

NOTE ON LEGAL DRAFTING FOR MODIFICATION 0582S

- 1 The commercial terms for the hive-across are matters for NGG and will be addressed in the Hive Out Agreement between NGG and NGGDL. This agreement will, for instance, identify the consideration payable, the conditions precedent to the hive-across (e.g. the need for regulatory approvals), the pipe-line assets to be transferred and the treatment of receivables and payables. It will also address employee, pensions, property, IPR and other matters.
- 2 The purpose of the drafting for Modification 0582S is not to address any of the matters covered in the Hive Out Agreement. Instead its primary purpose is to make clear that from the hive across (i) NGG's network code will continue apply to the NTS (and only the NTS) and (ii) NGGDL's new network code will apply to the relevant LDZs transferred to it in accordance with the Hive Out Agreement.
- 3 In order to achieve (ii) the new rules need to ensure that from the hive across:
 - (a) NGG and shippers are released from those rights and obligations under NGG's network code which relate to the relevant LDZs;
 - (b) those same rights and obligations as between NGGDL and shippers in relation to the relevant LDZs are made enforceable under NGGDL's network code,and this is what the drafting at TD Part IIA paragraph 2 is doing.
- 4 In order for this to happen in an ordered way actions which NGG took in relation to the relevant LDZs and values established by NGG under its network code for the relevant LDZs before the hive across and which have effect and are relevant after the hive across are deemed to have been actions of, or values established by, NGGDL. This is what the drafting at TD Part IIB is doing. So for instance, capacity bookings, supply point registrations, maintenance programmes and shrinkage factors are all carried across and continue to apply under NGGDL's network code after the hive across.
- 5 The same approach is followed in the drafting in TD Part III. Here the drafting makes clear rights and obligations as between transporters under the OAD become, with effect from the hive across, rights and obligations between NGG and NGGDL. So again values established by NGG as the owner of the relevant LDZs before the hive across and having effect after the hive across are carried across, e.g. CV values, demand forecast information or OPNs.
- 6 It should be noted the approach to the legal drafting for Modification 0582S is identical to the approach adopted at the time of Project Blackwater and the separation in ownership between the NTS and the RDNs and the four new IDNs. The legal text which facilitated this separation in 2005 can still be found in Parts I, IIA and IIB of the Transition Document. As these rules have now served their purposes the approach under Modification 0582S is to delete the Project Blackwater rules and add a similar set of new rules to support the 2016 separation process.