Modification Report
Formally include the Network Code Modification Rules within the Network Code
Modification Reference Number 0679

Version 2.0

This Modification Report is made pursuant to Rule 8.9 of the Modification Rules and follows the format required under Rule 8.9.3.

1. The Modification Proposal

Well managed governance processes are rightly regarded as key to delivering effective and necessary change that impacts every area, in this context, of the Network Code. The present justification for not including the modification rules within the Network Code is unclear and we note is not consistent with the approach adopted in electricity where the modification rules have been included within the BSC.

Modify the Network Code such that the Modification Rules, as currently published by Transco, are incorporated into and constitute part of the Network Code and hence are subject to the same change governance processes.

It is proposed that the Modification Rules be incorporated as a Supplement to Section V General and immediately prior to or immediately upon incorporation within the Network Code remove Section 1.4 from the Modification Rules.

2. Transco's Opinion

Transco understands from the presentation given by the Proposer at the NT&T Workstream that the main driver for this Proposal is the desire to give Users the ability to formally propose changes to the Modification Rules. Implementation would also provide a common approach to governance across the electricity and gas markets. This Proposal is to simply include the Rules within the Network Code. However unlike the electricity market documents (the Balancing and Settlement Code and the Connection and Use of System Code) there are no pre-existing guidelines for judging the merit of each proposed change to the Rules as the Relevant Objectives for the Network Code relate to transportation arrangements.

Transco notes that Licence Condition 9 clearly defines what the modification procedures should provide for and how they should operate. It also details what steps need to be taken by Transco to change the Rules but gives no indication of how the Authority should judge the merit of proposed changes when giving their consent to them. Transco is of the opinion that consideration should be given to clarifying this within its Licence should this Proposal be implemented.

Transco also notes that currently the Modification Rules are written as a set of procedures rather than the contractual terms found within the Network Code and as such are not legally binding on Users, Members or Transco. Transco considers that they cannot be incorporated in their present form as they would need redrafting to operate effectively as part of the Code.

An alternative approach would be to formally acknowledge that Users can propose changes to the Rules whilst leaving them as separate to the Network Code and to continue to operate the change process outlined in Licence condition 9.6.b. which requires the Authority's "consent" rather than a "direction to modify the Network Code".

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

The Proposer states that " incorporation of the Modification Rules within the Network Code will enable relevant shippers to propose change to the rules which could be expected to;

1. improve the efficiency of the transportation arrangements and hence the operation of the system,
2. enable Transco to demonstrate fuller compliance with licence condition 4D para 1(a) by removing an apparently anomalous and unfair advantage which it currently enjoys, and,
3. facilitate proposals from a wider subset of the industry thus promoting better competition between shippers and between suppliers."

Transco is not clear how the Proposal would better facilitate the Relevant Objectives or how changes to the Modification Rules would improve the efficiency of transportation arrangements.

4. The implications for Transco of implementing the Modification Proposal , including

a) implications for the operation of the System:

No direct implications are anticipated.

b) development and capital cost and operating cost implications:

No such implications have been identified.

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:

Not applicable.

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

Implementation of this Proposal would not be expected to impact price regulation.

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

No development implications on the computer systems of Transco or on the related computer systems of Users are anticipated.

7. The implications of implementing the Modification Proposal for Users

Users would be able to formally propose changes to the Modification Rules.

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

Transco has not been informed of 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 significant 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

Advantages

Users would be able to formally propose changes to the Modification Rules. At present Users are not specifically recognized as being able to propose changes to the Modification Rules within Transco's Licence.

Disadvantages

Proposed changes to the Modification Rules would be subject to the procedures outlined in the Rules themselves.

There are no pre-existing guidelines for judging the merit of each proposed change to the Rules as the Relevant Objectives for the Network Code relate to transportation arrangements.

The Modification Rules are written as a set of procedures rather than the contractual terms found within the Network Code and may not operate effectively as part of the Code if incorporated in their present form.

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

Representations have been received from ten Users: Total Gas and Power Ltd ("TGP) , British Gas Trading ("BGT"), Edf Energy ("EDF"), BP Gas Ltd ("BP"), Scottish and Southern Energy ("SSE"), Scottish Power ("SP"), Statoil UK Ltd ("STAT"), Shell Gas Direct ("SGD"), RWE Innogy ("INN") and Powergen UK ("PGEN") and two Non Network Code parties: the Association of Electricity Producers ("AEP") and Gemserve ("GSV") all of which support implementation of this Modification Proposal.

Licence changes regarding Relevant Objectives

TGP, BGT, SSE, STAT, SGD, INN, PGEN and GSV do not consider any changes are required to Transco's Licence conditions for this proposal to be implemented.

EDF "requests that there is a review of the Applicable Network Code Objectives in the Licence to ensure they are appropriate for the Network Code modification Rules" and suggest "They could be based on the BSC Applicable Objectives". BP note "it may be a timely point to review the robustness of the existing criteria".

Consistency of governance across electricity and gas regimes.

SP, PGEN, AEP support a consistent approach to governance across both the gas and electricity regimes. However the Proposer (TGP) states this is not the intent of the proposal and SGD " do not consider that creating commonality in governance across gas and electricity is necessarily desirable".

Modification Rules needing legal review and redrafting prior to inclusion.

EDF "note that the Network Code Modification Rules text will require legal review before being incorporated effectively into the Network Code", SSE "believe any redrafting should be minor", and BP note "This simply requires work on behalf of all parties to ensure that suitable arrangements/drafting are incorporated in Code". Whereas TGP and STAT believe they are suitable for inclusion.

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 ModificationProposal

None.

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

An implementation timetable would need to be developed.

16. Recommendation concerning the implementation of the Modification Proposal

Transco support implementation of a mechanism to enable users to propose changes to the Network Code Modification Rules. Recognising the aspiration of shippers, Transco are comfortable that this could be achieved by incorporating the Modification Rules in the Network Code.

However, Transco believe that to do this consideration needs to be give to:

- developing guidelines for judging the merit of proposed changes to the rules
- re-drafting the Modification Rules as to operate effectively as part of the Code
- ensuring that the licence is consistent with inclusion of the Modification Rules within the Network Code.

On this basis, whilst supportive of the intent of the proposal, Transco is not able to recommend implementation in line with the proposal by including the legal text, including the minor amendment proposed, in the Network Code.

Notwithstanding this, the current Modification Rules (with Rule 1.4 removed, as specified by the Proposal) are attached as legal text should the Authority consider implementation of this Proposal as the best way to proceed.

17. Restrictive Trade Practices Act

If implemented this proposal will constitute an amendment to the Network Code. Accordingly the proposal is subject to the Suspense Clause set out in the attached Annex.

18. Transco's Proposal

This revised Modification Report contains Transco's proposal not to modify the Network Code but has been prepared following direction from the Gas & Electricity Markets Authority.

19. Text

SECTION Y

~~NETWORK CODE~~ MODIFICATION RULES

~~1 August 2003~~

~~Version 4.00~~

1 STATUS OF THESE RULES

1.1 Origin of these Rules

Transco is required to establish and operate procedures for the Modification of ~~the Network~~ Code, so as to better facilitate, consistently with Transco 's duties under Section 9(1) and (2) of the ~~Gas~~ Act, the achievement of the relevant objectives. The procedures are to provide for:

~~(a)~~1.1.1 the reviewing of the Network Code;

~~(b)~~1.1.2 the making of proposals for the Modification of ~~the Network~~ Code either by Transco, a User, or a Third Party Participant;

~~(c)~~1.1.3 the giving of adequate publicity to any such proposal including, in particular, drawing it to the attention of all Users and sending a copy of the proposal to any other person who asks for one;

~~(d)~~1.1.4 the seeking of the Views of the Authority on any matter connected with any such proposal;

~~(e)~~1.1.5 the consideration of any representations relating to such a proposal made (and not withdrawn) by a User or other person likely to be materially affected were the proposal to be implemented; and

~~(f)~~1.1.6 where the Authority accepts that the ~~Network~~ Code may require Modification as a matter or urgency, the exclusion, acceleration or other variation, subject to his approval, of any particular procedural steps which would otherwise be applicable.

1.2 Document setting out the Rules

Transco is required to prepare a document setting out the procedures (referred to in ~~Rule~~paragraph 1.1) which it establishes. These Rules constitute that document, and the review procedures (which are, without prejudice to ~~Rule~~paragraph 10.1, designed to provide the means by which matters may be considered without being subject to the Modification Procedures) and the Modification Procedures (which are designed to provide the means by which Modification Proposals shall be considered) constitute those procedures.

1.3 Application

These Rules do not apply to any Modification which Transco may, from time to time, be required to make pursuant to paragraph (10) of Condition 9.

1.4 ~~Not part of the~~ Network Code

These Rules ~~do not~~ constitute part of ~~the Network~~ Code.

2 INTERPRETATION

2.1 Defined terms

In ~~these Rules~~addition to terms defined elsewhere in the Code, the following ~~words~~terms and expressions ~~shall, unless the context shall otherwise require, have~~are used with the following meanings in this Section:

"**Agenda**": an Agenda detailing (amongst other things) the nature of the matters and materials to be discussed at the meeting of the Modification Panel to which the Agenda relates;

~~**" Authority**": the Gas and Electricity Markets Authority as established pursuant to section 1 of the Utilities Act 2000.~~

~~"**Business Day**": any day other than (a) any Saturday or Sunday or (b) any other day which is a bank holiday in England and Wales;~~

"**Condition 9**": Condition 9 of the standard licence conditions of gas transporter's licences determined pursuant to Section 8 of the Gas Act 1995, as incorporated into the Licence;

~~"**Connected System Operators**": operators of pipeline systems connected to the System, other than terminal operators;~~

~~"**Consumer**": a Consumer as defined in Schedule 2B to the Gas Act;~~

" **Consumers' Representative(s)**": the individuals (if any) for the time being appointed by the Gas & Electricity Consumers' Council (energywatch) to the Modification Panel in accordance with these Rules;

"**Designated Person**":

(a) subject to (b) below, the individual for the time being appointed as the company Secretary of the Gas Forum (a company incorporated in England and Wales with limited liability and company registration number 2941152); or

(b) any other individual of whose identity the Panel Chairman may be notified by the Authority;

"**Development Phase**": those provisions of the Modification Procedures set out in ~~Rule~~paragraph 8 and, as the context may require, any of those provisions;

"**Development Work**": in respect of each Development Work Group, the work detailed and the matters (if any) specified, pursuant to ~~Rule~~ paragraphs 11.9.1(c) and 11.9.1(d), in the Terms of Reference of that Development Work Group as the same may be changed pursuant to ~~Rule~~paragraph 11.9.3(a);

"**Development Work Group**": any Development Work Group constituted pursuant to ~~Rule~~paragraph 7.6;

"**Development Work Group Report**": the final report of the relevant Development Work Group prepared pursuant to ~~Rule 8.6;~~paragraph 8.6;

~~"**Gas Act**": the Gas Act 1986 (as amended from time to time);~~

"Independent Transporters' Representative": the individual (if any) for the time being appointed by the Association of Independent Gas Transporters (a company incorporated in England and Wales with limited liability and company registration number 3591677) in accordance with these Rules;

"**Licence**": the gas transporter's licence treated as held by Transco under Section 7 of the Gas Act;

"**Member**": any individual for the time being appointed to the Modification Panel;

"**Modification**": any Modification made pursuant to these Rules and in accordance with Condition 9 of the Licence; and **"Modifications"** shall be construed accordingly;

"**Modification Panel**": the Modification Panel established and constituted from time to time pursuant to and in accordance with these Rules;

"**Modification Procedures**": the provisions relating to Modifications and Modification Proposals set out in these Rules and, as the context may require, any of those provisions;

"**Modification Proposal**": a Modification Proposal made by Transco or, as the case may be, a User;

"**Modification Report**": a report prepared (and finalised) by Transco in accordance with ~~Rule~~paragraph 8.9 or ~~Rule~~paragraph 9.1.2(c);

"~~**Network Code**": the Network Code relating to Transco's pipeline System prepared pursuant to Condition 9, as from time to time modified pursuant to the Licence;~~"**Non-~~Network~~ Code Party":** any person to whom Transco shall send a copy of a Modification Proposal or Modification or report, or from whom Transco shall invite representations pursuant to ~~Rule~~paragraph 7.8;

"**Ofgem Representative**": the individual (if any) for the time being appointed by the Authority to the Modification Panel in accordance with these Rules;

"**Panel Chairman**": the Transco Representative for the time being nominated, pursuant to ~~Rule~~ paragraph 5.6, by Transco and, as the context may require, shall include either deputy chairman;

"**Panel Majority**": in relation to any matter to be determined at a meeting of the Modification Panel:

(a) a majority (in number) of the votes exercisable by the User's Representatives present at that meeting and voting in favour of such matter; and

(b) a vote of a Transco Representative (who is entitled to vote), in favour of such matter.

