

## Stage 01: Modification

# 0448:

## Aligning UNC with Licence conditions relating to European legislative change and Alternative Modification Proposals

At what stage is this document in the process?



This Modification Proposal will enable licence holders to comply with their obligations relating to European regulatory change. It will:

- Enable the Authority to raise Modification Proposals and alternative Modification Proposals related to European regulatory change;
- Enable the Authority to determine the timetable to be applied to Modification Proposals related to European regulatory change; and
- Restrict the ability of Transporters to withdraw Modification Proposals raised as a consequence of European regulatory change.

This Modification Proposal also seeks to align the UNC with Transporter licence Standard Special Condition A11 (9(c)) which enables the Authority to direct that an alternative Modification Proposal may not be raised.



The Proposer recommends that this modification should be

- assessed by a workgroup



Low Impact:  
Shippers, Distribution Network Operators, National Grid NTS,  
Third Party Participants and Materially Affected Parties.

0448

Modification

13 November 2013

Version 7.0

Page 1 of 11

© 2013 all rights reserved

## Contents

1	Summary	3
2	Why Change?	4
3	Solution	4
4	Relevant Objectives	5
5	Implementation	6
6	Legal Text	7
7	Recommendation	11

## About this document:

This modification was presented by the proposer to the Workgroup on 31 October 2013.


<b>Any questions?</b>
Contact: <b>Code Administrator</b>
 email address <b>Enquiries@gasgo vernance.co.uk</b>
 <b>0121 288 2107</b>
Proposer: <b>Seán McGoldrick</b>
 <b>Sean.J.McGoldrick@n ationalgrid.com</b>
 <b>01926 655 791</b>
Licence Holder: <b>National Grid NTS</b>
Systems Provider: <b>Xoserve</b>
 <b><a href="mailto:commercial.enquiries@xoserve.com">commercial.enquiries @xoserve.com</a></b>

0448

Modification

13 November 2013

Version 7.0

Page 2 of 11

© 2013 all rights reserved

# 1 Summary

## Is this a self-governance Modification?

The Modification Panel determined that this is not a Self Governance modification.

## Why Change?

This change is required to align the UNC with elements of Gas Transporters' licences, delivering the alignment of the UNC with current Transporter licence requirements (Standard Special Condition A11 (SSC A11)) relating to European legislative change.

It also seeks to align the UNC with SSC A11 (9(c)) which empowers the Authority to direct that alternative Modification Proposals may not be raised.

## Solution

### Alignment of the UNC with European-driven licence changes

It is proposed that the Authority be enabled to raise Modification Proposals and alternative Modification Proposals to the Code which the Authority considers are necessary to comply with or implement any relevant legally binding decisions of the European Commission and / or the Agency for the Cooperation of Energy Regulators relating to Regulation 2009/715/EC of the European Parliament and of the Council of 13 July 2009 concerning conditions for access to the national gas transmission networks. Furthermore, it is proposed that, for European regulatory change related Modification Proposals, the Authority be enabled to direct the timetable within which such Modification Proposals are developed. This Modification Proposal also restricts Transporters' ability to withdraw Modification Proposals related to European regulatory change.

This Modification Proposal also seeks to align the UNC Modification Procedures with Transporter licence Standard Special Condition A11 (9(c)) which enables the Authority to direct that an alternative Modification Proposal may not be raised.

This Modification Proposal will require changes to the Modification Procedures.

## Relevant Objectives

### Efficient discharge of the licensee's obligations

This Modification Proposal will deliver improved alignment between the Uniform Network Code and Special Standard Condition (SSC) A11 of the proposer's Licence. SSC A11 includes provision for the authority to direct European Modifications.

This Modification Proposal also includes provisions for the Authority to direct in writing that Alternative Modifications may not be raised in line with SSC A11 9 (c).

### Compliance with the Regulation and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators

This Modification Proposal will facilitate compliance with European legislative requirements by enabling the Authority to direct European legislative changes into the Uniform Network Code within the required timescale.

## Implementation

This Modification Proposal is considered to be restricted to Code Governance, and so no implementation costs are directly attributable to it.

0448  
Modification

---

13 November 2013

---

Version 7.0

---

Page 3 of 11

---

© 2013 all rights reserved

## 2 Why Change?

### Maintaining currency with European legislative changes.

In order to ensure that the UNC is aligned with relevant European legislation and binding decisions of the Commission and / or ACER, it is essential that Modifications to the UNC can be introduced in the required timescales. Currently, Modification Proposals may be raised by Transporters, Users and, in certain circumstances, Third Party Participants and Materially Affected Parties. None of these parties may direct the timetable for the implementation of the Modification Proposal, and so the implementation timetable required for European Modification Proposals cannot be guaranteed.

