

UNC Response File (Mod Rules)						Business Owner	
Index No.	Document	Section	Section #	Para	Response/Issue	NGT response	Proposed changes to Mod Rules
SSE161	Mod Rules	1.2			should be 'does' rather than 'do'.	Accepted	Reflected in revised drafting
UU120	Mod Rules	1.2			"does" should read "do"	Accepted	Reflected in revised drafting
SSE165	Mod Rules	2.1			Urgent Modification Proposal - remove square brackets around '9'.	Accepted	Reflected in revised drafting
SGD010	Mod Rules	2.1			"Condition" – the difference between a Transporter's Licence and the Transporter's Licence is not obvious. It is assumed that the former is about the licence held by each transporter and the latter the licence shared by all? Or drafting needs changing.	Clause has been deleted.	Reflected in revised drafting
SSE162	Mod Rules	2.1			Condition delete words 'the licence conditions of ' at end of the first line.	Accepted	Reflected in revised drafting
SSE163	Mod Rules	2.1			Non Code Party - add an 'a' after the second 'Modification Proposal'.	Accepted	Reflected in revised drafting
SSE164	Mod Rules	2.1			Subject Matter Expert - add 'of a given Modification Proposal' at the end.	SMEs are not added to the SME register on the basis of a modification proposal, and hence this suggested change is not considered necessary. The provision with respect to a specific Modification Proposal is covered through the definition of Relevant SME.	No change
EON010	Mod Rules	2.1			Definition of Independent Suppliers' Representative, Independent Transporters' representative and Terminal Operators' Representative – neither should be affiliated to a User who already has a representative on the Panel OR remove this provision from Suppliers' Representative Definition of 'Terms of Appointment' – should specifically refer to SME Code of Conduct for ease of reference	While we accept the suggestion regarding representatives, it is not clear what point is being made regarding SMEs - the Code of Conduct and Terms of Reference are distinct.	Reflected in revised drafting
NPow013	Mod Rules	2.1			'Voting Member' - 'and' on very end of sentence makes it sound like something is missing - is this right?	Nothing is missing. The "and" simply indicates that the following definition is the final one.	No change
STA016	Mod Rules	3.2			The panel still decides by majority and therefore collectively the transporters now have more relative power on the panel that under the current mod rules	At the moment, any Panel Majority requires a Transco vote. The proposed approach does not, therefore, give any additional power to the Transporters.	No change
SGD012	Mod Rules	3.2			We object to these proposed changes. We note that the Transporters' Representatives are representatives of all transporters. As such, one GT could represent all transporters and the drafting does not (and should not) suggest that each transporter will have its own representative on the Panel. The fact that there are now 5 GTs as Network Code parties no more leads to the conclusion that there needs to be 5 transporter representatives than the fact that there are 50plus shippers leads any one to conclude that there should be an increase in the number of shipper representatives. We object to the decrease in the number of shipper representatives: 9 allows for sufficient breadth of different interests to be covered by the shippers. This proposed change undermines our rights to contract.	The aim is to produce a balanced Panel capable of representing the parties on either side of the contract, but with a manageable number of members in the interests of efficiency. Hence equality of voting rights has been proposed, with five votes for Transporters and five for Users. If Users generally would prefer their votes to be exercised by more than five representatives, this could happily be accommodated.	No change
STA017	Mod Rules	6.4			It is not clear why paragraph 12.4 only applies to a user proposal. STUK request clarification from Transco on this.	Accepted - if proposals are adopted, they should be capable of being varied whether adopted by a Transporter or User.	Reflected in revised drafting

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G019	Mod Rules	6.4			This paragraph reflects the new requirements in Standard Special Condition A11 of the GT licence. However alternative proposals have in the past been found generally unnecessary and overly complex as it is as easy to raise another proposal. However, assuming they are to be permitted the Rules are inadequate upon how they should be treated, e.g. are they to have separate Draft/Final Modification Reports, etc.	The rules have worked satisfactorily to date, although we recognise that a review in the future could be appropriate. We believe the Rules are clear in that a single Modification Report would be produced, with alternates proceeding through the consultation phase alongside each other.	No change	
G024	Mod Rules	7.5			(and elsewhere) The default for Proposals which the Panel fails to progress is to go into a Workstream. This is fine for the first occurrence but an alternative default is required. Modification Proposal 731 suggested that Consultation should be the second stage default.	This would be a change to the rules and not part of the network sales process. If 0731 is implemented, we would expect the change to be incorporated in the UNC.	No change	
