



Tuesday 4th January

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Response to Modification proposal 731 Specific Amendments to the Modification Rules

Dear Julian

E.ON UK supports the implementation of this modification proposal. The proposal better facilitates relevant objective 9.1 (b) the efficient discharge of its [Transco's] obligations under [its] license; one such obligation being Standard condition 4D (1) to ensure that no party obtains any unfair commercial advantage...from a preferential or discriminatory arrangement.

Furthermore, the proposal ensures greater openness and accountability within the process, which will ultimately lead to development of proposals that better facilitate the relevant code objective (c) the securing of effective competition between relevant shippers and relevant suppliers.

Please see our response to some of the specific sections of the proposal, below.

The removal of the concept of Qualified Majority and Unanimity in the context of the Panel decisions

Removing the concept of qualified majority and unanimity is a necessary amendment to the Modification Rules to prevent a single User skewing the process, for example, preventing a proposal going to consultation through insisting it goes to a workstream, where the majority of the industry has voted for the proposal to go to consultation.

We see no disadvantages with this aspect of the proposal.

Removal of Alternative Proposal provision

Removing the alternative proposal provision and allowing the proposer to vary their modification proposal would enable both Transco and users to be

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able to modify their proposal, as they consider appropriate. This would introduce more flexibility and equality within the Code.

Please see our more detailed response to modification 713 with respect to the many advantages of this aspect of the revised Modification Rules.

We do not agree with Transco's interpretation of their licence. Condition 9.9 (a) (ii) states that the licensee shall give notice to the Authority, 'where the proposal is made by a relevant shipper, drawing attention to any alternative proposal to modify the Network Code in respect of the same matter which has been made by the licensee'.

It is clear from this statement in the licence that Transco must notify the Authority of any alternative modification proposal, which they may have made in respect of a shipper's proposal. It does not state, as implied by Transco in their draft modification report, that Transco must notify Users of alternative means of achieving the relevant objectives for each shipper proposal.

Transco would not, therefore, be open to breach of its licence, through the implementation of this modification proposal 0731 as, if they haven't put forward an alternative proposal in the first instance, then they cannot breach their licence through not notifying the Authority of such a proposal.

Workstream Guidelines

We do not consider the proposed provision in the Modification Rules for the Chairman of any Development Workgroup, Review Group or Workstream to attend Modification Panel meetings in any way impedes Transco's ability to economically and efficiently operate its pipeline system. If the Transco chairman is unable to attend a Modification Panel meeting then the chairman can arrange for a member of the group to attend the meeting.

We accept, however, Transco's point that it would be inefficient for a member of a group to attend the Modification Panel if that group has not met between Panel meetings. This issue would be easily resolved through an insertion in the legal text, holding the Chairman or relevant member, unaccountable in terms of attending the Modification Panel Meeting, where no workgroup, review group or workstream meeting has been held.

Having a representative of the group will provide the Modification Panel with more clarity and transparency with regards to group reports, where a representative will always be present to explain and clarify potential areas of misunderstanding.

We hope you find these comments useful. Please do not hesitate to contact me if you wish to discuss any of the matters raised in this response.

Yours sincerely

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