With the introduction of a single internal market for Energy in Europe, there is a significant level of legislative change, which will need to be reflected in changes to the UNC. European Union member states are required to align their individual Network Codes with European legislative change relating to the Gas Industry.

In order to avoid non-compliance with the requirements of European legislation, it is necessary for the Modification Rules to have a mechanism which ensures that the Modification Procedures respond to any modification timetable and / or procedural requirements deemed by the Authority as necessary to comply with relevant EU requirements.

### UNC Modification Rules alignment with Transporters' licence conditions.

The Transporters' licences currently include a condition empowering the Authority to control the introduction of Alternative Modification Proposals. This Modification will deliver this capability into the UNC Modification Procedures.

## 3 Solution

### Proposed Solution

#### Alignment of the UNC with European-driven licence changes

This Modification Proposal will enable licence holders to comply with their obligations relating to European regulatory change. It will:

- Enable the Authority to raise Modification Proposals and alternative Modification Proposals related to European regulatory change;
- Enable the Authority to determine the timetable to be applied to Modification Proposals related to European regulatory change; and
- Restrict the ability of Transporters to withdraw Modification Proposals raised as a consequence of European regulatory change.

#### Alignment of the UNC with Licence Special Standard Condition A11 (9(c))

It is proposed to change the Modification Procedures within the UNC as follows:

- To enable the Authority to direct that Alternative Modifications be prohibited in relation to specific Modification Proposals.

0448

Modification

13 November 2013

Version 7.0

Page 4 of 11

© 2013 all rights reserved

<b>User Pays</b>
Classification of the modification as User Pays, or not, and the justification for such classification.
<i>It is not anticipated that there will be any system change costs associated with this Modification Proposal, and so this Modification Proposal is not classified as User Pays.</i>
Identification of Users of the service, the proposed split of the recovery between Gas Transporters and Users for User Pays costs and the justification for such view.
N/A
Proposed charge(s) for application of User Pays charges to Shippers.
N/A
Proposed charge for inclusion in the Agency Charging Statement (ACS) – to be completed upon receipt of a cost estimate from Xoserve.
N/A

## 4 Relevant Objectives

Impact of the modification on the Relevant Objectives:	
Relevant Objective	Identified impact
a) Efficient and economic operation of the pipe-line system.	None
b) Coordinated, efficient and economic operation of (i) the combined pipe-line system, and/ or (ii) the pipe-line system of one or more other relevant gas transporters.	None
c) Efficient discharge of the licensee's obligations.	Positive.
d) Securing of effective competition: (i) between relevant shippers; (ii) between relevant suppliers; and/or (iii) between DN operators (who have entered into transportation arrangements with other relevant gas transporters) and relevant shippers.	None
e) Provision of reasonable economic incentives for relevant suppliers to secure that the domestic customer supply security standards... are satisfied as respects the availability of gas to their domestic customers.	None
f) Promotion of efficiency in the implementation and administration of the Code.	None

0448

Modification

13 November 2013

Version 7.0

Page 5 of 11

© 2013 all rights reserved

g) Compliance with the Regulation and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators.	Positive.
--	-----------

### Impacts to Relevant Objectives

- Relevant Objective: Efficient discharge of the licensee's obligations
  - This Modification Proposal will deliver improved alignment between the Uniform Network Code and Special Standard Condition (SSC) A11 of the licensee's obligations. SSC A11 currently includes provisions for the Authority to direct European modifications.
  - This Modification Proposal also includes provisions for the Authority to direct in writing that Alternative Modifications may not be raised in line with SSC A11 9 (c).
- Relevant Objective: Compliance with the Regulation and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators.
  - This Modification Proposal will facilitate compliance with European legislative requirements by enabling the Authority to direct European legislative changes into the Uniform Network Code within the required timescale.

## 5 Implementation

This Modification Proposal requires a change to the Modification Procedures. It does not require any system change and has no implementation costs associated with it.

It is anticipated that this Modification Proposal will go to development Workgroup to agree the procedural changes necessary to facilitate the proposed changes. This will be followed by a period of consultation on the refined Modification Proposal and its associated legal text.

This modification delivers alignment of the UNC Modification Rules with those sections of SSC A11 relating to european regulatory change. It is anticipated that this Modification Proposal will be presented to Panel for approval at the October 2013 UNC Panel meeting.

