

**MODIFICATION 0656**

**ANNEX A**

**UNIFORM NETWORK CODE – MODIFICATION RULES**

**1 INTRODUCTION**

**2 INTERPRETATION**

**2.1 Defined terms**

In addition to terms defined elsewhere in the Uniform Network Code, the following terms and expressions are used with the following meanings in these Rules:

**"Agenda"**: an agenda detailing (amongst other things) the nature of the matters and materials to be discussed at the meeting of the Modification Panel to which the agenda relates;

**"Appeal"**: an appeal made by an Appealing Party to the Modification Panel of a determination by the Modification Panel under paragraph 9.3.10(a) in respect of a Self-Governance Modification Proposal;

**"Appeal Criteria"**: the following criteria in respect of an Authority Appeal:

- (a) the Authority Appeal has been made within the time specified in these Rules;
- (b) in the opinion of the Authority;
  - (i) the Appealing Party is, or is likely to be, unfairly prejudiced by the implementation or non-implementation of the Self-Governance Modification Proposal;
  - (ii) the Authority Appeal has been made on the grounds that the Appealing Party reasonably believes that:
    - (1) where the Modification Panel has made the determination to implement the proposal, the proposal does not better facilitate the achievement of at least one of the Relevant Objectives; or
    - (2) where the Modification Panel has made the determination not to implement the proposal, the proposal does better facilitate the achievement of at least one of the Relevant Objectives; and
  - (iii) the Authority Appeal has not been made for reasons that are trivial, frivolous or vexatious; and
  - (iv) the Authority Appeal has a reasonable prospect of success;

**"Appeal Procedures"**: the procedures for the making of an Appeal and an Authority Appeal as set out in paragraph 13;

**"Appealing Party"**: in relation to an Appeal or an Authority Appeal, a User, a Materially Affected Party, Transporter, Independent Gas Transporter or Third Party Participant making such appeal;

["Appointment Period" has the meaning given in paragraph 4.1.6;](#)

**"Authority Appeal"**: an appeal to the Authority made by the Appealing Party under paragraph 13.5;

**"Authority Decision Date"**: the date on which the Authority gives notice to the Secretary in accordance with paragraph 9.3.5(b) of its determination to implement the Modification;

**"Backstop Lead Time"**: where the Authority Decision Date is later than the last Proposed Authority Decision Date, the proposed period of time (commencing on the Authority Decision Date) required to enable the Modification to be implemented;

**"Carbon Costs Guidance"**: guidance published by the Authority from time to time on the treatment of carbon costs and the evaluation of Greenhouse Gas Emissions including the document entitled 'Guidance on the treatment of carbon costs under the current industry code objectives';

**"Casting Vote"**: a vote exercisable by the Panel Chairperson in favour of or against any matter to be determined by the Modification Panel except the making of a recommendation under paragraph 9.2.1(b) or 9.3.3(a);

**"Code Administrator"**: is the joint office established by the Transporters pursuant to Standard Special Condition A12;

**"Code of Practice"**: is the 'Code Administration Code of Practice' approved by the Authority and developed, maintained and published by the Code Administrator and other code administrators, as may be amended with the Authority's approval;

["Conflicting Appointment" has the meaning given in paragraph 4.4.5;](#)

**"Consultation"**: those provisions of the Modification Procedures set out in paragraphs 7.3 and 9 and, as the context may require, any of those provisions;

**"Consumers' Representative(s)"**:

- (a) the representative (if any) for the time being appointed by Citizens Advice or Citizens Advice Scotland; and
- (b) the representative (if any) of consumers for the time being appointed by the Authority,

to the Modification Panel in accordance with these Rules;

**"Designated Person"**:

- (a) subject to (b) below, the individual for the time being appointed as the Chief Executive of the Joint Office of Gas Transporters; or
- (b) any other individual of whose identity the Panel Chairperson may be notified by the Authority;

**"DN Charging Methodology"**: means the methodology in relation to charging in respect of a transportation arrangement established pursuant to paragraph 5 of Standard Special Condition A4;

**"DN Charging Methodology Forum"**: means a Workgroup chaired by a representative of the Code Administrator and operating within the Code of Practice, which is convened for the general purposes of consideration and discussion of matters relating to a DN Charging Methodology in accordance with its Terms of Reference (which group shall have no power or authority to bind any Materially Affected Party, User or Transporter) and which may not be dissolved by the Modification Panel;