"**Proposer**": the person who shall have made the relevant Modification Proposal or Third Party Modification Proposal pursuant to ~~Rule~~paragraphs 6.2.1 or 6.2.2. or the relevant Review Proposal pursuant to ~~Rule~~paragraph 10.2.3 or, as the case may be, ~~Rule~~paragraph 10.2.4;

"**Qualified Majority**": in respect of a meeting of the Modification Panel, a determination made with the agreement of that number of the voting Members representing not less than two thirds plus one of the User's Representatives present (for which purposes the calculation shall be rounded down) plus the vote of a Transco Representative;

"**Relevant Objectives**": the relevant objectives in paragraph (1) of Condition 9;

"**Review Group**": a group comprised of representatives of Users and Transco convened by Transco for the purpose of the consideration and discussion of any matter in accordance with ~~Rule~~paragraph 10 (which such group shall have no power or authority to bind any User and/or Transco);

"**Review Proposal**": any matter or any Modification Proposal which the Modification Panel determines pursuant to ~~Rule~~paragraph 10 should be subject to review;

these "**Rules**": the Rules contained herein, as the same may, from time to time, be modified pursuant to Condition 9; and "**Rule**" shall be construed accordingly;

the "**Secretary**":

(a) the individual for the time being appointed as Secretary; or

(b) as the case may be, any individual for the time being appointed as a deputy Secretary, of the Modification Panel pursuant to ~~Rule~~paragraph 3.5;

"**Storage Operator**": shall mean an operator of gas storage facilities in the UK;

~~"**Supplier**": a gas Supplier as defined in the Gas Act;~~

"Independent Suppliers' Representative": the individual (if any) for the time being appointed by the Designated Person to represent independent Supplier organisations (i.e. not affiliated to a User who already has a representative on the Panel) in accordance with these Rules;

~~"**System**": the meaning ascribed thereto in Section A of the Network Code;~~

"**Terminal Operator**": a person who is for the time being the operator of a terminal the address of which is specified in the schedule to the Gas Transporters Exemption Order 1996 or any later order of like effect;

"**Terminal Operators' Representative**": the individual (if any) for the time being appointed by terminal operators to the Modification Panel in accordance with these Rules;

"**Terms of Reference**": means those terms of reference in relation to:

(a) a Development Work Group finalised by Transco, pursuant to ~~Rule~~paragraph 7.2.2(f)(i) or paragraph 7.6;

(b) a Review Group determined by Transco, pursuant to ~~Rule~~paragraph 10.4; or

(c) the consideration of a Modification Proposal referred to a Workstream determined by Transco pursuant to ~~Rule~~paragraph 7.4

(in each case as may be amended pursuant to ~~Rule~~paragraph 11.9.3);

"**Third Party Participant**" (As required by paragraph 6(a) of Licence Condition 9): any person or body who are not shippers but who are representative of interested third parties, as may be designated in writing for this purpose by the Authority, from time to time and maintained on a register held by the Authority;

"**Third Party Modification Proposal**": a proposal to modify Annex V1 ("Table of Market Data") of the ~~Network~~ Code made by a recognised "Third Party Participant""

~~"**Transco**": the Licence holder;~~

"**Transco Proposal**": any Modification Proposal made by Transco pursuant to ~~Rule~~paragraph 6.1.1, or, as the case may be, ~~Rule~~paragraph 6.4 as the same may be varied pursuant to ~~Rule~~paragraph 11.4;

"**Transco Representative**": any individual for the time being appointed (or, as the case may be, re-appointed) by Transco as a Member;

"**Unanimity**": in respect of a meeting of the Modification Panel, a determination made with the agreement of all Voting Members participating in the meeting; and "**Unanimous**" and "**Unanimously**" shall be construed accordingly;

"**Urgent Modification**": a Modification made pursuant to an Urgent Modification Proposal;

"**Urgent Modification Proposal**": a Modification Proposal in respect of which it is to be submitted to the Authority that the Modification is required as a matter of urgency as described in paragraph (5)(f) of Condition 9;

~~"**User**": shall have the meaning given in the Network Code;~~

"**User Proposal**": any Modification Proposal made by a User pursuant to ~~Rule~~paragraph 6.1.2;

"**Users' Representative**": each of those individuals for the time being appointed (or, as the case may be, re-appointed) pursuant to ~~Rule~~paragraph 4.2.4, re-appointed pursuant to ~~Rule~~paragraph 4.2.6 or appointed pursuant to ~~Rule~~paragraph 4.4.2(iv);

"**Views**": the Views of the Authority referred to in paragraph (5)(d) of Condition 9; and "**View**" shall be construed accordingly;

"**Voting Member**": any Transco Representative (other than the Panel Chairman, which term, in this context, shall not include either deputy chairman) and any User's Representative;

"**Workstream**": a group comprised of representatives of Users and Transco, chaired by Transco and operating within the Workstream Chairmans' Guidelines, which is convened for the general purposes of consideration and discussion of matters relating to the Network Code or a Modification Proposal in accordance with ~~Rule~~paragraph 7.4 in accordance with its Terms of Reference (which such group shall have no power or authority to bind any User and/or Transco);

"**Workstream Chairmans' Guidelines**": a set of standing guidelines governing the conduct of Workstream meetings, issued by Transco, which may be amended from time to time by Panel Majority and

~~"**Year**": a period of twelve (12) months ending on the 30th September.~~

2.2 Use of Headings

The headings in these Rules are used for ease of reference only and shall not be taken into account in construing these Rules.

2.3 References to the ~~Network Code and~~ Licence

The references in these Rules to the ~~Network Code and the~~ Licence are contained in these Rules for the purposes of interpretation and reference only and no provision in ~~either the Network Code or~~ the Licence shall (whether in whole or in part) form any part of or otherwise be incorporated howsoever into these Rules.

2.4 References to notices

The references in these Rules to a "**Notice**" shall unless the context shall otherwise require be treated as including references to the Agenda of the meeting and to the materials to be considered at the meeting to which the notice relates.

2.5 Gender

In these Rules, words importing the masculine gender include the feminine and vice versa.

3 THE MODIFICATION PANEL

3.1 Establishment

The Modification Panel was established with effect from 1st March 1996.

3.2 Members

3.2.1 The Modification Panel shall be composed of:

(a) the Panel Chairman, being a non-voting Member;

(b) two (2) other Transco Representatives, being Voting Members;

(c) if appointed (or, as the case may be, re-appointed), up to nine (9) Users' Representatives, being Voting Members;

(d) if appointed, the Ofgem Representative, being a non-voting Member;

(e) if appointed, the Terminal Operators' Representative, being a non-voting Member:

(f) if appointed, the Consumers' Representative(s), up to two (2), being non-voting Members;

(g) if appointed, the Suppliers' Representative, being non-voting; and

(h) if appointed, the Independent Transporters' Representative, being non-voting.

It is expected that a Voting Member will, as appropriate, represent and inform the Modification Panel of the views of that Member's appointor (or appointors) in relation to Modification Proposals and Review Proposals. It is expected that the Terminal Operators' Representative, Consumers' Representative(s), Suppliers' Representative and Independent Transporters' Representative will, as appropriate, inform the Modification Panel of the views of those persons which they represent.

3.3 Transco Representatives

Transco shall appoint (and as may be the case re-appoint) up to three (3) representatives to the Modification Panel.

3.4 User's Representatives

The Designated Person shall have the right to appoint (and as may be the case re-appoint) on behalf of Users up to nine (9) User's Representatives.

3.5 Secretary

Transco shall, from time to time, appoint an individual (being an individual other than a Member) as the Secretary (and may remove and replace any individual so appointed). Transco may, from time to time, appoint (and may revoke the appointment of) any individual (being an individual other than a Member) as deputy Secretary. The Secretary or, as the case may be, deputy Secretary (if any), will attend meetings of the Modification Panel, and any deputy Secretary may attend any meeting of the Modification Panel at which the Secretary is also in attendance.

3.6 Notice of changes

Transco will notify the Authority of any changes in the composition of the Modification Panel.

4 MEMBERSHIP OF THE MODIFICATION PANEL

4.1 Appointment

4.1.1 The Authority may, from time to time, by notice to the Secretary identify any individual to be appointed (and revoke that appointment) as the "**Ofgem Representative**".

4.1.2 The ~~terminal operators~~Terminal Operators may, from time to time, by notice to the Secretary signed by all the terminal operators, unanimously identify any individual to be appointed (and revoke that appointment) as the "**Terminal Operators' Representative**".

4.1.3 The Gas & Electricty Consumers' Council (energywatch) may, from time to time, by notice to the Secretary identify up to two (2) individuals to be appointed (and revoke those appointments) as **"Consumers' Representative(s)".**

4.1.4 The Designated Person may, from time to time, by notice to the Secretary.

appoint (and revoke that appointment) an individual as the **"Suppliers Representative".**

4.1.5 The Association of Independent Gas Transporters may, from time to time by notice to the Secretary, appoint (and revoke that appointment) an individual as the **"Independent Transporters' Representative"**.

4.2 Retirement

4.2.1 Each Member who is a Users' Representative and each member who is a Transco Representative shall retire at the 1st of October next following the appointment (or, as the case may be, re-appointment) of that Member. Each retiring Member shall be eligible for re-appointment.

4.2.2 Any Member who is, pursuant to ~~Rule~~paragraph 4.2.1, to retire and who is not to be re-appointed (and consequently in respect of whom no notice shall have been received pursuant to ~~Rule~~paragraph 4.2.3 or ~~Rule~~paragraph 4.2.4) shall not be entitled to receive notice of any meeting of the Modification Panel which is to take place after the relevant 1st October.

4.2.3 In respect of each individual who is a Transco Representative, Transco shall, not later than 1st September in each Gas Year, notify the Secretary:

(a) that such individual is to be re-appointed as a Transco Representative; or

(b)

(i) that such individual is not to be so re-appointed; and

(ii) of the identity of the individual to be appointed as a Transco Representative.

4.2.4 In respect of each individual who is a Users' Representative, the Designated Person may, not later than 1st September in each Gas Year, notify the Secretary (copying the notice to the Authority):

(a) that such individual is to be re-appointed as a Users' Representative; or

(b)

(i) that such individual is not to be so re-appointed at the relevant meeting; and

(ii) of the identity of the individual to be appointed as a Users' Representative.

4.2.5 If notices shall be received in accordance with ~~Rule~~paragraph 4.2.4 in respect of less than nine (9) individuals to be appointed (or, as the case may be, re-appointed) as Users' Representatives all individuals identified in such notices shall, pursuant to ~~Rule~~paragraph 4.2.4 be appointed (or, as the case may be, re-appointed) and the individuals who are, pursuant to ~~Rule~~paragraph 4.2.1, to retire and in respect of whom no notice shall have been received pursuant to ~~Rule~~paragraph 4.2.4(a), shall retire.

