

Stage 04: Final Modification Report

0384S:

UNC Modification Rules; housekeeping, clarity and minor drafting changes.

At what stage is this document in the process?



This modification aims to implement a number of housekeeping, minor drafting changes and points of clarity to the Uniform Network Code (UNC) Modification Rules.



Panel determined this self-governance modification be implemented



High Impact: N/A



Medium Impact: Joint Office of Gas Transporters



Low Impact: UNC Modification Panel, Shipper Users, Gas Transporters and the Authority

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About this document:

This document is a Final Modification Report, presented to the Panel on 20 September 2012. The Panel will consider the views presented and decide whether or not this self-governance change should be made.



3 Any questions?

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1 Summary

Is this a Self-Governance Modification?

The Modification Panel determined that this is a self-governance modification.

Why Change?

The suite of Codes Governance Review Modifications introduced substantial changes to the Modification Rules at the start of 2011. Practical experience has revealed a number of areas within the Modification Rules that may not operate as intended; are ambiguous; or would benefit from change both to improve efficiency and better reflect the Code Administration Code of Practice.

Solution

National Grid has liaised with the Code Administrator to gain an understanding of the areas that they believe require additional clarity or correction is required within the current Modification Rules. National Grid NTS proposes that the Modification rules are changed to address these operational issues identified by the Code Administrator.

In addition, a revised approach to legal text provision is proposed, as is clarification of the Panel Majority definition.

Impacts and Costs

No major impacts or costs have been identified.

Implementation

No view on implementation timescales is proposed.

As this is a self-governance modification, implementation could be 16 business days after a Modification Panel decision to implement.

The Case for Change

The modification will provide a number of administrative efficiencies to improve the effectiveness of the UNC governance process.

2 Why Change?

Codes Governance Review

The following Modifications were implemented on 31 December 2010:

- 0318 - Code Governance Review: The approach to be taken when raising alternative Modification Proposals
- 0319V - Code Governance Review: Role of Code Administrators and Code Administration Code of Practice
- 0320V - Code Governance Review: Appointment and Voting Rights for a Consumer Representative and Independent Panel Chair
- 0321V - Code Governance Review: Approach to environmental assessments within the UNC
- 0322V - Code Governance Review: Inclusion of the NTS Transportation and Connection Charging Methodologies within the UNC
- 0323V - Code Governance Review: Self Governance
- 0324V – Code Governance Review: Significant Code Reviews
- 0325V - Code Governance Review: DN Transportation Charging Methodology and Change Governance.

Following the implementation of these Modifications, the Code Administrator identified some potential housekeeping changes and an issue regarding the definition of a Panel Majority. In addition, discussions in the Governance Workgroup have identified the desirability of changes to the Modification Rules relating to legal text provision, including how changes to Final Modification Reports should be brought to the Panel's attention.

3 Solution

Nature for the proposal

National Grid NTS has liaised with the Code Administrator to gain an understanding of the areas that they believe would benefit from additional clarity or correction within the Modification Rules.

The proposed housekeeping changes are:

- Correction of a small number of typographical errors
- A number of changes to clarify the appropriate use of the role of Secretary, Code Administrator and Transporter
- Clarification with regards to the Code Administrator's role in establishing a new Workgroup and its associated Terms of Reference
- Amend Section 8 to allow any person who attended and participated in the Workgroup to express views at the Panel when the report is being discussed
- Clarify that where an alternative Modification is referred to a Workgroup by the Panel and the next meeting of such Workgroup is in less than 5 Business Days time, then the modification will be carried forward for assessment at the following meetings of the Workgroup.

The above proposed changes are reflected in the legal text included with this Modification (within a separate document due to its size).

Legal Text provision for Modification Proposals

In light of Workgroup discussions, National Grid NTS has evaluated a number of options to address the issue of providing legal text for inclusion in Modification Reports. This modification proposes to introduce the ability for the Modification Panel to request (by way of a Panel Majority vote) legal text for a Modification at any time prior to making its recommendation as to whether or not the Modification should be implemented or, in the case of a Self-Governance Modification, its decision. For the avoidance of doubt, such a request may be made on more than one occasion.

This modification also proposes to amend the current provisions set out in paragraph 9.6.2 of the Modification Rules to allow the relevant Workgroup to consider both Suggested Text and or text prepared by the Transporters under paragraph 9.6.1 where provided prior to the Modification Panel making a determination under paragraph 7.3.1 of the Modification Rules. It is also proposed the change the definition of Suggested Text to facilitate Transporters providing Suggested Text for Proposals raised by Users.