**"Emissions"**: has the meaning given in section 97 of the Climate Change Act 2008;

**"Fast Track Self Governance Criteria"**: has the meaning given to "fast track self-governance criteria" in Standard Special Condition A11, paragraph 24(a) of the Transporter's Licence;

**"Fixed Implementation Date"**: the proposed implementation date of a Modification, such date being included in accordance with paragraph 6.2.1(e)(i) and, except where the Proposal is a Self Governance Modification Proposal, paragraph 9.4.1(g)(i);

**"Greenhouse Gas"**: has the meaning given in section 24(1) of the Climate Change Act 2008 to the term 'targeted greenhouse gas';

**"Independent Gas Transporter"**: has the meaning given in GT Section B2.1.4;

**"Independent Suppliers' Representative"**: the individual (if any) for the time being appointed by the Designated Person to represent independent supplier organisations (and not affiliated to a User who has a representative on the Modification Panel) in accordance with these Rules;

**"Independent Gas Transporters' Representative"**: the individual (if any) for the time being appointed by the Association of Independent Gas Transporters (a company incorporated in England and Wales, with company registration number 3591677) in accordance with these Rules;

**"Individual Network Code"**: for the purposes of these Rules, a Transporter's Network Code, excluding the terms of the Uniform Network Code incorporated within it;

**"Legal Text Guidance Document"**: the guidance document published by the Transporters which contains guidance in respect of the provision of legal text pursuant to these Rules;

**"Materially Affected Party"**: has the meaning given in Standard Special Condition A11(24)(a) of the Transporter's Licence;

**"Member"**: any individual for the time being appointed to the Modification Panel;

**"Modification"**: any modification of the Uniform Network Code or, as the case may be, an Individual Network Code, made pursuant to these Rules and in accordance with Standard Special Condition A11, and "Modifications" shall be construed accordingly;

**"Modification Panel"**: the modification panel established and constituted from time to time pursuant to and in accordance with these Rules;

**"Modification Procedures"**: the provisions relating to Modifications and Modification Proposals set out in these Rules and, as the context may require, any of those provisions;

**"Modification Proposal"** means:

- (a) a Modification proposal in respect of the Uniform Network Code; or
- (b) a Modification proposal in respect of an Individual Network Code, (including a proposal to modify Annex V-1 ("Table of Operational and Market Data") in the Uniform Network Code made by a Third Party Participant);

**"Modification Proposal Guidance Document"**: the guidance document published by the Transporters which contains guidance in respect of the development of new Modification Proposals pursuant to these Rules.

**"Modification Report"**: a draft, final or amended final report prepared in accordance with paragraph 9 or paragraph 10.1.2(c);

**"Non-Code Party"**: any person to whom the Code Administrator shall send a copy of a Modification Proposal or a Modification Report, or from whom the Code Administrator shall invite representations pursuant to paragraph 7.6;

**"NTS Charging Methodology"**: means the methodology in relation to charging in respect of a transportation arrangement established pursuant to paragraph 5 of Standard Special Condition A4 and the methodology in relation to charging in respect of a connection pursuant to paragraph 3 of Standard Condition 4B;

**"NTS Charging Methodology Forum"**: means a Workgroup chaired by a representative of the Code Administrator and operating within the Code of Practice, which is convened for the general purposes of consideration and discussion of matters relating to a NTS Charging Methodology in accordance with its Terms of Reference (which group shall have no power or authority to bind any Materially Affected Party, User or Transporter) and which may not be dissolved by the Modification Panel;

**"Ofgem Representative"**: the individual (if any) for the time being appointed by the Authority as their representative to the Modification Panel in accordance with these Rules;

**"Panel Chairperson"**: the person appointed as Chairperson of the Modification Panel by the Transporters with the approval of the Authority, and as the context may require, a deputy Panel Chairperson;

**"Panel Constituency"** [has the meaning given in paragraph 3.2.1:](#)

**"Panel Majority"**: in relation to

- (a) a Modification Panel recommendation made pursuant to paragraph 9.2.1(b) or 9.3.3(a) to be determined at a quorate and duly convened meeting of the Modification Panel means:
  - a majority (in number) of the votes exercisable by the Voting Members present at that meeting and voting in favour of such matter; and
- (b) any other Modification Panel determination to be determined at a quorate and duly convened meeting of the Modification Panel means:
  - (i) a majority (in number) of the votes exercised by the Voting Members present at that meeting and voting in favour of such matter; or
  - (ii) if there is an equal number of votes by the Voting Members present at that meeting in favour of and against such matter, where the Panel Chairperson has exercised a Casting Vote in favour of such matter;