4.2.6 If less than nine (9) individuals are appointed (or, as the case may be, re-appointed) as Users' Representatives the Designated Person may in respect of any Gas Year at any time during such Gas Year by notice to the Secretary identify any individual as a Users' Representative for filling any vacancy which arose by reason of ~~Rule~~paragraph 4.2.5.

4.2.7 If no notice is received by the Secretary in accordance with ~~Rule~~paragraph 4.2.3 or ~~Rule~~paragraph 4.2.4 then the Secretary shall be treated as having received notice pursuant to ~~Rule~~paragraph 4.2.3(a) or 4.2.4(a) in respect of each Transco Representative or Users' Representative.

4.3 Appointment and re-appointment

4.3.1 Where any notice is received pursuant to ~~Rules~~paragraphs 4.1.1, 4.1.2, 4.2.3, 4.2.4, the appointment or, as the case may be, the re-appointment to which such notice relates shall take effect at the relevant 1st October. Each individual who is to be appointed or, as the case may be, re-appointed as a Member at that meeting shall be entitled to receive notice of any meeting of the Modification Panel which is to take place after such 1st October.

4.3.2 Where any notice is received by the Secretary pursuant to ~~Rule~~paragraphs 4.1.3, 4.1.4, 4.1.5, 4.2.6 or 4.4.2, the appointment to which such notice relates shall take effect in accordance with such notice.

4.4 Ceasing to be a Member

4.4.1 If any individual (being a voting Member) shall for whatever reason (other than retirement pursuant to ~~Rule~~paragraph 4.2.1) notify the Secretary that he wishes to cease to be a Member, he shall cease to be a Member in accordance with the notice (and the Secretary shall send a copy of such notice to the Designated Person and inform, in due course, any other relevant persons determined by the Secretary).

4.4.2 Where pursuant to ~~Rule~~paragraph 4.4.1 or otherwise a vacancy shall arise, in the case of:

(a)~~(i)~~ a Transco Representative, Transco will, by notice to the Secretary, identify another individual to be appointed as a Transco Representative;

(b)~~(ii)~~ the Ofgem representative, the Authority may identify another individual to be appointed as the Ofgem representative;

(c)~~(iii)~~ the Terminal Operators' Representative, the terminal operators may identify another individual to be appointed as the Terminal Operators' Representative;

(d)~~(iv)~~ a Users' Representative, the Designated Person may notify the Secretary of the identity of a replacement to be appointed as a Users' Representative;

(e)~~(v)~~ a Consumers' Representative, the Gas & Electricity Consumers' Council may, by notice to the Secretary, identify another individual to be appointed as the Consumers' Representative;

(f)~~(vi)~~ the Suppliers' Representative, the Designated Person may, by notice to the Secretary, identify another individual to be appointed as the Suppliers' Representative;

(g)~~(vii)~~ the Independent Transporters' Representative, the Association of Independent Gas Transporters may, by notice to the Secretary, identify another individual to be appointed as the Independent Transporters' Representative.

4.4.3 No notice under ~~Rule~~paragraph 4.4.2 may effect an appointment after 30th September in the Gas Year in which the notice is given or (where ~~Rule~~paragraph 4.4.1 applies) before the relevant retirement pursuant to the notice under that ~~Rule~~paragraph.

4.4.4 An individual shall cease to be a Users' Representative in accordance with any notice to that effect given by the Designated Person to the Secretary.

4.5 Alternates

4.5.1 Each Member may, from time to time, by notice to the Secretary appoint (or revoke the appointment of) an individual (including, but without limitation, another Member other than the Panel Chairman) to be such Member's alternate. The appointment (and revocation of the appointment) of any individual as an alternate shall be conditional upon and shall only be effective upon receipt of notice by the Secretary.

4.5.2 A Member who is, by reason of also being an alternate of a voting Member, entitled to exercise more than one (1) vote shall not be required to exercise all the votes which

that Member is entitled to exercise, or to exercise all of the votes which that Member is entitled to exercise in the same way.

4.5.3 In addition to notices sent to Members, each alternate for the time being shall be entitled to be sent notices.

4.5.4 An alternate may attend any meeting of the Modification Panel which is not also attended by the Member (in his capacity as a Member) who appointed him. If that alternate is the alternate of a voting Member, he may also vote and generally at any such meeting shall have and shall be able to exercise and discharge any and all of the functions, powers and duties of the Member who shall have appointed that alternate. Alternates of voting Members may sign written resolutions pursuant to ~~Rule~~paragraph 5.9, provided that if an alternate of a voting Member and the voting Member who appointed him shall sign a written resolution the signature of the voting Member shall be effective and the signature of the alternate shall be disregarded.

4.5.5 If a Member ceases, for whatever reason, to be a Member the appointment of any alternate of the Member shall determine; provided that if any Member retires but is reappointed at 1st October in any Gas Year, any appointment made by that Member pursuant to ~~Rule~~paragraph 4.5.1 which is, and continues to be, effective prior to the retirement of that Member shall continue to be effective after that Member's re-appointment as if that Member had not so retired.

5 MEETINGS OF THE MODIFICATION PANEL

5.1 Purpose

5.1.1 Meetings of the Modification Panel will provide a forum in which Modification Proposals and Review Proposals can be discussed pursuant to and in accordance with the Modification Procedures and review procedures. Those functions of the Modification Panel expressly provided in these Rules relating to the Modification Procedures and review procedures will be discharged in accordance with these Rules. Except as otherwise permitted for, Workstreams may be created or dissolved by Panel Majority. Other than as expressly provided in these Rules, the Modification Panel shall have no ability to determine any matter and no competence to discharge any function or to exercise any power.

5.2 Frequency of meetings

5.2.1 Subject to ~~Rule~~paragraph 5.4.1, ~~Rule~~paragraph 5.4.2 and ~~Rule~~paragraph 9, the Secretary will convene meetings of the Modification Panel on notice not less frequently than once each month unless there is no matter as an Agenda item for the Modification Panel to discuss. In any event, a meeting of the Modification Panel will be convened once every three calendar months.

5.3 Notice convening meetings

5.3.1 Subject to ~~Rule~~paragraph 5.4.1, ~~Rule~~paragraph 5.4.2 and ~~Rule~~paragraph 9, meetings of the Modification Panel will be convened on not less than ten (10) Business Days' notice.

5.3.2 Every notice convening a meeting of the Modification Panel will specify the place, day and time of the meeting and enclose an Agenda. All relevant materials in respect of a meeting of the Modification Panel will be circulated not less than five (5) Business Days prior to the meeting to which they relate or, where in the opinion of the Secretary a shorter period would better facilitate the exercise by the Modification Panel of its powers, within such shorter period as the Secretary shall determine. Each Member shall (subject to ~~Rule~~paragraph 11.6.7) be entitled to receive each notice and the relevant materials. At the same time as any notice is despatched to Members a copy of such notice shall (subject to ~~Rule~~paragraph 11.6.7) be despatched to each

User. There may be circumstances where materials to be despatched with a notice have, pursuant to these Rules, already been sent to Users. In any such circumstance the relevant materials may be, but do not have to be, sent with the notice.

5.4 Short Notice

5.4.1 The Modification Panel may at any meeting of the Modification Panel determine by panel majority that the next following meeting of the Modification Panel be convened on shorter notice than specified in ~~Rule~~paragraph 5.3.1 and where the Modification Panel shall so determine the Secretary shall convene a meeting of the Modification Panel in accordance with that determination.

5.4.2 Without prejudice to ~~Rule~~paragraph 5.4.1, if all voting Members shall agree in writing the Secretary will convene a meeting of the Modification Panel on shorter notice than specified in ~~Rule~~ paragraph 5.3.1.

5.4.3 Any meeting of the Modification Panel convened pursuant to ~~Rule~~paragraph 5.4.1 or ~~Rule~~paragraph 5.4.2 shall, notwithstanding that such meeting is convened on shorter notice than that specified in ~~Rule~~paragraph 5.3.1, be duly convened.

5.5 Quorum

5.5.1 Members (only one of whom shall be a Transco Representative) present at a meeting of the Modification Panel who can exercise five (5) votes shall be a quorum.

5.5.2 If a quorum is not present at the time for the holding of a meeting (specified in the notice convening the meeting) or at any time during the hour following that time or shall at any time during the meeting cease to be present for more than fifteen (15) minutes,the meeting shall stand adjourned to the same place and at the time specified in the notice convening the meeting five (5) Business Days later and the Secretary shall notify each Member and (for information purposes only) each User that such is the case. If at such place and time the meeting so adjourned shall not be quorate in accordance with ~~Rule~~paragraph 5.5.1 the voting Members (if any) present shall be a quorum.

5.5.3 Any meeting of the Modification Panel at which a quorum is present shall be competent to discharge any and all of the functions within the competence of the Modification Panel.

5.6 Panel Chairman

Transco will nominate by notice to the Secretary one (1) of the individuals, from time to time, appointed (or, as the case may be, re-appointed) by Transco as the Panel Chairman. The other two (2) Transco Representatives shall each be a deputy chairman. The Panel Chairman or, in the absence of the Panel Chairman, either deputy chairman, shall preside at meetings of the Modification Panel. Each deputy chairman shall, when acting as Panel Chairman (and notwithstanding that he is so acting), be entitled to vote in his capacity as a voting Member.

5.7 Location and form of meetings

5.7.1 Unless the Modification Panel shall in respect of any meeting of the Modification Panel otherwise determine by Panel Majority, meetings of the Modification Panel will take place in London.

5.7.2 Meetings of the Modification Panel may take place by means of telephone, conference telephone, video link or any other audio, audio-visual or interactive communication notwithstanding that the Members treated as being present (pursuant to ~~Rule~~paragraph 5.7.3) by any such means of communication may not all be meeting in the same place provided that each Member shall be able to communicate to each of the other Members and be heard by each of the other Members simultaneously.

5.7.3 Any Member who shall be able to participate in the manner envisaged by ~~Rule~~paragraph 5.7.2 in any meeting of the Modification Panel shall be treated as being present at such meeting and accordingly shall, if such Member is a voting Member, be entitled to vote and shall count towards a quorum.

5.8 Voting

Subject to ~~Rule~~paragraph 5.9, the discharge of all of the functions within the competence of the Modification Panel and expressed to require a determination of the Modification Panel shall be determined by a vote conducted on a show of hands or, if the meeting takes place pursuant to ~~Rule~~paragraph 5.7.2, on a show of hands or such other demonstration of affirmation or consent as may be appropriate. On any vote each voting Member present shall (subject to ~~Rules~~ paragraphs 4.5.2 and 4.5.4) be entitled to exercise one (1) vote.

5.9 Written resolutions

A resolution in writing signed by voting Members, including any alternates appointed by such Members in accordance with ~~Rule~~ paragraph 4.5, shall be valid and effective for the purposes of discharging any function requiring a determination of the Modification Panel as if such vote were conducted in accordance with ~~Rule~~paragraph 5.8 at a duly convened meeting of the Modification Panel provided that votes are received by the Secretary from such Members as would, if present, form a quorum in accordance with ~~Rule~~paragraph 5.5 not later than three (3) Business Days (or such shorter period as the Secretary may reasonably notify) following receipt by voting Members of such documents as are necessary for the purposes of such written resolution. Such determinations may consist of several documents in the same form each such document being signed by one (1) (or more) of the voting Members or alternates. The Secretary will, where reasonably practicable, notify Members in advance that such vote will take place and will send copies of any such written resolutions to all non-voting members, the Ofgem Representative, the Terminal Operators' Representative and all Users.

5.10 Observers and Invitees

5.10.1 Each User shall be entitled to appoint an individual to act as an observer at meetings of the Modification Panel (and any observer so appointed shall not be entitled to participate in the business of the meeting). In respect of an individual appointed by a User, the Modification Panel may, from time to time, determine by Panel Majority that such individual be excluded from all or part of a meeting of the Modification Panel.

