

## **UNIFORM NETWORK CODE – TRANSITION DOCUMENT**

### **PART IV – MODIFICATION RULES**

#### **6. CODE GOVERNANCE REVIEW**

6.1 The Modification Rules in force as at the date preceding the Code Governance Review Implementation Date and set out in the Appendix to this Part IV shall apply to Modification Proposals made before the Code Governance Review Implementation Date and in respect of which:

- (a) the Transporters have not submitted a Modification Report to the Authority;  
or
- (b) the Authority has not decided whether to direct that the relevant modification may be made (or as the case may be) consent to the relevant Modification

before the Code Governance Review Implementation Date.

6.2 In paragraph 6.1 “**Code Governance Review Implementation Date**” means 31 December 2010.

#### **7. NEW MODIFICATION PANEL ARRANGEMENTS**

7.1 Notwithstanding the date on which Modification 0656 is implemented the Voting Members appointed to the Modification Panel for the one (1) year period commencing 1 October 2018 shall continue to be appointed for such period and shall (without prejudice to their re-appointment) retire with effect from 1 October 2019 and the first two (2) year Appointment Period for Voting Members shall commence from such date.

7.2 Following the date on which Modification 0656 is implemented:

- (a) the Secretary shall provide each Voting Member and any alternate with the form of notice it requires the Voting Member and the alternate to submit to confirm the Voting Member and the alternate do not hold a Conflicting Appointment;
- (b) until such time as the notice is submitted to the Secretary:
  - (i) by the Voting Member, the Voting Member shall not be entitled to attend a meeting of the Modification Panel or exercise any voting rights;
  - (ii) by the alternate, the alternate shall not be entitled to attend a meeting of the Modification Panel as the Voting Member's alternate or exercise any voting rights;
- (c) each Voting Member shall as soon as reasonable practicable appoint two (2) alternates.

#### **8. ANNUAL MODIFICATION PANEL REPORT**

8.1 The Panel Chairperson shall complete the first Annual Modification Panel Report as soon as reasonably practicable following the coming into force of the requirement to prepare an Annual Modification Panel Report under modification 0731S.



## Appendix

**UNIFORM NETWORK CODE – MODIFICATION RULES<sup>1</sup>****1 MODIFICATION PANEL**

- 1.1 The person appointed to the committee established pursuant to the Joint Governance Arrangements Agreement dated 1 May 2005 between the relevant Transporters (“**JGAA committee**”) by National Grid in its capacity as the owner of the Relevant Systems, and therefore a Transporter Representative on the Modification Panel, shall be deemed with effect from the First Day to have been appointed to the JGAA committee by the New Transporter and such person shall continue to be appointed to the JGAA committee and be a Transporter Representative on the Modification Panel until such time as such person is replaced as the New Transporter's representative on the JGAA committee.

**2 MODIFICATION PROPOSALS**

- 2.1 Where as at the Last Day a Modification Proposal in respect of the Code has been made by National Grid in its capacity as a DN Operator and the Authority has not given a consent or direction in respect of such Modification Proposal the Modification Proposal shall be deemed with effect from the First Day to have been made by the New Transporter in accordance with the Modification Rules.
- 2.2 For the purposes of paragraph 2.1, all steps, acts and other things done at the Last Day by National Grid as the Proposer of the Modification Proposal shall with effect from the First Day be deemed to have been done by the New Transporter in accordance with the Modification Rules.

**3 Not Used****4 Not Used****5 Not Used****6 MODIFICATION PROPOSALS AND THIRD PARTY MODIFICATION PROPOSALS****6.1 Relevant persons**

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

- (a) a Transporter; and/or
- (b) any User,

and any Third Party Participant may make a Third Party Modification Proposal.

- 6.1.2 Without prejudice to paragraph 6.4 or paragraph 12.4 a Modification Proposal in respect of an Individual Network Code may be made from time to time by:

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<sup>1</sup> Implementation of the suite of modifications 0318 to 0325V and Consent to Modify C039, effective 06:00hrs on 31/12/10, will amend this section, in whole or in part.

- (a) a Relevant Transporter; and/or
- (b) any Relevant Shipper.

6.1.3 If:

- (a) a Transporter or the Transporters shall in respect of any Modification Proposal consider that such Modification Proposal should be treated as an Urgent Modification Proposal; or
- (b) the Proposer shall in accordance with paragraph 6.2.1(e) have identified the proposal as one which the Proposer considers should be treated as an Urgent Modification Proposal,

that Modification Proposal shall be subject to paragraph 10.

## 6.2 Form of Modification Proposals

6.2.1 Each Modification Proposal made pursuant to paragraph 6.1.1 or 6.1.2:

- (a) shall be in writing and shall specify whether it relates to the Uniform Network Code or an Individual Network Code;
- (b) shall set out in reasonable but not excessive detail the nature and purpose of the Modification Proposal;
- (c) shall set out the basis upon which the Proposer considers that it would better facilitate the achievement of the Relevant Objectives;
- (d) shall detail the sections and paragraphs of the Uniform Network Code or the Individual Network Code which are to be amended or otherwise affected by the Modification Proposal;
- (e) shall, if the Proposer considers that the Modification Proposal should be treated as an Urgent Modification Proposal, identify the Modification Proposal as such and indicate the Proposer's justification for such belief;
- (f) shall, where it is made by a Transporter pursuant to Standard Special Condition A11(14), state that it is so made;
- (g) shall state the name of the Proposer and the Proposer's representative;
- (h) shall, without prejudice to the Modification Panel's right of determination pursuant to paragraph 7.2, state the Proposer's preference as to whether the Modification Proposal should:
  - (i) be subject to the review procedures;
  - (ii) proceed to the Development Phase;
  - (iii) proceed to the Consultation Phase; or
  - (iv) be referred to a Workstream in accordance with paragraph 7.4 for discussion;
- (i) may state the Proposer's opinion of the likely impact of the implementation of the Modification Proposal upon Users' computer systems and/or manual processes and procedures;
- (j) may state the Proposer's view of possible implementation timescales for the Modification Proposal; and
- (k) may include the Proposer's Suggested Text, including that prepared for consideration by the Transporters when preparing the text of the Modification

pursuant to paragraph 9.6;

- (l) shall state whether or not it is a User Pays Modification Proposal.

6.2.2 Each Third Party Modification Proposal shall:

- (a) be in writing;
- (b) clearly identify the data item(s) which it is proposed should be added or removed from those set out in the Uniform Network Code, Annex V1;
- (c) state the basis upon which the Proposer considers that it would better facilitate the achievement of the Relevant Objectives; and
- (d) state the name of the Proposer and the Proposer's representative.

6.2.3 The Modification Panel may, from time to time, stipulate the form which Modification Proposals and Third Party Modification Proposals should take.

6.2.4 Each Modification Proposal and Third Party Modification Proposal shall be given to the Secretary who shall ensure that the information required in 6.2.1 or 6.2.2 (or pursuant to paragraph 6.2.3 as the case may be), has been provided before accepting such Modification Proposal.

6.2.5 Where a Modification Proposal or Third Party Modification Proposal does not comply with paragraph 6.2 the Secretary may reject such Modification Proposal.

6.2.6 Where in accordance with paragraph 6.2.1(h) the Proposer requests that the Proposal should proceed direct to the Consultation Phase then the Proposer shall ensure that the Proposal contains all the information required by a Development Work Group Report in accordance with paragraph 8.6, except where such information is not relevant to the Proposal or is being provided pursuant to paragraph 6.2.1.

6.2.7 A User Pays Modification Proposal shall:

- (a) state the reasons why it should be a User Pays Modification Proposal;
- (b) contain:
  - (i) an estimate of the Implementation Costs; and
  - (ii) an indicative User Pays Charge;
- (c) where it proposes that Users pay a proportion of the Implementation Costs, contain:
  - (i) an apportionment of the Implementation Costs between Users and Transporters; and
  - (ii) an apportionment of the Implementation Costs between Users;  
in each case, together with the reasons for such apportionment; and
  - (iii) the period in which the Implementation Costs are to be recovered.

### **6.3 Proposer's representative**

6.3.1 Subject to paragraph 10, each Proposer shall ensure the attendance of a representative of the Proposer at the meeting of the Modification Panel at which the Modification Proposal or Third Party Modification Proposal is to be discussed initially; at such meeting the Proposer's representative shall give a presentation in respect of the Modification Proposal and endeavour to answer any questions which the Modification Panel may have in respect of the Modification Proposal or the presentation.

- 6.3.2 If a representative of the Proposer does not for whatever reason attend the meeting of the Modification Panel at which the relevant Modification Proposal or Third Party Modification Proposal is to be discussed initially the Modification Panel may determine that, notwithstanding such non-attendance of the Proposer's representative, the Modification Panel shall proceed to discuss the Modification Proposal or Third Party Modification Proposal.
- 6.3.3 If the Modification Panel shall not make a determination pursuant to paragraph 6.3.2, the Modification Panel will not discuss the Modification Proposal or Third Party Modification Proposal further unless and until the Proposer's representative shall have attended a meeting of the Modification Panel pursuant to paragraph 6.3.1 or the Modification Panel shall determine to discuss the proposal further.