**"Proposed Authority Decision Date"**: the proposed date by which the Authority shall give notice to the Secretary in accordance with paragraph 9.3.5(b) of its determination to implement the Modification, such date being included in accordance with paragraph 6.2.1(e)(ii) and, except where the Proposal is a Self Governance Modification Proposal, paragraph 9.4.1(g)(ii);

**"Proposed Self-Governance Modification Proposal Determination Date"**: the proposed date on which the Modification Panel is to make a determination whether to implement or not to implement a Self-Governance Modification Proposal;

**"Proposer"**: the person who shall have made the relevant Modification Proposal pursuant to paragraph 6.1.1 or 6.1.2 or the relevant Request under paragraph 11.1;

**"Regulation"** means Regulation 2009/715/EC of the European Parliament and of the Council of 13 July 2009 (as amended from time to time) concerning conditions for access to the national gas transmission networks;

**"Relevant Objectives"**: has the meaning given in Standard Special Condition A11(24)(a) of the Transporter's Licence;

**"Relevant Shipper"**: for the purposes of these Rules only in relation to an Individual Network Code Modification Proposal means:

- (a) a Shipper User who has a transportation arrangement with the Transporter in respect of the System(s) to which the Individual Network Code relates;
- (b) where such proposal relates to National Grid NTS's Network Code, a Trader User;

**"Relevant Transporter"**: for the purposes of these Rules only in relation to an Individual Network Code Modification Proposal means:

- (a) a Transporter which is the owner or operator of the System(s) to which the Individual Network Code relates; and
- (b) (in the context of making, and submitting representations on, a Modification Proposal or alternative Modification Proposal in respect of an Individual Network Code) a DNO User;

**"Request"**: has the meaning given in paragraph 11.1;

**"Request Procedures"**: means the procedures set out in paragraph 11;

**"Rules"**: these Modification Rules;

**"Secretary"**: means:

- (a) the individual for the time being appointed as secretary; or
- (b) as the case may be, any individual for the time being appointed as a deputy secretary,

of the Modification Panel pursuant to paragraph 3.5;

**"Self-Governance Criteria"**: has the meaning given to "self-governance criteria" in Standard Special Condition A11(24)(a) of the Transporter's Licence;

**"Self-Governance Modification Proposal"**: a Modification Proposal or an alternative to such proposal which:

- (a) the Modification Panel has determined satisfies the Self-Governance Criteria under paragraph 7.2.3(a)(i) (including after any variation of such proposal under paragraph 6.5) and in respect of which the Code Administrator on behalf of the Modification Panel has submitted to the Authority a Self-Governance Statement (which has not been rejected by the Authority by the Self-Governance Modification Proposal Determination Date or withdrawn by the Code Administrator on behalf of the Modification Panel pursuant to paragraph 6.6.6 without having been subsequently reinstated pursuant to paragraph 6.6.7); or
- (b) the Authority has determined satisfies the Self-Governance Criteria under paragraph 6.6.7;

**"Self-Governance Modification Proposal Determination Date"**: the date on which the Modification Panel:

- (a) makes a determination to implement or not to implement a Self-Governance Modification Proposal under paragraph 9.3.10(a);
- (b) for the purpose of paragraph 13.5, decides, under paragraph 13.4(a), to confirm its determination under paragraph 9.3.10(a);

**"Self-Governance Statement"**: has the meaning given to "self-governance statement" in Standard Special Condition A11(24)(a) of the Transporter's Licence and which identifies the Proposed Self-Governance Modification Proposal Determination Date in respect of the relevant proposal;

**"Significant Code Review"**: has the meaning given in Standard Special Condition A11(24)(a);

**"Significant Code Review Modification Proposal"**: a Modification Proposal made by:

- (a) the Authority in respect of a Significant Code Review; or
- (b) a Transporter pursuant to a direction of the Authority which is made further to a Significant Code Review;

**"Significant Code Review Suspended Modification Proposal"**: unless 6.7.3 applies a Modification Proposal in respect of which the application of the Modification Procedures is suspended pursuant to paragraph 6.7.2 until the end of the Significant Code Review Phase;

