

CODE MODIFICATION PROPOSAL No. 0039
"Removal of 9.5.5 of the Modification Rules"
Version 1.0

Date: 22/07/2005

Proposed Implementation Date:

Urgency: Non-Urgent

Proposer's preferred route through modification procedures and if applicable, justification for Urgency

(see the criteria at http://www.ofgem.gov.uk/temp/ofgem/cache/cmsattach/2752_Urgency_Criteria.pdf)

This Proposal was developed by the Governance Workstream and included in Review Report 0020. No further development is required and hence it is proposed that it should proceed directly to consultation.

Nature and Purpose of Proposal (including consequence of non implementation)

Within the Modification Rules, 9.5.5 provides:

“If the vote of the Modification Panel under paragraph 9.5.2(b)(i) results in an equal number of votes in favour of, and not in favour of, implementation, the Modification Panel will be deemed to have determined to recommend non-implementation.”

The appeals process which has been introduced by DTI allows parties to appeal against Ofgem decisions. However, there is no right of appeal when an Ofgem decision accords with a majority recommendation by the UNC Modification Panel. Given the terms of 9.5.5, if half the available Voting Members on the Panel did not support implementation of a Modification Proposal, and Ofgem directed implementation, an appeal would be possible. This would remain the case if 9.5.5 were deleted, since there would be no Panel recommendation in favour of implementation.

If half the available Voting Members on the Modification Panel did not support implementation of a Proposal, and Ofgem did not direct implementation, no appeal would be possible. This is because 9.5.5 provides for a non-implementation recommendation, with which Ofgem would have agreed. Removal of 9.5.5 would reinstate this right of appeal in these particular circumstances. Hence any Ofgem decision would be appealable when the view of Voting Members on the Modification Panel is equally divided between those who do and do not support implementation of a Modification Proposal.

Basis upon which the Proposer considers that it will better facilitate the achievement of the Relevant Objectives, specified in Standard Special Condition A11.1 & 2 of the Gas Transporters Licence

Implementation of this Modification Proposal would better facilitate the achievement of the Relevant Objective specified in Standard Special Condition A11.2 through development of the mechanism by which any of the uniform network code and each of the network codes prepared by each relevant gas transporter may be modified.

Implementation of this Modification Proposal would also better facilitate the achievement of the Relevant Objective specified in Standard Special Condition A11.1 (f), the promotion of efficiency in the administration of the network code and/or the uniform network code.

Any further information (Optional), likely impact on systems, processes or procedures, Proposer's view on implementation timescales and suggested text

No operational or systems impacts are anticipated.

Suggested Legal text:

Paragraph 9.5.2 (b) (ii): delete (subject to paragraph 9.5.5)

Delete paragraph 9.5.5

Re-number 9.5.6 as 9.5.5

Code Concerned, sections and paragraphs

Modification Rules, 9.5.

Proposer's Representative

Richard Hewitt (National Grid Transco - UKT)

Proposer

Richard Court (National Grid Transco - UKT)

Signature

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