

Legal Text 0318A

MODIFICATION RULES

Delete all text at paragraph 6.4 and replace with text to read as follows:

6.4 Alternative Proposals

6.4.1 In respect of a Modification Proposal which the Modification Panel pursuant to paragraph 7.2.3 has determined should proceed to the Development Phase or be referred to a Workstream:

- (a) where the Modification Proposal is made in respect of the Uniform Network Code, any Transporter or User;
- (b) where the Modification Proposal is made in respect of an Individual Network Code, any Relevant Transporter or Relevant Shipper;
- (c) where the Modification Proposal is a Third Party Modification Proposal, any Third Party Participant;

being a person other than the Proposer, may make an alternative Modification Proposal in accordance with paragraph 6.2 and the Development Work Group or Workstream (as the case may be) shall only consider an alternative Modification Proposal made under this paragraph 6.4.1 if it is made no less than five (5) Business Days before the next meeting of the Development Work Group or Workstream (as the case may be).

6.4.2 Where a Modification Proposal proceeds to the Development Phase or has been referred to a Workstream and the relevant Development Work Group or Workstream requests that the Modification Proposal should be amended but the Proposer of the Modification Proposal does not agree to amend the Modification Proposal, any person (other than the Proposer) who is eligible to make an alternative Modification Proposal under paragraph 6.4.1 may, in accordance with paragraph 6.2, make an alternative Modification Proposal under this paragraph 6.4.2 which shall include the amendment.

6.4.3 Where the Modification Panel has determined a Modification Proposal should proceed to the Development Phase and:

- (a) the Development Work Group Report in respect of such Modification Proposal has been sent to all Members in accordance with paragraph 8.7; or
- (b) the Modification Panel has made a determination to refer the Development Work Group Report in respect of such Modification Proposal back to the Development Work Group for revision or further work under paragraph 8.8.1(b)(ii) and such Development Work Group Report has been sent to all Members in accordance with paragraph 8.7 after such revision or further work;

an alternative Modification Proposal shall not be made in respect of Modification Proposal or be considered by the Development Work Group under paragraph 6.4.1.

6.4.4 Where the Modification Panel has determined a Modification Proposal should be referred to a Workstream under paragraph 7.4.1(b)(i) and:

- (a) the report prepared by the Workstream in respect of such Modification Proposal has been sent to the Modification Panel; or
- (b) the Modification Panel has made a determination to refer the Modification Proposal to a Workstream under paragraph 7.2.4(b)(i) (or if such Modification Proposal is a Third Party Modification Proposal under paragraph 7.2.5) for further discussion and consideration under paragraph 7.4 and the report prepared by the Workstream has been sent to the Modification Panel after such further discussion and consideration;

an alternative Modification Proposal shall not be made in respect of such Modification Proposal or be considered by the Workstream under paragraph 6.4.1.

6.4.5 An alternative Modification Proposal may not be made in respect of a Modification Proposal after the Modification Panel pursuant to paragraph 7.2.3 has determined such Modification Proposal should proceed to the Consultation Phase.

6.4.6 In respect of any Modification Proposal or Third Party Modification Proposal which is withdrawn pursuant to paragraph 6.5.1, or deemed withdrawn pursuant to paragraph 6.5.4 or 6.5.6, any of the parties (except for the Proposer):

(a) in paragraph 6.1.1 including a Third Party Participant in relation to a Third Party Modification Proposal only (where such proposal is made pursuant to paragraph 6.1.1); or

(b) in paragraph 6.1.2 (where such proposal is made pursuant to paragraph 6.1.2),

may, but shall not be required to, either raise an alternative Modification Proposal in accordance with paragraph 6.2) or adopt the withdrawn proposal (in which case the adopted proposal shall continue through the Modification Procedures from the point at which it was withdrawn).

Amend paragraph 7.2.3(a)(iii) as follows:

(iii) subject to paragraph 7.2.9, should proceed to the Consultation Phase in accordance with paragraph 7.3; or

Amend paragraph 7.2.5(b) as follows:

(b) subject to paragraph 7.2.9, the Third Party Modification Proposal should proceed to the Consultation Phase in accordance with paragraph 7.3;

Insert a new paragraph 7.2.9 as follows:

7.2.9 In making a determination as to whether a Modification Proposal should proceed to the Consultation Phase (under paragraph 7.2.3(a)(ii) or 7.2.5(b)), the Modification Panel shall consider:

(a) whether or not the content of the proposal is sufficiently well developed to be enable Users, Transporters, Third Party Participants and Non-Code Parties (if any) to understand in sufficient detail the scope and content of the proposed modification;

(b) the complexity of the Modification Proposal and the likely impact of the proposal on Users, Transporters, Third Party Participants and Non-Code Parties (if any); and

(c) the likelihood of an alternative being made in respect of the proposal.

Delete text at paragraph 12.9.2 and insert new text to read as follows:

12.9.2 The timetable set under paragraph 12.9.1(e) in respect of a Modification Proposal shall:

(a) unless the Modification Panel determines otherwise, not exceed a period of six (6) months;

(b) only be extended to allow for consideration of an alternative Modification Proposal by the Development Work Group or Workstream where the Modification Panel determines the person proposing the alternative could not have reasonably made such alternative proposal at an earlier point in the timetable.

UNIFORM NETWORK CODE - TRANSITION DOCUMENT

Add the following to Part IV of the Transition Document if such text has not already been inserted as a result of a modification implemented pursuant to the Code Governance Review:

" PART IV - MODIFICATION RULES

6 Code Governance Review

6.1 The Modification Rules in force as at the date preceding the Code Governance Review Implementation Date and set out in the Appendix to this Part IV shall apply to Modification Proposals made before the Code Governance Review Implementation Date and in respect of which:

- (a) the Transporters have not submitted a Modification Report to the Authority; or
- (b) the Authority has not decided whether to direct that the relevant modification may be made (or as the case may be) consent to the relevant Modification

before the Code Governance Review Implementation Date.

6.2 In paragraph 6.1 "**Code Governance Review Implementation Date**" means 31 December 2010.

Add in the Modification Rules in force as at the date preceding the Code Governance Review Implementation Date as an Appendix to Part IV of the Transition Document.