**"Significant Code Review Phase"**: has the meaning given in Standard Special Condition A11(24)(a);

**"Small Participant"**: means

- (a) any User that can demonstrate to the Code Administrator's reasonable satisfaction that it is resource constrained and therefore in particular need of assistance;
- (b) any other User which the Code Administrator considers to be in particular need of assistance; and
- (c) any other person (or class of person) which the Authority has notified the Code Administrator as being in particular need of assistance,

in relation to the application of these Rules and such person's participation in the Modification Procedures;

**"Suggested Text"**: means indicative legal text, in respect of a Modification Proposal, which has been provided by the Proposer or a Transporter other than legal text which is prepared under paragraph 9.6.1;

**"Terminal Operator"**: a person who is for the time being the operator of a terminal the address of which is specified in the schedule to the Gas Transporters Exemption Order 1996 or any later order of like effect;

**"Terminal Operators' Representative"**: the individual (if any) for the time being appointed by Terminal Operators to the Modification Panel in accordance with these Rules (and not affiliated to a User who has a representative on the Panel);

**"Terms of Reference"**: means those terms of reference in relation to a Modification Proposal referred to a Workgroup by the Modification Panel, pursuant to paragraph 7.2.3(b)(ii), finalised by the Code Administrator under paragraphs 7.5 and 12.9 and as may be amended pursuant to paragraph 12.9.3;

**"Third Party Participant"**: (as required by Standard Special Condition A11(11)(a)(iv)) any person or body who is not a User but who is representative of interested third parties, as may be designated in writing for this purpose by the Authority, from time to time, and maintained on a register held by the Authority;

**"Transporter"**: for the purposes of these Rules, references to a Transporter in the context of an Individual Network Code Modification Proposal includes a Relevant Transporter;

**"Transporters' Representative"**: any individual for the time being appointed (or, as the case may be, re-appointed) by the Transporters as a Member;

**"Unanimously"**: in respect of a meeting of the Modification Panel, a determination made with the agreement of all Voting Members participating in the meeting;

**"Urgent Modification"**: a Modification made pursuant to an Urgent Modification Proposal;

**"Urgent Modification Proposal"**: a Modification Proposal in respect of which it is to be submitted to the Authority that the Modification is required as a matter of urgency as described in Standard Special Condition A11(9)(g);

**"User"**: for the purposes of these Rules, references to a User:

- (a) in the context of an Individual Network Code Modification Proposal, includes
  - (i) a Relevant Shipper;
  - (ii) a Trader User;
  - (iii) in the context of the definition of Relevant Transporter, sub paragraph (b), a DNO User; and
- (b) in all other contexts excludes a DNO User;

**"Users' Representative"**: each of those individuals for the time being appointed (or, as the case may be, re-appointed) pursuant to paragraph 4.2.4, re-appointed pursuant to paragraph 4.2.6 or appointed pursuant to paragraph 4.4.2(d);

**"View"**: the view of the Authority referred to in Standard Special Condition A11(9)(e);

**"Voting Member"**: any Transporters' Representative, any Users' Representative, the Independent Gas Transporters' Representative and any Consumers' Representative and shall not include the Panel Chairman except where the Panel Chairman exercises a Casting Vote under paragraph 5.8.2;

**"Workgroup"**:

- (a) a group constituted in accordance with paragraph 8.1 (which may include but shall not be limited to Users, Transporters, Independent Gas Transporters, the CDSP, Third Party Participants and Non-Code Parties), chaired by a representative of the Code Administrator and operating in compliance with the Code of Practice, which is convened for the general purposes of consideration and discussion of matters relating to the Uniform Network Code, an Individual Network Code or a Modification Proposal in accordance with its Terms of Reference (which group shall have no power or authority to bind any member of such group);
- (b) the NTS Charging Methodology Forum, in respect of a Modification Proposal which proposes a modification to a NTS Charging Methodology;

- (c) the DN Charging Methodology Forum, in respect of a Modification Proposal which proposes a modification to a NTS Charging Methodology;

**"Workgroup Assessment"**: those provisions of the Modification Procedures set out in paragraph 8 and, as the context may require, any of those provisions; and

**"Workgroup Report"**: the report of a Workgroup in relation to a Modification Proposal referred to it by the Modification Panel prepared pursuant to paragraph 8.3.

