

## Possible changes to the Modification Rules for Significant Code Review Modifications – drafted June 2016

**NB** *This paper should be read in conjunction with the previous paper dated the 23<sup>rd</sup> May 2016. It puts forward a further version of the Modification Rules which now recognises that there is an additional type of Significant Code Review Modification Proposal that is both raised by the Authority and for which the review group, consultation process and modification report production etc. is managed directly by the Authority and not by the Code Administrator under the current modification rules.*

*Under this type of proposal (referenced in Licence Condition 12CB) the Authority will request that their recommendations (akin to a Final Modification Report) should be presented to the Panel who will then be required to make a recommendation on whether the proposal should be implemented together with the Panel's view on are such as how the proposal satisfies relevant objectives, potential implementation issues including costs and benefits etc.*

### Current relevant Modification Rules with suggested changes

**“European Modification Proposal”**: has the meaning set out in Clause 10.1.7;

**“Significant Code Review”**: means complex changes to the Industry Codes led by the Authority and as set out in Standard Licence Condition 9 12A to CE (inclusive) of the Gas Transporter's Licence;

**“Significant Code Review Modification Proposal”**: a Modification Proposal made pursuant to a direction of the Authority in accordance with 10.1.3(b) or 10.1.5 which is made further to a Significant Code Review;

**“Significant Code Review Authority Modification Proposal”**: a modification proposal made pursuant to a direction of the Authority in accordance with Standard Licence Condition 12CB and which is subject to Clause 32;

**“Significant Code Review Suspended Modification Proposal”**: unless Clause 13.3 applies a Modification Proposal in respect of which the application of the Modification Procedures is suspended pursuant to Clause 13.2 until the end of the Significant Code Review Phase;

**“Significant Code Review Phase”**: has the meaning given in Standard Licence Condition 9 (paragraphs 12A, 12CA, 12CD and 23) of the Gas Transporter's Licence;

10.1.3 A Modification Proposal in respect of the iGT UNC or an Individual Network Code may be initiated by the Authority in relation only **where**:

- a) **the Authority reasonably considers the** modifications ~~which it reasonably considers~~ are 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 Co-operation of Energy Regulators; **and/or**
- b) **the modification proposal is in respect of a Significant Code Review.**

10.1.5 The Authority may direct an iGT UNC Operator to make a Significant Code Review Modification Proposal in respect of the iGT UNC and/or the Individual Network Code and without

**Commented [S1]**: New Defined term introduced to recognise the very different treatment for Authority raised SCR mods (made under 12CB)

prejudice to Clause 15 or Clause 16, the iGT UNC Operator shall make a proposal in accordance with that direction and such a proposal shall proceed in accordance with the Modification Procedures, subject to Clause 31.

10.1.7 In accordance with Standard Condition 9.7(j) of the Gas Transporter's Licence, where a Modification Proposal has been made by the Authority under Clause 10.1.3(a) or where the Proposer of a Modification Proposal is an iGT UNC Operator or a Relevant iGT UNC Operator and the Authority reasonably considers the Modification Proposal 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, that Modification shall be classified as a European Modification Proposal and be subject to Clause 31.

10.1.9 In relation to a European Modification Proposal or a Significant Code Review Modification Proposal initiated under 10.1.3:

- (a) any actions and/or decisions taken by either the Code Administrator, the iGT UNC Operators, a Relevant iGT UNC Operator or the Modification Panel; and
- (b) any requirements relating to the contents of a Modification Proposal, Workgroup Report, Draft Modification Report or Final Modification Report; and
- (c) any notice periods for the holding of meetings; and
- (d) any requirements relating to the setting of an implementation date or the implementation of a Modification Proposal, shall be in full accordance with Clause 31 and will take precedence over any other relevant actions, decisions and/or requirements set out in these Modification Rules.

18.10 Where the Modification Proposal has been initiated under 10.1.3 the Proposal will proceed in accordance with the Modification Rules subject to any changes required by Clause 31.