#### **6.4 Alternative proposals**

- 6.4.1 In respect of any Modification Proposal or Third Party Modification Proposal which is an Urgent Modification Proposal, or which is, pursuant to paragraph 7.2.3, to proceed to the Development Phase or to which paragraph 7.3 applies, any of the parties listed (except for the Proposer):
- (a) in paragraph 6.1.1 including a Third Party Participant in relation to a Third Party Modification Proposal only (where such proposal is made pursuant to paragraph 6.1.1); or
  - (b) in paragraph 6.1.2 (where such proposal is made pursuant to paragraph 6.1.2),
  - (c) may, but shall not be required to, within five (5) Business Days following the date upon which such proposal is to proceed, make an alternative Modification Proposal in accordance with paragraph 6.2. Any Modification Proposal so made may (so as to be subject to paragraph 12.4) be, with any necessary Modifications, the same as the Modification Proposal or Third Party Modification Proposal. The Secretary shall within five (5) Business Days following receipt of each alternative proposal made pursuant to this paragraph 6.4 send a copy of that proposal to each Transporter, each User, each Member and each Non-Code Party (if any). The alternative proposal and the Modification Proposal or Third Party Modification Proposal shall proceed through the Modification Procedures together.
- 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 (except for the Proposer):
- (a) in paragraph 6.1.1 including a Third Party Participant in relation to a Third Party Modification Proposal only (where such proposal is made pursuant to paragraph 6.1.1); or
  - (b) in paragraph 6.1.2 (where such proposal is made pursuant to paragraph 6.1.2), may, but shall not be required to, either raise an alternative Modification Proposal in accordance with paragraph 6.2) or adopt the withdrawn proposal (in which case the adopted proposal shall continue through the Modification Procedures from the point at which it was withdrawn).

#### **6.5 Withdrawal or variation of Modification Proposals**

- 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 9.3.4, 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 9.3.3(a), by notice to the Secretary, and any such variation request shall contain a description of the nature of the variation.

- 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).
- 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.
- 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.
- 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.
- 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.

## 7 MODIFICATION PROCEDURES - PRELIMINARY PHASE

## 7.1 Circulation of Modification Proposals

### 7.1.1 The Secretary shall:

- (a) on receipt of a Modification Proposal or a Third Party Modification Proposal allocate a unique reference number to that proposal;
- (b) by the later of:
  - (i) the end of the third Business Day following receipt of a Modification Proposal or a Third Party Modification Proposal made pursuant to paragraph 6.1.1 or 6.4 (as the case may be); and
  - (ii) the end of the first Business Day following the date on which the Secretary receives notification of any decision of the Authority pursuant to paragraph 10.1.2 or 10.1.3 as to whether the Modification Proposal should be treated as an Urgent Modification Proposal, send a copy of that proposal to each Transporter, each User, each Member, each Third Party Participant and each Non-Code Party (if any);
- (c) subject to paragraph 10, put initial discussion of the Modification Proposal or Third Party Modification Proposal on the Agenda for the next meeting of the Modification Panel which shall (subject to paragraphs 5.4.1 and 5.4.2) be convened pursuant to paragraph 5.3.1; and
- (d) notify the Proposer of the meeting of the Modification Panel at which the Modification Proposal or Third Party Modification Proposal is to be discussed, and request the attendance of the Proposer's representative.

### 7.1.2 Where:

- (a) the Authority decides that a Modification Proposal should not be treated as an Urgent Modification Proposal; and
- (b) at the date on which the Secretary receives notification of such decision, no meeting of the Modification Panel will, in accordance with paragraph 5.2, take place within 10 Business Days of such date,

the Secretary shall seek in writing, from Members in accordance with paragraph 5.9, a determination of the Modification Panel as to which of the procedures set out in paragraph 7.2.3 should apply to the Modification Proposal.

## 7.2 Discussion of Modification Proposals

7.2.1 Subject to paragraph 6.4 and paragraph 10, the Modification Panel shall discuss each new Modification Proposal and Third Party Modification Proposal at a meeting of the Modification Panel.

7.2.2 The Modification Panel shall make a determination under paragraph 7.2.3:

- (a) Having:
  - (i) discussed the Modification Proposal or Third Party Modification Proposal and, subject to paragraph 6.3.2;
  - (ii) heard the presentation of the Proposer's representative;
  - (iii) had an opportunity to ask the Proposer's representative questions in respect of the Modification Proposal or Third Party Modification



- Proposal and the presentation of the Proposer's representative; and
- (iv) considered whether there are any persons from whom representations should, pursuant to paragraph 7.7, be invited; or
- (b) where it has received a referral pursuant to paragraph 9.6.3.
- 7.2.3 Subject to paragraph 7.2.2, the Modification Panel may, without prejudice to paragraph 7.2.4, determine that:
- (a) a Modification Proposal:
    - (i) should be subject to the review procedures under paragraph 11;
    - (ii) should proceed to the Development Phase (in which case the Modification Panel shall discuss, and shall (in accordance with paragraph 7.6) request the Transporters to finalise, the Terms of Reference to be applicable); or
    - (iii) should proceed to the Consultation Phase in accordance with paragraph 7.3; or
  - (b) a Modification Proposal or Third Party Modification Proposal:
    - (i) should be referred to a Workstream in accordance with paragraph 7.4 for discussion (and the Modification Panel may determine the Terms of Reference for such work (including terms as to the identity of any third parties to be consulted) and the date upon which it requires the Workstream to submit its report); or
    - (ii) should be deferred to a subsequent meeting of the Modification Panel for further discussion; and
  - (c) where Modification Proposal is a User Pays Modification Proposal, at any time before it proceeds to the Consultation Phase in accordance with paragraph 7.3 the Transporter shall:
    - (i) in accordance with a period determined by the Modification Panel, provide a rough order of magnitude assessment, which will include a cost estimate(s) for the User Pays Service, an indicative User Pays Charge(s) and, having regard to the User Pays Guidance Document a commentary in respect of these; and
    - (ii) request from the Authority a View on whether the proposed cost apportionment and User Pays Charges are appropriate and following receipt of such View circulate it to the next meeting of the Modification Panel.
- 7.2.4 Where the Modification Panel discusses a Modification Proposal together with a report prepared by a Workstream (following a previous determination of the Modification Panel to refer the Modification Proposal to the Workstream under paragraph 7.2.3(b)) or a Modification Proposal which has been discussed and considered by a Workstream but has not been previously discussed by the Modification Panel, the Modification Panel may:
- (a) make a determination in accordance with paragraph 7.2.3(a); or
  - (b) determine that:
    - (i) the Modification Proposal should be referred back to the Workstream for further discussion and consideration in accordance with paragraph 7.4; or

- (ii) any further discussion of the Modification Proposal should be deferred to a subsequent meeting of the Modification Panel.
- 7.2.5 Where the Modification Panel discusses a Third Party Modification Proposal together with a report prepared by a Workstream (following a previous determination of the Modification Panel to refer the Third Party Modification Proposal to the Workstream under paragraph 7.2.3(b)) the Modification Panel may determine that:
  - (a) the Third Party Modification Proposal should be referred back to the Workstream for further discussion and consideration in accordance with paragraph 7.4; or
  - (b) the Third Party Modification Proposal should proceed to the Consultation Phase in accordance with paragraph 7.3; or
  - (c) any further discussion of the Third Party Modification Proposal should be deferred to a subsequent meeting of the Modification Panel.
- 7.2.6 Where the Modification Panel considers that a more detailed analysis and cost estimate is required in respect of a User Pays Modification Proposal it may:
  - (a) determine that the Transporters prepare and submit to the Modification Panel (within a period determined by it) such an analysis and estimate; and
  - (b) where its assessment concludes that such analysis and estimate is satisfactory, make a determination in accordance with paragraph 7.2.3(a)(iii).
- 7.2.7 Where the Transporters fail to comply with paragraph 7.2.6, the Transporters shall provide to the Modification Panel:
  - (a) a written explanation as to reasons for such failure at the earliest opportunity and in any event no later than two (2) Business Days after the final date for such submission; and
  - (b) a date by which the detailed analysis and cost estimate will be provided, having regard to the explanation provided.
- 7.2.8 The obligation on the Transporters pursuant to paragraph 7.2.3(c) shall cease:
  - (a) in accordance with a determination by the Modification Panel; or
  - (b) where the User Pays Modification Proposal is withdrawn pursuant to paragraph 6.5.1(a) or varied pursuant to paragraph 6.5.1(b).

