

Stage 01: Modification Proposal

iGT089:

Revision to the Modification Rules in Response to CGR3 – Self Governance

This Proposal seeks to introduce the changes required to the iGT UNC in order to comply with the CGR3 final proposals for Self Governance modifications that were issued by the Authority on the 31st March 2016.



The Proposer recommends that this modification should Be sent to the CGR3 Review Group for a final review prior to being issued for Consultation



High Impact:



Medium Impact:



Low Impact:
All iGT UNC Parties

At what stage is this document in the process?

01

Modification Proposal

02

Workgroup Report

03

Draft Modification Report

04

Final Modification Report



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About this document:

This modification has been raised following discussions in the RG002 Code Governance Review CGR3 Review Group.

The panel will consider the proposer's recommendation, and agree whether this modification should be subject to self-governance; and whether it should be issued for consultation or be referred back to the Review Group for final assessment.



Any questions?

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1. Plain English Summary

Is this a Self-Governance Modification?

It is the proposer's view that Self-Governance applies to this modification as it whilst it is making changes to the Igt UNC Modification Rules, the changes are not considered to be material in terms of the application of the current Self-Governance process which already exists in the Rules.

If so, will this be progressed as a Fast Track Modification?

Fast-Track does not apply as this modification as it is introducing a change in emphasis in the way the current Rules are applied and as such does not qualify as a housekeeping modification.

Rationale for Change

This Proposal seeks to introduce the changes required to the iGT UNC in order to comply with the CGR3 final proposals for Self Governance modifications that were issued on the 31st March 2016.

Solution

The current modification rules contain a number of processes that are related to the management of Self-Governance modifications. The CGR3 review has decided that the general rule for all industry Codes is that the default for any modification proposal to a Code should now be Self-Governance.

This Modification seeks to introduce changes as required to make sure that this change of emphasis is recorded in the Modification Rules – i.e. a Modification Proposal should be considered to be a Self-Governance Modification Proposal (or a Fast Track Self-Governance Modification Proposal where relevant) unless the Panel decides that it does not meet the criteria, in which case it will be managed as an Authority decided modification (subject to overrule by the Authority as presently exists). Alongside this change there may need to be changes to the industry Code templates which are being considered by the Code Administrators Code of Practice group.

Relevant Objectives

There should be a Positive impact on Relevant Objective F).

Implementation

The Modification Proposal can be implemented as soon as possible after its implementation has been approved.

2. Rationale for Change

The following is an extract from the Code Governance Review (Phase 3): Final Proposals published by Ofgem on the 31st March 2016:

“Our Final Proposals on the self-governance process require industry to assess whether a modification requires Authority consent, i.e. why it is material, rather than why it is not material, which is the current situation. We also expect code administrators to work together to produce guidance that can be applied across codes to help proposers assess whether their change should follow a self-governance path.”

In order to comply with these proposals the current Modification Rules as set out in the iGT UNC could be enhanced to reflect this change in emphasis.

3. Solution

A review of the current iGT UNC Modification Rules has highlighted a number of areas where changes could be made to address the change in emphasis required by the CGR3 review final proposals.

The first (Clause 10.2.1) is in relation to the content of the Modification Proposal where the Proposer states whether the proposal should be a self-governance modification and the proposer's reasons for that view. This should be changed to require the proposer to state whether the modification should not be self-governance together with the reasons for this view.

A similar change in emphasis should be made in Clause 23.1.1(c) where parties are asked to comment in their Consultation Responses on whether they agree with the classification that has been provisionally been given to the proposal.

A third area is in Clause 25.1(c) (Content of Modification Reports). Currently the report (either Draft or Final) is required to comment in respect of a Self-Governance proposal whether this status was set by the Panel or by the Authority. This should change to detail that where the proposal requires an Authority decision, whether it was the Panel or the Authority which made this judgement together with the reasons behind this judgement.

These changes have been discussed in the RG002 workgroup at its meetings on the 5th July and the 2nd August 2016.

4. Relevant Objectives

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

The Proposer (and Review Group) considers that this Modification would facilitate:

Objective F): The changes should ensure that the Self-Governance process is used as widely as possible where it is relevant. This process is generally more efficient in that it eliminates the need for a delay in potential implementation whilst a Final Modification Report is sent to the Authority for its decision on whether the proposal should be implemented. The safeguard will remain that where a party believes that the modification incorrectly followed the self-governance route, it can still appeal against the decision of the Panel.

5. Impacts and Costs

The Proposer does not believe that there will be any direct costs associated with the implementation of this modification.

6. Likely Impact on Consumers

The Proposer does not believe that there will be any direct impact on consumers associated with the implementation of this modification.

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7. Likely Impact on Environment

The Proposer does not believe that there will be any direct impact on the environment associated with the implementation of this modification.

8. Implementation

The Proposers view is that implementation should be in the first scheduled release following a decision to implement.

9. Legal Text

10.2 Content of Modification Proposal

10.2.1 Each Modification Proposal made pursuant to Clause 10.1.1, Clause 10.1.2 or Clause 10.1.3 shall set out the information and be in the form specified on the iGT UNC Website and:

(a) shall state the Proposer's view as to whether it should not be a Self-Governance Modification Proposal and the Proposer's reasons for such a view;

23 Consultation Procedures

23.1.1 If the iGT UNC Modification Panel determines pursuant to Clause 18.7(a) that a Modification Proposal should proceed to Consultation:

(a) the iGT UNC Modification Panel shall be deemed to have requested that the iGT UNC Operators provide legal text unless the iGT UNC Modification Panel determines that legal text is not required for the purposes of the Draft Modification Report or Final Modification Report (which may be the case where Suggested Text has been provided by the Proposer and is sufficient in the view of the iGT UNC Modification Panel); and

(b) the iGT UNC Modification Panel shall inform the Code Administrator if it determines that the time periods set out in Clauses 19.2 and 19.3 for Consultation should, in its opinion, be deviated from in relation to the relevant Modification Proposal.

(c) where the Modification Proposal is not a Self-Governance Modification Proposal, the Code Administrator may invite each iGT UNC Operator, each User, Affected Person (if any) to make representations in respect of whether such Modification Proposal should not be a Self-Governance Modification Proposal.

25 Content of Modification Reports

25.1 Each Draft Modification Report or Final Modification Report shall set out the information, and be in the form, specified on the iGT UNC Website and:

(a) shall in relation to a recommendation of the iGT UNC Modification Panel under Clause 23.3.3(b), 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; and

(b) state whether or not a determination has been made by the iGT UNC Modification Panel under Clause 23.3.3(a) and 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;

~~(c) where it relates to a Self-Governance Modification Proposal, state that fact and whether the iGT UNC Modification Panel or the Authority determined that such proposal satisfied the Self-Governance Criteria;~~

~~(c) where it [the modification report] relates to a Modification Proposal that is neither a Self-Governance Modification Proposal nor a Fast Track Self-Governance Modification Proposal, state that fact together with the reasons why the proposal failed to satisfy both the Self-Governance Criteria and Fast Track Self-Governance Criteria and whether such failure was determined by the iGT UNC Modification Panel or the Authority; and~~

(d) state whether the Modification Proposal is made pursuant to a direction of the Authority in respect of a Significant Code Review.

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10. Recommendation

The Proposer invites the Panel to:

- Determine that this modification should be subject to self-governance;
- Determine that this modification should be sent back to the CG3 Review Group for a final review prior to it being sent out to Consultation.