23.3.3 Upon receipt of the Final Modification Report under Clause 23.3.1 or 23.3.2 the iGT UNC Modification Panel shall assess whether the Final Modification Report complies with Clause 25, and if it is compliant, shall:

- a) determine whether or not to recommend the implementation of the Modification Proposal to the Authority;
- b) submit to the Authority its determination under Clause 23.3.3(a) and the factors which (in its opinion), justify its determination and which shall include details of the iGT UNC Modification Panel's reasoning for determining whether or not the Modification Proposal better facilitates achievement of the Relevant Objectives or not;
- c) where the impact is likely to be material, the evaluation of the proposed modification in respect of the relevant objectives shall include an assessment of the quantifiable impact of the proposed modification on greenhouse gas emissions, to be conducted in accordance with any such guidance (on the treatment of carbon costs and evaluation of greenhouse gas emissions) as may be issued by the Authority from time to time;
- d) giving such further information as may be required to be given to the Authority by the network code modification procedures;
- e) subject to Clause 31, provide a date for the implementation of the Modification Proposal, either by endorsement of the Proposer's recommended implementation date, or pursuant to Clause 23.3.4; and
- f) instruct the Code Administrator to send the Final Modification Report, together with its recommendation to the Authority.

26.3 Pursuant to Clause 26.2 the iGT UNC Panel shall review the comments provided by the Authority and either:

- a) refer the matter to the appropriate Work Group for further development; or

- b) re-issue the Modification Proposal for further Consultation, highlighting the concerns raised by the Authority; **and/or**
- c) **subject to Clause 31.5**, subject to the agreement of iGT UNC Panel, amend the Final Modification Report to address the concerns raised by the Authority.

### **31 European Modification Proposal and Significant Code Review Modification Procedures**

31.1 Notwithstanding any time periods specified in these Modification Rules, in respect of a European Modification Proposal **or a Significant Code Review Modification Proposal**:

- (a) The Authority may, by direction to an iGT UNC Operator or a Relevant iGT UNC Operator, specify and/or amend the timetable to apply to all or any of the relevant Modification Rules (including, but without limitation, iGT UNC Modification Panel decisions, Code Administrator actions on behalf of the iGT UNC Operators, notice periods, preparation of legal text and seeking representations from each iGT UNC Operator, each Member, each Pipeline User, each Third Party Participant and each Affected Person (if any) and setting the implementation date of such European Modification Proposal **or Significant Code Review Modification Proposal**); and
- (b) Where such direction has been issued, the iGT UNC Modification Panel, the iGT UNC Operators and the relevant iGT UNC Operator will comply with the direction and ensure that any decisions and /or actions taken are in accordance with such timetable and/or implementation date.

31.2 Where the Authority makes a direction referred to in Clause 31.1(a) and such direction specifies:

- (a) A timetable in respect of all of the relevant procedures specified in these Modification Rules as applying to such European Modification Proposal **or a Significant Code Review Modification Proposal**, the European Modification Proposal **or a Significant Code Review Modification Proposal** shall progress in accordance with the timetable specified in such direction (and not the timetable set out in these Modification Rules);
- (b) A timetable in respect of some (but not all) of the relevant procedures specified in these Modification Rules as applying to such European Modification Proposal **or a Significant Code Review Modification Proposal** (and does not direct that the relevant procedures in respect of which no timetable is directed are not to apply to such European Modification Proposal **or a Significant Code Review Modification Proposal**), then such European Modification Proposal **or a Significant Code Review Modification Proposal** shall proceed on the basis of the timetable specified in the direction (in respect of the relevant procedures specified in the direction) and the timetable set out in these Modification Rules (in respect of all other relevant procedures specified in these Modification Rules as applying to such European Modification Proposal **or a Significant Code Review Modification Proposal**);
- (c) An implementation date in respect of such European Modification Proposal or Significant Code Review Modification Proposal but specifies no timetable to apply to such European Modification Proposal or **Significant Code Review Modification Proposal** in relation to these Modification Rules, then the iGT UNC Operator or the Relevant iGT UNC Operator to whom the direction is made by the Authority shall notify the Code Administrator of the timetable that the iGT UNC Operator or the Relevant iGT UNC Operator reasonably believes ought to apply to such European Modification Proposal or **Significant Code Review Modification Proposal** in order to achieve the directed implementation date, and such notified timetable shall apply for the purposes of these Modification Rules in relation to such European Modification Proposal **or Significant Code Review Modification Proposal**.