### **7.3 Modification Proposal to proceed to Consultation**

- 7.3.1 If the Modification Panel determines pursuant to paragraph 7.2.3(a)(iii) or 7.2.5(b) that a Modification Proposal or Third Party Modification Proposal should proceed to the Consultation Phase;
  - (a) the Modification Panel shall:
    - (i) determine whether the preparation of text is required with the Draft Modification Report;
    - (ii) inform the Transporters if it determines that the time periods set out in paragraph 9 for the Consultation Phase should, in its opinion, be deviated from in relation to the relevant Modification Proposal or the Third Party Modification Proposal;
  - (b) where the Modification Proposal is a User Pays Modification Proposal:
    - (i) unless the Modification Panel determines otherwise, the Transporters

shall prepare and submit to the Modification Panel (within a period determined by the Modification Panel) and include within the Draft Modification Report:

- (1) the most accurate cost estimate for the User Pays Service which is available at such time; and
  - (2) the associated indicative User Pays Charge;
- (ii) where the Transporters fail to comply with paragraph (b)(i)(1) and/or (b)(i)(2) by the final date for such submission, the Transporters shall provide to the Modification Panel:
- (1) a written explanation as to reasons for such failure at the earliest opportunity and in any event no later than two (2) Business Days after the final date for such submission;
  - (2) a list of information required to enable the most recent cost estimate to be prepared;
  - (3) a date by which the cost estimate will be provided, having regard to the explanation provided.

#### **7.4 Modification Proposal discussed by Workstream**

7.4.1 If the Modification Panel shall determine pursuant to paragraph 7.2.4(b)(i) or 7.2.5 that a Modification Proposal or Third Party Modification Proposal should be discussed within a Workstream the Transporters shall:

- (a) within ten (10) Business Days following the date of the meeting and, where reasonably practicable, in sufficient time for consideration at the next following meeting of the relevant Workstream, finalise the Terms of Reference and refer the Modification Proposal or Third Party Modification Proposal to the relevant Workstream; and
- (b) within the period set by the Modification Panel or, if the Modification Panel shall not have set a date, within six (6) months following the date of the meeting where the proposal was initially discussed, having considered the representations (if any) received and the discussions of the relevant Workstream:
  - (i) prepare a report on the issues discussed and conclusions (if any) reached by the Workstream;
  - (ii) request the Secretary to put discussion of the report on the Agenda for the next following meeting of the Modification Panel which will be convened pursuant to paragraph 5.3.1; and
  - (iii) invite a representative of the Proposer, and such other persons who have contributed to the report as the Transporters shall determine, to attend the meeting of the Modification Panel at which the report is to be discussed.

#### **7.5 Determination**

If the Modification Panel does not, at the meeting, make a determination pursuant to paragraph 7.2.3(a), 7.2.3(b), 7.2.4(a), 7.2.4(b) or 7.2.5 the Transporters may refer the Modification Proposal or Third Party Modification Proposal to a new or relevant Workstream in accordance with paragraph 7.4 or determine that the Modification Proposal should proceed

to the Development Phase subject to the existence of a relevant Development Work Group.

## **7.6 Development process**

- 7.6.1 If the Modification Panel determines pursuant to paragraph 7.2.3(a)(ii) that the Modification Proposal should proceed to the Development Phase the Transporters shall:
- (a) within ten (10) Business Days of such determination finalise the Terms of Reference and constitute a Development Work Group in accordance with paragraph 8; and
  - (b) notify each Transporter and each User of the composition of the Development Work Group and invite each Transporter, each User and Non-Code Party (if any) to make representations in respect of the Modification Proposal within fifteen (15) Business Days following the date of invitation.

## **7.7 Non-Code Parties**

- 7.7.1 The Transporters shall, in accordance with the Transporter's Licence and for the purpose referred in Standard Special Condition A11(9)(d) and (f):
- (a) send copies of any Modification Proposal, Third Party Modification Proposal and any Modification Report prepared in respect of such proposal to; and
  - (b) invite representations in respect thereof from,  
other persons.

## **8 MODIFICATION PROCEDURES - DEVELOPMENT PHASE**

### **8.1 Composition of Development Work Groups**

- 8.1.1 Each Development Work Group shall (subject to paragraph 8.1.2(a)) include not less than two (2) representatives of Users and not less than two (2) representatives of the Transporters. In respect of each User Proposal, the Proposer shall be entitled to appoint one individual to the Development Work Group constituted in respect of that User Proposal.
- 8.1.2 The Modification Panel may at the meeting referred to at paragraph 7.2 determine or approve:
- (a) the composition of the Development Work Group; or
  - (b) that the Users or, as the case may be, Non-Code Parties be invited to make representations at a meeting of the Users, Non-Code Parties and Transporters (and the Transporters shall cause a record of the representations made at such meeting to be made and shall send a copy of that record to each Transporter, each User, and for information purposes only, each Member); or
  - (c) to invite any Non-Code Party to nominate a representative to act as a member of a Development Work Group or to attend a meeting of, the Development Work Group to express any view which such Non-Code Party may have in respect of the relevant Modification Proposal, but this shall not require the Transporters to engage or remunerate any person so invited or nominated.
- 8.1.3 Failing any determination by the Panel in respect of the Development Work Group the Transporters shall proceed to finalise the composition and shall constitute the

Development Work Group within ten (10) Business Days of the meeting referred to in paragraph 7.2.

## **8.2 Proceedings of Development Work Groups**

- 8.2.1 The Transporters shall ensure that the Authority is notified of all meetings of each Development Work Group. The Authority (or any representative of the Authority (including, but without limitation, the Ofgem Representative)) shall be invited to all meetings of all Development Work Groups.
- 8.2.2 Each Development Work Group may, from time to time, and at any time in addition to the persons (if any) specified in the Terms of Reference of the Development Work Group, consult with any person for the purposes of the Development Work but this shall not require the Transporters to engage or remunerate any person so consulted.
- 8.2.3 Each Development Work Group shall be chaired by a representative of the Transporters. Each such representative of the Transporters shall co-ordinate the Development Work undertaken and the monthly reports and the Development Work Group Report to be prepared by the relevant Development Work Group and liaise with the Modification Panel in relation to any matter (including, but without limitation, any matter referred to in paragraph 8.3.1).
- 8.2.4 Where in respect of any matter any Development Work Group does not reach a consensus, the chairman of such Development Work Group shall determine such matter with any contrary view to such determination being recorded in the Development Work Group Report. Any individual on the Development Work Group may in circumstances where consensus is not so reached and on the basis that such individual considers the relevant matter is material request the chairman of the Development Work Group to refer such matter to the Modification Panel. The chairman of the Development Work Group shall (whether or not he refers the matter) notify the Modification Panel of each such request. If the chairman so refers the matter the Modification Panel may, as provided in paragraph 8.3.3, give guidance, clarification or instructions in respect thereof or it may not. If the Modification Panel shall not so give guidance, clarification or instructions the chairman of the Development Work Group shall determine the matter so referred and any contrary view to such determination shall, if the relevant individual requires, be recorded in the Development Work Group Report. If the chairman does not so refer the matter, the Modification Panel may, pursuant to paragraph 8.3.3, nevertheless determine to give guidance, clarification or instructions in respect of the matter.
- 8.2.5 The Development Work Group may decide to invite a legal adviser or legal advisers to attend meetings of the group, and members of the group may nominate legal advisers for this purpose (but this shall not require the Transporters to engage or remunerate any person so invited).
- 8.2.6 The chairman of the Development Work Group shall be entitled, at his sole discretion, to:
- (a) accept an alternate Development Work Group member if the original member is unable to attend any meeting of the Development Work Group; and/or
  - (b) exclude any person other than a Development Work Group member from all or any part of the proceedings of the Development Work Group which exclusion shall be detailed in the following report submitted in accordance with paragraph 8.5.

## **8.3 Liaison with the Modification Panel**

- 8.3.1 Each Development Work Group may, from time to time, and at any time:
- (a) seek guidance or clarification from the Modification Panel in relation to any matter arising in connection with the Development Work;
  - (b) seek instructions from the Modification Panel as to whether the Development Work Group should continue or discontinue all or any of the Development Work;
  - (c) propose to the Modification Panel that the Modification Panel should hear the views of any person whom the Development Work Group consults pursuant to the Terms of Reference of the Development Work Group or pursuant to paragraph 8.2.2;
  - (d) request an extension to the time (prescribed in the timetable referred to in paragraph 12.9.1(e) within which the Development Work is to be done or the Development Work Group Report prepared; and
  - (e) propose any change to the Terms of Reference of the Development Work Group to reflect any change arising by reason of the application of any of paragraph 8.3.1(a) to (d).
- 8.3.2 The Modification Panel may determine to accede in respect of any request or proposal made pursuant to paragraphs 8.3.1(c) to (e) or otherwise to give instructions in respect thereof.
- 8.3.3 The Modification Panel may give the guidance, clarification or instructions sought pursuant to paragraphs 8.3.1(a) and (b) or otherwise give such other guidance, clarification or instructions as the Modification Panel may determine.
- 8.3.4 Subject to paragraph 8.3.6, the Modification Panel may (whether pursuant to an instruction sought pursuant to paragraph 8.3.1 or otherwise) determine to instruct any Development Work Group to cease all or any part of the Development Work. Any Development Work Group which is so instructed to cease all Development Work in respect of any Modification Proposal shall at the same time as it is so instructed be instructed to prepare the Development Work Group Report in respect of such Modification Proposal.
- 8.3.5 In general it is anticipated that Modification Proposals will proceed through the development phase in the time order in which those Modification Proposals proceed to the Development Phase. However, where a number of Modification Proposals are being considered within the Development Phase at the same time, the Modification Panel may, from time to time and subject to paragraph 8.3.6, determine to re-order and/or defer the consideration of all or any of such Modification Proposals.
- 8.3.6 If, pursuant to paragraph 6.4.1, two (2) Modification Proposals (relating (in whole or in part) to the same subject matter) are proceeding through the Development Phase together the Modification Panel may at any time during the Development Phase determine Unanimously that only one (1) of the Modification Proposals should proceed. On any such determination the Modification Proposal which is not to proceed shall lapse and accordingly the Development Work Group shall not prepare a Development Work Group Report in respect of that Modification Proposal.
- 8.3.7 No Modification Proposal shall, without the consent of the Authority, be in the Development Phase for more than twelve (12) months. If no consent is received from the Authority paragraph 8.6 will apply.