## 2.2 References to a Transporter's Licence

The references in these Rules to a Transporter's Licence are for the purposes of interpretation and reference only and no provision in a Transporter's Licence shall (whether in whole or in part) form any part of or otherwise be incorporated howsoever into these Rules.

## 2.3 References to notices

The references in these Rules to a **"Notice"** shall unless the context shall otherwise require be treated as including references to the Agenda of the meeting and to the materials to be considered at the meeting to which the notice relates.

## 2.4 Electronic Publication

Where pursuant to these Rules the Code Administrator or Secretary is required to send, provide or make available any information to another person, the Code Administrator shall be treated as having satisfied such obligation where the Code Administrator:

- (a) publishes such information on the website [www.gasgovernance.co.uk](http://www.gasgovernance.co.uk); and
- (b) sends confirmation of such publication to the email address of those persons who have provided them to the Code Administrator before the time of such publication.

# 3 THE MODIFICATION PANEL

## 3.1 Establishment

The Modification Panel is established with effect from the UNC Implementation Date.

## 3.2 Members

3.2.1 The Modification Panel shall be composed of:

- (a) the Panel Chairperson, being (without prejudice to paragraph 5.8.2) a non-voting Member;
- (b) up to five (5) other Transporters' Representatives, being Voting Members;
- (c) if appointed, up to six (6) Users' Representatives, being Voting Members;
- (d) if appointed, the Ofgem Representative, being a non-voting Member;
- (e) if appointed, the Terminal Operators' Representative, being a non-

**Deleted:** (or, as the case may be, re-appointed)



voting Member;

- (f) if appointed, up to two (2) Consumers' Representative(s), being Voting Members;
- (g) if appointed, the Independent Suppliers' Representative, being a non-voting Member; and
- (h) if appointed, the Independent Gas Transporters' Representative, being a Voting Member

(the persons appointing the Members under paragraphs (b), (c), (f) and (h) being the "Panel Constituency" in respect of such Members).

3.2.2 It is expected that each Voting Member shall, as appropriate, represent and inform the Modification Panel of the views of that Member's appointor (or appointors) in relation to Modification Proposals and Requests.

3.2.3 It is expected that the Terminal Operators' Representative and the Independent Suppliers' Representative and Independent Transporters' Representative shall, as appropriate, inform the Modification Panel of the views of those persons which they represent.

### 3.3 Transporters' Representatives

The Transporters shall appoint (and as the case may be re-appoint) up to five (5) representatives to the Modification Panel.

### 3.4 Users' Representatives

The Designated Person shall have the right to appoint (and as may be the case re-appoint) on behalf of Users up to six (6) Users' Representatives.

### 3.5 Secretary

3.5.1 The Code Administrator shall, from time to time, appoint an individual (being an individual other than a Member) as the Secretary (and may remove and replace any individual so appointed). The Code Administrator may, from time to time, appoint (and may revoke the appointment of) any individual (being an individual other than a Member) as deputy Secretary.

3.5.2 The Secretary or, as the case may be, deputy Secretary (if any), shall attend meetings of the Modification Panel, and any deputy Secretary may attend any meeting of the Modification Panel at which the Secretary is also in attendance.

### 3.6 The Panel Chairperson

The Transporters shall appoint by notice to the Secretary (and as the case may be, remove and reappoint):

where such appointment or reappointment has been approved by the Authority, one (1) person, from time to time, as the Panel Chairperson; and

one (1) person, from time to time, as the deputy Panel Chairperson.

### 3.7 Notice of Changes

The Secretary shall notify the Authority of any changes in the composition of the Modification Panel.

### 3.8 Consumers' Representatives

The Consumers' Representative appointed by:

- (a) Citizens Advice or Citizens Advice Scotland to be a Voting Member shall be an individual who is an employee, representative, officer or contractor of the Citizens Advice or Citizens Advice Scotland;
- (b) the Authority to be a Voting Member, shall be an individual, or an employee, representative or officer of a corporate entity or other organisation (other than the Authority);

and the Modification Panel may ask the Consumers' representative to provide evidence that such is the case (and in the event such is not the case the Consumers' Representative shall not be a Voting Member).

## 4 MEMBERSHIP OF THE MODIFICATION PANEL

### 4.1 Appointment

4.1.1 The Authority may, from time to time, by notice to the Secretary identify any individual to be appointed (and revoke that appointment) as the **"Ofgem Representative"**.