5.10.2 The Modification Panel may, from time to time, determine by Panel Majority to invite any individual to attend all or part of a meeting of the Modification Panel.

5.10.3 Transco may, at the written request of the Authority, invite any individual to a meeting or meetings of the Modification Panel as an observer. Where such an invitation is made, Transco will give as much notice as reasonably practicable to Members of the Modification Panel of the name of the individual invited, the organisation that the individual represents and the date of the relevant meeting(s). Where the Authority requests Transco to invite any individual, Transco will set out in writing to the Authority details of any objections that Transco may have to such attendance.

5.10.4 Any Invitee to a meeting of the Modification Panel pursuant to ~~Rule~~paragraph 5.10.3 shall be entitled to receive copies of any relevant minutes, Agendas, notices and Modification Proposals due to be discussed at that meeting (but shall not be entitled to participate in the business of the meeting).

5.11 Minutes

5.11.1 The Secretary shall ensure that determinations of the Modification Panel at meetings of the Modification Panel are minuted (and that such minutes record the manner in which each voting Member cast his vote in respect of each matter determined by the Modification Panel).

5.11.2 The Secretary shall ensure that all Members and each User shall within the ten (10) Business Days immediately following the date of the relevant meeting be sent:

(a) ~~(i)~~ a copy of any minute of that meeting made pursuant to ~~Rule~~paragraph 5.11.1;

(b) ~~(ii)~~ notification of any decision made pursuant to ~~Rule~~paragraph 7.5.

5.11.3 The Secretary will in respect of each meeting of the Modification Panel invite the individuals who attend that meeting to record their attendance.

5.12 Provision of information

5.12.1 The Modification Panel may, from time to time, determine by Panel Majority to provide (subject to ~~Rule~~paragraph 11.6.7) to any person a document derived from the application of (including, but without limitation, any minute made pursuant to ~~Rule~~paragraph 5.11.1) or considered in accordance with these Rules.

5.12.2 If the Modification Panel shall so determine the Secretary shall ensure that within a reasonable period of time the document which is the subject of such determination shall be sent to such person.

6 MODIFICATION PROPOSALS AND THIRD PARTY MODIFICATION PROPOSALS

6.1 Relevant persons

6.1.1 Without prejudice to ~~Rule~~paragraph 6.4, or ~~Rule~~paragraph 11.4 Transco may from time to time make a Modification Proposal.

6.1.2 Any User may from time to time make a Modification Proposal.

6.1.3 Any Third Party Participant may from time to time make a Third Party Modification Proposal.

6.1.4 If:

(a) Transco shall in respect of any Modification Proposal consider that such Modification Proposal should be treated as an Urgent Modification Proposal; or

(b) in respect of a User Proposal the Proposer shall in accordance with ~~Rule~~paragraph 6.2.1(e) have identified the proposal as one which the Proposer considers should be treated as an Urgent Modification Proposal,

that Modification Proposal shall be subject to ~~Rule 9.~~paragraph 9.

6.2 Form of Modification Proposals

6.2.1 Each Modification Proposal shall:

(a) be in writing;

(b) set out in reasonable but not excessive detail the nature and purpose of the Modification Proposal;

(c) the basis upon which the Proposer considers that it would better facilitate the achievement of the Relevant Objectives;

(d) detail the sections and paragraphs of the Network Code which are to be amended or otherwise affected by the Modification Proposal;

(e) if the Proposer considers that the Modification Proposal should be treated as an Urgent Modification Proposal identify the Modification Proposal as such;

(f) where it is made by Transco pursuant to paragraph (8) of Condition 9, state that it is so made; and

(g) state the name of the Proposer and the Proposer's representative

6.2.2 Each Third Party Modification Proposal shall:

(a) be in writing;

(b) clearly identify the data item(s) which it is proposed should be added or removed from those set out in Network Code Annex V1,

(c) state the basis upon which the Proposer considers that it would better facilitate the achievement of the Relevant Objectives;

(d) state the name of the Proposer and the Proposer's representative.

Transco may, from time to time, stipulate the form which Modification Proposals and Third Party Modification Proposals should take.

6.2.3 Each Modification Proposal and Third Party Modification Proposal shall be given to the Secretary who shall ensure that the information required in 6.2.1 or 6.2.2. has been provided before accepting such Modification Proposal and give that Modification Proposal or Third Party Modification Proposal a unique reference designation.

6.2.4 Where a Modification Proposal or Third Party Modification Proposal does not comply with ~~Rule~~paragraph 6.2. the Secretary may reject such Modification Proposal~~.~~.

6.3 Proposer's representative

6.3.1 Subject to ~~Rule~~paragraph 9, each Proposer shall ensure the attendance of a representative of the Proposer at the meeting of the Modification Panel at which the Modification Proposal is to be discussed initially; at such meeting the Proposer's representative will give a presentation in respect of the Modification Proposal and endeavour to answer any questions which the Modification Panel may have in respect of the Modification Proposal or the presentation.

6.3.2 If a representative of the Proposer does not for whatever reason attend the meeting of the Modification Panel at which the relevant Modification Proposal or Third Party Modification Proposal is to be discussed initially the Modification Panel may determine by Panel Majority that, notwithstanding such non-attendance of the Proposer's representative, the Modification Panel shall proceed to discuss the Modification Proposal or Third Party Modification Proposal.

6.3.3 If the Modification Panel shall not make a determination pursuant to ~~Rule~~paragraph 6.3.2, the Modification Panel will not discuss further the Modification Proposal or Third Party Modification Proposal unless and until the Proposer's representative shall have attended a meeting of the Modification Panel pursuant to ~~Rule~~paragraph 6.3.1 or the Modification Panel shall determine by Panel Majority so to do.

6.4 Alternative proposals

6.4.1 In respect of any User Proposal which is an Urgent Modification Proposal, or which is pursuant to ~~Rule~~paragraph 7.2.2, to proceed to the Development Phase or to which ~~Rule~~paragraph 7.3 applies, Transco may, but shall not be required to, within the five (5) Business Days immediately following the date upon which such User Proposal is so to proceed, make a Modification Proposal in accordance with ~~Rule~~paragraph 6.2. Any Modification Proposal so made may (so as to be subject to ~~Rule~~paragraph 11.4) be, with any necessary Modifications, the same as the User Proposal. The Secretary shall within the five (5) Business Days immediately following receipt of each

alternative Transco Proposal made pursuant to this ~~Rule~~paragraph 6.4 send a copy of that proposal to each User, each Member and each Non-~~Network~~ Code Party (if any). The Transco Proposal and the User Proposal shall proceed through the Modification Procedures together.

6.4.2 In respect of any User Proposal which is withdrawn by the User pursuant to ~~Rule~~paragraph 6.6.1 Transco may either raise an alternative Modification Proposal (which proposal shall be raised in accordance with ~~Rule~~paragraph 6.2) or adopt the User Proposal as a Transco Proposal (in which case the adopted proposal shall continue through the Modification Procedures from the point at which it was withdrawn by the User) although Transco shall not, in any case, be bound to make any election under ~~Rules~~paragraphs 6.4.1 or 6.4.2.

6.5 Withdrawal of Modification Proposals

6.5.1 A Proposer may withdraw a Modification Proposal or Third Party Modification Proposal of that Proposer, at any time before a Modification Report is prepared in respect of such Proposal in accordance with these Rules, by notice to the Secretary. Subject to ~~Rule~~paragraph 6.4, and to ~~Rule~~paragraph 11.4, any Modification Proposal or Third Party Modification Proposal so withdrawn shall lapse.

6.5.2 The Secretary will, within a reasonable period of time following any withdrawal, notify each Member, each User, Third Party Participant and each Non-~~Network~~ Code Party of such withdrawal.

7 MODIFICATION PROCEDURES - PRELIMINARY PHASE

7.1 Circulation of Modification Proposals

7.1.1 The Secretary shall:

(a) by the later of:

(i) the end of the third Business Day following receipt of a User Proposal, a Transco Proposal or a Third Party Modification Proposal made pursuant to ~~Rule~~paragraphs 6.1.1, 6.1.2 or 6.1.3 (as the case may be); and

(ii) the end of the first Business Day following the date on which the Secretary receives notification of any decision of the Authority pursuant to ~~Rule~~paragraphs 9.1.2 or 9.1.3 as to whether the Modification Proposal should be treated as an Urgent Modification Proposal

send a copy of that proposal to each User, each Member each Third Party Participant and each Non- Network Code Party (if any);

(b) subject to ~~Rule~~paragraphs 7.1.2 and ~~Rule~~paragraph 9, put initial discussion of the Modification Proposal or Third Party Modification Proposal on the Agenda for the next following meeting of the Modification Panel which will (subject to ~~Rule~~paragraphs 5.4.1 and 5.4.2) be convened pursuant to ~~Rule~~paragraph 5.3.1; and

(c) notify the Proposer of the meeting of the Modification Panel at which the Proposer's representative is to attend.

7.1.2 Where:

(a) the Authority decides that a Modification Proposal should not be treated as an Urgent Modification Proposal; and

(b) at the date on which the Secretary receives notification of such decision, that no meeting of the Modification Panel will, in accordance with ~~Rule~~paragraph 5.2, take place within 10 Business Days of such date

the Secretary will seek in writing, from Members in accordance with ~~Rule~~paragraph 5.9 a decision of the Modification Panel as to which of the procedures set out in ~~Rule~~paragraph 7.2.2 should apply to the Modification Proposal.

7.2 Discussion of Modification Proposals

7.2.1 Subject to ~~Rule~~paragraph 6.4 and ~~Rule~~paragraph 9, the Modification Panel will discuss each new Modification Proposal and Third Party Modification Proposal at a meeting of the Modification Panel.

7.2.2 Having:

(a) discussed the Modification Proposal or Third Party Modification Proposal and, subject to ~~Rule~~paragraph 6.3.2,

(b)

(i) heard the presentation of the Proposer's representative;

(ii) had an opportunity to ask the Proposer's representative questions in respect of the Modification Proposal or Third Party Modification Proposal and the presentation of the Proposer's representative, and

(c) considered whether there are any persons from whom representations should, pursuant to ~~Rule~~paragraph 7.7, be invited,

the Modification Panel may, without prejudice to ~~Rule~~paragraph 7.2.3, determine:

(d) Unanimously that the Modification Proposal:

(i) should be subject to the review procedures; or

(ii) should proceed to the Development Phase (in which case the Modification Panel will discuss, and will (in accordance with ~~Rule~~paragraph 7.6) request Transco to finalise, the Terms of Reference to be applicable;

(e) by a Qualified Majority, that the Modification Proposal or Third Party Modification Proposal should be dealt with in accordance with ~~Rule~~paragraph 7.3;

(f) by Panel Majority:

(i) that the Modification Proposal or Third Party Modification Proposal should be referred to a Workstream in accordance with ~~Rule~~paragraph 7.4 for discussion and the Modification Panel may determine the Terms of Reference for such work (including terms as to the identity of any third parties to be consulted) and the date upon which it requires the Workstream to submit its report; or

(ii) that further discussion of the Modification Proposal or Third Party Modification Proposal should be deferred to a subsequent meeting of the Modification Panel.

7.2.3 Where the Modification Panel discuss a Modification Proposal together with a report prepared by a Workstream (following a previous decision of the Modification Panel or Transco to refer the Modification Proposal to the Workstream) or a Modification Proposal which has been discussed and considered by a Workstream but has not been previously discussed by the Modification Panel, the Modification Panel may:

(a) make a determination in accordance with ~~Rule~~paragraph 7.2.2(d);

(b) determine by Qualified Majority that the Modification Proposal should be referred back to the Workstream for further discussion and consideration in accordance with ~~Rule~~paragraph 7.4; or

(c) determine by Panel Majority:

(i) that the Modification Proposal should be dealt with in accordance with ~~Rule~~paragraph 7.3;

or

(ii) that discussion of the Modification Proposal should be deferred to a subsequent meeting of the Modification Panel.

