

Possible Modification Rules Changes for Self-Governance Modifications

Code Administrator's paper for discussion at the RG002 Group 5th July 2016

1. Summary

This paper highlights ideas of areas where parties may wish to suggest changes to the Modification Rules, as per the iGT UNC,¹ in order to better satisfy the Authority view that Self-Governance should be the default status for Modifications – i.e. Self-Governance unless there is a positive decision that a Modification should not be Self-Governance.

2. Modification Rules as per the iGT UNC

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;

18 Discussion of Modification Proposals

18.7 Subject to Clause 18.3 and Clause 18.9, the iGT UNC Modification Panel may, without prejudice to Clause 18.5, determine that a Modification Proposal:

(a) should proceed to Consultation in accordance with Clause 23.1 or

(b) should proceed to Development for Work Group Assessment in accordance with Clause 19 (and the iGT UNC 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 Work Group to submit its Work Group Report); or

(c) should be deferred to a subsequent meeting of the iGT UNC Modification Panel for further discussion; or

(d) be subject to Review, in which case the provisions of Clause 22 shall apply; or

(e) satisfies the Self-Governance Criteria, in which case the provisions of Clause 18.7(a) shall apply; or

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.

¹ Please see: <http://www.igt-unc.co.uk/ewcommon/tools/download.ashx?docId=2072>

Commented [S1]: Once the Panel agrees that a mod is Self-Governance then the Mod should be sent to consultation. Hence we defer making this decision until the workgroup has reviewed the proposal (unless the mod is so straightforward that it can immediately be sent to consultation. No change needed.

(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 relates to a Modification Proposal that the Panel has determined is neither a Self-Governance Modification Proposal nor a Fast-Track Modification Proposal, state that fact and whether the iGT UNC Modification Panel or the Authority determined that such proposal failed to satisfy both the Self-Governance Criteria and the Fast Track Self-Governance Criteria; and

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

Commented [S2]: Is it worth reflecting the changed emphasis by using this wording instead of the current wording?

Potential change to the Mod Rules to allow the Panel to determine the implementation date for a Self-Governance Modification Proposal.

- **This is to recognise that currently 23.3.3 (the area where implementation dates are agreed by the Panel) does not apply to Self-Governance Mods**

23.3 Final Modification Report Consultation

23.3.8 The iGT UNC Modification Panel shall upon receipt of the Final Modification Report under Clause 23.3.1 or 23.3.2 in respect of a Self-Governance Modification Proposal:

(a) assess whether the Final Modification Report complies with Clause 25.3, and if compliant, shall make a determination as to whether or not the Self-Governance Modification Proposal should be implemented (having regard to whether or not the Self-Governance Modification Proposal better facilitates the achievement of the Relevant Objectives) no earlier than the Proposed Self-Governance Modification Proposal Determination Date;

(b) subject to Clause 31, where the Panel has made a determination that the Self-Governance Modification Proposal should be implemented, provide a date for the implementation of the Modification Proposal, either by endorsement of the Proposer's recommended implementation date, or pursuant to Clause 23.3.8 (c) ;

(c) if the iGT UNC Modification Panel does not determine by unanimous vote to agree the Proposer's recommended implementation date pursuant to Clause 23.3.8 (b), it will unanimously agree a date, beginning with the earliest practical date (if not that recommended by the Proposer) and ending with a date 5 releases from Authority direction to implement. If no agreement can be reached the implementation date shall be 6 releases from Authority direction to implement, unless unanimous agreement can be achieved on a date further in the future;

(d) instruct the Code Administrator to include such determination and the iGT UNC Modification Panel's reasoning for such determination in the Final Modification Report; and

(e) instruct the Code Administrator to circulate an implementation notice or a non-implementation notice (as the case may be) in respect of such proposal to each iGT UNC Operator, each Pipeline User, each Member, each Third Party Participant, each Affected Person (if any) and the Authority within three (3) Business Days of the Self-Governance Modification Proposal Determination Date.

Potential change to the Mod Rules to allow to clarify the existing wording re Implementation of a Mod Proposal

27 Modification Proposal Implementation

27.1 The iGT UNC Operators shall in respect of the iGT UNC and the Relevant iGT UNC Operator shall in respect of an Individual Network Code, where so directed to implement by the Authority, or in the case of a Self-Governance Modification Proposal or Fast Track Self-Governance Modification Proposal, by the iGT UNC Modification Panel, implement subject to Clause 27.2 a Modification Proposal (or Alternative Modification Proposal), and will within 5 Business Days after receipt of a decision from the Authority such direction notify all Pipeline Users of such decision including where there is a direction to implement, details of the implementation date and a copy of the changes to be made.

Commented [S3]: Not a change because of the Self-Governance changes per se but an area where the current wording could be improved.

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12D. The network code modification procedures shall provide that modification proposals shall only be implemented without the Authority's approval pursuant to this paragraph 12D (the "self-governance route") where:

- a.
 - (i) in the view of the panel, the modification proposal meets all of the self-governance criteria and the panel has submitted to the Authority in respect of the modification proposal and not withdrawn a self-governance statement; or
 - (ii) if a self-governance statement has not been made, or has been withdrawn, the Authority has determined that the self-governance criteria are satisfied and the modification proposal is suitable for the self-governance route; and
- b. unless otherwise exempted by the Authority, the panel has sent copies of all consultation responses to the Authority at least seven (7) days before the Panel before the panel intends to make its determination under paragraph 12D(d);

3. Reminder of the self-governance criteria

"self-governance criteria" means that a proposal, if implemented,

- a) is unlikely to have a material effect on:
 - i. existing or future gas consumers;
 - ii. competition in the shipping, transportation or supply of gas conveyed through pipes or any commercial activities connected with the shipping, transportation or supply of gas conveyed through pipes;
 - iii. the operation of one or more pipe-line system(s);
 - iv. matters relating to sustainable development, safety or security of supply, or the management of market or network emergencies; and
 - v. the network code modification procedures; and
- b) is unlikely to discriminate between different classes of parties to the uniform network code / relevant gas transporters or gas shippers.