## 8.4 Consideration of representations

- 8.4.1 Each Development Work Group shall consider all representations:
- (a) received (in accordance with paragraph 7.6.1(b) and not withdrawn in accordance with paragraph 12.3.2) by that Development Work Group from Users;
  - (b) received by that Development Work Group from Non-Code Parties pursuant to (and in accordance with) any invitation made pursuant to paragraph 7.7.1(b); and
  - (c) all other representations which the Transporters may request the Development Work Group to consider.

## 8.5 Monthly reports

- 8.5.1 Each Development Work Group shall each month report to the Modification Panel as to the progress of that Development Work Group.
- 8.5.2 The Modification Panel shall, as appropriate, discuss reports received from Development Work Groups pursuant to paragraph 8.5.1.

## 8.6 Development Work Group Report

- 8.6.1 Subject to paragraph 8.3.4, the Transporters shall, together with the Development Work Group, prepare a Development Work Group Report in accordance with the Terms of Reference which, unless the Terms of Reference shall (pursuant to paragraph 12.9.1(b)(ii)) specify additional matters, shall:
- (a) provide an analysis of whether and if so the extent to which the Modification would better facilitate the achievement (for the purposes of each Transporter's Licence) of the Relevant Objectives; and
  - (b) so far as is consistent with (a) above:
    - (i) address the implications (if any) (to the extent only that the Development Work Group shall have been informed by the Transporters or becomes aware during the course of the Development Work in the context of the application of the Modification Procedures in relation to the Modification Proposal or Third Party Modification Proposal) of the implications of the proposal for the Transporters, including:
      - (1) the implications for the operation of the Systems;
      - (2) the development and capital cost and operating cost implications (if any) for each Transporter of implementing the Modification Proposal or Third Party Modification Proposal; and
      - (3) whether it is appropriate for each Transporter and/or the Transporters to recover all or any of the costs and, if so, a proposal as to the most appropriate way for those costs to be recovered; and
      - (4) the consequence (if any) of implementing the Modification Proposal or Third Party Modification Proposal on the level of contractual risk of each Transporter under the Uniform Network Code or the Individual Network Code proposed to be modified by the Modification Proposal or Third Party

## Modification Proposal;

- (ii) address the development implications and other implications for the UK Link System of the Transporters, related computer systems of each Transporter and related computer systems of Users;
- (iii) address the implications (if any) (to the extent only that the Development Work Group shall have been informed (whether pursuant to representations received pursuant to paragraph 7.7.1(b) or otherwise) or becomes aware of during the course of the Development Work in the context of the application of the Modification procedures in relation to the Modification Proposal or Third Party Modification Proposal) of the implementation of the proposal for Users, including the:
  - (1) administrative and operational implications (if any) of the implementation of the Modification Proposal or Third Party Modification Proposal on Users;
  - (2) development and capital cost and operating cost implications (if any) for Users of implementing the Modification Proposal or Third Party Modification Proposal; and
  - (3) consequence (if any) of implementing the Modification Proposal or Third Party Modification Proposal on the level of the contractual risk of Users under the Uniform Network Code or the Individual Network Code proposed to be modified by the Modification Proposal;
- (iv) address the implications (if any) (to the extent only that the Development Work Group shall have been informed (whether pursuant to representations received pursuant to paragraph 7.7.1(b) or otherwise) or becomes aware of during the course of the Development Work in the context of the application of the Modification procedures in relation to the Modification Proposal or Third Party Modification Proposal) of the implementation for other relevant persons (including, but without limitation, Users, Connected System Operators, Consumers, Terminal Operators, Storage Operators, Suppliers and producers and, to the extent not so otherwise addressed, any Non-Code Party) of implementing the proposal;
- (v) address the consequences of the legislative and regulatory obligations and contractual relationships of the Transporters:
  - (1) if (and to that extent only) the Development Work Group shall have been informed by the Transporters or becomes aware of during the course of the Development Work Group in respect thereof in the context of the application of the Modification procedures in relation to the Modification Proposal or Third Party Modification Proposal; and
  - (2) if (and to that extent only) the Development Work Group shall have been informed (whether pursuant to representations pursuant to paragraph 7.7.1(b) or otherwise) or becomes aware of during the course of the Development Work in respect thereof in the context of the application of the Modification procedures in relation to the Modification Proposal or Third Party Modification Proposal, Users and any



Non-Code Party, of the implementation of the proposal;

- (vi) provide an analysis of any advantages and disadvantages of which (and to the extent only that) the Development Work Group shall have been informed (whether pursuant to representations received pursuant to paragraph 7.7.1(b) or otherwise) or becomes aware of during the course of the Development Work in the context of the application of the Modification procedures in relation to the Modification Proposal or Third Party Modification Proposal and not otherwise identified pursuant to paragraphs 8.6.1(a) to (v) as such of the implementation of the proposal;
- (vii) provide a summary of the representations (to the extent that the import of those representations are not reflected elsewhere in the Development Work Group Report) of those persons (if any) which the Development Work Group shall have consulted pursuant to the Terms of Reference or paragraph 8.2.2;
- (viii) detail the representations which the Development Work Group shall have considered pursuant to paragraph 8.4; and comment, in the context of the report as a whole, on such representations;
- (ix) detail any matter (not otherwise identified as such elsewhere in the report) which the Development Work Group considers shall need to be addressed or otherwise dealt with so as to enable the preparation of the Modification Report; and
- (x) as appropriate, comment upon:
  - (1) and make recommendations as to, the time scale for the implementation of the whole or any part of the Modification Proposal or Third Party Modification Proposal; and
  - (2) the Suggested Text provided pursuant to paragraph 6.2.1(k).

8.6.2 If two (2) or more Modification Proposals shall have been considered together by the Development Work Group and no determination shall have been made pursuant to paragraph 8.3.6 the Development Work Group Report shall report on each Modification Proposal.

## **8.7 Circulation of Development Work Group Reports**

Each Development Work Group Report shall (subject to paragraphs 5.4.1 and 5.4.2) be sent to all Members as soon as reasonably practicable but in any event not less than five (5) Business Days prior to the meeting of the Modification Panel at which that report is to be discussed.

## **8.8 Discussion of Development Work Group Report**

8.8.1 Having:

- (a) discussed the Development Work Group Report; and
- (b) allowed any Members of the relevant Development Work Group (in attendance at the meeting of the Modification Panel) to express any views on the substance of the Development Work Group Report or the conduct of the consideration of the Modification Proposal by the Development Work Group, the Modification Panel may determine:
  - (i) to refer the Development Work Group Report back to the

Development Work Group for revision or further work;

- (ii) to continue to consider or to consider further the Development Work Group Report at a subsequent meeting of the Modification Panel; or
- (iii) that the Modification Proposal shall proceed to the Consultation Phase in accordance with paragraph 7.3.

