

## **Issues in relation to the format of the UNC Modification Rules**

### **Introduction**

1. This paper outlines a number of areas where NGT considers that the existing Network Code Governance provisions could be improved within the UNC, and this paper begins by examining existing Network Code Governance issues.
2. As a general principle NGT's proposition is that the current Transco Network Code modification rules would be used as the basis for the UNC modification rules and amended to introduce the concept of a number of GTs operating under the UNC Framework.

### **Existing Network Code Governance Issues**

3. In light of the this proposed approach NGT considers that the high level areas for attention include:
  - The existing Transco "veto."
  - The existing role of the Network Code Panel
  - The ability of the Panel and Transporters to view Reports in draft
  - The ability of the Panel and Transporters to make formal recommendations

### **NGT Panel Veto**

4. NGT believes that it is no longer appropriate for Transco or UNC GTs to have a veto at Panel. In fact Transco does not currently have a Panel veto. However, the existing qualified majority voting provisions are complicated, and have given rise to this misconception. Such a "veto" is unique to the Network Code, and does not exist in the CUSC or any other Code. We therefore propose that the UNC arrangements should avoid any such ambiguity and should be clear that Transco or the UNC GTs do not have anything that could be construed as a veto, over the development of UNC modification proposals.

### **Increased role for the UNC Panel - GT and Panel Recommendations**

5. There are a number of ways in which we think that UNC Governance should allow for an enhanced Panel role over and above that which is currently offered by Network Code Governance. This is partly to ensure that UNC Governance is in line with best regulatory practice. However, this is also partly because the new Sustainable Energy Act requirement on the Authority to conduct Regulatory Impact Assessments in some circumstances, and the likely introduction of an Appeals mechanism against Authority UNC Modification decisions, also necessitate some changes to the UNC Governance model.
6. All those who are entitled to respond to a UNC modification report clearly have the opportunity to influence the Consultation by making a formal response to it. All comments raised should be recorded within the UNC modification report. However, there is still a question as to who makes *formal* recommendations to the Authority within the modification report, as to whether a modification should be accepted or rejected. Under the current

modification process only Transco provides a formal recommendation, as its GT Licence requires it to give an opinion as to whether or not it believes a Network Code modification should be implemented.

7. However, the introduction of the new Appeals mechanism will mean that a Panel recommendation is also needed. (This is because in circumstances where the Panel has made a unanimous recommendation, and the Authority has accepted this recommendation, an Appeal will not be possible.) In NGTs view, an initial Panel view should be attached to the draft modification report, with a final view included in the final modification report.
8. We believe that all UNC GTs should have the ability to make recommendations as we assume it will still be relevant and appropriate in the context of their licence requirements.

#### **The Ability of the Panel and Transporters to see reports in draft**

9. We believe that greater scope than is currently the case could be afforded to the UNC Panel and transporters to view modification reports in draft, to ensure that their comments have been accurately reflected. Such an approach is currently adopted in the CUSC, where by parties get to see the draft Amendment report for comment, immediately prior to the Report being sent to the Authority.