It is also proposed that, where the Panel requests the Transporters to provide legal text for inclusion in the Draft Modification Report, the Transporters shall be given the opportunity by the Panel to confirm, during the same Panel meeting at which the legal text request was made, whether any legal text previously provided by them is suitable for inclusion in the Draft Modification Report. Where the Transporters confirm that previously provided text is suitable then it is proposed that the text identified by the Transporters is included in the Draft Modification Report as legal text for the proposal and that the proposal may then continue through the governance process at that Panel meeting thus avoiding any unnecessary delays to the process.

The existing provision for the Authority to request that the Transporters provide legal text will continue.

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The existing provision for a request for legal text in support of a User Pays Modification to be deemed to also be a request for an Agency Charging Statement amendment will continue.

If at any time after providing legal text in response to a Panel request, and before the Modification Panel makes a determination on whether or not to recommend implementation of the Modification or, in respect of a Self-Governance Modification, makes a determination as to whether or not to implement the Modification, the Transporters wish to provide revised legal text, they may do so and should provide this revised legal text to the Code Administrator.

The Code Administrator will include the latest version of legal text provided, or the reasons for not providing legal text, in all subsequently produced reports relating to the Modification – i.e. Workgroup Report, Draft Modification Report, Final Modification Report etc.

It is also proposed that, where the UNC Panel are to make a determination under Section 7.3.1 of the Modification Rules and, in relation to the modification under consideration, the Transporters have previously received a request to provide legal text and has complied with such request, then a determination of the Panel under Section 7.3.1 (a) will not be required and instead the most recent text provided by the Transporters shall be included in the Draft Modification Report.

This modification also seeks to introduce a further provision relating to changes to the Final Modification Report (FMR). It is proposed that where the FMR is amended then the Modification shall be placed on the agenda for the following Modification Panel meeting. At this meeting the Panel shall be asked to consider whether or not, as expressed through a majority vote, to either:

- 1) Request the Transporters to send the Modification for a further consultation (in a manner similar to that current stated in Modification Rules 9.5.2 (b)), or
- 2) Determine that the Modification shall continue through the process from its current position.

For the avoidance of doubt, none of the above would prevent the Authority from making a determination based on the prevailing Final Modification Report.

Panel Majority Vote Clarification

It is also proposed that the Modification Rules be amended to clarify the rules relating to the definition of Panel Majority to better reflect the intent of Modification 0320V.

Modification 0320V sought to do the following:

- In the case of a Panel recommendation made pursuant to section 9.3.3(a) of the Modification Rules, the modification stated that the Panel Chairman's Casting Vote would not apply and the Panel Majority definition under the then existing rules would continue to apply.
- In all other cases where a Panel Chairman's Casting Vote may apply, it was proposed that the defined term for Panel Majority be changed to: a majority (in number) of the votes in favour of such matter over the votes not in favour of such matter from the total number of votes exercisable by the Voting Members present at that meeting.

It is therefore proposed that the Modification Rules be amended to better reflect the above points. The legal text provided with this modification sets out the proposed changes to the definition of Panel Majority.

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4 Relevant Objectives

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

f) Promotion of efficiency in the implementation and administration of the Code

The changes to legal text provision in this modification seek to ensure that properly developed legal text is always available when a modification is issued to consultation. Introducing the ability for text to be formally requested earlier than under the present Modification Rules is expected to help ensure that text is available for industry scrutiny as part of the assessment process. In addition, this will allow text to be prepared that can be included in draft modification reports and issued to consultation immediately following a Panel decision to issue a modification to consultation – the existing rules include a month's delay while text is prepared, even if this is simply to confirm that previously provided draft or suggested text is appropriate. Implementation of this aspect is therefore consistent with facilitating efficient administration of the UNC.

The proposed change to the definition of Panel Majority removes the ambiguity that exists at present and hence is also consistent with facilitating efficient administration of the Code. However, splitting the definition into two depending on the nature of the vote being sought introduces additional complexity into the Modification Rules, which is inconsistent with facilitating this relevant objective. In addition, the proposed absence of an ability to abstain from a vote on whether or not to recommend implementation of a modification creates the possibility that Panel members may choose to leave the meeting as a means of abstaining. Were this to happen, there is a

possibility that the Panel would cease to be quorate, thereby creating delay and administrative complexity. This element may not, therefore, be consistent with facilitating efficient administration of the UNC.

The proposed housekeeping changes, such as clarifying responsibilities between the Transporters, Code Administrator and Panel Secretary, ensure clarity and so facilitate efficient administration of the Code.

