

Self Governance and Alternate Modifications



Discussion Paper for the UNC Modification Panel
January 2017

Context: Authority Direction



- There are established ways to address 'Authority Direction' mods under Mod Rules 9.3.3 (a) and 9.4.2:
 - can each alternate be implemented
 - if so, which is preferred?
- In the event of 'no clear preference' (such as 0565/A/B and 0541A/B – which are the most recent examples) Ofgem still make the final decision and the mod process completes properly.

What is the Issue? (SG/Alts)



- The Modification Rules do not appear to adequately provide for circumstances where SG Alternates have to be determined for implementation by Panel.
- 9.3.10 (a) envisages a single mod and requires Panel to consider “...whether or not the SG Modification Proposal better facilitates the achievement of the Relevant Objectives...”
- This applies to each Alternate (as per existing Authority Direction), but **which one should be implemented?**
- The answer needs to include arrangements to cope with ‘no clear preference’ (as 0541/0565)
- Panel should consider whether it is acceptable to adopt any arrangements that delay an implementation decision

Resolving the primary issue: 'Preference'



- It seems sensible to adopt parallel arrangements to those for Authority Direction
 - can each alternate be implemented
 - if so, which is preferred?
- Should the Modification Rules be amended to be clear on this?

Options for 'no clear preference':


1. Enabling immediate resolution



1. The Chair to have a casting vote only in the specific circumstances
2. Have a second Panel Vote on the tied mods only (in case there are 3 or more alternates)
3. Do nothing - no majority exists and neither can be implemented; the process ends

Options for 'no clear preference':

2. Requiring deferral to a future date

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4. Refer to the Authority for a View (existing 12.8 would need extending) and return to a subsequent Panel for re-vote.
Note: a View is generally binding on Panel
 5. Defer to a future meeting to allow for wider informal consideration among Shipper parties and re-vote
 6. The mods become Material and require Authority Direction

Other Codes



- DCUSA – community voting system and thresholds apply; no parallel issue
- CUSC – Chair has casting vote in the specific circumstances:
 - 8.11.4 The **Panel Chairman** shall not cast a vote as a **Panel Member** but shall have a casting vote on any matter (except in a **CUSC Modifications Panel Recommendation Vote**) where votes are otherwise cast equally in favour of and against the relevant motion including, for the avoidance of doubt, in the **CUSC Modifications Panel Self-Governance Vote**, where the **Panel Chairman** is obliged to exercise his casting vote if votes are otherwise cast equally in favour of or against a **CUSC Modification Proposal**, but where any person other than the actual **Panel Chairman** or his alternate is acting as chairman he shall not have a casting vote.

Next Steps



- Panel needs to consider the options and decide an appropriate way forward that balances the need to progress in a timely manner with principles of good governance.
- Whichever arrangements are preferred, it is likely that the Modification Rules will require amendment