7.2.4 Where the Modification Panel discusses a Third Party Modification Proposal together with a report prepared by a Workstream (following a previous decision of the Modification Panel or Transco to refer the Third Party Modification Proposal to the Workstream) the Modification Panel may:

(a) determine by Qualified Majority that the Third Party Modification Proposal should be referred back to the Workstream for further discussion and consideration in accordance with ~~Rule~~paragraph 7.4; or

(b) determine by Panel Majority:

(i) that the Third Party Proposal should be dealt with in accordance with ~~Rule~~paragraph 7.3 (a); or,

(ii) that discussion of the Third Party Modification Proposal should be deferred to a subsequent meeting of the Modification Panel.

7.3 Circulation of Draft Modification Reports

If the Modification Panel shall determine, pursuant to ~~Rule~~paragraphs 7.2.2(e) , 7.2.3(c)(i), or 7.2.4(b)(i) that a Modification Proposal or Third Party Modification Proposal shall be dealt with in accordance with this ~~Rule~~paragraph 7.3, Transco will within the fifteen (15) Business Days immediately following the date of the meeting at which the determination was made, prepare a Modification Report (in draft) in accordance with ~~Rule~~paragraph 8.9.3 or 8.10 (including the text of each Modification in respect of which implementation is being recommended) and circulate such draft report, inviting each User, each Third Party Participant and each Non-~~Network~~ Code Party (if any) to make representations (in such format as Transco shall require) within the fifteen (15) Business Days immediately following the date of that invitation in respect of the report.

7.4 Modification Proposal discussed by Workstream

If the Modification Panel shall determine pursuant to ~~Rule~~paragraph 7.2.2(f) or 7.2.3(b) that a Modification Proposal or Third Party Modification Proposal should be discussed within a Workstream Transco will:

(a) within the ten (10) Business Days following the date of the meeting and, where reasonably practicable, in sufficient time for consideration at the next following meeting of the relevant Workstream, finalise the Terms of Reference and refer the Modification Proposal or Third Party Modification Proposal to the relevant Workstream;

(b) within the period set by the Modification Panel or, if the Modification Panel shall not have set a date, within six (6) months following the date of the meeting where the proposal was initially discussed, having considered the representations (if any) received and the discussions of the relevant Workstream:

(i) prepare a report on the issues discussed and conclusions (if any) reached by the Workstream;

(ii) request the Secretary to put discussion of the report on the Agenda for the next following meeting of the Modification Panel which will be convened pursuant to ~~Rule~~paragraph 5.3.1; and

(iii) invite a relevant representative of the Proposer, and such other persons who have contributed to the report as Transco shall determine, to attend the meeting of the Modification Panel at which the report is to be discussed.

7.5 Determination or decision

If the Modification Panel shall not, at the meeting, make a determination pursuant to ~~Rule~~paragraph 7.2.2(d), (e) or (f), ~~Rule~~paragraph 7.2.3(a), (b) or (c), or ~~Rule~~paragraph 7.2.4 (a) or (b) Transco may refer the Modification Proposal or Thid Party Modification Proposal to a new or relevant Workstream in accordance with ~~Rule~~paragraph 7.4 or determine that the Modification Proposal should proceed to the Development Phase subject to the existence of a relevant Development Work Group.

7.6 Development process

If the Modification Panel shall determine pursuant to ~~Rule~~paragraph 7.2.2(d) (ii) that the Modification Proposal should proceed to the Development Phase Transco will:

(a) within ten (10) Business Days of such determination finalise the Terms of Reference and constitute a Development Work Group in accordance with ~~Rule~~paragraph 8; and

(b) notify each User of the composition of the Development Work Group and invite each User and Non-~~Network~~ Code Party (if any) to make representations in respect of the Modification Proposal within fifteen (15) Business Days following the date of invitation.

7.7 Non-~~Network~~ Code Parties

Transco will, in accordance with the Licence and for the purpose referred to in paragraph (5)(c) of Condition 9:

(a) send copies of any Modification Proposal, Third Party Modification Proposal and any Modification Report prepared in respect of such Proposal to, and

(b) invite representations in respect thereof from other persons.

8 MODIFICATION PROCEDURES - DEVELOPMENT PHASE

8.1 Composition of Development Work Groups

8.1.1 Each Development Work Group shall (subject to ~~Rule~~paragraph 8.1.2(a)) include not less than five (5) representatives of Users. In respect of each User Proposal, the Proposer shall be entitled to appoint one individual to the Development Work Group constituted in respect of that User Proposal.

8.1.2 The Modification Panel may at the meeting referred to at ~~Rule~~paragraph 7.2 determine or approve by Panel Majority:

(a) the composition of the Development Work Group; or

(b) that the Users or, as the case may be, Non-~~Network~~ Code Parties be invited to make representations at a meeting of the Users, Non-~~Network~~ Code Parties and Transco (and Transco shall cause a record of the representations made at such meeting to be made and will send a copy of that record to each User, and for information purposes only, each Member); or

(c) to invite any Non-~~Network~~ Code Party to nominate a representative to act as a member of a Development Work Group or to attend a meeting of, the Development Work Group to express any view which such Non-~~Network~~ Code Party may have in respect of the relevant Modification Proposal, but this shall not require Transco to engage or remunerate any person so invited or nominated.

8.1.3 Failing any determination by the Panel in respect of the work group Transco will proceed to finalise the composition and will constitute the work group within ten (10) Business Days of the meeting referred to in ~~Rule~~paragraph 7.2.

8.2 Proceedings of Development Work Groups

8.2.1 Transco will ensure that the Authority is notified of all meetings of each Development Work Group. The Authority (or any representative of the Authority (including, but without limitation, the Ofgem Representative)) will be invited to all meetings of all Development Work Groups.

8.2.2 Each Development Work Group may, from time to time, and at any time in addition to the persons (if any) specified in the Terms of Reference of the Development Work Group, consult with any person for the purposes of the Development Work but this shall not require Transco to engage or remunerate any person so consulted.

8.2.3 Each Development Work Group will be chaired by a representative of Transco. Each such representative of Transco will co-ordinate the Development Work undertaken and the monthly reports and the Development Work Group Report to be prepared by the relevant Development Work Group and liaise with the Modification Panel in relation to any matter (including, but without limitation, any matter referred to in ~~Rule~~paragraph 8.3.1).

8.2.4 Where in respect of any matter any Development Work Group does not reach a consensus, the chairman of such Development Work Group will determine such matter with any contrary view to such determination being recorded in the Development Work Group Report. Any individual on the Development Work Group may in circumstances where consensus is not so reached and on the basis that such individual considers the relevant matter is material request the chairman of the Development Work Group to refer such matter to the Modification Panel. The chairman of the Development Work Group will (whether or not he refers the matter) notify the Modification Panel of each such request. If the chairman so refers the matter the Modification Panel may, as provided in ~~Rule~~paragraph 8.3.3, give guidance, clarification or instructions in respect thereof or it may not. If the Modification Panel shall not so give guidance, clarification or instructions the chairman of the Development Work Group will determine the matter so referred and any contrary view to such determination shall, if the relevant individual requires, be recorded in the Development Work Group Report. If the chairman does not so refer the matter, the Modification Panel may, pursuant to ~~Rule~~paragraph 8.3.3, nevertheless determine by Panel Majority to give guidance, clarification or instructions in respect of the matter.

8.2.5 The Development Work Group may decide to invite a legal adviser or legal advisers to attend meetings of the group, and Members of the group may nominate legal advisers for this purpose (but this shall not require Transco to engage or remunerate any person so invited).

8.2.6 The chairman of the Development Work Group shall be entitled, at his sole discretion, to:

(a) accept an alternate Development Work Group Member if the original Member is unable to attend any meeting of the Development Work Group; and/or

(b) exclude any person other than a Member from all or any part of the proceedings of the Development Work Group which exclusion shall be detailed in the following report submitted in accordance with ~~Rule~~paragraph 8.5.

8.3 Liaison with the Modification Panel

8.3.1 Each Development Work Group may, from time to time, and at any time,

(a) seek guidance or clarification from the Modification Panel in relation to any matter arising in connection with the Development Work;

(b) seek instructions from the Modification Panel as to whether the Development Work Group should continue or discontinue all or any of the Development Work;

(c) propose to the Modification Panel that the Modification Panel should hear the views of any person whom the Development Work Group consults pursuant to the Terms of Reference of the Development Work Group or pursuant to ~~Rule~~paragraph 8.2.2;

(d) request an extension to the time (prescribed in the timetable referred to in ~~Rule~~paragraph 11.9.1(f) within which the Development Work is to be done or the Development Work Group Report prepared; and

(e) propose any change to the Terms of Reference of the Development Work Group to reflect any change arising by reason of the application of any of ~~Rules~~paragraph 8.3.1(a) to (d).

8.3.2 The Modification Panel may determine by Panel Majority to accede in respect of any request or proposal made pursuant to ~~Rules~~paragraphs 8.3.1(c) to (e) or otherwise to give instructions in respect thereof.

8.3.3 The Modification Panel may give the guidance, clarification or instructions sought pursuant to ~~Rules~~ paragraphs 8.3.1(a) and (b) or otherwise give such other guidance, clarification or instructions as the Modification Panel may determine by Panel Majority.

8.3.4 Subject to ~~Rule~~paragraph 8.3.6, the Modification Panel may (whether pursuant to an instruction sought pursuant to ~~Rule~~paragraph 8.3.1 or otherwise) determine by Panel Majority to instruct any Development Work Group to cease all or any part of the Development Work. Any Development Work Group which is so instructed to cease all Development Work in respect of any Modification Proposal shall at the same time as it is so instructed be instructed to prepare the Development Work Group Report in respect of such Modification Proposal.

8.3.5 In general it is anticipated that Modification Proposals will proceed through the development phase in the time order in which those Modification Proposals proceed to the Development Phase. However, where a number of Modification Proposals are being considered within the Development Phase at the same time, the Modification Panel may, from time to time and subject to ~~Rule~~paragraph 8.3.6, determine (by Panel Majority) to re-order and/ or defer the consideration of all or any of such Modification Proposals.

8.3.6 If, pursuant to ~~Rule~~paragraph 6.4.1, two (2) Modification Proposals (relating (in whole or in part) to the same subject matter) are proceeding through the Development Phase together the Modification Panel may at any time during the Development Phase determine Unanimously that only one (1) of the Modification Proposals should proceed. On any such determination the Modification Proposal which is not to proceed shall lapse and accordingly the Development Work Group shall not prepare a Development Work Group Report in respect of that Modification Proposal.

8.3.7 No Modification Proposal shall, without the consent of the Authority, be in the Development Phase for more than twelve (12) months. If no consent is received from the Authority ~~Rule~~paragraph 8.6 will apply.

8.4 Consideration of representations

Each Development Work Group will consider all representations:

(a) received (in accordance with ~~Rule~~paragraph 11.9.1(c) and not withdrawn in accordance with ~~Rule~~paragraph 11.3.3) by that Development Work Group from Users;

(b) received by that Development Work Group from Non-~~Network~~ Code Parties pursuant to (and in accordance with) any invitation made pursuant to ~~Rule~~paragraph 7.7(b); and

(c) all other representations which Transco may request the Development Work Group to consider.

8.5 Monthly reports

8.5.1 Each Development Work Group shall each month report to the Modification Panel as to the progress of that Development Work Group.

8.5.2 The Modification Panel will, as appropriate, discuss reports received from Development Work Groups pursuant to ~~Rule~~paragraph 8.5.1.

