

Draft Modification Report
Variation/Withdrawal of a Modification Proposal
Modification Reference Number 0078

Version 1.0

This Draft Modification Report is made pursuant to Rule 7.3 of the Modification Rules and follows the format required under Rule 9.6.

1. The Modification Proposal

The Proposal was as follows:

"This Proposal seeks to amend the current rules allowing variation or withdrawal of a Modification Proposal.

Variation: Currently a Proposer may vary its Modification Proposal or Third Party Modification Proposal ("Proposal") of that Proposer, at any time before the Consultation Phase commences. It is proposed that this be changed to allow consideration of a request to vary a Proposal at any point before the Modification Panel has determined whether to recommend implementation. The request to vary a Proposal should be sent to the Secretary. The Proposer or the Proposer's representative shall attend the relevant Panel meeting to explain the proposed variation. The Panel would then vote on whether the proposed variation is material or not. If the Panel decide unanimously that the variation is not material, the variation could be made and it would not be necessary to re-consult. If the Panel considers that the variation is material then the Panel would decide, in accordance with its remit for new Proposals, the course of action required, including the length of any reconsultation or any requirement to re-develop the Proposal.

It is envisaged that the variation rule could be used, for instance, to make amendments to the legal text, to correct obvious minor errors or to make changes to the timing of recommended implementation based on feasibility. This Proposal has been raised in recognition that the requirement to make a change may occur at any time and in fact may be done in response to information obtained through the consultation process, including the Panel discussion on whether the Proposal better facilitates the relevant objectives.

Withdrawal: Currently a Proposer may withdraw a Proposal at any time prior to the preparation of the Modification Report. It is recommended that withdrawal of a Proposal during the consultation phase should be allowed and that a Proposal could be withdrawn at any point up to the submission of the final Modification Report to Ofgem (i.e. even after the Panel vote). Under the existing rules, a withdrawn Proposal could be adopted and would continue from the same point in the process that it had reached prior to withdrawal. It is believed that this provides a safeguard against a Proposal being withdrawn by the Proposer which another User felt should be allowed to progress through the process. The purpose of this Proposal is to allow a proposal to be withdrawn, for example, where circumstances are identified within the consultation phase which had not previously been envisaged which would effect its implementation.

Automatic withdrawal: It is recommended that a Proposal (excluding a Third Party Modification Proposal) should be withdrawn, should the Proposer's Licence be withdrawn or if the Proposer is terminated under the UNC. A Proposal withdrawn in such circumstances may be adopted as above."

2. Extent to which implementation of the proposed modification would better facilitate the relevant objectives

The Proposer has suggested the following:

"Implementation of this Modification Proposal would better facilitate the achievement of the Relevant Objective specified in Standard Special Condition A11.2 through increasing the flexibility of the mechanism by which any of the Uniform Network Code and each of the Network Codes prepared by each Relevant Transporter may be modified.

By streamlining the Modification Process, implementation of this Modification Proposal would better facilitate 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'."

3. The implications of implementing the Modification Proposal on security of supply, operation of the Total System and industry fragmentation

Implementing this proposal should not have any effect on security of supply, operation of the Total System, or industry fragmentation.

4. The implications for Transporters and each Transporter of implementing the Modification Proposal, including

a) implications for operation of the System:

No implications for operation of the system have been identified.

b) development and capital cost and operating cost implications:

No significant development, capital or operating cost implications are anticipated should the Modification Proposal to be implemented.

c) extent to which it is appropriate to recover the costs, and proposal for the most appropriate way to recover the costs:

No cost recovery mechanism is proposed.

d) analysis of the consequences (if any) this proposal would have on price regulation:

No consequences on price regulation have been identified.

5. The consequence of implementing the Modification Proposal on the level of contractual risk of each Transporter under the Code as modified by the Modification Proposal

No such consequence has been identified.

6. The high level indication of the areas of the UK Link System likely to be affected, together with the development implications and other implications for the UK Link Systems and related computer systems of each Transporter and Users

No systems implications have been identified.

7. The implications of implementing the Modification Proposal for Users, including administrative and operational costs and level of contractual risk

Any implications for Users, as a result of the amended Modification Rules, would be expected to be beneficial but minor. For example, consultation might result in enhancements to a proposal that currently would have been raised as part of a subsequent proposal. This would lead to a more timely implementation of changes that better facilitate the relevant objectives than the original proposal and which may also benefit Users directly.

8. The implications of implementing the Modification Proposal for Terminal Operators, Consumers, Connected System Operators, Suppliers, producers and, any Non Code Party

In some instances, Non Code Parties would also be expected to benefit from more timely implementation of enhancements to proposals.

9. Consequences on the legislative and regulatory obligations and contractual relationships of each Transporter and each User and Non Code Party of implementing the Modification Proposal

No such consequences have been identified.

10. Analysis of any advantages or disadvantages of implementation of the Modification Proposal

Advantages

- Allows variation or withdrawal of a Proposal later in the Modification process.

Disadvantages

- No disadvantages have been identified.

11. Summary of representations received (to the extent that the import of those representations are not reflected elsewhere in the Modification Report)

Written representations are now invited.

12. The extent to which the implementation is required to enable each Transporter to facilitate compliance with safety or other legislation

Implementation is not required to enable each Transporter to facilitate compliance with safety or other legislation.

