

**Modification Report**  
**Variation/Withdrawal of a Modification Proposal**  
**Modification Reference Number 0078**  
Version 3.0

This Modification Report is made pursuant to Rule 8.9 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recommended that withdrawal of a Proposal during the consultation phase should be allowed and that a Proposal could be withdrawn at any point up to the submission of the final Modification Report to Ofgem (i.e. even after the Panel vote). Under the existing rules, a withdrawn Proposal could be adopted and would continue from the same point in the process that it had reached prior to withdrawal.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'."

This was supported by BGT, E.ON, NG UKT, SGN and TGP. NG UKT has also suggested that implementation of this modification proposal enables the Transporters to better fulfill their licence obligations under Standard Special Condition A11 (7) "The licensee shall, together with the other relevant gas transporters, establish and operate procedures ("network code modification procedure"), for the modification of the uniform network code and/or of any network code prepared on behalf of each relevant gas transporter (including modification of the network code modification procedures themselves) so as to better facilitate, consistent with the licensee's duties under section 9 of the Act, the achievement of the relevant objectives".

**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.

NG UKT believes that “this Proposal, if implemented, would facilitate the ability to effect changes to a Proposal when such changes have been identified and agreed through the consensus of the industry, represented by the UNC Panel members”. It also believes that it “provides a clear mechanism and the safeguards required to facilitate changes following the publication of the draft Modification report...”.

TGP agrees with the proposer that “there are no operational or system impacts as a result of the implementation of the modification or any other adverse consequences”.

SGN notes that “there have been numerous occasions where additional information relating to modification proposals has come to light during the consultation phase...more appropriate or efficient solutions could have been progressed had the modification process allowed such information to be taken in to consideration and the proposal varied by the Proposer... Similarly, there have been occasions where through further discussion and industry debate, it has become apparent to the Proposer that a particular proposal is no longer required or will not deliver the intended result. In such cases the industry would benefit

from being able to withdraw such a proposal at the earliest opportunity to avoid unnecessary industry effort and expense”.

**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, giving greater flexibility, therefore improving the efficiency of the Modification process.
- TGP has suggested that “An example of the way that the modification process would be improved by this modification can be found in Modification 0070. This proposal had been discussed extensively in the governance workstream following which the Panel recommended that it go out to consultation. When the Draft Modification Report was prepared and issued it contained the proposed legal text. At this point it was realized that whilst the legal text was in line with the discussions that had been held in the workstream, the text contained elements which were not described in the wording of the proposal. As the proposal could not be modified, it being deemed that the Consultation Phase had commenced, it had to be withdrawn leading to a significant delay. Once modification 0078 is implemented then it will be possible for the proposal to be amended and, subject to Panel agreement, the proposal to continue through the consultation phase”.
- BGT has suggested that if implemented the proposal “would allow the amendment of a proposal in light of additional information or factors that became available during the process of development of the modification. It would allow withdrawal of a proposal, which was discovered to be unnecessary, irrelevant or having implications counter to the original intent of the proposer during the course of this development”.

**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)**

<u>Organisation</u>	<u>Abbreviation</u>	<u>Position</u>
British Gas Trading	BGT	For
National Grid NTS	NG UKT	For
E.ON UK	EON	For
National Grid Distribution	NG UKD	For
Scotia Gas Networks	SGN	For
Total Gas & Power	TGP	For

SGN notes “that arrangements should only allow the Proposer to vary or withdraw a particular Modification Proposal”. It “notes from the legal text provided that this is the intent”.

NG UKT “believe that the prevailing processes are inflexible and do not facilitate a meaningful and effective consultation process, through which the most appropriate modifications to the UNC might be achieved”.

**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**

At the Modification Panel meeting held on 15 June 2006, of the 9 Voting Members present, capable of casting 10 votes, 10 votes were cast in favour of implementing this Modification Proposal. Therefore the Panel recommend implementation of this Proposal.

**18. Transporter's Proposal**

This Modification Report contains the Transporter's proposal to modify the Code and the Transporter now seeks direction from the Gas & Electricity Markets Authority in accordance with this report.

## 19. 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 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 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 made a determination in respect of such Modification Proposal or Third Party Modification Proposal 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 which the Proposer shall attend for the purpose of explaining the variation request.”

Add new Paragraph 6.5.4 to read as follows:

“6.5.4 Subject to paragraph 6.4, and to paragraph 12.4, the Modification Proposal or Third Party Modification Proposal shall be varied to replace the original Proposal which shall be deemed withdrawn where the Modification Panel:

- (a) determines by a unanimous vote that the variation request is immaterial, and in such case 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), and in such case 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 votes 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 V4.2 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.”



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 :