4.1.2 The Terminal Operators may, from time to time, by notice to the Secretary signed by all the Terminal Operators, unanimously identify any individual to be appointed (and revoke that appointment) as the **"Terminal Operators' Representative"**.

4.1.3 Citizens Advice or Citizens Advice Scotland and the Authority may, from time to time, by notice to the Secretary identify one (1) individual to be appointed by the Authority and one (1) by Citizens Advice or Citizens Advice Scotland (and revoke any such appointment) as a **"Consumers' Representative"**.

4.1.4 The Designated Person may, from time to time, by notice to the Secretary, appoint (and revoke that appointment) an individual as the **"Suppliers Representative"**.

4.1.5 The Association of Independent Gas Transporters may, from time to time by notice to the Secretary, appoint (and revoke that appointment) an individual as the **"Independent Transporter's Representative"**.

4.1.6 Each Voting Member shall be appointed for a two (2) year period commencing on 1 October (in alternate Gas Years) and ending with effect from the second anniversary of such date ("**Appointment Period**").

4.1.7 Each Voting Member shall prior to attending his first meeting of the Modification Panel confirm by notice to the Secretary (in such form as the Secretary may reasonably request) the Voting Member does not hold a Conflicting Appointment, and until such time as the Voting Member has submitted such notice the Voting Member shall not be entitled to attend a

meeting of the Modification Panel or exercise any voting rights.

## 4.2 Retirement

4.2.1 Each Voting Member shall retire at end of their Appointment Period.  
Each retiring Member shall be eligible for re-appointment.

**Deleted:** who is a Users' Representative, each Member who is a Transporters' Representative and each Member who is an Independent Gas Transporters' Representative

4.2.2 Any Voting Member who is, pursuant to paragraph 4.2.1, to retire and who is not to be re-appointed (and consequently in respect of whom no notice shall have been received pursuant to paragraphs 4.2.3 or paragraph 4.2.4) shall not be entitled to receive notice of any meeting of the Modification Panel which is to take place after the end of their Appointment Period.

**Deleted:** at the 1st of October next following the appointment (or, as the case may be, re-appointment) of that Member

**Deleted:** the relevant 1st October

4.2.3 In respect of each individual who is a Transporters' Representative, the Transporters shall, not later than 1st September in the Gas Year preceding the Gas Year in respect of which the Transporters' Representative's Appointment Period commences, notify the Secretary:

**Deleted:** each

- (a) that such individual is to be re-appointed as a Transporters' Representative; or
- (b) that such individual is not to be so re-appointed and the identity of the individual to be appointed as a Transporters' Representative.

4.2.4 In respect of each individual who is a Users' Representative, the Designated Person may, not later than 1st September in the Gas Year in preceding the Gas Year in respect of which the Users' Representative's Period of Appointment Period commences, notify the Secretary (copying the notice to the Authority):

**Deleted:** each

- (a) that such individual is to be re-appointed as a Users' Representative; or
- (b) that such individual is not to be so re-appointed at the relevant meeting and the identity of the individual to be appointed as a Users' Representative.

4.2.5 If notices shall be received in accordance with paragraph 4.2.4 in respect of less than six (6) individuals to be appointed (or, as the case may be, re-appointed) as Users' Representatives all individuals identified in such notices shall, pursuant to paragraph 4.2.4 be appointed (or, as the case may be, re-appointed) and the individuals who are, pursuant to paragraph 4.2.1, to retire and in respect of whom no notice shall have been received pursuant to paragraph 4.2.4(a), shall retire at the end of their Appointment Period.

4.2.6 If less than six (6) individuals are appointed (or, as the case may be, re-appointed) as Users' Representatives the Designated Person may at any time during the Appointment Period by notice to the Secretary n nominate any individual to act as an additional Users' Representative.

**Deleted:** in respect of any Gas Year

**Deleted:** such Gas Year

**Deleted:** identify

**Deleted:** for filling any vacancy which arose by reason of paragraph 4.2.5

**Deleted:** each

4.2.7 In respect of the individual who is the Independent Gas Transporters' Representative, the Association of Independent Gas Transporters may, no later than 1<sup>st</sup> September in the Gas Year preceding the Gas Year in respect of which the Independent Transporters Representative's Appointment Period commences, notify the Secretary (copying the notice to the Authority):

- (a) that such individual is to be re-appointed as the Independent Gas

Transporters' Representative; or

- (b) that such individual is not to be so re-appointed at the relevant meeting and the identity of the individual to be appointed as the Independent Gas Transporters' Representative.