13. The extent to which the implementation is required having regard to any proposed change in the methodology established under paragraph 5 of Condition A4 or the statement furnished by each Transporter under paragraph 1 of Condition 4 of the Transporter's Licence

Implementation is not required having regard to any proposed change in the methodology established under paragraph 5 of Condition A4 or the statement furnished by each Transporter under paragraph 1 of Condition 4 of the Transporter's Licence.

14. Programme for works required as a consequence of implementing the Modification Proposal

No programme for works would be required as a consequence of implementing this Modification Proposal.

15. Proposed implementation timetable (including timetable for any necessary information systems changes)

Immediate implementation following direction from the Authority is proposed.

16. Implications of implementing this Modification Proposal upon existing Code Standards of Service

No implications of implementing this Modification Proposal upon existing Code Standards of Service have been identified.

17. Recommendation regarding implementation of this Modification Proposal and the number of votes of the Modification Panel

19. Text

Draft Indicative Legal Text

Uniform Network Code - Modification Rules

Paragraph 6.4.2 Amend to read as follows:

"6.4.2 In respect of any Modification Proposal or Third Party Modification Proposal which is withdrawn pursuant to paragraph 6.5.1, or deemed withdrawn pursuant to paragraph 6.5.4 or 6.5.6, any of the parties..."

Paragraph 6.5.1. Amend to read as follows:

"6.5.1 A Proposer may

- (a) withdraw a Modification Proposal or Third Party Modification Proposal of that Proposer, at any time before ~~a Modification Report is prepared in respect of such proposal in accordance with these Rules~~ the final Modification Report is circulated to the Authority pursuant to paragraph 9.5.3, by notice to the Secretary, and subject to paragraphs 6.4 and 12.4, any Modification Proposal or Third Party Modification Proposal so withdrawn shall lapse; or
- (b) vary a Modification Proposal or Third Party Modification Proposal of that Proposer at any time before the ~~Consultation Phase commences~~ Modification Panel has determined to proceed to the Consultation Phase pursuant to paragraph 7.2.3(a)(iii) or 7.2.5(b) by notice to the Secretary, and subject to paragraph 6.4, and to paragraph 12.4, any Modification Proposal or Third Party Modification Proposal so varied shall replace the original Proposal;
- (c) subject to paragraph 6.4, and to paragraph 12.4, request a variation to a Modification Proposal or Third Party Modification Proposal of that Proposer ("variation request"), at any time after the Modification Panel has determined to proceed to the Consultation Phase pursuant to paragraph 7.2.3(a)(iii) or 7.2.5(b) and before the Modification Panel has determined to recommend the implementation of Modification Proposal or Third Party Modification Proposal to the Authority pursuant to paragraph 9.5.2(b)(i), by notice to the Secretary, and any such variation request shall contain a description of the nature of the variation."

Paragraph 6.5.2. Amend to read as follows:

"6.5.2 The Secretary shall, within a reasonable period of time following any withdrawal, variation or variation request (except where such variation request is made at the Modification Panel meeting) notify each Transporter, each Member, each User, each Third Party Participant and each Non-Code Party of such withdrawal, variation or variation request (as the case may be)."

Add new Paragraph 6.5.3 to read as follows:

"6.5.3 Following receipt of the notice given pursuant to paragraph 6.5.1(c) the Secretary shall submit such variation request to the appropriate Modification Panel."

Add new Paragraph 6.5.4 to read as follows:

“6.5.4 Subject to paragraph 6.4, and to paragraph 12.4, where the Modification Panel makes a determination in accordance with (a) or (b) then the Modification Proposal or Third Party Modification Proposal shall be varied to replace the original Proposal which shall be deemed withdrawn and where the Modification Panel:

(a) determines by a unanimous vote that the variation request is immaterial then the varied Modification Proposal or Third Party Modification Proposal shall continue through the Modification Procedures from the point at which the original Proposal was deemed withdrawn;

(b) does not so determine in accordance with (a) then the Modification Panel shall make a determination in respect of the varied Modification Proposal or Third Party Modification Proposal in accordance with paragraph 7.2.3 .”

Add new Paragraph 6.5.5 to read as follows:

“6.5.5 The Proposer of a variation request may withdraw it at any time before the Modification Panel makes a determination in accordance with paragraph 6.5.4.”

Add new Paragraph 6.5.6 to read as follows:

“6.5.6 A Modification Proposal made by a User shall be deemed withdrawn:

(a) on the User Discontinuance Date in accordance with TPD Section V 4.2 or 4.3 where the User ceases to be a User of the Total System; or

(b) on the date upon which the Proposer ceases to hold a Shipper’s Licence or Transporter’s Licence.”

Transportation Principal Document

Section V4.3.7, amend to read as follows:

“4.3.7 **Subject to paragraph 6.5.6 of the Modification Rules,** the giving ... notwithstanding that paragraph.”

Representations are now sought in respect of this Draft Report and prior to the Transporters finalising the Report

Subject Matter Expert sign off:

I confirm that I have prepared this modification report in accordance with the Modification Rules.

Signature:

Date :

Signed for and on behalf of Relevant Gas Transporters:

Tim Davis
Chief Executive, Joint Office of Gas Transporters

Signature:

Date :