

**Representation For. 0039**  
"Removal of 9.5.5 of the Modification Rules"  
Version 1.0

**Date of Communication:** 24/08/2005  
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**Slant:** For  
**Strictly Confidential:** No

**Abstract**

24th August 2005

**Modification Proposal 0039: Removal of 9.5.5 of the Modification Rules**

SGN welcomes the opportunity to respond to the above modification proposal. This was raised by Transco NTS following discussion at the Governance Workstream under Review Proposal 0020 "Proposal to establish a review group to assess whether any changes are needed to UNC Governance in the light of the imminent introduction of the Appeal Mechanism against Authority UNC modification decisions".

SGN supports the proposal to remove 9.5.5 of the Modification Rules. 9.5.5. currently provides that where there is an equal number of votes in favour of and not in favour of implementation, the Modification Panel is deemed to have recommended non-implementation. SGN agrees that this could have unforeseen and unintended consequences in relation to the future right to appeal against any Ofgem decision. It does not seem appropriate that where the Modification Panel is so evenly split and unable to reach a consensus, the right of appeal should be put at risk. Allowing the right of appeal where the Modification Panel does not make a recommendation would seem to be more pragmatic and efficient. The very fact the Panel was unable to reach consensus would tend to suggest the issues being addressed were difficult and / or significant. We do not believe that it was the intention to exclude the right of appeal under such circumstances.

As stated in the Modification Report, 9.5.5 could be considered to be ambiguous and could have unintended and potentially significant consequences. SGN believes that the removal of this paragraph would better facilitate the relevant objectives, promoting the efficient administration of the UNC.

I hope these comments are helpful.

Regards

Beverley  
Scotia Gas Networks