## **9 MODIFICATION PROCEDURES - CONSULTATION PHASE**

### **9.1 Consultation - draft Modification Report**

- 9.1.1 The Transporters shall prepare a draft Modification Report in accordance with paragraph 9.4 and shall provide such report to the Secretary:
- (a) Within fifteen (15) Business Days, where the Modification Panel has determined that text is required; or
  - (b) Within three (3) Business Days, where the Modification Panel has not determined that text is required; or
  - (c) Within such other time period as the Modification Panel shall determine;
- following the determination of the Modification Panel that the Modification Proposal or Third Party Modification Proposal shall proceed to the Consultation Phase under paragraph 7.3.
- 9.1.2 Where the Modification Panel has determined that text is required, then within one Business Day of receiving such Draft Modification Report the Secretary shall circulate the Draft Modification Report to the next meeting of the Modification Panel and subject to paragraph 9.1.3, within one Business Day following date upon which the panel meeting is convened, the Secretary shall circulate it to each Transporter, each User, each Member, each Third Party Participant and each Non-Code Party (if any) inviting them to make (or withdraw earlier) representations to the Transporters within fifteen (15) Business Days following the date of that invitation.
- 9.1.3 Where the Modification Proposal or Third Party Modification Proposal has been referred to the Modification Panel in accordance with paragraph 9.6.3 it may make a determination pursuant to paragraph 7.2.3(a)(i) or (ii), or 7.2.3(b)(i), or notwithstanding paragraph 7.3.1(a) determine that text is not required with the Draft Modification Report.
- 9.1.4 Where the Modification Panel has not determined that text is required:
- (a) pursuant to paragraph 7.3.1(a), within one (1) Business Day of receiving the Draft Modification Report;
  - (b) pursuant to paragraph 9.1.3, within one Business Day of such determination;
- the Secretary shall circulate the Draft Modification Report to each Transporter, each User, each Member, each Third Party Participant and each Non-Code Party (if any) inviting them to make (or withdraw earlier) representations to the Transporters within fifteen (15) Business Days following the date of that invitation.

### **9.2 Impact on UK Link System**

- 9.2.1 If the Modification Proposal or Third Party Modification Proposal has been identified as having an impact on the UK Link System, the Transporters shall request the Transporter Agency in accordance with paragraph 9.2.2 to:

- (a) conduct an initial assessment of the potential impact of the Modification Proposal or Third Party Modification Proposal on the UK Link System; and
- (b) prepare an initial report of its findings and to send a copy of that report to the Transporters.

9.2.2 The initial impact assessment report pursuant to paragraph 9.2.1 shall set out an overview of the implications (if any) of the Modification Proposal or Third Party Modification Proposal (as the case may be) on the UK Link System or any part of the UK Link System, including:

- (a) the implications for the operation of the UK Link System or any part of the UK Link System;
- (b) the development implications for the UK Link System or any part of the UK Link System, including the changes likely to be required; and
- (c) if the Transporter Agency determines that the Modification Proposal or Third Party Modification Proposal has no potential impact on the UK Link System, the reasons for such determination.

### **9.3 Consultation - final Modification Report**

9.3.1 Within five (5) Business Days following the last day for representations to the draft Modification Report in accordance with paragraph 9.1.2 or 9.1.4;

- (a) subject to (d), the Transporters shall prepare a final Modification Report in accordance with paragraph 9.4 for approval of the Modification Panel;
- (b) the Secretary shall submit a copy of that final Modification Report to:
  - (i) each Third Party Participant, each Transporter, each User and each Non-Code Party (if any) that submitted (and did not so withdraw) a representation with regard to the draft Modification Report pursuant to paragraph 9.1.2 or 9.1.4; and
  - (ii) each Member,  
and shall attach to that report all representations (if any) so received (and not so withdrawn); and
- (c) the Transporters shall request the Secretary to add the Modification Proposal or Third Party Modification Proposal as an Agenda item for the Modification Panel to discuss;
- (d) Where the Transporters consider that any representation made pursuant to paragraph 9.4.1 (i) or 9.4.1(j) identifies issues that may arise through implementation of the proposal which have not been identified in other responses to the same proposal then the Transporters shall record such issues and include them in the final Modification Report and the Secretary shall submit it to the next Modification Panel for determination pursuant to paragraph 9.3.2.

9.3.2 Where the Modification Panel determines that views on such issues should be obtained by the relevant Development Work Group or Workstream then:

- (a) the Transporters shall request the Secretary to submit the final Modification Report to the relevant Development Work Group or Workstream and to obtain a report containing their views; and
- (b) within 3 Business Days following receipt of such report the Secretary shall

submit a copy of the final Modification Report to:

(i) each Third Party Participant, each Transporter, each User and each Non-Code Party (if any) that submitted (and did not so withdraw) a representation with regard to the draft Modification Report pursuant to paragraph 9.1.2 or 9.1.4; and

(ii) each Member;

and shall attach to that report all representations (if any) so received (and not so withdrawn) and the report (if any) received pursuant to (b); and

(c) the Transporter shall request the Secretary to add the Modification Proposal or Third Party Modification Proposal as an Agenda item for the Modification Panel to discuss.

9.3.3 Upon receipt of the final Modification Report under paragraph 9.3.1 or 9.3.2 the Modification Panel shall assess whether the final Modification Report complies with paragraph 9.4, and if it is compliant, shall:

(a) determine whether or not to recommend the implementation of the Modification Proposal or Third Party Modification Proposal to the Authority;

(b) submit its recommendation to the Authority, setting out its determination under paragraph 9.3.3(a) and the factors which (in its opinion) justify its determination; and

(c) instruct the Secretary to send the final Modification Report, together with its recommendation to the Authority, to the Transporters.

9.3.4 The Transporters shall, within one (1) Business Day of receipt from the Secretary of the final Modification Report, circulate to the Authority and each Transporter, each User, each Member, each Third Party Participant and each Non-Code Party (if any) the following:

(a) a copy of the final Modification Report and any other attachments; and

(b) a copy of the Modification Panel's recommendation to the Authority seeking a determination of the Authority as to whether the Modification should be implemented or not.

9.3.5 Where a final Modification Report is received by the Authority pursuant to paragraph 9.3.4, the Authority may determine whether the proposed Modification shall be implemented and may give notice of its decision to the Secretary, in which case on receipt of such notice from the Authority:

(a) if the notice confirms the Authority's determination not to implement the proposed Modification, the Secretary shall circulate to each Transporter, each User, each Member, each Third Party Participant and each Non-Code Party (if any) a non-implementation notice; and

(b) if the notice confirms the Authority's determination to implement the Modification, the Secretary shall circulate to each Transporter, each User, each Member, each Third Party Participant and each Non-Code Party (if any) an implementation notice.

9.3.6 Any question arising under these Rules as to whether:

(a) (in the context of representations) a User or other person is likely to be materially affected by a Modification Proposal or Third Party Modification Proposal were that proposal to be implemented; or

- (b) representations made (and not withdrawn) pursuant to these Rules in relation to a Modification Proposal or Third Party Modification Proposal have been properly considered by the Transporters,

shall be determined by the Authority.

- 9.3.7 Where the Modification Proposal is a User Pays Modification Proposal, Ofgem may request the Transporters to prepare and submit a cost estimate for the User Pays Service where the Modification Panel has not done so.

## 9.4 Form of Modification Report

- 9.4.1 In addition to identifying which paragraph of these Rules the Modification Report is made pursuant to, each Modification Report shall, subject to paragraphs 9.4.5 and 10.2 and to the extent relevant and that the Transporters have been made aware:

- (a) set out:
  - (i) or append in full the relevant Modification Proposal (or Third Party Modification Proposal) including, in the case of a Modification Proposal, any Suggested Text provided by the Proposer pursuant to paragraph 6.2.1(k); and
  - (ii) the text, if provided pursuant to paragraph 9.6;
- (b) provide an analysis of whether and if so the extent to which the Modification would better facilitate the achievement (for the purposes of each Transporter's Licence) of the Relevant Objectives;
- (c) address the implications (if any) in the context of the application of the Modification procedures in relation to the Modification Proposal or Third Party Modification Proposal of the implementation of such Modification Proposal or Third Party Modification Proposal:
  - (i) on security of supply, operation of the Total System and industry fragmentation;
  - (ii) for the Transporters and each Transporter, including:
    - (1) the implications for the operation of the Systems;
    - (2) the development and capital cost and operating cost implications (if any) for each Transporter of implementing the Modification Proposal (not applicable to Third Party Modification Proposals); and
      - (aa) if there are any such cost implications, the extent to which it is appropriate for each Transporter and/or the Transporters to recover the costs, and (to such extent) a proposal for the most appropriate way for the costs to be recovered; and
      - (bb) where any such proposal is made (whether or not the impact of such a proposal is addressed by the text of the Modification), an analysis of the consequences (if any) such proposal would have (if implemented) on the price regulation to which each Transporter is subject; and
  - (iii) the consequence (if any) of implementing the Proposal on the level of contractual risk of each Transporter under the Uniform Network Code

or the Individual Network Code to be modified by the Proposal;

- (d) provide the Transporters' reasonable high level indication, based upon such information as is reasonably available to them at the relevant time pursuant to paragraph 9.2, of the areas of the UK Link System likely to be affected, and address the development implications and other implications for the UK Link System for the Transporters, related computer systems of each Transporter and related computer systems of Users (not applicable to Third Party Modification Proposals);
- (e) address the implications (if any) (to the extent only that the Transporters shall have been informed (whether pursuant to representations or otherwise) in the context of the application of the Modification procedures in relation to the proposal) of the implementation of the Modification for Users, including:
  - (i) the administrative and operational implications (if any) of the implementation of the proposal on Users;
  - (ii) the capital cost and operating cost implications (if any) for Users of implementing the Modification Proposal (not applicable to Third Party Modification Proposals); and
  - (iii) the consequence (if any) of implementing the proposal on the level of the contractual risk of Users under the Uniform Network Code or the Individual Network Code proposed to be modified by the proposal;
- (f) address the implications (if any) (to the extent only that the Transporters shall have been informed (whether pursuant to representations or otherwise) in the context of the application of the Modification procedures in relation to the proposal) for other relevant persons (including, but without limitation, Users, Connected System Operators, Consumers, Terminal Operators, Storage Operators, Suppliers and producers and, to the extent not otherwise addressed, any Non-Code Party) of implementing the proposal;
- (g) address the consequences of the legislative and regulatory obligations and contractual relationships of:
  - (i) each Transporter; and
  - (ii) if (and to that extent only) the Transporters shall have been informed (whether pursuant to representations or otherwise) in respect thereof in the context of the application of the Modification procedures in relation to the proposal, each User and each Non-Code Party (if any), of the implementation of the proposal;
- (h) provide an analysis of any advantages or disadvantages if and to the extent only that the Transporters shall have been informed (whether pursuant to representations or otherwise in respect thereof in the context of the application of the Modification procedures in relation to the Proposal and (not otherwise identified as such pursuant to paragraphs 9.4.1(b) to (g)) of the implementation of the proposal;
- (i) provide a summary of the representations and/or responses (to the extent that those representations and/or responses are not reflected elsewhere in the Modification Report) of those persons (if any) which the Development Work Group consulted, pursuant to the Terms of Reference and paragraph 8.2.2 (not applicable to Third Party Modification Proposals);
- (j)

- (i) detail the representations which the Development Work Group considered pursuant to paragraph 8.2.2 (not applicable to Third Party Modification Proposals) and the representations (if any) received in accordance with paragraph 8.4; and
- (ii) (to the extent that representations are not addressed or otherwise commented upon in the Modification Report) comment, in the context of the Modification Report as a whole, on such representations;
- (k) state whether and if so the extent to which the implementation of the Modification Proposal (not applicable to Third Party Modification Proposals) is requisite:
  - (i) to enable each Transporter to facilitate compliance with safety or other legislation; and
  - (ii) having regard to any proposed change in the methodology established under Standard Special Condition A4(5) or the statement furnished by each Transporter Standard Special Condition A4(1) of the Transporter's Licence;
- (l) detail the programme for works (if any) required as a consequence of the implementation of the Modification Proposal (not applicable to Third Party Modification Proposals);
- (m) set out a proposed timetable to be followed in respect of the implementation of the Modification (including, but without limitation, the date upon which the Modification should become effective);
- (n) if it is the opinion of the Transporters that a Modification should be implemented:
  - (i) set out either:
    - (1) a request of the Transporters or the Relevant Transporter for consent of the Authority to the Modification; or
    - (2) a proposal that the Authority should direct that the Modification be implemented;
  - (ii) comment upon, and make recommendations as to, the time scale for the implementation of the whole or any part of the Modification; and
- (o) address the implications (if any) of the Modification Proposal upon the existing Uniform Network Code Standards of Service (not applicable to Third Party Modification Proposals);
- (p) state whether or not any matter detailed in the Development Work Group Report (pursuant to paragraph 8.6) has been addressed or otherwise dealt with (not applicable to Third Party Modification Proposals) and:
  - (i) if such matter has been so addressed or dealt with, the result; or
  - (ii) if such matter has not been so addressed or dealt with, an explanation as to why such matter has not been addressed or dealt with;
- (q) state the number of Voting Members in favour of, and the number of Voting Members present and not voting in favour of, the implementation of the Modification Proposal (or Third Party Modification Proposal) pursuant to the determination made under paragraph 9.3.3(a); and
- (r) have attached to it copies of all the representations received (and not

withdrawn in accordance with paragraph 12.3.2) by the Secretary;

- (s) set out a high level summary of views expressed in the representations, which may be satisfied by stating the number of representatives in favour of, and the number of representatives against the implementation of the Modification Proposal (or Third Party Modification Proposal);
- (t) where it is a User Pays Modification Proposal, contain the most accurate cost estimate for the User Pays Service which is available at such time and the associated indicative User Pays Charge.

9.4.2 Where two or more (2) Modification Proposals have proceeded through the Modification Procedures together (and neither proposal has been withdrawn and all work has not been discontinued pursuant to paragraph 8.3.6 in respect of either proposal) the Modification Report shall, in addition to the analysis referred to in paragraph 9.4.1(b), provide an analysis as to which of the Modification Proposals would in the opinion of the Modification Panel better facilitate the achievement of the Relevant Objectives. Where two (2) Modification Proposals were proceeding through the Modification Procedures together and the Modification Panel shall, pursuant to paragraph 8.3.6, have determined that only one (1) of the Modification Proposals should proceed, the Modification Report shall provide a commentary as to the circumstances in which the Modification Panel so determined (not applicable to Third Party Modification Proposals).

9.4.3 Each Modification Report shall be addressed and furnished (as the notice required by Standard Special Condition A11(15)(a)) to the Authority and none of the facts contained or opinions stated in any Modification Report should be relied upon by any other person.

9.4.4 In preparing any Modification Report, the Transporters shall:

- (a) do so on the basis set out in these Rules; and
- (b) not be required to have regard (other than as expressly provided in these Rules) to the consequences of any Modification on any person or persons.

9.4.5 Where a Development Work Group Report has been prepared in accordance with paragraph 8.6 the Modification Panel may determine that it shall constitute the Draft Modification Report.

## **9.5 Further Consultation**

9.5.1 If, in respect of a Modification Proposal which is the subject of a Modification Report previously submitted to the Authority by the Transporters in accordance with paragraph 9.3.4 or 10.2:

- (a) the Authority has not given notice of its decision in respect of that Modification Report within two (2) calendar months (in the case of Urgent Proposals), or four (4) calendar months (in the case of non-Urgent proposals) from the date upon which the relevant Modification Report was submitted to it; or
- (b) the Authority, or any Voting Member, by notice to the Secretary expresses the reasonable opinion that the circumstances relating to that Modification have materially changed,

the Secretary shall place that Modification Proposal on the Agenda for consideration at the next Modification Panel meeting.



- 9.5.2 Having considered the circumstances relating to the Modification Proposal which is subject to paragraph 9.5.1, the Modification Panel may determine that:
- (a) the Secretary should request the Authority to give an indication of the likely date by which the Authority's decision shall be made; or
  - (b) the Transporters should within five (5) days of the date of the meeting prepare and circulate a notice to each Transporter, Users and Non-Code Parties outlining the change in circumstances or reasons for delay and inviting further representations within ten (10) days of the date of the notice; or
  - (c) the Secretary should place the Modification Proposal on the Agenda for further consideration at a future meeting of the Modification Panel as determined by the Modification Panel.
- 9.5.3 If the Modification Panel makes a determination in accordance with 9.5.2(a) then the Secretary shall within five (5) Business Days formally request a response from the Authority and place the Modification Proposal on the Agenda for further consideration at the next Modification Panel meeting, it being recognised at all times that the Authority is not obliged, as a result of a request pursuant to 9.5.2(a), to provide any response or indication.
- 9.5.4 If the Modification Panel makes a determination in accordance with 9.5.2(b) the Transporters shall within five (5) Business Days of the date upon which the invitation for representations closed prepare, and submit to the Secretary a supplemental report (which need not be in the form of a Modification Report) and also procure that the Secretary submits that report and copies of any representations received to the Authority and circulates a copy to each Transporter, Users and Non-Code Parties.
- 9.5.5 Any Report submitted to the Authority under paragraph 9.5.4 shall be supplemental to the Modification Report. Supplemental reports may, but need not, express a view and recommendation which confirms those expressed in the Modification Report to which it refers.

## 9.6 Text of Modification

- 9.6.1 The text of each Modification shall be prepared as follows:
- (a) in relation to a User Proposal or a Third Party Modification Proposal, the Transporters shall prepare the text of the Modification:
    - (i) where directed by the Modification Panel, for inclusion in the draft Modification Report prepared pursuant to paragraph 9.1.1; or
    - (ii) if requested or directed to do so by the Authority;
  - (b) in relation to a Transporter Proposal the Transporter who is the Proposer shall:
    - (i) where directed by the Modification Panel, prepare the text of the Modification (for inclusion in the draft Modification Report prepared under paragraph 9.1.1); or
    - (ii) if requested or directed to do so by the Authority.
- 9.6.2 Subject to paragraph 10, the Suggested Text of each Modification shall be considered by the relevant Development Work Group or (as the case may be) Workstream to which such Modification Proposal has been referred in accordance with these Rules. If the Suggested Text of a Modification is not considered by a Development Work Group prior to that Development Work Group's report being discussed by the

Modification Panel pursuant to paragraph 8.8.1, the Development Work Group shall, where requested by the Modification Panel, having considered the text of a Modification and prior to the preparation of the draft Modification Report pursuant to paragraph 9.1.1, prepare a supplemental report commenting as appropriate upon that text.

- 9.6.3 If it is considered that the Modification Proposal or Third Party Modification Proposal is not sufficiently clear or complete to enable the preparation of text, a written report setting out the reasons for this will be prepared by the Transporters (in the case of a User Proposal or Third Party Modification Proposal) and by the Transporter who is the Proposer (in the case of a Transporter Proposal) and the Transporters or such Transporter shall refer the Modification Proposal or Third Party Modification Proposal to the next Modification Panel for determination pursuant to paragraph 9.1.3.
- 9.6.4 Where the Modification Proposal is a User Pays Modification Proposal, the request or direction pursuant to paragraph 9.6.1(a)(ii) or (b)(ii) will be deemed to be a request for text in respect of a proposed amendment to the Agency Charging Statement and such text will be prepared at the same time the text prepared pursuant to paragraph 9.6.1(a)(ii) or (b)(ii).

## **9.7 Modification**

- 9.7.1 The Transporters shall modify the Uniform Network Code or, as the case may be, the Relevant Transporter shall modify the relevant Individual Network Code in accordance with each consent given and each direction made by the Authority.
- 9.7.2 The Transporters shall, as soon as reasonably practicable, notify each Transporter, each User, each Member, each Third Party Participant and each Non-Code Party (if any) of each Modification. Each such notice shall specify the text of the Modification and the date upon which the Modification shall become effective and may provide (for the purposes of information only) an explanatory note (which note should not be relied upon) in respect of the Modification. Each Modification shall become effective upon the date specified in the relevant notice. Having so notified each Transporter, each User, each Member, each Third Party Participant and each Non-Code Party (if any), the Transporters may, with the agreement of the Authority, notify all Users, all Transporters, Members, each Third Party Participant and Non-Code Parties (if any) of any amendment to the date specified in the earlier notice, and the date specified in any such notice shall be the date upon which the relevant Modification shall become effective.

## **10 URGENT MODIFICATION PROPOSALS**

### **10.1 Procedure**

- 10.1.1 If a Modification Proposal has been considered or identified pursuant to paragraph 6.1.3(b) as one which should be treated as an Urgent Modification Proposal the Secretary shall as soon as possible send a copy of the Modification Proposal to the Authority and the Transporters shall consult with the Authority and shall recommend the procedure and timetable to be followed in respect of each Urgent Modification Proposal.
- 10.1.2 If the Authority considers it appropriate that the Modification Proposal referred to in paragraph 10.1.1 should be treated as an Urgent Modification Proposal:
- (a) the Secretary shall notify each Transporter, each User, each Member and each

Non-Code Party (if any);

- (b) to the extent that the Authority agrees with the recommendation made in the procedure and timetable submitted by the Transporters, all or any of the Modification Rules (including, but without limitation, consulting with the Modification Panel and seeking representations from each Transporter, Users and any Non-Code Party), may be deviated from or any other procedure accepted by the Authority may be followed;
- (c) the Transporters shall prepare and submit to the Secretary, a Modification Report in a format and in accordance with a timetable accepted by the Authority; and
- (d) the Transporters shall instruct the Secretary to send the Modification Report to the Authority.

10.1.3 If the Authority does not accept that the Modification Proposal should be treated as an Urgent Modification Proposal the Secretary shall notify the Proposer and paragraphs 7, 8 (if applicable) and 9 shall apply in respect of the Modification Proposal.

## **10.2 Modification report**

10.2.1 Each Modification Report and attachments (if any) prepared pursuant to paragraph 10.1.2(c) shall, in addition to reporting to the extent relevant upon the matters referred to in paragraph 9.4.1, detail:

- (a) the reasons why it is an Urgent Modification Proposal; and
- (b) the procedures that the Transporters have followed pursuant to paragraph 10.1.2(b) where these differ from the Modification Procedures.

10.2.2 The Transporters may submit their Modification Report (in whole or in part) orally and/or in writing. The Transporters shall in respect of any Modification Report (or any part thereof) submitted orally as soon as possible confirm that oral submission in writing. The Transporters shall as soon as reasonably practicable send a copy of each such report to each Transporter, each User, each Member and each Non-Code Party (if any).

## **10.3 Modification**

10.3.1 The Transporters shall modify the Uniform Network Code and the Relevant Transporter shall modify an Individual Network Code in accordance with each direction made and consent given by the Authority.

10.3.2 The Transporters shall as soon as possible notify each Transporter, each User, each Non-Code Party (if any) and each Member of the urgent Modification. Each such notice shall specify the text of the Modification and the date upon which the Modification is to become effective.

## **10.4 Report on Modification and review**

Where an urgent Modification is implemented, the Transporters shall at the next following meeting of the Modification Panel report to the Modification Panel in respect of the urgent Modification. The Modification Panel may determine at that meeting that the subject matter of the urgent Modification so made shall be subject to the review procedures. If the Modification Panel shall so determine, the Transporters shall procure that a Review Proposal in respect of the urgent Modification so made and refer such proposal to the relevant

Workstream together with the Terms of Reference to be applicable.

## **11 REVIEW PROCEDURES**

### **11.1 Purpose**

The review procedures are designed to provide a means by which the Uniform Network Code and each Individual Network Code may be reviewed and considered without being subject to the Modification Procedures.

### **11.2 Review proposals**

11.2.1 The Modification Panel may determine:

- (a) that any matter; or
- (b) (at a meeting of the Modification Panel), that the Modification Proposal discussed at that meeting, should be subject to review.

11.2.2 If the Modification Panel shall make a determination:

- (a) pursuant to paragraph 11.2.1(a), the Transporters shall procure that a Review Proposal is made in respect of such matter; or
- (b) pursuant to paragraph 11.2.1(b), the Proposer shall be treated as having made a Review Proposal pursuant to paragraph 11.2.3 or, as the case may be, paragraph 11.2.4.

11.2.3 The Transporters may, from time to time, procure that a Review Proposal is made or withdraw such a Review Proposal.

11.2.4 Any User may, from time to time, make a Review Proposal or withdraw a Review Proposal made by that User, and the Transporters and Users may either raise an alternative Review Proposal (which proposal shall be raised in accordance with paragraph 11.2.2(a)) or where the User withdraws a Review Proposal adopt the Review Proposal (in which case the adopted Review Proposal shall continue through the review procedures from the point at which it was withdrawn by the User).

### **11.3 Form of proposal**

11.3.1 Each Review Proposal shall:

- (a) be in writing; and
- (b) set out in reasonable but not excessive detail the nature of the Review Proposal.

11.3.2 The Modification Panel may, from time to time, stipulate the form which a Review Proposal should take.

11.3.3 The Transporters shall allocate to each Review Proposal a unique reference number.

### **11.4 Review procedures**

11.4.1 Following the submission of a Review Proposal:

- (a) the Modification Panel may determine:

- (i) that such Review Proposal be subject to review by a Review Group in accordance with such Terms of Reference, procedures and such timetable as the Modification Panel shall determine; or
  - (ii) that such Review Proposal be referred to a Workstream for consideration in accordance with such Terms of Reference, procedures and such timetable as the Modification Panel shall determine;
- (b) subject to paragraph 11.4.1(a), the Transporters may refer the Review Proposal to a Workstream for consideration in accordance with such Terms of Reference, procedures and such timetable as the Transporters may determine; and
- (c) subject to paragraphs 11.4.1(a) and (b), the Review Proposal shall lapse and the Transporters shall notify the Proposer.
- 11.4.2 Following review by a Workstream or Review Group in accordance with paragraph 11.4.1(a) or (b), the Workstream or Review Group shall submit a report to the Modification Panel.
- 11.4.3 Following submission of a report under paragraph 11.4.2, the Modification Panel shall consider the report, and in the event that the Modification Panel does not determine that a further review be undertaken by the Workstream or Review Group (as the case may be), the Transporters shall circulate the report to each Transporter and all Users.
- 11.4.4 Where the report submitted in accordance with paragraph 11.4.2 contains a recommendation in the form of a Modification Proposal and the Modification Panel:
- (a) determines to support such recommendation, such Modification Proposal shall be dealt with in accordance with paragraph 7.3; or
  - (b) makes no determination, the Workstream or Review Group may reconsider and resubmit the report (whether or not containing a new recommendation) for reconsideration by the Modification Panel and paragraph 11.4.3 shall apply.

## **12 GENERAL**

### **12.1 Notices**

12.1.1 Unless otherwise expressly provided, any document, notice or other communication to be given to or made by any person pursuant to or in accordance with these Rules shall be made in accordance with GT Section B5.2.

### **12.2 Non-receipt**

No accidental omission or neglect in sending any document or notice or other communication to, or (other than in the case of any document or notice or other communication submitted by the Transporters to the Authority) non-receipt of any document or notice or other communication by, any person shall be capable of invalidating any act or thing done pursuant to these Rules.

### **12.3 Representations**

12.3.1 All representations (and any withdrawal of the same) made by each User or any

Transporter pursuant to these Rules shall be readily identifiable as representations (or, as the case may be, a withdrawal thereof), shall identify the unique reference designation on the Modification Proposal, Third Party Modification Proposal or Review Proposal to which they relate and shall be sent to the Secretary at the address of the Transporters, for the time being, notified to Users for the purposes of paragraph 12.1.

12.3.2 Any Transporter, User, Third Party Participant or Non-Code Party may at any time prior to the submission of the Modification Report by notice to the Secretary withdraw any representation made by it, whether made in writing or at a meeting of Users or Non-Code Parties.

12.3.3 The Transporters shall send to the Authority copies of all representations, but the Transporters shall not be required to take account of representations received after the expiry of the period established in accordance with these Rules, or of any representations which in the Transporters' reasonable opinion are of no relevance to the subject matter to which they are intended to relate, or from persons who are not likely to be materially affected.

12.3.4 In submitting representations pursuant to any provision of these Rules, the person making such submission consents to the publication and circulation of such representations by the Transporters for the purposes of these Rules.

## **12.4 Variation of Modification Proposal**

12.4.1 In the case of a Modification Proposal adopted pursuant to paragraph 6.4, the:

- (a) Transporter(s) or User(s) adopting the proposal (where that proposal made is in respect of the Uniform Network Code); or
- (b) Relevant Transporter or Relevant Shipper adopting the proposal (where that proposal made is in respect of an Individual Network Code),

shall (as the case may be) as it considers appropriate modify that adopted Modification Proposal having regard to better facilitating the achievement of the Relevant Objectives and having had regard to any other matter (including, but without limitation, representations (if any) received (in accordance with these Rules) from each Transporter, Users, Non-Code Parties, Third Party Participants and otherwise and the report of the relevant Workstream or Development Work Group and discussions at meetings of the Modification Panel) as appropriate.

## **12.5 Time periods**

Notwithstanding any time periods specified in these Rules, in respect of any Modification Proposal, Third Party Modification Proposal or Review Proposal the Modification Panel may, from time to time, determine to shorten or lengthen the time period within which any (or all) of the Modification Procedures or Review Group procedures or any other procedures is (or are) to be undertaken. If the Modification Panel shall so determine, the Transporters 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 Transporters within such shorter or longer period of time so as to give effect to such determination.

## **12.6 Consequences of the Rules and Confidentiality**

12.6.1 These Rules shall not give rise to or impose any duty, obligations or rights (whether in contract, tort, trust or otherwise) pursuant to, in relation to, in respect of or in

connection with the Uniform Network Code or an Individual Network Code on any person that is treated as being, for the time being, a User and shall not give rise to any action or claim or liability (whether in contract, tort (including, but without limitation, negligence), for breach of trust or otherwise) against any such person pursuant to, in relation to, in respect of or in connection with the Uniform Network Code or an Individual Network Code.

- 12.6.2 These Rules shall not give rise to or impose any duty, obligation (other than pursuant to a Transporter's Licence) or right (whether in contract, tort, trust or otherwise) and consequently shall not give rise to any action or claim or liability pursuant to, in relation to, in respect of or in connection with these Rules.
- 12.6.3 Without prejudice to the generality of paragraph 12.6.2, no Member, individual in any Development Work Group or Review Group, or Relevant Subject Matter Expert shall be liable (in whatever capacity) and no employer of any such person shall be vicariously liable for any act or thing done or omitted to be done pursuant to, in relation to, in respect of or in connection with these Rules.
- 12.6.4 Without prejudice to the generality of paragraph 12.6.2, no act or thing done or omitted to be done by a Transporter, the Transporters or any User (or any employee, director or agent of a Transporter, the Transporters or any User) pursuant to, in relation to, in respect of or in connection with these Rules shall give rise to any action or claim or liability by any User or Non-Code Party against a Transporter, the Transporters (or any such employee, director or agent of a Transporter, the Transporters) or by any other User, Non-Code Party or a Transporter, the Transporters against such User (or any such employee, director or agent of such User).
- 12.6.5 Nothing in or arising as a consequence of these Rules is intended in any way to limit or negate the ability for the time being of any User or Transporter to seek to discuss any issue or matter with the Authority or to give rise to any consequence in respect of any contractual relationship (other than pursuant to a Modification) which may, from time to time, exist between any User and Transporter.
- 12.6.6 Nothing in these Rules shall oblige or impose any duty (whether expressly or impliedly) on any User or Transporter to provide or make available any information.
- 12.6.7 Any person who provides any information for the purposes of or pursuant to these Rules may require that such information may only be made available subject to such confidentiality undertakings as such person may require.

## **12.7 Disapplication of these Rules**

In respect of any Modification Proposal, Third Party Modification Proposal or Review Proposal, if the Transporters consider that it would be appropriate to disapply any of these Rules the Secretary shall notify each Member, each Transporter and each User, each Third Party Participant and each Non-Code Party (if any) and in that notice specify which paragraphs of these Rules the Transporters consider it would be appropriate to disapply and explaining why and invite each Transporter, Users, Third Party Participants and Non-Code Parties (if any) to make representations within ten (10) Business Days following the date of such invitation in respect of the proposed disapplication. The Transporters shall within the three (3) Business Days following the expiry of such ten (10) Business Days send to each Member and the Authority copies of all representations (if any) so received. The Modification Panel shall, subject to paragraph 5.3.1, at the next following meeting of the Modification Panel consider the representations (if any) received (in accordance with this paragraph 12.7) from Transporters, Users, Third Party Participants and Non-Code Parties (if

any), and the Modification Panel may determine that it is appropriate to disapply any of the paragraphs of these Rules specified in the relevant notice. If the Modification Panel shall so determine the paragraphs of these Rules specified in the relevant notice shall, if the Authority agrees, be disapplied.

## **12.8 View**

12.8.1 The Transporters may decide to seek a View from the Authority:

- (a) on any matter arising (under these Rules or otherwise) from a Modification Proposal at any stage prior to the date on which the Transporters finalise the Modification Report; and
- (b) in respect of the proposed funding arrangements for a User Pays Modification Proposal, at any stage prior to a determination under paragraph 7.2.3(a)(iii).

12.8.2 If the Transporters decide to seek a View pursuant to paragraph 12.8.1, the Secretary shall:

- (a) forward an application to the Authority setting out the Transporters' own views and reasons for seeking a View from the Authority;
- (b) if the Modification Panel shall so determine, suspend (in whole or in part) the consideration of the Modification Proposal by any Development Work Group; and
- (c) notify each Transporter, each User and each Non-Code Party (if any) of such decision to seek a View.

12.8.3 If, in respect of a View sought pursuant to this paragraph 12.8, the Authority expresses the View that the Modification Proposal should not proceed, the Modification Proposal shall lapse and the Transporters shall within the five (5) Business Days following receipt of the View prepare and circulate notification of such lapse.

12.8.4 If, in respect of a View sought pursuant to this paragraph 12.8, the Authority shall not express any View as to how the Modification Proposal should proceed or expresses the View that the Modification Proposal should proceed to the Development Phase, the Modification Proposal shall proceed to the Development Phase.

12.8.5 If the Authority expresses any other view, the Modification Proposal shall proceed in accordance with such view.

## **12.9 Terms of reference**

12.9.1 The Terms of Reference for each Development Work Group, Modification Proposal referred to a Workstream or Review Group shall:

- (a) detail the composition of the Development Work Group or Review Group in accordance with paragraph 8.1;
- (b) detail the Modification Proposal;
  - (i) detail the work to be undertaken by the Development Work Group, Workstream or Review Group to enable the Development Work Group, Workstream or Review Group to prepare its report; and
  - (ii) specify any matters, in addition to those referred to in paragraph 8.6.1, which the Development Work Group, Workstream or Review Group should address in its report;



- (c) detail other matters (if any) to be considered or reviewed by the Development Work Group, Workstream or Review Group;
- (d) state whether the Development Work Group, Workstream or Review Group should consult with any other person for the purposes of its report, and if so, detail the extent to which and identify which person (or persons) it should consult with, but this shall not require the Transporters to engage or remunerate any person so consulted;
- (e) set a timetable in accordance with which the work of the Development Work Group, Workstream or Review Group is to be done and its report prepared; and
- (f) specify when the Development Work Group, Workstream or Review Group is to comment upon the text of the Modification, provided to the Group pursuant to paragraph 9.6.

12.9.2 Unless the Modification Panel shall otherwise determine, the timetable referred to in paragraph 12.9.1(e) shall not exceed a period of six (6) months.

12.9.3 The Modification Panel may, from time to time, determine:

- (a) to change the Terms of Reference of:
  - (i) any Development Work Group;
  - (ii) Modification proposal referred to a Workstream; and
  - (iii) any Review Group;
- (b) if the Terms of Reference of the relevant Development Work Group or Review Group so anticipate, that the Development Work Group, or Review Group, should undertake new or further work or consider new matters (whether or not related to any earlier work undertaken by that Development Work Group, or Review Group); or
- (c) to change the Chairman's Guidelines.