4.2.8 If no notice is received by the Secretary in accordance with paragraphs 4.2.3, 4.2.4 or 4.2.7 then the Secretary shall be treated as having received notice pursuant to paragraph 4.2.3(a), 4.2.4(a) or 4.2.7(a) in respect of each Transporters' Representative, Users' Representative or Independent Gas Transporters' Representative.

#### 4.3 Appointment and re-appointment

4.3.1 Where any notice is received pursuant to paragraphs 4.1.1, 4.1.2, 4.2.3, 4.2.4 or 4.2.7, the appointment or, as the case may be, the re-appointment to which such notice relates shall have effect from the 1 October specified in such notice. Each individual who is to be appointed or, as the case may be, re-appointed as a Member at that meeting shall be entitled to receive notice of any meeting of the Modification Panel which is to take place after the commencement of their Appointment Period.

**Deleted:** take effect at the relevant 1st October

4.3.2 Where any notice is received by the Secretary pursuant to paragraphs 4.1.3, 4.1.4, 4.1.5, 4.2.6 or 4.4.2, the appointment to which such notice relates shall take effect in accordance with such notice.

**Deleted:** such 1st October

#### 4.4 Ceasing to be a Member

4.4.1 A Member shall, other than by way of retirement pursuant to paragraph 4.2.1, cease to be a Member where:

(a) the Member notifies the Secretary that he wishes to cease to be a Member;

(b) in the case of a Voting Member:

(i) the Member is absent from three (3) consecutive monthly meetings (convened in accordance with paragraph 5.2.1) of the Modification Panel;

(ii) the Member notifies the Panel Chairperson that he holds (or will hold) a Conflicting Appointment in accordance with paragraph 4.4.5;

(iii) the Panel Chairperson determines the Member holds (or will hold) a Conflicting Appointment in accordance with paragraph 4.4.6

and the Secretary shall notify the other Members and such other relevant persons as the Secretary determines, on receipt of a notice under paragraph (a) or on the occurrence of any of the circumstances referred to in paragraph (b).

**Deleted:** If any individual (being a Voting Member) shall for whatever reason (other than retirement pursuant to paragraph 4.2.1) notify the Secretary that he wishes to cease to be a Member, he shall cease to be a Member in accordance with the notice (and the Secretary shall send a copy of such notice to the Designated Person and inform, in due course, any other relevant persons determined by the Secretary)

4.4.2 Where pursuant to paragraph 4.4.1 or otherwise a vacancy shall arise, in the case of:

- (a) a Transporters' Representative, the Transporters shall, by notice to the Secretary, identify another individual to be appointed as a Transporters' Representative;

- (b) the Ofgem Representative, the Authority may identify another individual to be appointed as the Ofgem Representative;
  - (c) the Terminal Operators' Representative, the Terminal Operators may identify another individual to be appointed as the Terminal Operators' Representative;
  - (d) a Users' Representative, the Designated Person may notify the Secretary of the identity of a replacement to be appointed as a Users' Representative;
  - (e) a Consumers' Representative:
    - (i) where appointed by the Citizens Advice or Citizens Advice Scotland, Citizens Advice or Citizens Advice Scotland may, by notice to the Secretary, identify another individual to be appointed Citizens Advice or Citizens Advice Scotland appointed Consumers' Representative;
    - (ii) where appointed by the Authority, the Authority may, by notice to the Secretary, identify another individual to be appointed as the Authority's appointed Consumers' Representative;
  - (f) the Independent Suppliers' Representative, the Designated Person may, by notice to the Secretary, identify another individual to be appointed as the Independent Suppliers's Representative; and
  - (g) the Independent Gas Transporters' Representative, the Association of Independent Gas Transporters may, by notice to the Secretary, identify another individual to be appointed as the Independent Gas Transporters' Representative.
- 4.4.3 No notice under paragraph 4.4.2 may effect an appointment after 30th September in the Gas Year in which the notice is given or (where paragraph 4.4.1 applies) before the relevant retirement pursuant to the notice under that paragraph.
- 4.4.4 An individual shall cease to be a Users' Representative in accordance with any notice to that effect given by the Designated Person to the Secretary.
- 4.4.5 For the purposes of paragraph 4.4.1(b)(ii) a Voting Member or its alternate holds a "Conflicting Appointment" where the Voting Member or alternate is employed or engaged by, or represents in any capacity, an organisation (or other body affiliated to or representing such organisation) which is represented by another Voting Member representing a different Panel Constituency; and where a Voting Member or an alternate holds (or will hold) a Conflicting Appointment the Voting Member or alternate shall promptly notify the Panel Chairperson and the Secretary, and the Secretary shall notify the other Members and such other relevant persons as the Secretary determines, and the Voting Member or alternate shall cease to be a Member or an alternate with immediate effect.
- 4.4.6 Where a Member has bona fide grounds for believing a Voting Member or its alternate holds (or will hold) a Conflicting Appointment the Member may notify the Panel Chairperson, and the Panel Chairperson may investigate the matter; and where the Panel Chairperson determines (that in its reasonable opinion) the Voting Member or alternate holds (or will hold) a Conflicting

