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CODE MODIFICATION PROPOSAL No. 0084
"Removal of the SME Role from the UNC Modification Rules"

Dear Julian,

Thank you for your invitation seeking representation with respect to the above Modification Proposal.

As the initiator of this Proposal, National Grid Transmission (NGT) continues to support its implementation for the reasons set out in the Modification Proposal.

Modification Proposal 0084 has been developed with the industry through the UNC Governance Workstream and we would like to thank all those involved for their contribution and support.

We would like to take this opportunity to re-iterate some of the key principles associated with the proposed implementation of a modification process in which the Subject Matter Experts (SME) role is removed.

We have raised this Modification Proposal principally because we believe that the current role of the SME is not fulfilling the purpose originally envisaged of providing expert input into the Draft and Final Modification Reports. A general view expressed by appointed SMEs, which have been put forward by NGT, is that they have not felt in a position to provide a comprehensive expert input, as part of the preparation of Modification Reports, due to the potential conflicts which may arise between their response and their company's position, and/or concerns regarding the implications which might arise from subsequent challenges by the Modification Panel and any associated consequences. As a result, we believe that in general SMEs have contributed less expert opinion than was originally anticipated. We therefore consider that the SME input to the modification process has not proved as helpful in facilitating an informed consultation process, and in the provision of a considered and balanced report that may facilitate the Authority's decision making process, as had been expected.

We consider that the introduction of a more informed and inclusive assessment of responses to a Proposal may be achieved through the inclusion and participation of a wider body of industry expertise, as part of the Workstream or workgroup fora. We consider that seeking expert views and informed opinions from such a broad panel of experts 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.”*

In respect of the provision of legal text by Transporters, we believe that formal text should only be drafted once a Modification Proposal is in the Consultation phase and its content therefore “fixed”. This “fixing” is very important due to the fact that a Proposal needs to remain static whilst the lawyers are drafting the text. Without this it is feasible that the Proposer could change the Proposal during the drafting time period resulting in wasted legal effort or failure in meeting the timescales for provision of the text. Under the current UNC rules, the Proposer is only able to amend a Proposal up to the point at which the Panel determines that the Proposal enters the Consultation phase, we believe that this process should be upheld to enable the process to remain efficient and therefore this requirement is reflected in the Proposal.

The intent of the Proposal is that the Panel should not ask for formal text until the Modification Proposal’s wording is fixed i.e. it has entered the Consultation phase, although suggested text may be given voluntarily at any point. Therefore the Panel does not wait for formal text before making their decision to consult. Rather this decision is taken on the content of a Proposal as presented by the Proposer.

We consider that changes proposed in Modification Proposal 0084 are also consistent with the intent of Modification Proposal 0078 – ‘Withdrawal/Variation of a Modification Proposal’, such that both Proposals recognise that once a Proposal has entered the Consultation phase, it cannot be amended unless such a change has been subject to the assessment of, and subsequent process agreed through, the Modification Panel. Where the Panel agrees that such change is not material then the Proposal can continue from the point at which the original Proposal was ‘deemed withdrawn’ (MR ref 6.5.2 (a)). Modification Proposal 0078 provides that the modification process is placed on hold until such time as Panel determination is made on any request to vary the Proposal and therefore formal legal text would not be prepared at the same time as a Proposal is undergoing the variation process. We believe that if implemented these two Proposals will compliment one another.

Please let me know if you, or the SME assigned to this Proposal, require any further information to enable preparation of the Final Modification Report.

Yours sincerely

Ritchard Hewitt

