

Draft Modification Report
Modification Panel approval of the treatment of Representations in Final Modification Reports
Modification Reference Number 0715
Version 1.0

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

1. The Modification Proposal

The proposer states that:-

"To amend the Network Code Modification process to allow time for Members of the Panel to comment on, and give approval to, final modification reports.

The purpose of this Proposal is to give parties to the Network Code the comfort and protection afforded by a balanced oversight process. It requires Transco to send a copy of the Modification Report in near Final state to each Modification Panel Member (Member) and each respondent allowing an additional two business days for Members to express their opinions and to have those opinions recorded in the version of the FMR which finally goes to Ofgem and is published to the community at large."

The proposer provides the following draft legal text:-

"Section Y

Our proposed legal drafting is set out below.

Section Y,

Paragraph 8.9.2(a), Add new sub-paragraph:

"(iii) send a copy of that report to each Member and to each User and Non Code Party that submitted (and did not withdraw) a representation (if any), allowing two (2) Business Days for each Member to express an opinion as to the adequacy of the treatment of the representations so received (and not so withdrawn); and"

Amend paragraph 8.9.2 (b);

"at the expiry of the period provided for Members opinions under paragraph 8.9.2 (a) (iii) incorporate opinions received (if any) and submit a copy of that report (and attachments (if any)) to the Authority, seeking direction or consent to the making or rejection (as the case may be) of the Modification; and,"

Amend 8.9.3 (j);

".....paragraph 8.2.2 (not applicable to Third Party Modification Proposals), or were received in accordance with paragraph 7.3 and the representations...."

Amend sub-paragraph (k)(i)

".....in accordance with paragraph 8.10.1, or were received in accordance with paragraph 7.3; and"

Add new sub-paragraph:

"(s) set out the opinions (if any) expressed by Members in accordance with paragraph 8.9.2 (a)(iii)."

2. Transco's Opinion

Transco supports the intent of the Modification Proposal and believes that such changes may improve clarity in the context of appropriating better developed and considered changes to the Network Code. Transco regards a Proposal which seeks to improve the standard, quality and definition of subsequent Proposals being submitted into the Modification process as a positive initiative. Transco considers that the Proposal may provide benefits to the following parties:-

- The community by ensuring all responses are accurately reflected in the Modification report.
- Transco in providing greater clarity in respect of formulating a balanced and accurate the Final Modification Report (FMR).
- Ofgem in reaching a decision based on the accurate interpretation of representations.

Under prevailing Licence Condition 9.9 (a) (iii) Transco notes that it is already obliged to give particulars of any representations made by a gas shipper or other person with respect to a Proposal. All representations are attached to the FMR submitted to the Authority. Although Transco complies with this Licence obligations it recognises that for the purposes of clarity, and to ensure that Shipper are satisfied with Transco's interpretation of their responses, a review of the summary of responses may improve the current Modification process.

The Proposal seeks to provide two business days for respondents, and the Modification Panel, to express an opinion "as to the adequacy of the treatment of the representations so received" . It is proposed that any opinions received as part of this process will be recorded as part of the FMR. Given prevailing Modification process timescales Transco proposes to provide any opinions received in the form of appending the responses to the FMR. Transco would welcome views in respect of what aspect of the draft FMR respondents, and the Modification Panel, are permitted to provide opinions on and how these changes might be included in the final version of the FMR.

Transco notes that Gas Transportation Licence: Condition 9 (12) states:-

"Any question arising under the code modification rules as to -

- a) whether a gas shipper or other person is likely to be materially affected by a Proposal to modify the Network Code were it to be implemented; or
- b) whether representations relating to such a Proposal and made in pursuance of the rules have been properly considered by the licensee.

shall be determined by the Authority."

Although Transco does not necessarily believe that this Licence condition appropriately addresses the concerns expressed by the proposer, Transco is obliged to note that the Licence provision may need to be reviewed pending the outcome of this Modification Proposal. Transco welcomes respondents views in respect of this issue.

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

- Transco seeks views in respect of the legal text provided by the proposer.

- Transco welcomes views regarding what aspects of the FMR respondents, and the Modification Panel, may provide an opinion on and how these changes will be included in the final version of the FMR.
- Transco welcomes views regarding Licence condition 9 (12).
- Transco seeks views in respect of how respondents consider that the Proposal better facilitates the relevant objectives.
- Transco welcomes views regarding an appropriate implementation date for this Proposal.

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

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

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

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

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

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

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

No direct implications are anticipated.

b) development and capital cost and operating cost implications:

No direct implications are anticipated.

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

Any amendment to the format of the Final Modification Report would require development of the existing registered Users website. No development implications on the related computer systems of Users are anticipated.

7. The implications of implementing the Modification Proposal for Users

No direct implications are anticipated.

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

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

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

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

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

Advantages

The Proposal should give parties to the Network Code the comfort that their views have been accurately reflected, and further opportunities to ensure that this is the case.

Disadvantages

The Proposal may introduce unnecessary delay to the Modification process, opening an additional cycle of interpretation. .

The Modification process is lengthened by an additional two days prior to the submission of the Final Modification Report to the Authority.

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

Representations are now sought

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

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

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

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

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

A program of works would need to be developed.

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

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

16. Recommendation concerning the implementation of the Modification Proposal

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

17. Text

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

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

Signed for and on behalf of Transco.

Signature:

Richard Court
Commercial Frameworks Manager
NT & T

Date: