

Panel Action PAN02/06: The Code Administrator to ensure the Governance Workgroup review the appropriateness of counting members as absent who provide an alternate when considering Modification Rules - Ceasing to be a Member 4.4 b)
(i) the Member is absent.

4.4 Ceasing to be a Member

4.4.1 A Member shall, other than by way of retirement pursuant to paragraph 4.2.1, cease to be a Member where:

(a) the Member notifies the Secretary that he wishes to cease to be a Member;

(b) in the case of a Voting Member:

(i) the Member is absent from three (3) consecutive monthly meetings (convened in accordance with paragraph 5.2.1) of the Modification Panel;

(ii) the Member notifies the Panel Chairperson that he holds (or will hold) a Conflicting Appointment in accordance with paragraph 4.4.5;

(iii) the Panel Chairperson determines the Member holds (or will hold) a Conflicting Appointment in accordance with paragraph 4.4.6

and the Secretary shall notify the other Members and each such relevant persons as the Secretary determines, on receipt of a notice under paragraph (a) or on the occurrence of any of the circumstances referred to in paragraph (b).

4.5 Alternates

4.5.1 Each Voting member shall, and each other Member may, appoint an individual (including another Member other than the Panel Chairperson) to be the Member's alternate; provided that each Voting Member shall be required to appoint two (2) alternates.

4.5.2 The appointment (and revocation of the appointment) of an alternate shall be conditional upon and shall only be effective upon:

(a) in respect of an appointment receipt of notice by the Secretary (in such form as the Secretary may reasonably request):

(i) from the Member identifying the individual to be appointed as the alternate; and

(ii) from the alternate to confirm a willingness to act as the Member's alternate and (in the case of an alternate to a Voting Member) to confirm the alternate does not hold a Conflicting Appointment;

(b) in respect of a revocation of appointment receipt of notice by the Secretary (in such form as the Secretary may reasonably request):

(i) of the Member's notice of revocation of the alternate's appointment; or

(ii) *from the alternate's confirming he no longer wishes to act as an alternate.*

4.5.3 A Member who is, by reason of also being an alternate of a Voting Member, entitled to exercise more than one (1) vote shall not be required to exercise all the votes which that Member is entitled to exercise, or to exercise all of the votes which that Member is entitled to exercise in the same way.

4.5.4 In addition to notices sent to Members, each alternate for the time being shall be entitled to be sent notices.

4.5.5 An alternate may attend any meeting of the Modification Panel which is not also attended by the Member (in his capacity as a Member) who appointed him. If that alternate is the alternate of a Voting Member, he may also vote and generally at any such meeting shall have and shall be able to exercise and discharge any and all of the functions, powers and duties of the Member who shall have appointed that alternate; provided in the event both alternates of a Voting Member attend only the first to attend the meeting shall be able to vote, and the alternate second to attend shall have observer status only. Alternates of Voting Members may sign written resolutions pursuant to paragraph 5.9, provided that if an alternate of a Voting Member and the Voting Member who appointed him shall sign a written resolution the signature of the Voting Member shall be effective and the signature of the alternate shall be disregarded.

4.5.6 If a Member ceases, for whatever reason, to be a Member the appointment of any alternate of the Member shall lapse with immediate effect; provided that if any Member retires but is reappointed any appointment made by that Member pursuant to paragraph 4.5.1 which is, and continues to be, effective prior to the retirement of that Member shall continue to be effective after that Member's re-appointment.

4.5.7 Where an alternate to a Voting Member ceases to be an alternate in accordance with paragraph 4.4.5 or 4.4.6, notifies the Voting Member that he no longer wishes to be an alternate or has his appointment revoked, the Voting Member shall appoint a replacement alternate as soon as reasonably practicable.

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Governance Workgroup review of the appropriateness of counting members as absent who provide an alternate

Following the implementation of Modification 0656, members would be considered to cease as members if they failed to attend 3 consecutive meetings of Panel.

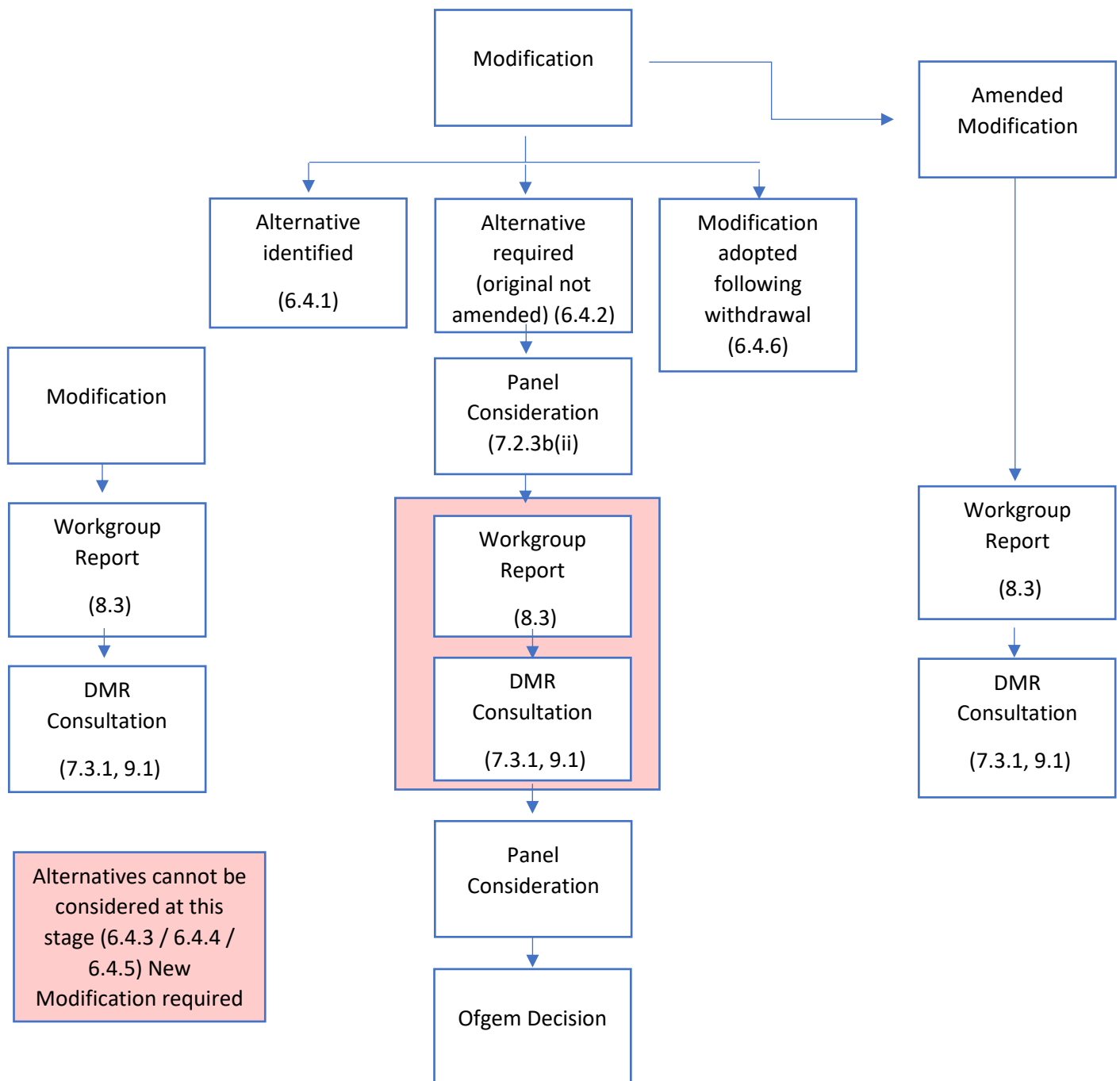
The Joint Office (JO) interpretation is this is 3 consecutive standard meetings and extraordinary meetings are excluded from the count for Member attendance.