5 Impacts and Costs

Consideration of Wider Industry Impacts

Implementation would be expected to further align the Modification Rules with the Code Administration Code of Practice.

Costs

Indicative industry costs – User Pays	
Classification of the modification as User Pays or not and justification for classification	
The modification is not classed as Users Pays as there are no additional costs or changes to the services provided by Xoserve.	
Identification of Users, proposed split of the recovery between Gas Transporters and Users for User Pays costs and justification	
N/A	
Proposed charge(s) for application of Users Pays charges to Shippers	
N/A	
Proposed charge for inclusion in ACS – to be completed upon receipt of cost estimate from Xoserve	
N/A	

Impacts

Impact on Transporters' Systems and Process	
Transporters' System/Process	Potential impact
UK Link	• None
Operational Processes	• None
User Pays implications	• None

Impact on Users	
Area of Users' business	Potential impact
Administrative and operational	• None
Development, capital and operating costs	• None
Contractual risks	• None
Legislative, regulatory and contractual obligations and relationships	• None

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Impact on Transporters	
Area of Transporters' business	Potential impact
System operation	• None
Development, capital and operating costs	• None
Recovery of costs	• None
Price regulation	• None
Contractual risks	• None
Legislative, regulatory and contractual obligations and relationships	• None
Standards of service	• None

Impact on Code Administration	
Area of Code Administration	Potential impact
Modification Rules	• Some changes are required and are detailed in the Suggested Text for this modification.
UNC Committees	• None
General administration	• The Joint Office would be required to ensure that processes reflect the changes to the Modification Rules.

Impact on Code	
Code section	Potential impact
Uniform Network Code – Modification Rules	Medium

Impact on UNC Related Documents and Other Referenced Documents	
Related Document	Potential impact
Network Entry Agreement (TPD I1.3)	• None
Network Exit Agreement (Including Connected System Exit Points) (TPD J1.5.4)	• None
Storage Connection Agreement (TPD R1.3.1)	• None
UK Link Manual (TPD U1.4)	• None
Network Code Operations Reporting Manual (TPD V12)	• None
Network Code Validation Rules (TPD V12)	• None
ECQ Methodology (TPD V12)	• None
Measurement Error Notification Guidelines (TPD V12)	• None
Energy Balancing Credit Rules (TPD X2.1)	• None

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Impact on UNC Related Documents and Other Referenced Documents

Uniform Network Code Standards of Service (Various)	<ul style="list-style-type: none">• None
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Impact on Core Industry Documents and other documents

Document	Potential impact
Safety Case or other document under Gas Safety (Management) Regulations	<ul style="list-style-type: none">• None
Gas Transporter Licence	<ul style="list-style-type: none">• None

Other Impacts

Item impacted	Potential impact
Security of Supply	<ul style="list-style-type: none">• None
Operation of the Total System	<ul style="list-style-type: none">• None
Industry fragmentation	<ul style="list-style-type: none">• None
Terminal operators, consumers, connected system operators, suppliers, producers and other non code parties	<ul style="list-style-type: none">• None

6 Implementation

As self-governance procedures are proposed, implementation could be 16 business days after a Modification Panel decision to implement.

7 The Case for Change

Nothing in addition to that identified above.

8 Legal Text

Text

Legal text has been published alongside this modification at www.gasgovernance.co.uk/0384.

9 Consultation Responses

Representations were received from the following parties:

Company/Organisation Name	Support Implementation or not?
National Grid Distribution	Support
National Grid NTS	Support
Northern Gas Networks	Support
Scotia Gas Networks	Support

Of the four representations received, implementation was unanimously supported. No new issues were raised.

10 Panel Discussions

The Panel Chair summarised that Modification 0384S seeks to allow formal legal text to be requested by the Modification Panel at additional points in the Modification Rules; to define a Panel Majority as being a majority of votes exercisable in the case of a recommendation as to whether or not to implement a modification, but exercised in all other cases; and to introduce some housekeeping style changes.

Members recognised that clarifying areas of the Modification Rules is consistent with promoting efficiency in the implementation and administration of the UNC. It was similarly recognised that that this relevant objective would be facilitated by providing for more flexibility in the provision of legal text, and for changes to the text to be considered by the Modification Panel.

Members then voted and unanimously determined that Self-Governance Modification 0384S should be implemented.

11 Recommendation

Panel Recommendation

Having considered Modification Report 0384S, the Panel determined:

- that proposed self-governance Modification 0384S should be made.