G028	Mod Rules	9.5			Amongst other things this section introduces a requirement that the Modification Panel should make a recommendation to Ofgem concerning implementation of the proposal. Such a requirement cannot be said to stem from the sale of Distribution Network businesses and there is no rationale for it at this juncture. Its introduction would bring about a fundamental change in the role of the Panel that is unnecessary in the present context and has not been sufficiently consulted upon. As has been pointed out elsewhere by NGT, shippers (Users) do not share GTs licence obligations regarding the Network Code. It is possible that User Members would not vote for implementation of a proposal which Transporters believed better facilitated their licence relevant objectives thereby frustrating such a recommendation going forward. This is clearly inappropriate and the requirement in its present form can and should be removed from the present drafting. It is open for it to be re-introduced and properly considered as a modification proposal, if required, at another time.	Retaining a Transco recommendation is inappropriate and, after debate at DISG, NGT concluded and continue to believe that it is appropriate, and consistent with the relevant objectives, to allow for a wider recommendation, encompassing the Panel's view rather than just Transporters'.	No change	
SGD014	Mod Rules	10			If there is to be a Panel recommendation, then new wording in this section needs to be introduced to allow for Panel recommendation for urgent modifications except under very limited circumstances (security of supply emergencies). Otherwise, the urgency procedure will result in inconsistent outcomes.	We understand and accept that obtaining a Panel Recommendation is desirable, and would expect to seek to do this. But we also have to allow for the "emergency" situation where the timing for implementation of an Urgent Modification proposal means this may not be possible.	No change	
EON018	Mod Rules	10			There is no specific requirement for urgent modifications to be subject to a Panel recommendation. 10.1.2 (b) is too broadly drafted and could allow the Authority to allow modifications proposal to be considered without a Panel recommendation, This could preclude parties ability to appeal in accordance with such rights under the Energy Act.	We understand and accept that obtaining a Panel Recommendation is desirable, and would expect to seek to do this. But we also have to allow for the "emergency" situation where the timing for implementation of an Urgent Modification proposal means this may not be possible.	No change.	
G032	Mod Rules	10.1			Requires "the Transporters" to appoint a SME in respect of a Modification Proposal that "a Transporter considers..... should be treated as Urgent" but it would appear that User raised Urgent proposals do not have a SME appointed (and certainly not at the same point in the process)!	The intention is that all Urgent Modification Proposals get an SME appointed, and this is by the Transporters since that is where the obligation sits. If time permits, we would wish to adopt the standard process whereby the Panel proposes which SME should be appointed.	Reflected in revised drafting	

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EON019	Mod Rules	12.4			According to provisions set out in 6.4, any party except the proposer can raise an alternative to a proposal or adopt a withdrawn proposal and vary it, therefore, rendering this Section 12.4 superfluous.	While we agree that a general review of the alternative modification provisions could be worthwhile and may conclude that the provision should be removed, this is a feature of the existing rules and hence has been retained with respect to the specific case of adopted proposals.	No change
NPow014	Mod Rules	12.4			Transporters allowed to vary our mod proposals? We challenge why Transporters should have this right.	This condition does not allow Transporters to vary all User Proposals but only those that the Transporter has adopted. This adoption process only occurs when the Transporter adopts a Proposal which the User has withdrawn, and hence it is rightly thought of as the Transporter's proposal and hence should be capable of being varied by the Transporter.	No change
EON006	Mod Rules	1.1(b)			The procedures should not allow a Third Party Participant to make a modification of the Code –this should be qualified by a reference to Section 6.1.1 (b).	As in the present Network Code, 1.1 reflects the Licence conditions while the remainder of the rules establish the permitted actions.	No change.
SSE160	Mod Rules	1.1(c) and (e)			remove square brackets.	Accepted, provided the Licence is modified as anticipated.	Reflected in revised drafting
EON008	Mod Rules	1.1(d)			A third Party Participant should only be able to raise an alternative proposal to a Third Party Modification Proposal – this should be clarified in this section	As in the present Network Code, 1.1 reflects the Licence conditions while the remainder of the rules establish the permitted actions.	No change.
