

**Transco NTS Response to UNC Modification Proposal 0048**  
**“Preparation of Legal Text for Non-Transporter Modification Proposals”**

**National Grid NTS’s Position.**

National Grid NTS does not support the implementation of this proposal. Below is National Grid NTS’s detailed response to the Modification Proposal:

**1. The Modification Proposal**

National Grid NTS does not support the implementation of this proposal.

**Background to this Proposal:** Under the current Modification Rules of the Uniform Network Code, Legal Text is prepared for Non-Transporter Modification Proposals following Consultation. Section 9.8.1(a)(ii) of the Uniform Network Code Modification Rules currently allows the authority to direct Gas Transporters to prepare the Legal Text of the Modification and Section 6.2.1(k) of the Uniform Network Code Modification Rules allows Proposers to put forward “suggested Legal Text” at the time of raising the Modification Proposal.

UNC Modification Proposal 0048 seeks to change the Modification Rules by adding an additional requirement for the Joint Office to secure Legal Text *prior to Consultation* for Non-Transporter Modification Proposals, unless the Modification Panel believe that preparation of Legal Text is neither economic nor efficient and vote appropriately to veto. If the Modification Panel delivers a hung vote, the veto is lost and a decision is made to produce Legal Text. National Grid considers this default position requiring the preparation of text is not appropriate and could lead to text being prepared unnecessarily and therefore inefficiently.

National Grid NTS opines that this amended approach documented within UNC Modification Proposal 0048 does not further the relevant objectives documented within Section 1(f), Standard Special Condition A11 of the Transco Gas Transporter Licence.

**2. Extent to which implementation of the proposed modification would better facilitate the relevant objectives**

National Grid NTS do not believe that implementation would support the relevant objectives as: -

- A scenario could occur where a split Modification Panel resulting from five ‘no’ votes and five ‘yes’ votes. Under the proposed amended Modification Rules process such a split vote defaults to a requirement for the provision of Legal Text, which would be inconsistent with other Panel and UNC committee voting arrangements where a majority is required to approve an action. In this scenario

**Transco NTS Response to UNC Modification Proposal 0048**  
**“Preparation of Legal Text for Non-Transporter Modification Proposals”**

the views of those Modification Panel members who bear the cost of Legal Text preparation could be discounted.

- The premise of the Modification Proposal is that text will be prepared in the period between the Modification Panel voting to send the Modification Proposal to Consultation and the issuing of the Draft Modification Report. This timescale – generally 15 days, is considerably shorter than the period currently available. For complex or poorly defined Modification Proposals the provision of the Legal Text could involve significant discussion between the party drafting the Legal Text and the Proposer. This discussion and drafting could well exceed 15 days and the Modification Proposal does not clearly identify how this situation would be addressed.
- Conflict of interest. Production of Legal Text may be required from a legal representative employed by a Transporter, whose Transporter employer does not support the intent or objective of the Modification Proposal. This situation would create conflict of interest, as the legal representative would be required to receive instruction from the client [The Transporter] and not other parties [The Proposer]. To prevent such an occurrence, supporting the right for Users to provide suggested Legal Text and to take appropriate responsibility, a User should itself commission any Legal Text drafting.
- The current Modification Rules govern an approach, which better meets the relevant objectives than the approach defined within UNC Modification Proposal 0048, as it provides the flexibility for the Proposer to supply their own Legal Text or for the Authority to request that Legal Text is prepared and avoids the potentially inefficient default obligation included within the Modification Proposal.

**3. The implications for Transporters and each Transporter of implementing the Modification Proposal.**

**a. Development and capital cost and operating cost implications:**

The implementation of this Modification Proposal, changing the Modification Rules, will increase Transporter operating costs due to production of additional Legal Text for Modification Proposals, which are not then implemented.

**b. Extent to which it is appropriate to recover the costs, and proposal for the most appropriate way to recover the costs:**

Currently no mechanism exists for Transporters to recover the costs of Legal Text production from the Joint Office or Proposers. A further Modification to the UNC would be required if it was considered more appropriate that the cost of provision of Legal Text for these Modification Proposals, that are

**Transco NTS Response to UNC Modification Proposal 0048**  
**“Preparation of Legal Text for Non-Transporter Modification Proposals”**

subsequently rejected, should be recovered from the Proposer. Without such cost recovery these costs would need to be smeared to all Users through general transportation charges.

**4. Consequences on the legislative and regulatory obligations and contractual relationships of each Transporter and each Non-Transporter and Non Code Party of implementing the Modification Proposal**

This option places a regulatory obligation on the Joint Office within the Modification Rules to secure preparation of Legal Text for Non-Transporter Modification Proposals prior to consultation. An obligation by association is then passed to Transporters to deliver the required Legal Text.

**5. Analysis of any advantages or disadvantages of implementation of the Modification Proposal**

**a. Advantages:**

National Grid do not consider that this Modification Proposal offers any advantages over current arrangements.

**b. Disadvantages:**

Could lead to delays in the Modification Process to allow time for legal drafting of Modification Proposals prior to issue for Consultation.

Could lead to poor or inappropriate legal text when insufficient time is allowed for the generation of legal text, or when preparation identifies that the Modification Proposal was insufficiently developed to enable suitable legal text to be provided

Will increase costs of facilitating Non-Transporter Modification Proposals and will allocate these costs to all Users with no means for appropriately targeted cost recovery from the Proposer

Will not meet the requirements of furthering the relevant objectives documented within Section 1(f), Standard Special Condition A11 of the Transco Gas Transporter Licence

**6. Implications of implementing this Modification Proposal upon existing Code Standards of Service**

Potentially may increase the amount of time required to process Non-Transporter Modification Proposals under amended Modification Rules.

**Transco NTS Response to UNC Modification Proposal 0048**  
**“Preparation of Legal Text for Non-Transporter Modification Proposals”**