A Panel member has challenged why an absence is counted when a Member nominates an alternate. JO advised this rule was included to counter the issues of the previous year where Members nominated alternates for extended periods of time when it was felt they should have resigned to allow for the nomination/election process for a new member.

It was agreed that the issue should be considered further by the Governance Workgroup and their views are as follows:

[To be developed]

Panel Action: PAN 01/08: The Governance Workgroup is requested to provide recommendations on the criteria to be adopted for considering alternative Modifications.



Note: this action includes the requested view on the interpretation of raising alternative Modifications as set out in the Modification Rules requested by Panel Members earlier in the Modification discussion.

6.4 Alternative Proposals

6.4.1 In respect of a Modification Proposal which the Modification Panel pursuant to paragraph 7.2.3 has determined should be referred to a Workgroup:

(a) where the Modification Proposal is made in respect of the Uniform Network Code, any person who is eligible to make an alternative Modification Proposal under paragraph 6.1.1;

(b) where the Modification Proposal is made in respect of an Individual Network Code, any person who is eligible to make an alternative Modification Proposal under paragraph 6.1.2;

being a person other than the Proposer, may, subject to paragraph 6.4.5, make an alternative Modification Proposal in accordance with paragraph 6.2 and the Workgroup shall only consider an alternative Modification Proposal made under this paragraph 6.4.1 if it is made no less than five (5) Business Days before the next meeting of the Workgroup. Where there are fewer than five (5) Business Days before such Workgroup meeting the alternative Modification Proposal will be included on the agenda for the following Workgroup meeting.

6.4.2 Where a Modification Proposal has been referred to a Workgroup and the Workgroup requests that the Modification Proposal should be amended but the Proposer of the Modification Proposal does not agree to amend the Modification Proposal, any person (other than the Proposer) who is eligible to make an alternative Modification Proposal under paragraph 6.4.1 may, in accordance with paragraph 6.2, make an alternative Modification Proposal under this paragraph 6.4.2 which shall include the amendment.

6.4.3 Where the Modification Panel has determined a Modification Proposal should be referred to a Workgroup and:

(a) the Workgroup Report in respect of such Modification Proposal has been sent to all Members in accordance with paragraph 8.4; or

(b) the Modification Panel has made a determination to refer the Workgroup Report in respect of such Modification Proposal back to the Workgroup for revision or further work under paragraph 8.5.1(b)(ii) and such Workgroup Report has been sent to all Members in accordance with paragraph 8.4 after such revision or further work;

an alternative Modification Proposal shall not be made in respect of Modification Proposal or be considered by the Workgroup under paragraph 6.4.1.

6.4.4 Where the Modification Panel has determined a Modification Proposal should be referred to a Workgroup under paragraph 7.2.3(b)(ii) and the Workgroup Report in respect of such Modification Proposal has been sent to the Modification Panel an

alternative Modification Proposal shall not be made in respect of such Modification Proposal or be considered by the Workgroup under paragraph 6.4.1.

6.4.5 An alternative Modification Proposal may not be made:

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

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

(c) by the Authority, unless such alternative Modification Proposal is either:

(i) one which the Authority reasonably considers is necessary to comply with or implement the Regulation and/or any relevant legally binding decisions of the European Commission and/or the Agency for the Cooperation of Energy Regulators; or

(ii) in respect of a Significant Code Review.

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

6.4.6 In respect of any 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 (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).

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Recommended criteria to be adopted for considering alternative Modifications.

[The following draft criteria has been developed based on comments extracted from the Panel minutes, as a means of aiding discussion by the workgroup]

- Proposed alternative has been raised promptly and is not proposing a significant development period

- Proposed alternative is addressing the same issue although the approach might be different
- Not a true alternative if both could be implemented without impacting the other
- Not an alternative if no pre-modification discussions have taken place
- Not an alternative if it would unduly delay the original Modification
- Not an alternative if the proposed alternative has a [much] different scope/features and proposed timeline