G015	Mod Rules	1.1(d) and (e)			Appear to allow a Third Party Participant to raise an alternative proposal to any existing proposal, without limitation. This is clarified in 6.4.1(a) but it would be helpful to address 1.1. (d) & (e) to avoid confusion.	As in the present Network Code, 1.1 reflects the Licence conditions while the remainder of the rules establish the permitted actions.	No change
TOT007	Mod Rules	1.1(e)			We do not see why Third Party Participants are being excluded from this paragraph with respect to an Individual Network Code (also affects 6.1.2)	As in the present Network Code, 1.1 reflects the Licence conditions while the remainder of the rules establish the permitted actions.	No change
NPow015	Mod Rules	1.1(f)			Should this include 3rd party participant as implied in c & e	The description in this section is consistent with the existing Network Code provisions, being a restatement of the Licence provisions.	No Change.

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EON009	Mod Rules	1.1(i)			The Authority should not be able to circumvent the Panel recommendation if this were to undermine parties rights to appeal Authority code modification decisions (see commends below).	We have proposed a review of the Modification Rules such that any such interactions can be taken into account as and when the details of an appeals process are clear. A requirement to initiate this review has been incorporated in the UNC drafting.	No change.
EON007	Mod Rules	1.2(c)			In accordance with the definition within this Section of a Third Party Modification Proposal, reference here to their ability to raise a modification to an Individual Code should be removed.	We have proposed a review of the Modification Rules such that any such interactions can be taken into account as and when the details of an appeals process are clear. A requirement to initiate this review has been incorporated in the UNC drafting.	No change.
SSE170	Mod Rules	10.1.1			should it be 'Transporters' in the first line?	Accepted.	Reflected in revised drafting
NPow016	Mod Rules	10.1.2(c) and 10.2.2			This requires clarification - it is our understanding that the SME submits a report to the Joint Office not direct to the Authority	Accepted	Reflected in revised drafting
UU127	Mod Rules	12.1.1			"GT Section B" should read "GT Section B11"	The correct reference is GT Section B5.2	Reflected in revised drafting
NPow017	Mod Rules	12.1.1			What is GT Section B? This should be more specific	Accepted	Reflected in revised drafting
G033	Mod Rules	12.4.1			Allows Transporters to vary a User proposal that has been adopted in accordance with paragraph 6.4. However, paragraph 6.4 also allows Users to adopt withdrawn proposals (regardless of the original proposer) but 12.4.1 appears to deny Users the opportunity to vary such adoptive proposals. There is no logical reason for this imbalance in treatment. NGT has argued in the past that as only GTs have licence obligations regarding the Relevant Objectives it would be inappropriate to allow such variation. This argument is inconsistent with paragraph 9.5.	Accepted	Reflected in revised drafting
SSE171	Mod Rules	12.6.1			This must include the 'relevant Transporter' (and therefore by definition DNO Users)	Transporters are already covered in Paragraph 12.6.2.	No change
G034	Mod Rules	12.7.1			As the modification rules are now part of the UNC disapplication of a "rule" is disapplication of part of the UNC. This is not a satisfactory state of affairs and in any event it seems improbable that the Authority would be able to agree to any application to disapply	While we may agree that this could be regarded as unsatisfactory, this is a reflection of the provisions in the existing Network Code. A review of the Modification Rules may be useful with a view to modifying provisions such as this, but that is outside the scope of change being considered as part of the network sales process.	No change.