31.3 Until such time as the Authority makes a direction referred to in Clause 31.1(a) the European Modification Proposal **or Significant Code Review Modification Proposal** shall proceed in accordance with the Modification Procedures.

31.4 Where the Proposer of a European Modification Proposal **or a Significant Code Review Modification Proposal** is an iGT UNC Operator or a Relevant iGT UNC Operator then;

**Commented [S2]:** Change this paragraph to reference both European Mods and SCR mods made by the Authority under 10.1.3

- (a) the Proposer may not withdraw the Modification Proposal without the Authority's prior consent, and;
- (b) in relation to a Significant Code Review Modification Proposal the Authority may issue a direction (a "backstop direction"), which requires such proposal(s) and any alternatives to be withdrawn and which causes the significant code review phase to re-commence.

31.5 The iGT UNC Modification Panel will revise and re-submit a report provided in accordance with Paragraph 23.3.3 where the Authority determines that it cannot properly form an opinion on the approval of the modification proposal.

31.6 Where a European Modification Proposal or a Significant Code Review Modification Proposal is implemented, then:

- (a) Where the Modification was subject to a timetable directed by the Authority, the Code Administrator shall at the next meeting of the iGT UNC Modification Panel report to the iGT UNC Modification Panel in respect of that Modification; and
- (b) The iGT UNC Modification Panel may determine at that meeting that the subject matter of the Modification so made shall be referred to a Work Group. If the iGT UNC Modification Panel shall so determine, the Code Administrator shall refer such proposal to the relevant Work Group together with the Terms of Reference to be applicable.

### **32 Consideration of Significant Code Review Authority Modification Proposals by the iGT UNC Operators and the Panel**

32.1 Where the Authority submits a Significant Code Review Authority Modification Proposal to the iGT UNC Modification Panel, the Code Administrator will add the Modification Proposal as an Agenda item for the iGT UNC Modification Panel to discuss at its next scheduled meeting. Subsequent to such discussion the Code Administrator will prepare a report to the Authority which will include the following:

- a) a recommendation by the panel as to whether the proposed Significant Code Review Authority Modification Proposal should or should not be made, and the factors which (in the opinion of the Panel) justify the making or not making of the proposed modification, which shall include:
- b) a detailed explanation of whether and, if so how, the proposed modification would better facilitate the achievement of the relevant objectives;
- c) where the impact is likely to be material, an assessment of the quantifiable impact of the proposed modification on greenhouse gas emissions, to be conducted in accordance with any such guidance (on the treatment of carbon costs and evaluation of greenhouse gas emissions) as may be issued by the Authority from time to time; and
- d) Where such information is available, the views of the Panel on:
- i. industry impacts and costs associated with the implementation of the Significant Code Review Authority Modification Proposal;
  - ii. anticipated impacts of the Significant Code Review Authority Modification Proposal specifically on consumers; and
  - iii. the anticipated impact of the Significant Code Review Authority Modification Proposal on all parties (such as Transporters, Shippers, central systems, customers) in terms of the costs and benefits of a range of implementation options where appropriate.

32.2 Where so directed by the Authority the iGT UNC Operators will implement, subject to Clause 27.2 and Clause 32.4, the Significant Code Review Authority Modification Proposal.

**Commented [S3]:** Paragraph added to introduce requirements in relation to SCR mods raised subject to licence paragraph 12CB

32.3 Where the Authority determines that it cannot properly form an opinion on the approval of the Significant Code Review Authority Modification Proposal it may request the iGT UNC Operators to revise and re-submit the report as set out in Clause 32.1.

32.4 Where the Authority makes a direction the iGT UNC Operators and (where applicable) the Panel shall comply the timetable specified in such direction in respect of each or any of the procedural steps outlined in Clauses 32.1, 32.2 and 32.3. Such a direction will replace any timetable set out in these Modification Rules.

32.5 The Authority's published conclusions and any Significant Code Review Authority Modification Proposal shall not fetter the voting rights of the members of the panel or the recommendation procedures informing the recommendation of the iGT UNC Panel set out in Clause 32.1(a).