



Thursday 25 August 2005

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## **Response to UNC Modification Proposal 039 Removal of 9.5.5 of the Modification Rules**

Dear Tim

E.ON UK supports implementation of this proposal. The proposal will better facilitate relevant objective A11.1 (f) the promotion of efficiency in the implementation of and administration of the network code and / or the uniform network code, through ensuring clarity in the governance of the modification procedures.

The rules, as they currently stand allow for the situation where if the vote of the Panel members were tied and the Authority directed implementation, an appeal would be possible as the majority of panel members did not recommend implementation and therefore, the Authority's decision did not accord with the majority recommendation. Where the votes are tied and the Authority does not recommend implementation, an appeal would not be possible as 9.5.5 provides for a non-implementation recommendation.

In the first instance, where the Panel's vote is tied and the Authority recommends implementation, this would remain the case if 9.5.5 were deleted, as there would be no recommendation in favour of implementation. For this reason, 9.5.5 is superfluous and should be deleted on that basis.

More importantly, however, 9.5.5 creates a discrepancy, where there is a tied vote. To ensure the rules are clear and consistent, all tied votes ought to be open to the right to appeal as the Authority's decision does not accord with the majority recommendation. This is the intent of the appeals mechanism and, therefore, ought to be appropriately reflected in the Modification Rules.

We look forward to the timely implementation of this proposal.

Yours sincerely

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