This Modification Proposal also introduces the provisions of Transporter Licence A11 (9(c)) which enables the Authority to direct in writing that a Modification Proposal may not be raised. The omission of this condition in the Modification Procedures is such that Transporters are currently non-compliant. The relevant condition should be incorporated into the UNC Modification Procedures as soon as possible.

## 6 Legal Text

The following Text has been prepared by National Grid NTS.

### Uniform Network Code – Modification Rules (1 January 2013 version amendments)

*Amend paragraph 1.1(b) as follows:*

- (b) the making of proposals for the modification of the Uniform Network Code either by a Transporter, a User ~~or~~ a Third Party Participant [or the Authority](#);

*Amend paragraph 1.1(c) as follows:*

- (c) the making of proposals for the modification of each Individual Network Code by a Relevant Transporter, a Relevant Shipper ~~or~~ a Third Party Participant [or the Authority](#);

*Amend paragraph 1.1(d) as follows:*

- (d) [subject to paragraph 6.4.5\(b\)](#) where a proposal is made for the modification of the Uniform Network Code the making of an alternative proposal for the modification of the Uniform Network Code by any Transporter, User, ~~or~~ a Third Party Participant [or the Authority \(but in the case of the Authority only insofar as such alternative proposal is one which the Authority reasonably considers is necessary to comply with or implement the Regulation and/or any relevant legally binding decisions of the European Commission and/or the Agency for the Cooperation of Energy Regulators\)](#), other than the person who raised the original modification proposal;
- (e) [subject to paragraph 6.4.5\(b\)](#) where a proposal is made for the modification of an Individual Network Code the making of an alternative proposal for the modification of that Individual Network Code by a Relevant Transporter, a Relevant Shipper ~~or~~ a Third Party Participant [or the Authority \(but in the case of the Authority only insofar as such alternative proposal is one which the Authority reasonably considers is necessary to comply with or implement the Regulation and/or any relevant legally binding decisions of the European Commission and/or the Agency for the Cooperation of Energy Regulators\)](#), other than the person who raised the original modification proposal;

*Add new defined terms in alphabetic order under paragraph 2.1 as follows:*

**"Regulation"** means [Regulation 2009/715/EC of the European Parliament and of the Council of 13 July 2009 \(as amended from time to time\) concerning conditions for access to the national gas transmission networks](#);

*Amend paragraph 6.1.1 as follows:*

- 6.1.1 Without prejudice to paragraph 6.4 or paragraph 12.4 and subject to paragraph 6.1.4, a Modification Proposal in respect of the Uniform Network Code may be made from time to time by:

0448

Modification

13 November 2013

Version 7.0

Page 7 of 11

© 2013 all rights reserved

- (a) a Transporter;
- (b) a User;
- (c) [a Third Party Participant](#), only insofar as such Modification Proposal relates to a proposal to modify Annex V-1 (“Table of Operational and Market Data”) in the Uniform Network Code; ~~a Third Party Participant~~;
- (d) a Materially Affected Party (but only in respect of a Modification Proposal which proposes a modification to a NTS Charging Methodology or a DN Charging Methodology);
- (e) [the Authority \(but only insofar as such Modification Proposal is one which the Authority reasonably considers is necessary to comply with or implement the Regulation and/or any relevant legally binding decisions of the European Commission and/or the Agency for the Cooperation of Energy Regulators\)](#).

*Amend paragraph 6.1.2(b) as follows:*

- (b) any Relevant Shipper; ~~and/or~~

*Amend paragraph 6.1.2(c) as follows:*

- (c) a Materially Affected Party (but only in respect of a Modification Proposal which proposes a modification to a NTS Charging Methodology or a DN Charging Methodology); ~~and/or~~

*Add a new paragraph 6.1.2(d):*

- (d) [the Authority \(but only insofar as such Modification Proposal is one which the Authority reasonably considers is necessary to comply with or implement the Regulation and/or any relevant legally binding decisions of the European Commission and/or the Agency for the Cooperation of Energy Regulators\)](#).

*Amend paragraph 6.2.1(e) as follows:*

- (e) in the case of a Modification which proposes a timescale for the implementation of the Modification (for the purposes of enabling the Authority and any persons, including but not limited to Users, Transporters, Third Party Participants and Non Code Parties to be aware of the potential benefits or constraints associated with such timing), [except in the case where the Authority has directed a timetable in accordance with paragraph 12.5.2 and/or 12.5.3, where only one Fixed Implementation Date may be included](#), shall include:
  - (i) two or more Fixed Implementation Dates;
  - (ii) a Proposed Authority Decision Date in respect of each Fixed Implementation Date, for the purposes of enabling the Modification to be implemented by the Fixed Implementation Date;
  - (iii) a Backstop Lead Time;
  - (iv) the reasons why it is proposing each date under paragraph (i), (ii) and (iii).