8.6 Development Work Group Report

8.6.1 Subject to ~~Rule~~paragraph 8.3.4, each Development Work Group shall prepare a Development Work Group report in accordance with the Terms of Reference which, unless the Terms of Reference shall (pursuant to ~~Rule~~paragraph 11.9.1(c)(ii)) specify additional matters, will address the following matters:

(a) provide an analysis of whether and if so the extent to which the Modification would better facilitate the achievement of the relevant objectives;

(b) address the implications (if any) (to the extent only that the Development Work Group shall have been informed by Transco or becomes aware of during the course of the Development Work in the context of the application of the Modification procedures in relation to the Modification Proposal) of the implementation of the Modification Proposal for Transco, including the:

(i) implications for the operation of the System;

(ii)

(aa) development and capital cost and operating cost implications (if any) for Transco of implementing the Modification Proposal; and

(bb) whether it is appropriate for Transco to recover all or any of the costs and, if so, a proposal as to the most appropriate way for Transco to recover those costs; and

(iii) consequence (if any) of implementing the Modification Proposal on the level of contractual risk of Transco under the ~~Network~~ Code as modified by the Modification Proposal;

(c) address the development implications and other implications for computer Systems of Transco and related computer Systems of Users;

(d) address the implications (if any) (to the extent only that the Development Work Group shall have been informed (whether pursuant to representations

received pursuant to ~~Rule~~paragraph 7.7(b) or otherwise) or becomes aware of during the course of the Development Work in the context of the application of the Modification procedures in relation to the Modification Proposal) of the implementation of the Modification Proposal for Users, including the:

(i) administrative and operational implications (if any) of the implementation of the Modification Proposal on Users;

(ii) development and capital cost and operating cost implications (if any) for Users of implementing the Modification Proposal; and

(iii) consequence (if any) of implementing the Modification Proposal on the level of the contractual risk of Users under the ~~Network~~ Code as modified by the Modification Proposal;

(e) address the implications (if any) (to the extent only that the Development Work Group shall have been informed (whether pursuant to representations received pursuant to ~~Rule~~paragraph 7.7(b) or otherwise) or becomes aware of during the course of the Development Work in the context of the application of the Modification procedures in relation to the Modification Proposal) of the implementation for other relevant persons (including, but without limitation, Users, Connected System Operators, Consumers, Terminal Operators, Storage Operators, Suppliers and producers and, to the extent not so otherwise addressed, any Non-~~Network~~ Code Party) of implementing the Modification Proposal;

(f) address the consequences of the legislative and regulatory obligations and contractual relationships of Transco:

(i) if (and to that extent only) the Development Work Group shall have been informed by Transco or becomes aware of during the course of the Development Work Group in respect thereof in the context of the application of the Modification procedures in relation to the Modification Proposal; and

(ii) if (and to that extent only) the Development Work Group shall have been informed (whether pursuant to representations pursuant to ~~Rule~~paragraph 7.7(b) or otherwise) or becomes aware of during the course of the Development Work in respect thereof in the context of the application of the Modification procedures in relation to the Modification Proposal, Users and any Non-~~Network~~ Code Party, of the implementation of the Modification Proposal;

(g) provide an analysis of any advantages and disadvantages of which (and to the extent only that) the Development Work Group shall have been informed (whether pursuant to representations received pursuant to ~~Rule~~paragraph 7.7(b) or otherwise) or becomes aware of during the course of the Development Work in the context of the application of the Modification procedures in relation to the Modification Proposal and not otherwise identified pursuant to ~~Rules~~paragraphs 8.6.1(a)-(f) as such of the implementation of the Modification Proposal;

(h) provide a summary of the representations (to the extent that the import of those representations are not reflected elsewhere in the Development Work Group Report) of those persons (if any) which the Development Work Group shall have consulted pursuant to the Terms of Reference or ~~Rule~~paragraph 8.2.2;

(i) detail the representations which the Development Work Group shall have considered pursuant to ~~Rule~~paragraph 8.4; and

(i) comment, in the context of the report as a whole, on such representations;

(j) detail any matter (not otherwise identified as such elsewhere in the report) which the Development Work Group considers will need to be addressed or otherwise dealt with so as to enable Transco to prepare the Modification report; and

(k) as appropriate, comment upon:

(i) and make recommendations as to, the time scale for the implementation of the whole or any part of the Modification Proposal; and

(ii) the text provided pursuant to ~~Rule~~paragraph 8.12.

8.6.2 If two (2) Modification Proposals shall have been considered together by the Development Work Group and no determination shall have been made pursuant to ~~Rule~~paragraph 8.3.6 the Development Work Group Report shall report on each Modification Proposal.

8.7 Circulation of Development Work Group Reports

Each Development Work Group Report will (subject to ~~Rules~~paragraphs 5.4.1 and 5.4.2) be sent to all Members as soon as reasonably practicable but in any event not less than five (5) Business Days prior to the meeting of the Modification Panel at which that report is to be discussed.

8.8 Discussion of Development Work Group Report

8.8.1 Having:

(a) discussed the Development Work Group Report; and

(b) allowed any Members of the relevant Development Work Group (in attendance at the meeting of the Modification Panel) to express any views on the substance of the Development Work Group Report or the conduct of the consideration of the Modification Proposal by the Development Work Group,

the Modification Panel may (by Panel Majority) determine:

(i) to refer the Development Work Group Report back to the Development Work Group for revision or further work; or

(ii) to continue to consider or to consider further the Development Work Group Report at a subsequent meeting of the Modification Panel.

8.8.2 Unless the Modification Panel makes a determination pursuant to ~~Rule~~paragraph 8.8.1, Transco will prepare a Modification Report pursuant to ~~Rule~~paragraph 8.9.

8.9 Modification Report

8.9.1 Transco will, within the ten (10) Business Days immediately following the meeting of the Modification Panel at which the Development Work Group Report of the relevant Development Work Group, was discussed, or within such other period as the Modification Panel may determine:

(a) prepare (in accordance with ~~Rule~~paragraph 8.9.3) a Modification Report (in draft);

(b) send a copy of that Modification Report (in draft) to each User, each Member and each Non-~~Network~~ Code Party (if any), inviting each User and each Non-~~Network~~ Code Party (if any) to make (or withdraw earlier) representations

within the ten (10) Business Days immediately following the date of the invitation.

8.9.2 Transco will within the fifteen Business Days immediately following the expiry of the period referred to in ~~Rule~~paragraph 8.9.1(b) or the period provided for representations under ~~Rule~~paragraph 7.3:

(a)

(i) finalise the Modification Report; and

(ii) attach to that report all representations (if any) so received (and not so withdrawn); and

(b) submit a copy of that report (and attachments (if any)) to the Authority, seeking consent to the making of the Modification; and

(c) send a copy of that report to each User, each Member , each Third Party Participant and each Non-~~Network~~ Code Party (if any).

8.9.3 In addition to identifying which ~~Rule~~paragraph the Modification Report is made pursuant to, each Modification Report will, subject to ~~Rule~~paragraph 9.2 and to the extent relevant and that Transco has been made aware:

(a)

(i) set out the Modification Proposal (or Third Party Modification Proposal); and

(ii) the text provided pursuant to ~~Rule~~paragraph 8.11;

(b) set out the opinion (and the basis for that opinion) of Transco as to whether any Modification should be made;

(c) provide an analysis of whether and if so the extent to which the Modification would better facilitate the achievement of the Relevant Objectives;

(d) address the implications (if any) in the context of the application of the Modification procedures in relation to the Modification Proposal or Third Party Modification Proposal of the implementation of such Modification Proposal or Third Party Modification Proposal for Transco, including:

(i) the implications for the operation of System;

(ii) the development and capital cost and operating cost implications (if any) for Transco of implementing the Modification Proposal; (not applicable to Third Party Modification Proposals)and

(aa) if there are any such cost implications, the extent to which it is appropriate for Transco to recover the costs, and (to such extent) a proposal for the most appropriate way for Transco to recover the costs; and

(bb) where any such proposal is made (whether or not the impact of such a proposal is addressed by the text of the Modification), an analysis of the consequences (if any) such proposal would have (if implemented) on the price regulation to which Transco is subject; and

(iii) the consequence (if any) of implementing the Proposal on the level of contractual risk of Transco under the ~~Network~~ Code as modified by the Proposal;

(e) address the development implications and other implications for computer Systems of Transco and related computer Systems of Users; (not applicable to Third Party Modification Proposals)

(f) address the implications (if any) (to the extent only that Transco shall have been informed (whether pursuant to representations or otherwise) in the context of the application of the Modification procedures in relation to the Proposal) of the implementation of the Modification for Users, including:

(i) the administrative and operational implications (if any) of the implementation of the Proposal on Users;

(ii) the capital cost and operating cost implications (if any) for Users of implementing the Modification Proposal (not applicable to Third Party Modification Proposals); and

(iii) the consequence (if any) of implementing the Proposal on the level of the contractual risk of Users under the ~~Network~~ Code as modified by the Proposal;

(g) address the implications (if any) (to the extent only that Transco shall have been informed (whether pursuant to representations or otherwise) in the context of the application of the Modification procedures in relation to the Proposal) for other relevant persons (including, but without limitation, Users, Connected System Operators, Consumers, Terminal Operators, Storage Operators, Suppliers and producers and, to the extent not otherwise addressed, any Non-~~Network~~ Code Party) of implementing the Proposal;

(h) address the consequences of the legislative and regulatory obligations and contractual relationships of

(i) Transco; and

(ii) if (and to that extent only) Transco shall have been informed (whether pursuant to representations or otherwise) in respect thereof in the context of the application of the Modification procedures in relation to the Proposal, each User and each Non-~~Network~~ Code Party (if any),

of the implementation of the Proposal;

(i) provide an analysis of any advantages or disadvantages if and to the extent only that Transco shall have been informed (whether pursuant to representations or otherwise in respect thereof in the context of the application of the Modification procedures in relation to the Proposal and (not otherwise identified as such pursuant to ~~Rules~~paragraphs 8.9.3 (c) to (h)) of the implementation of the Proposal;

(j) provide a summary of the representations (to the extent that the import of those representations are not reflected elsewhere in the Modification Report) of those persons (if any) which the Development Work Group consulted, pursuant to the Terms of Reference ~~Rule~~paragraph 8.1.2(d) or ~~Rule~~paragraph 8.2.2 (not applicable to Third Party Modification Proposals);

(k)

(i) detail the representations which the Development Work Group considered pursuant to ~~Rule~~paragraph 8.4 (not applicable to Third Party Modification Proposals) and the representations (if any) received in accordance with ~~Rule~~paragraph 8.10.1; and

(ii) to the extent that such representations are not addressed or otherwise commented upon in the Modification Report) comment, in the context of the Modification Report as a whole, on such representations;

(l) state whether and if so the extent to which the implementation of the Modification Proposal (not applicable to Third Party Modification Proposals) is requisite:

(i) to enable Transco to facilitate compliance with safety or other legislation; and

(ii) 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;

(m) detail the programme for works (if any) required as a consequence of the implementation of the Modification Proposal (not applicable to Third Party Modification Proposals);

(n) set out a proposed timetable to be followed in respect of the implementation of the Modification (including, but without limitation, the date upon which the Modification should become effective);

(o) if it is the opinion of Transco that a Modification should be implemented:

(i) set out either:

(aa) a request for consent of the Authority to the Modification; or

(bb) a proposal that the Authority should direct that the Modification be implemented; and

(ii) comment upon, and make recommendations as to, the time scale for the implementation of the whole or any part of the Modification; and

(p) address the implications (if any) of the Modification Proposal upon the existing Network Code Standards of Service(not applicable to Third Party Modification Proposals).

(q) state whether or not any matter detailed in the Development Work Group Report (pursuant to ~~Rule~~paragraph 8.6.1(j)) has been addressed or otherwise dealt with (not applicable to Third Party Modification Proposals)and:

(i) if such matter has been so addressed or dealt with, the result; or

(ii) if such matter has not been so addressed or dealt with, an explanation as to why such matter has not been addressed or dealt with; and

(r) have attached to it copies of all the representations received (and not withdrawn in accordance with ~~Rule~~paragraph 11.3.3) by Transco.