Appointment the Secretary shall notify the Voting Member or the alternate, the other Members and such other relevant persons as the Secretary determines) and the Voting Member or the alternate shall cease to be a Member or an alternate with immediate effect.

4.4.7 For the purposes of an investigation in accordance with paragraph 4.4.6 the Panel Chairperson may engage a suitably qualified third party to assist with the investigation.

4.4.8 Where a Voting Member or an alternate ceases to be a Member in accordance with paragraph 4.4.6 or 4.4.7 the relevant individual may not:

- (a) act as a Member or as an alternate until such time as there is no longer a Conflicting Appointment;
- (b) be appointed to fill the vacancy arising as a result of the Voting Member or alternate ceasing to be a Voting Member or alternate.

#### 4.5 Alternates

4.5.1 Each Voting Member shall, and each other Member may, appoint an individual (including another Member other than the Panel Chairperson) to be the Member's alternate; provided that each Voting Member shall be required to appoint two (2) alternates.

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4.5.2 The appointment (and revocation of the appointment) of an alternate shall be conditional upon and shall only be effective upon:

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(a) in respect of an appointment receipt of notice by the Secretary (in such form as the Secretary may reasonably request):

(i) from the Member identifying the individual to be appointed as the alternate; and

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(ii) from the alternate to confirm a willingness to act as the Member's alternate and (in the case of an alternate to a Voting Member) to confirm the alternate does not hold a Conflicting Appointment;

(b) in respect of a revocation of appointment receipt of notice by the Secretary (in such form as the Secretary may reasonably request):

(i) of the Member's notice of revocation of the the alternate's appointment; or

(ii) from the alternate's confirming he no longer wishes to act as an alternate.

4.5.3 A Member who is, by reason of also being an alternate of a Voting Member, entitled to exercise more than one (1) vote shall not be required to exercise all the votes which that Member is entitled to exercise, or to exercise all of the votes which that Member is entitled to exercise in the same way.

4.5.4 In addition to notices sent to Members, each alternate for the time being shall be entitled to be sent notices.

4.5.5 An alternate may attend any meeting of the Modification Panel which is not also attended by the Member (in his capacity as a Member) who appointed him. If that alternate is the alternate of a Voting Member, he may also vote and generally at any such meeting shall have and shall be able to

exercise and discharge any and all of the functions, powers and duties of the Member who shall have appointed that alternate; provided in the event both alternates of a Voting Member attend only the first to attend the meeting shall be able to vote, and the alternate second to attend shall have observer status only. Alternates of Voting Members may sign written resolutions pursuant to paragraph 5.9, provided that if an alternate of a Voting Member and the Voting Member who appointed him shall sign a written resolution the signature of the Voting Member shall be effective and the signature of the alternate shall be disregarded.

4.5.6 If a Member ceases, for whatever reason, to be a Member the appointment of any alternate of the Member shall lapse with immediate effect; provided that if any Member retires but is reappointed, any appointment made by that Member pursuant to paragraph 4.5.1 which is, and continues to be, effective prior to the retirement of that Member shall continue to be effective after that Member's re-appointment.

4.5.7 Where an alternate to a Voting Member ceases to be an alternate in accordance with paragraph 4.4.5 or 4.4.6, notifies the Voting Member that he no longer wishes to be an alternate or has his appointment revoked, the Voting Member shall appoint a replacement alternate as soon as reasonably practicable.

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**Deleted:** at 1st October in any Gas Year

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