Amend paragraph 6.4.5 as follows:

6.4.5 An alternative Modification Proposal may not be made:

(a) in respect of a Modification Proposal after the Modification Panel pursuant to paragraph 7.2.3(a) has determined such Modification Proposal should proceed to Consultation; ~~or~~

(b) where the Authority directs a Transporter in writing that an alternative Modification Proposal shall not be made in respect of a Modification Proposal.

In case of paragraph (b), the Transporter shall notify the Secretary about the direction as soon as reasonably practicable after it has been received by the Transporter, and the Modification Panel shall ensure that a Modification Proposal will not be considered as an alternative Modification Proposal to the relevant Modification Proposal.

Amend paragraph 6.5.7 as follows:

6.5.7 For the purposes of this paragraph 6.5:

(a) ~~The~~the Authority, upon request by a Proposer of a Significant Code Review Modification Proposal, may direct:

(a) that the Proposer may vary, withdraw or make a variation request in respect of the relevant Significant Code Review Modification Proposal in accordance with paragraph 6.5; or

(b) that the Proposer may not vary, withdraw or make a variation request in respect of the relevant Significant Code Review Modification Proposal and that such proposal shall proceed in accordance with the Modification Procedures; ~~and~~

(b) where the Proposer of a Modification Proposal is a Transporter, and the Authority has issued a direction to the Transporter setting and/or amending a timetable (in relation to the Modification Proposal, which Modification Proposal the Authority reasonably considers is necessary to comply with or implement the Regulation and/or any relevant legally binding decisions of the European Commission and/or the Agency for the Cooperation of Energy Regulators) for the raising of such Modification Proposal by the Transporter, the completing of each of the procedural steps in these Rules (to the extent that they are relevant) and/or implementation of the Modification Proposal, then the Proposer may not withdraw the relevant Modification Proposal without the Authority's prior consent.

Amend paragraph 12.5 as follows:

12.5 Time periods

12.5.1 Notwithstanding any time periods specified in these Rules, in respect of any Modification Proposal or Request the Modification Panel may subject to paragraph 12.5.2, from time to time, determine to shorten or lengthen the time period within which any (or all) of the Modification Procedures, Request

0448

Modification

13 November 2013

Version 7.0

Page 9 of 11

© 2013 all rights reserved

Procedures or any other procedures is (or are) to be undertaken. If the Modification Panel shall so determine, the Code Administrator shall, so far as consistent with these Rules and the Transporter's Licence, do all acts and things which these Rules specify as acts and things to be done by the Code Administrator within such shorter or longer period of time so as to give effect to such determination.

12.5.2 Notwithstanding any time periods specified in these Rules, in respect of any Modification Proposal which the Authority reasonably considers is necessary to comply with or implement the Regulation and/or any relevant legally binding decisions of the European Commission and/or the Agency for the Cooperation of Energy Regulators, the Authority may, by direction in writing to a Transporter, specify and/or amend the timetable to apply to each stage of such Modification Proposal and/or the implementation date of such Modification Proposal.

12.5.3 Where the Authority makes a direction referred to in paragraph 12.5.2 and such direction specifies:

- (a) a timetable in respect of all of the steps specified in these Rules as applying to such Modification Proposal, the Modification Proposal shall progress in accordance with the timetable specified in such direction (and not the timetable set out in these Rules );
- (b) a timetable in respect of some (but not all) of the steps specified in these Rules as applying to such Modification Proposal (and does not direct that the steps in respect of which no timetable is directed are not to apply to such Modification Proposal), then such Modification Proposal shall proceed on the basis of the timetable specified in the direction (in respect of the steps specified in the direction) and the timetable set out in these Rules (in respect of all other steps specified in these Rules as applying to such Modification Proposal);
- (c) an implementation date in respect of such Modification Proposal but specifies no timetable to apply to such Modification Proposal in relation to these Rules, then the Transporter to whom the direction is made by the Authority shall notify the Secretary of the timetable that the Transporter reasonably believes ought to apply to such Modification Proposal in order to achieve the directed implementation date, and such notified timetable shall apply for the purposes of these Rules in relation to such Modification Proposal.

12.5.4 Until such time as the Authority makes a direction referred to in paragraph 12.5.2, the Modification Proposal shall proceed in accordance with the Modification Procedures.

## 7 Recommendation

The Proposer invites the Workgroup to:

- AGREE that this modification should be issued to consultation.

0448

Modification

---

13 November 2013

---

Version 7.0

---

Page 11 of 11

---

© 2013 all rights reserved