Where two (2) Modification Proposals have proceeded through the Modification Procedures together (and neither proposal has been withdrawn and all work has not been discontinued pursuant to ~~Rule~~paragraph 8.3.6 in respect of either proposal) the Modification Report will, in addition to the analysis referred to in ~~Rule~~paragraph 8.9.3(c), provide an analysis as to which of the Modification Proposals would in the opinion of Transco better facilitate the achievement of the relevant objectives. Where two (2) Modification Proposals were proceeding through the Modification Procedures together and the Modification Panel shall, pursuant to ~~Rule~~paragraph 8.3.6, have determined that only one (1) of the Modification Proposals should proceed the Modification Report will provide a commentary as to the circumstances in which the Modification Panel so determined (not applicable to Third Party Modification Proposals).

8.9.4 Each Modification Report will be addressed and furnished (as the notice required by paragraph (9) of Condition 9) to the Authority and none of the facts contained or opinions stated in any Modification Report should be relied upon by any other person.

8.9.5 In preparing any Modification Report Transco will do so on the basis set out in these Rules and Transco will not be required to have regard (other than as expressly provided in these Rules) to the consequences of any Modification on any person or persons.

8.10 Further Consultation

8.10.1 If, in respect of a Modification Proposal which is the subject of a Modification Report previously submitted to the Authority by Transco in accordance with ~~Rule~~paragraph 8.9.2(b), or ~~Rule~~paragraph 9.2;

(a) the Authority shall not have given notice of its decision in respect of that Modification Report within two (2) calendar months (in the case of Urgent Proposals), or four (4) calendar months (in the case of non-Urgent proposals) from the date upon which Transco finalised and submitted the relevant Modification Report, or,

(b) the Authority, or any voting Panel Member, by notice to the Secretary express the reasonable opinion that the circumstances relating to that Modification have materially changed,

the Secretary shall place that Modification Proposal upon the Agenda for consideration at the next appropriate Modification Panel Meeting. 8.10.2 Having considered the circumstances relating to the Modification Proposal which is subject to ~~Rule~~paragraph 8.10.1 the Panel may determine by Panel Majority that~~,~~:

(a) the Secretary should request the Authority to give an indication of the likely date by which the decision shall be made; or

(b) Transco should within five (5) days of the date of the meeting prepare and circulate a notice to Users and non Network Code parties outlining the change in circumstances or reasons for delay and inviting further Representations within ten (10) days of the date of the notice; or

(c) Transco should place the Proposal on the Agenda for further consideration at a future meeting of the Modification Panel as determined by the Modification Panel.

If the Panel shall make a decision in accordance with 8.10.2 (a) then the Secretary will within five (5) Business Days formally request a response from the Authority and place the Proposal on the Agenda for further consideration at the next suceeding Panel meeting. It being recognised at all times that the Authority is not obliged, as a result of a request pursuant to 8.10.2(a), to provide any response or indication.

If the Panel shall make a determination in accordance with 8.10.1(b) Transco will within five (5) Business Days of the date upon which the invitation for representations closed prepare a supplemental report (which report need not be in the form of a Modification Report) and submit that Report and copies of any representations received to the Authority and circulate a copy to Users and non Network Code Parties.

8.10.3 Any Report submitted to the Authority under ~~Rule~~paragraph 8.10.2 shall be supplemental to the Modification Report. Supplemental Reports may, but need not, express a Transco view and recommendation which confirms those expressed in the Modification Report to which it refers.

8.11 Text of Modification

Transco will prepare the text of each Modification in respect of which implementation is being recommended. Subject to ~~Rule~~paragraph 9 and 7.3, the text of each Modification prepared by Transco in draft will be considered by the relevant Development Work Group or Workstream to which such Modification Proposal has been referred in accordance with these Rules. If the text of a Modification is not considered by a Development Work Group prior to that Development Work Group's report being discussed by the Modification Panel pursuant to ~~Rule~~paragraph 8.8.1 the Development Work Group will, where requested by Transco, having considered the text of a Modification and prior to the preparation of the Modification Report pursuant to ~~Rule~~paragraph 8.9.1, prepare a supplemental report commenting as appropriate upon that text.

8.12 Modification

Transco will modify the ~~Network~~ Code in accordance with each consent given and each direction made by the Authority.

Transco will, as soon as reasonably practicable, notify each User, each Member, each Third Party Participant and each Non-~~Network~~ Code Party (if any) of each Modification. Each such notice shall specify the text of the Modification and the date upon which the Modification will become effective and may provide (for the purposes of information only) an explanatory note (which note should not be relied upon) in respect of the Modification. Each Modification will become effective upon the date specified in the relevant notice. Having so notified each User, each Member , each Third Party Participant and each Non-~~Network~~ Code Party (if any), Transco may, with the agreement of the Authority, notify all Users, Members, each Third Party Participant and Non-~~Network~~ Code Parties (if any) of any amendment to the date specified in the earlier notice, and the date specified in any such notice shall be the date upon which the relevant Modification will become effective.

9 URGENT MODIFICATION PROPOSALS ~~(not applicable to Third Party Modification Proposals).~~

9.1 Procedure

9.1.1 If Transco shall consider, pursuant to ~~Rule~~paragraph 6.1.3, that a Modification Proposal (not including a Third Party Modification Proposal) should be treated as an Urgent Modification Proposal, Transco will consult with the Authority. If in respect of a User Proposal the Proposer shall have identified pursuant to ~~Rule~~paragraph 6.1.3 and in accordance with ~~Rule~~paragraph 6.2.1(e) the Modification Proposal as one which it considers should be treated as an Urgent Modification Proposal, the Secretary will as soon as possible send a copy of the User Proposal to the Authority. Transco will recommend the procedure and timetable to be followed in respect of each Urgent Modification Proposal.

9.1.2 If the Authority shall consider it appropriate that the Modification Proposal referred to in ~~Rule~~paragraph 9.1.1 should be treated as an Urgent Modification Proposal:

(a) the Secretary shall notify each User each Member and each Non-~~Network~~ Code Party (if any);

(b) Transco may to the extent that the Authority agrees, with the recommendation made in the procedure and timetable submitted by Transco, deviate from all or any of the Modification Rules (including, but without limitation, consulting with the Modification Panel and seeking representations from Users and any Non-~~Network~~ Code Party) or follow any other procedure accepted by the Authority; and

(c) Transco will prepare and submit to the Authority a Modification Report in a format and in accordance with a timetable accepted by the Authority.

9.1.3 If the Authority does not accept that the Modification Proposal should be treated as an Urgent Modification Proposal the Secretary shall notify the Proposer and ~~Rule~~paragraph 7 shall apply in respect of the Modification Proposal.

9.2 Modification report

Each Modification Report and attachments (if any) prepared pursuant to ~~Rule~~paragraph 9.1.2(c) will, in addition to reporting to the extent relevant upon the matters referred to in ~~Rule~~paragraph 8.9.3, detail:

(a) the reasons why it is an Urgent Modification Proposal; and

(b) the procedures that Transco has followed pursuant to ~~Rule~~paragraph 9.1.2(b) where these differ from the Modification Procedures.

Transco may submit its Modification Report (in whole or in part) orally and/or in writing. Transco shall in respect of any Modification Report (or any part thereof) submitted orally as soon as possible confirm that oral submission in writing. Transco shall as soon as reasonably practicable send a copy of each such report to each User, each Member and each Non-~~Network~~ Code Party (if any).

9.3 Modification

9.3.1 Transco will modify the Network Code in accordance with each direction made and consent given by the Authority.

9.3.2 Transco shall as soon as possible notify each User, each Non-~~Network~~ Code Party (if any) and each Member of the urgent Modification. Each such notice shall specify the text of the Modification and the date upon which the Modification is to become effective.

9.4 Report on Modification and review

Where an urgent Modification is implemented, Transco will at the next following meeting of the Modification Panel report to the Modification Panel in respect of the urgent Modification. The Modification Panel may determine by Panel Majority at that meeting that the subject matter of the urgent Modification so made shall be subject to the review procedures. If the Modification Panel shall so determine, Transco will make a Review Proposal in respect of the urgent Modification so made and refer such proposal to the relevant Workstream together with the Terms of Reference to be applicable.

10 REVIEW PROCEDURES

10.1 Purpose

The review procedures are designed to provide a means by which the Network Code may be reviewed and considered without being subject to the Modification Procedures.

10.2 Review proposals

10.2.1 The Modification Panel may determine:

(a) by Panel Majority that any matter; or

(b) Unanimously at the meeting, that the Modification Proposal discussed at that meeting,

should be subject to review.

10.2.2 If the Modification Panel shall make a determination:

(a) pursuant to ~~Rule~~paragraph 10.2.1(a), Transco will make a Review Proposal in respect of such matter; or

(b) pursuant to ~~Rule~~paragraph 10.2.1(b), the Proposer shall be treated as having made a Review Proposal pursuant to ~~Rule~~paragraph 10.2.3 or, as the case may be, ~~Rule~~paragraph 10.2.4.

10.2.3 Transco may, from time to time, make a Review Proposal or withdraw a Review Proposal made by Transco.

10.2.4 Any User may, from time to time, make a Review Proposal or withdraw a Review Modification Proposal or Third Party Modification Proposal made by that User and Transco may either raise an alternative Review Proposal (which proposal shall be raised in accordance with ~~Rule~~paragraph 10.2.2(a)) or where the User withdraws a Review Proposal adopt the Review Proposal (in which case the adopted Review Proposal shall continue through the review procedures from the point at which it was withdrawn by the User).

10.3 Form of proposal

10.3.1 Each Review Proposal shall:

(a) be in writing; and

(b) set out in reasonable but not excessive detail the nature of the Review Proposal.

10.3.2 Transco may, from time to time, stipulate the form which a Review Proposal should take.

10.3.3 Transco will allocate to each Review Proposal a unique reference number.

10.4 Review procedures

10.4.1 Following the submission of a Review Proposal:

(a) the Modification Panel may determine:

(i) Unanimously that such Review Proposal be subject to review by a Review Group in accordance with such Terms of Reference, procedures and such timetable as the Modification Panel shall determine

(ii) by Panel Majority that such Review Proposal be referred to a Workstream for consideration in accordance with such Terms of Reference, procedures and such timetable as the Modification Panel shall determine;

(b) subject to (a), Transco may refer the Review Proposal to a Workstream for consideration in accordance with such Terms of Reference, procedures and such timetable as Transco may determine;

(c) subject to (a) and (b), the Review Proposal will lapse and Transco shall notify the Proposer.

10.4.2 Following review by a Workstream or Review Group in accordance with ~~Rule~~paragraph 10.4.1(a) or (b), the Workstream or Review Group shall submit a report to the Modification Panel.

10.4.3 Following submission of a report under ~~Rule~~paragraph 10.4.2, the Modification Panel shall consider the report, and in the event that the Modification Panel do not by Panel Majority determine that a further review be undertaken by the Workstream or Review Group (as the case may be), Transco will circulate the report to all Users.

10.4.4 Where the report submitted in accordance with ~~Rule~~paragraph 10.4.2 contains a recommendation in the form of a Modification Proposal and the Modification Panel:

(a) by Panel Majority support such recommendation, such Modification Proposal shall be dealt with in accordance with ~~Rule~~paragraph 7.3; or

(b) make no determination, the Workstream or Review Group may reconsider and resubmit the report (whether or not containing a new recommendation) for reconsideration by the Modification Panel and ~~Rule~~paragraph 10.4.3 shall apply.

11 GENERAL

11.1 Notices

11.1.1 Unless otherwise expressly provided, any document, notice or other communication to be given to or made by any person pursuant to or in accordance with these Rules shall be ~~in writing.~~made in accordance with Section V11.

