be modified allows for the industry to learn from experience and to develop and improve the guidance over time if and when concerns arise in future, or when alternative approaches are identified that are expected to lead to a more economic and efficient process for the production of legal text – the proposed document specifically provides for an annual review in order to encourage continual improvement.

UNC modification proposals vary. While a consistent basic framework can be followed, the effort and resources involved in legal text production also vary greatly from modification to modification. A guidance document rather than specific rules has been proposed in recognition of this variance, providing clear expectations but also flexibility. A light governance process for amending the document is proposed, under the control of the Modification Panel, enabling change to be made efficiently.

It is proposed that:

1. The Transporters be required to publish a Legal Text Guidance Document.
2. The initial content of the Legal Text Guidance Document be that which is provided as an Appendix to this modification proposal.
3. Parties have regard to the Legal Text Guidance Document when text is produced in support of modification proposals.
4. The Legal Text Guidance Document may be modified if the Modification Panel votes in favour of a proposed change and that the Modification Panel be given any necessary vires to undertake this.

#### User Pays

Classification of the modification as User Pays, or not, and the justification for such classification.

No User Pays service would be created or amended by implementation of this modification and it is not, therefore, classified as a User Pays Modification.

Identification of Users of the service, the proposed split of the recovery between Gas Transporters and Users for User Pays costs and the justification for such view.

Not applicable

Proposed charge(s) for application of User Pays charges to Shippers.

Not applicable

Proposed charge for inclusion in the Agency Charging Statement (ACS) – to be completed upon receipt of a cost estimate from Xoserve.

Not applicable

## 4 Relevant Objectives

Impact of the modification on the Relevant Objectives:	
Relevant Objective	Identified impact
a) Efficient and economic operation of the pipe-line system.	None
b) Coordinated, efficient and economic operation of (i) the combined pipe-line system, and/ or (ii) the pipe-line system of one or more other relevant gas transporters.	None
c) Efficient discharge of the licensee's obligations.	None
d) 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.	None
e) Provision of reasonable economic incentives for relevant suppliers to secure that the domestic customer supply security standards... are satisfied as respects the availability of gas to their domestic customers.	None
f) Promotion of efficiency in the implementation and administration of the Code.	Positive
g) Compliance with the Regulation and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators.	None

Implementation would facilitate relevant objective f, promotion of efficiency in the implementation and administration of the Code by codifying a consistent process that all parties are expected to follow in order to support the production of UNC modification legal text. Responsibilities will be clarified and transparency will be introduced to the existing process. An opportunity will also be created for the process to be modified if and when desirable improvements are identified. Implementation would therefore be expected to increase certainty regarding the approach taken to the provision of legal text, and support changes which increase the efficiency with which text is produced.

## 5 Implementation

No systems changes are required to support implementation. Applying the guidance to modifications that are progressing through the modifications process is not expected to cause any difficulties since: the guidance largely encapsulates existing best practice; those responsible for the provision of text can seek to ensure the guidance is adopted informally prior to implementation; and because the status of the document is to provide guidance rather than formal contractual obligations.

As self-governance procedures are proposed, implementation could be sixteen business days after a Modification Panel decision to implement.

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## 6 Legal Text

Text has been prepared by Scotia Gas Networks as requested by the UNC Modification Panel at the February meeting and is published alongside this report.

The Workgroup is satisfied that this Text achieves the intent of this Modification.

## 7 Recommendation

The Workgroup invites the Panel to:

- AGREE that this self-governance modification should be submitted for consultation.