NPow018	Mod Rules	12.8.1			Again talks about Transporters finalising reports? Should include: "[relevant SME] to help finalise report"	The obligation to produce the modification reports remains with the Transporters and hence this drafting is correct.	No change

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G016	Mod Rules	2.1 and 5.5.1			A "Panel Majority" is a simple majority of votes exercisable at a quorate meeting. Para 5.5.1 defines a quorum as 2 x GTs, plus 2 x Users capable of exercising 6 votes between them. In practice then a valid Panel Majority could mean 4 GT (or User) votes in favour. It would be preferable to avoid such extreme (if unlikely) possibilities, one solution would be to require at least one User and one GT vote within the 6 in favour. Such an additional requirement could fall away where there are equal numbers of votes exercisable.	The quorum has been set at a level to ensure that there is some balance in any Panel Majority determinations. Adding additional hurdles to the simple majority rule can have some benefits if Voting Members fail to attend, but also disadvantages, for example that deliberate non-attendance could be used as a tactic, or lack of members present could add unnecessary delay to the process.	No change
TOT009	Mod Rules	3.2.1			Panel Composition: We have some reservations about the proposed 5/5 split between Transporter and Shipper representatives, particularly as to why Transporters are allowed an effective 1 to 1 representation whilst Shippers have to reduce the representation they have enjoyed to date. However, taking into account the proposed voting change to Panel Majority we believe it could be workable for reaching determinations on the types of activities that the Panel has historically performed. We do not support the 5/5 split for Panel recommendations should these be introduced (see later). Whilst the transporter representatives can be considered to be fully accountable to the transporters we fail to see how 5 shipper members can (or even should) consider themselves to be capable of representing the shipping community when it comes to commenting on the suitability of modification proposals that could have significant commercial impact on that community.	The aim is to produce a balanced Panel capable of representing the parties on either side of the contract. Hence equality of voting rights has been proposed, with five votes for Transporters and five for Users. If Users generally would prefer their votes to be exercised by more than five representatives, this could happily be accommodated. However, there does not seem to be a consensus opposed to the concept of five User representatives.	No change.
NPow019	Mod Rules	3.2.1			No mention of Deputy and no mention how Deputy is appointed	While the Deputy Chairman is not directly addressed here, the definitions allow for the Chairman to be read as Deputy Chairman such that further references to the deputy are unnecessary. The Deputy Chairman is appointed by the Transporters.	No change.
NPow020	Mod Rules	3.2.1			Wording needs to clarify as per Joint Office Agreement that each Transporter will have a representative	We do not believe it is appropriate for the Modification Rules to specify how Transporter or user representatives are appointed. With respect to the Transporter Panel Members, provisions for how members are to be appointed are rightly contained in the JGAA.	No change
MGN042	Mod Rules	3.2.1 and 3.2.2 and 3.2.3			In relation to the draft Code of Conduct as provided by NGT to DISG 37, we wish to record our concerns over the restrictions contained in Section 3. We believe that it is unnecessary and disproportionate to the perceived risks of discrimination that the SME should be restricted in his ability to work on an issue as detailed in 3.2.3. We are of the view that the responsibilities and obligations required under 3.2.1 and 3.2.2 are sufficient to ensure that the SME does not discriminate against other Users in carrying out the duties for which he is employed. We believe that the restrictions contained in 3.2.3 may in fact be detrimental to the development of the Codes insofar as it may lead to the nomination of less competent SMEs by the nominating parties.	This will be considered in light of other response to the proposed SME Code of Conduct. NGT would welcome views on the appropriate restrictions which should be placed on SMEs	No change

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G017	Mod Rules	5.1.3			This is new and limits the Panel to determinations as set out in the Rules. This limitation doesn't this carry over to the Network Code Committee (General Terms Section B para 10.1.2). On the face of it this appears to permit the NCC greater latitude than the Panel.	Refelcts currebt drafting: Not a change driven by DN Sales.	No change.
G018	Mod Rules	5.5.3			For clarity this para should read ".....at which a quorum is and remains present....."	Accepted	Reflected in revised drafting
TOT010	Mod Rules	5.6.1			It is nor clear how the deputy chairman is appointed	The appointment of a deputy panel chairman is by the Transporters, and is covered in the JGAA.	No change.
TOT008	Mod Rules	6.1.2			See TOT007	The appointment of a deputy panel chairman is by the Transporters, and is covered in the JGAA.	No change.
TOT011	Mod Rules	6.1.2			It is not clear why Third Party Participants have been excluded from this list	The appointment of a deputy panel chairman is by the Transporters, and is covered in the JGAA.	No change.