~~11.1.2 Any document (including, but without limitation, any representation, objection or report), notice or other communication may be delivered to the relevant person or sent by first class pre-paid letter, facsimile transmission or electronic mail to the address, facsimile transmission number or electronic mail address of that person specified by that person for the time being as being that person's address or facsimile transmission number and shall be effectual notwithstanding any change of address or facsimile transmission number which is not notified by that person.~~

~~11.1.3 Each such document, notice or other communication shall be treated as having been given or made and delivered, if by letter two (2) Business Days immediately following posting, if by delivery, when left at the relevant address, if by facsimile transmission or electronic mail, upon receipt by the addressee of the complete text of the document, notice or other communication in a legible form.~~

11.2 Non-receipt

No accidental omission or neglect in sending any document or notice or other communication to, or (other than in the case of any document or notice or other communication submitted by Transco to the Authority) non-receipt of any document or notice or other communication by, any person shall be capable of invalidating any act or thing done pursuant to these Rules.

11.3 Representations

11.3.1 All representations (and any withdrawal of the same) made by each User pursuant to these Rules shall be readily identifiable as representations (or, as the case may be, a withdrawal thereof), shall identify the unique reference designation on the Modification Proposal, Third Party Modification Proposal or, Review Proposal to which they relate and shall be sent to the Secretary at the address of Transco, for the time being, notified to Users for the purposes of ~~Rule~~paragraph 11.1.2.

11.3.2 Any User, Third Party Participant or Non-~~Network~~ Code Party may at any time prior to the submission of the Modification Report by notice to the Secretary withdraw any representation made by it, whether made in writing or at a meeting of Users or Non-~~Network~~ Code Parties.

11.3.3 Transco will send to the Authority copies of all representations, but Transco shall not be required to take account of representations received after the expiry of the period established in accordance with these Rules, or of any representations which in Transco's reasonable opinion are of no relevance to the subject matter to which they are intended to relate.

11.3.4 In submitting representations pursuant to any provision of these Rules, the person making such submission consents, subject to ~~Rule~~paragraph 11.6.7, to the publication and circulation of such representations by Transco for the purposes of these Rules.

11.4 Variation of Modification Proposal

Transco will as it considers appropriate modify each Transco Proposal or User Proposal adopted by Transco (pursuant to ~~Rule~~paragraph 6.4) 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-~~Network~~ 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.

11.5 Time periods

Notwithstanding any time periods specified in these Rules, in respect of any Modification Proposal, Third Party Modification Proposal or Review Proposal the Modification Panel may, from time to time, determine by Panel Majority to shorten or lengthen the time period within which any (or all) of the Modification Procedures or Review Group procedures or any other procedures is (or are) to be undertaken. If the Modification Panel shall so determine, Transco will, so far as consistent with these Rules and the Licence, do all acts and things which these Rules specify as acts and things to be done by Transco within such shorter or longer period of time so as to give effect to such determination.

11.6 Consequences of these Rules and Confidentiality

11.6.1 ~~As stated at Rule 1.4, these Rules do not constitute part of the Network Code and~~These Rules shall not ~~therefore~~ give rise to or impose any duty, ~~obligation~~obligations or ~~right~~rights (whether in contract, tort, trust or otherwise) pursuant to, in relation to, in respect of or in connection with ~~the Network~~ Code on any person ~~who is or~~that is treated as being, for the time being ~~a party to the Network Code and consequently~~, a User and shall not give rise to any action or claim or liability (whether in contract, tort (including, but without limitation, negligence), for breach of trust or otherwise) against any such person pursuant to, in relation to, in respect of or in connection with the ~~Network~~ Code.

11.6.2 These Rules shall not give rise to or impose any duty, obligation (other than pursuant to the Licence) or right (whether in contract, tort, trust or otherwise) and consequently shall not give rise to any action or claim or liability pursuant to, in relation to, in respect of or in connection with these Rules.

11.6.3 Without prejudice to the generality of ~~Rule~~paragraph 11.6.2, no Member or individual in any Development Work Group or Review Group shall be liable (in whatever capacity) and no employer of any such person shall be vicariously liable for any act or thing done or omitted to be done pursuant to, in relation to, in respect of or in connection with these Rules.

11.6.4 Without prejudice to the generality of ~~Rule~~paragraph 11.6.2, no act or thing done or omitted to be done by Transco or any User (or any employee, director or agent of Transco or any User) pursuant to, in relation to, in respect of or in connection with these Rules shall give rise to any action or claim or liability by any User or Non-~~Network~~ Code Party against Transco (or any such employee, director or agent of Transco) or by any other User, Non-~~Network~~ Code Party or Transco against such User (or any such employee, director or agent of such User).

11.6.5 Nothing in or arising as a consequence of these Rules is intended in any way to limit or negate the ability for the time being of any User or Transco to seek to discuss any issue or matter with the Authority or to give rise to any consequence in respect of any

contractual relationship (other than pursuant to a Modification) which may, from time to time, exist between any User and Transco.

11.6.6 Nothing in these Rules shall oblige or impose any duty (whether expressly or impliedly) on any User or Transco to provide or make available any information.

11.6.7 Any person who provides any information for the purposes of or pursuant to these Rules may require that such information may only be made available subject to such confidentiality undertakings as such person may require.

11.7 Disapplication of these Rules

In respect of any Modification Proposal, Third Party Modification Proposal or Review Proposal, if Transco considers that it would be appropriate to disapply any of these Rules Transco will notify each Member and each User , each Third Party Participant and each Non-~~Network~~ Code Party (if any) and in that notice specify which Rules it considers it would be appropriate to disapply and explaining why and invite Users , Third Party Participants and Non-~~Network~~ Code Parties (if any) to make representations within ten (10) Business Days immediately following the date of such invitation in respect of the proposed disapplication. Transco will within the three (3) Business Days immediately following the expiry of such ten (10) Business Days send to each Member and the Authority copies of all representations (if any) so received. The Modification Panel shall, subject to ~~Rule~~paragraph 5.3.1, at the next following meeting of the Modification Panel consider the representations (if any) received (in accordance with this ~~Rule~~paragraph 11.7) from Users, Third Party Participants and Non-~~Network~~ Code Parties (if any), and the Modification Panel may determine by Panel Majority that it is appropriate to disapply any of the Rules specified in the relevant notice. If the Modification Panel shall so determine the Rules specified in the relevant notice shall, if the Authority agrees, be disapplied.

11.8 View

11.8.1 At any stage prior to the date on which Transco finalises the Modification Report Transco may decide to seek a View from the Authority on any matter arising (under these Rules or otherwise) from a Modification Proposal.

11.8.2 If Transco decides to seek a View pursuant to ~~Rule~~paragraph 11.8.1, Transco will:

(a) forward an application to the Authority setting out Transco's own views and reasons for seeking a View from the Authority;

(b) if Transco shall so determine, suspend (in whole or in part) the consideration of the Modification Proposal by any Development Work Group; and

(c) notify each User and each Non-~~Network~~ Code Party (if any) of such decision to seek a View.

11.8.3 If, in respect of a View sought pursuant to this ~~Rule~~paragraph 11.8, the Authority expresses the View that the Modification Proposal should not proceed, the Modification Proposal shall lapse and Transco will within the five (5) Business Days immediately following receipt of the View prepare and circulate notification of such lapse.

11.8.4 If, in respect of a View sought pursuant to this ~~Rule~~paragraph 11.8, the Authority shall not express any View as to how the Modification Proposal should proceed or expresses the View that the Modification Proposal should proceed to the Development Phase, the Modification Proposal shall proceed to the Development Phase.

11.8.5 If the Authority expresses any other view, the Modification proposal shall proceed in accordance with such view.

11.9 Terms of reference

11.9.1 The Terms of Reference for each Development Work Group, Modification Proposal referred to a Workstream or Review Group will:

(a) detail the composition of the Development Work Group or Review Group in accordance with ~~Rule~~paragraph 8.1;

(b) detail the Modification Proposal;

(i) detail the work to be undertaken by the Development Work Group, Workstream or Review Group to enable the Development Work Group, Workstream or Review Group to prepare its report; and

(ii) specify any matters, in addition to those referred to in ~~Rule~~paragraph 8.4.1, which the Development Work Group, Workstream or Review Group should address in its report;

(c) detail other matters (if any) to be considered or reviewed by the Development Work Group, Workstream or Review Group;

(d) state whether the Development Work Group, Workstream or Review Group should consult with any other person for the purposes of its report, and if so, detail the extent to which and identify which person (or persons) it should consult with, but this shall not require Transco to engage or remunerate any person so consulted;

(e) set a timetable in accordance with which the work of the Development Work Group, Workstream or Review Group is to be done and its report prepared; and

(f) specify when the Development Work Group, Workstream or Review Group is to comment upon the text of the Modification, provided to the Group pursuant to ~~Rule~~paragraph 8.12.

11.9.2 Unless the Modification Panel shall otherwise determine by Panel Majority, the timetable referred to in ~~Rule~~paragraph 11.9.1(f) shall not exceed a period of six (6) months.

11.9.3 The Modification Panel may, from time to time, determine by Panel Majority:

(a) to change the Terms of Reference of:

(i) any Development Work Group,

(ii) Modification proposal referred to a Workstream,

(iii) any Review Group;

(b) if the Terms of Reference of the relevant Development Work Groupor Review Group so anticipate, that the Development Work Group, or Review Group should undertake new or further work or consider new matters (whether or not related to any earlier work undertaken by that Development Work Group, or Review Group), or,

(c) Modification Proposal or Third Party Modification to change the Workstream Chairmans' Guidelines.

Signed for and on behalf of Transco.

Signature:

Peter Rayson
Commercial Manager

Support Services

Date:

Gas and Electricity Markets Authority Response:

> In accordance with Condition 9 of the Standard Conditions of the Gas Transporters' Licences dated 21st February 1996 I hereby direct Transco that the above proposal (as contained in Modification Report Reference **0679**, version **2.0** dated **01/06/2004**) be made as a modification to the Network Code.

Signed for and on Behalf of the Gas and Electricity Markets Authority.

Signature:

The Network Code is hereby modified with effect from, in accordance with the proposal as set out in this Modification Report, version **2.0**.

Signature:

Process Manager - Network Code

Transco

Date:

Annex

1. Any provision contained in this Agreement or in any arrangement of which this Agreement forms part by virtue of which The Restrictive Trade Practices Act 1976 ("the RTPA"), had it not been repealed, would apply to this Agreement or such arrangement shall not come into effect:

   (i) if a copy of the Agreement is not provided to the Gas and Electricity Markets Authority ("the Authority") within 28 days of the date on which the Agreement is made; or

   (ii) if, within 28 days of the provision of the copy, the Authority gives notice in writing, to the party providing it, that he does not approve the Agreement because it does not satisfy the criterion specified in paragraphs 1(6) or 2(3) of the Schedule to The Restrictive Trade Practices (Gas Conveyance and Storage) Order 1996 ("the Order") as appropriate

   provided that if the Authority does not so approve the Agreement then Clause 3 shall apply.

2. If the Authority does so approve this Agreement in accordance with the terms of the Order (whether such approval is actual or deemed by effluxion of time) any provision contained in this Agreement or in any arrangement of which this Agreement forms part by virtue of which the RTPA, had it not been repealed, would apply this Agreement or such arrangement shall come into full force and effect on the date of such approval.

3. If the Authority does not approve this Agreement in accordance with the terms of the Order the parties agree to use their best endeavours to discuss with Ofgem any provision (or provisions) contained in this Agreement by virtue of which the RTPA, had it not been repealed, would apply to this Agreement or any arrangement of which this Agreement forms part with a view to modifying such provision (or provisions) as may be necessary to ensure that the Authority would not exercise his right to give notice pursuant to paragraph 1(5)(d)(ii) or 2(2)(b)(ii) of the Order in respect of the Agreement as amended. Such modification having been made, the parties shall provide a copy of the Agreement as modified to the Authority pursuant to Clause 1(i) above for approval in accordance with the terms of the Order.

4. For the purposes of this Clause, "Agreement" includes a variation of or an amendment to an agreement to which any provision of paragraphs 1(1) to (4) in the Schedule to the Order applies.