UU121	Mod Rules	6.1.3(b)			"6.2.1(f)" should read 6.2.1(e)	Accepted.	Reflected in revised drafting
NPow021	Mod Rules	6.2.1(f)			Check Condition A11 par 15(b) - we question whether this is the correct reference	Accepted	Reflected in revised drafting
NPow022	Mod Rules	6.2.2			Reference to Annex V1? Should this reference 'Code' Annex V1?	Accepted	Reflected in revised drafting
G020	Mod Rules	6.4.1			It is impractical to permit an alternative to an Urgent Modification since the community isn't aware of the existence of an Urgent Modification proposal until it has been issued for consultation, i.e. following Ofgem's agreement that it is Urgent. Ordinarily a period of 10 days is allowed for consultation, 6.4.1 allows up to 5 days from the issue of the Urgent proposal for an alternative to be raised. There are three problems; 1. This para effectively fetters Ofgem's discretion concerning urgent status as the alternative goes straight to consultation. 2. By implication the alternative must be subject to the same timetable as the original which means there may be less than 5 days to respond to the alternative. 3. There are no effective checks on the quality or purpose of such an alternative as it bypasses scrutiny by Ofgem and by the Panel. However, if Urgent alternatives are to be permitted the first sentence should read "In respect of any Modification Proposal which is an Urgent Modification Proposal or Third Party Modification	A review of the alternate provisions may be useful in due course. However, we believe the present position is workable, bearing in mind that the rules for urgency allow any of the rules to be disregarded.	No change.
TOT012	Mod Rules	6.4.1(b)			If Third Party Participants are included in 6.1.2 then the text of 6.4.1 (a) should replace that in 6.4.1 (b) substituting references to 6.1.1 with 6.1.2	Accepted	Reflected in revised drafting
TOT013	Mod Rules	6.4.2			The text in 6.4.1 (a) and (b) should be replicated in 6.4.2 (a) and (b)	Accepted	Reflected in revised drafting
G021	Mod Rules	6.5.1(b)			What is the purpose of including ".....subject to paragraph 6.4....."? What is the purpose of the reference to paragraph 12.4 which only applies to a withdrawn User proposal adopted by a GT(s)?	This is to reflect the existing conditions.	No change.
STA018	Mod Rules	7.2.3			It is not clear whether these changes are necessarily the most appropriate changes to reflect the multi transporter environment	The changes primarily reflect the change to all determinations being by Panel Majority. If a superior alternative exists, we would be interested to see a proposal in due course.	No change
STA019	Mod Rules	7.2.4 & 7.2.5			Under these conditions, Shipper users will have less control over decisions than under the current mod rules	We believe there to be no reduction in Users' influence, since all decisions presently require a Transco vote in order for a majority to be achieved.	No change

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G022	Mod Rules	7.3.1(a)			Why and how does the Panel “propose” a SME? Shouldn’t it “determine”? What would happen if the Panel was unable to agree on a SME? What would happen if there were no relevant SMEs (or none at all) on the Register? See also para 9.10 (only applicable if the SME has failed in its duties) which has the GTs picking up responsibility so shouldn’t references to SME say “or Transporters, as the case may be,”?	The Panel is required to propose a SME, but then determine they are suitable, such that the usual Panel Majority process is followed. The Transporters have an obligation to provide SMEs, and hence at least nine should always be on the SME Register. There is no need for the Transporters to be referenced throughout the rules as the default is already covered by the single clause.	No change
TOT019	Mod Rules	7.3.1(a)			TGP are unconvinced of the need for SME’s. To date the arrangements have generally worked well and Transco have always seemed to manage to provide sufficiently qualified resource to prepare modification reports. We believe this resource should continue to be provided by the Transporters and can be agreed through the Joint Governance Arrangements Agreement; we would leave it to their judgement to determine whether the full rigour of the SME Code of conduct is relevant. We do not therefore support the need for 7.3.1(a) with respect to the Panel proposing a Subject Matter Expert. Further we do not support the need for the Panel to determine the competence or otherwise of an SME as described in 9.1.4 (a).	We believe the SME role provides an important element of wider community involvement and independence of the process, reflecting DISG discussions where it was generally considered that Transporters should play a reduced role. We would be happy to consider the scope of the SME Code of Conduct with Users.	No change.
G023	Mod Rules	7.3.1(b)			Why and how does the Panel “request” a Transporter to procure legal resources? Shouldn’t it determine that the Transporters should request.... What would happen if the Transporter failed to procure legal resources? How does this fit with 9.8 (see below)?	Accepted	Reflected in revised drafting
SSE166	Mod Rules	7.7.1(b)			the formatting does not work.	The formatting is consistent with legal drafting and interpretation rules.	No change.
UU122	Mod Rules	8.6.1(b)(i)(1)			Is Systems a defined term? If so where is it defined? (also appears in 9.6.1(c))	Systems is defined in the TPD.	No change.
TOT014	Mod Rules	8.6.2			Should this read ‘If two (2) or more Modification Proposals’ bearing in mind the potential for numerous proposals as a result of the introduction of alternatives in 6.4?	Accepted	Reflected in revised drafting
SGD011	Mod Rules	9 - SME model			We do not support the introduction of such the complex, unnecessary arrangements on Subject Matter Experts. This not required for the DN Sale.	The Panel is required to propose a SME, but then determine they are suitable, such that the usual Panel Majority process is followed. The Transporters have an obligation to provide SMEs, and hence at least nine should always be on the SME Register. There is no need for the Transporters to be referenced throughout the rules as the default is already covered by the single clause.	No change
G025	Mod Rules	9.1.1			Replace “an” with “a”.	Accepted.	Reflected in revised drafting
TOT020	Mod Rules	9.1.4(a)			See TOT019	See TOT019.	No change.

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EON011	Mod Rules	9.1.4(b)(i)			The SME Code of Conduct is a new concept. We do not see the need for such a concept. Having seen the draft terms of such a document it would seem to place unnecessary restrictions on SMEs. Parties other than Transco do not have the resources to completely separate the work of an SME from the individual representation work. These proposals go far beyond what is needed. We have always advocated creating robust modification rules and a 'balanced panel' to provide checks and balances within the modification processes. It is these elements that ensure fairness within the regime, not formal codes of practice. If Transco still consider the SME Code of Conduct is important it should at least be specified as an integral part of the UNC modification procedures, or at least approved from time to time by the Panel. It is not appropriate to hive-off these procedures into a non code transporter only document where shippers are unable to propose changes.	The application of a Code of Conduct is an important element of establishing increased independence in the process, but we would happily allow the Panel to approve changes to the SME Code of Conduct.	Reflected in revised drafting.
NPow023	Mod Rules	9.1.4(b)(i) and (ii)			References SME Code of Conduct and Terms of Appointment - Can these registers be written in Consultation with Shippers.	A draft SME Code of Conduct has been issued to all Users, requesting their input, and in light of consultation responses we propose that the Code of Conduct should be subject to Panel approval. The SME Register will record the available SMEs, each of whom will have to be approved by the Panel before they are added to the Register.	No change
EON012	Mod Rules	9.1.4(b)(ii)			Similarly the Terms of Appointment of SMEs should be approved by the Panel.	Accepted.	Reflected in revised drafting.
UU123	Mod Rules	9.1.4(c)			"subject matter expert" should have initial upper case.	Accepted.	Reflected in revised drafting.
TOT015	Mod Rules	9.2.1			We do not understand the reference to "under this paragraph 9" in this paragraph	Accepted.	Reflected in revised drafting
SSE167	Mod Rules	9.2.1			- the 1 business day timescale is very tight - an appointment of an SME may coincide with that SME being on leave etc.	We agree and the JO processes will need to reflect this. But it would be inappropriate to extend the Modification process timescales any further.	No change.
G026	Mod Rules	9.4.1			This paragraph is very vague, it begs several questions; how is an impact on UK Link to be identified, by whom, and perhaps most importantly by when in the process?	This deliberately leaves some latitude to allow for the variety of circumstances which can arise.	No change
SSE168	Mod Rules	9.4.1 and 8.6			The provision of a report by the Agency for UK Link impacts. Is this specifically mentioned in the ASA. It may come under the general provisions relating to the provision of reports and information under Schedule 6, but it is not detailed.	The provision of information in support of UK-link change is covered by a service line in ASA Schedule 2 Part 3 Number 3 & further supported by the Schedule 6 reporting requirements and the IS Services Manager role as set out in Schedule 9 - 1.4	No change

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G027	Mod Rules	9.4.2			If the initial impact assessment report is not incorporated into the draft Modification Report then it will have limited visibility and consequently be of limited value. Perhaps this paragraph cannot bind the Agency but it could place a time limit upon the Transporters that would be "backed off" via the Agency Agreement. As a non-binding initial impact assessment and not a detailed systems specification is required the time allowed for its production could be the first 10 of the 15 working days set out in paragraph 9.3.1 for the preparation of the draft Modification Report which timescale is supported by paragraph 2.2.1 of Schedule 10 of the Agency Agreement.	The obligation was deliberately written to be flexible since if no assessment was called for before this time, the amount that can be provided will be limited. As above, the specific circumstances will vary and some flexibility is desirable. However, the proposer is always likely to be looking for implementation and it will be in their interests to ensure systems issues are covered off, with the Modification Rules provision only being the fall back approach if nothing else has happened. It is the minimum obligation, not the maximum requirement.	No change
G029	Mod Rules	9.5.1			It is assumed that the intention here is that the SME should submit the final Modification Report to the Secretary 15 working days after the close out for representations. However, the as drafted the obligation is merely that "...the Transporters shall procure that the SME shall prepare...." within 15 days. This is ambiguous and should be re-worded.	It is inappropriate for the UNC to seek to put direct obligations on the SME, hence the wording, with the GT keeping the obligation.	No change
TOT016	Mod Rules	9.5.1(c)			The introduction of this could add considerable delay (up to 1 month) to the delivery of the Final Modification Report to Ofgem. What is the justification for this delay?	The delay caused by enabling the Panel to discuss each Final Report is a function of how often the Panel meets. In light of this, NGT would suggest that fortnightly Panel meetings might be arranged, and would welcome views on this.	No change.
SGD013	Mod Rules	9.5.2			We object to the proposed changes, notably paragraph (b) (i). The Panel has not before the DN Sale made a recommendation to the Authority and we see no purpose related to the sale in introducing a recommendation at this time. If Transco considers that a recommendation would provide value it has had a significant amount of time to raise a modification proposal to this effect and, furthermore, could do so after the implementation of the UNC. It appears that this change is being introduced for a separate purpose and not to improve the governance of the Code itself. Similar comments apply to 9.6.1 (g) which should also be removed from the next version of the proposed UNC.	We believe that allowing the Panel to make a recommendation is the best way forward in a multi-transporter environment rather than expanding this role from Transco to just the Transporters.	No change
G030	Mod Rules	9.5.2(a)			Members may make a response regarding the adequacy of treatment of representations "...with regard to the Relevant Objectives;"; this seems odd and restrictive. The treatment of representations is independent of the relevant objectives.	This reflects current N.C. text from a recently implemented Modification Proposal.	No change

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TOT017	Mod Rules	9.5.2(b)			TGP remain strongly opposed to the introduction of a Modification Panel recommendation at this time. We have previously documented our views to both Transco and Ofgem (Letter to Mr Chris Train, NGT copied to Sonia Brown, Ofgem dated 25 February 2005). In summary the motivation throughout the DN sale process has been to make the minimum change possible in order to facilitate the distribution network sale. We are not aware of any statutory/licence requirement for a Panel recommendation and therefore see no reason for the sale to require such. Further we believe its inclusion, at this time, can only reduce the efficiency of the governance process. The governance regime has worked reasonably well without this to date. Whilst a number of recent modification proposals have been raised to improve the governance process, none of these have suggested the need for a Panel recommendation. A group of shippers and transporters recently confirmed in writing to Ofgem that they did not require Panel recommendation for the purposes of the sale. There has been no reference to a Panel recommendation in any of the Authority's decision documents and there has been no specific request for views on this in any of the DN sale consultations. Previous papers and discussions have introduced the concept of a Panel recommendation but all of	We believe that allowing the Panel to make a recommendation is the best way forward in a multi-transporter environment rather than expanding this role from Transco to just the Transporters.	No change	
NPow024	Mod Rules	9.5.2(b)(ii)			Recommendations to Authority This needs to be clarified so that the description states "Where no panel majority exists recommendation to the Authority will be not to change"	Accepted	Reflected in revised drafting	
EON013	Mod Rules	9.5.2(ii)			E.ON UK does not support the Panel Recommendations in the UNC. Other routes to fulfil the Transporters' licence	We believe that allowing the Panel to make a recommendation is the best way forward in a multi-transporter environment rather than expanding this role from Transco to just the Transporters.	No change.	
EON014	Mod Rules	9.5.2(iii)			obligation A 11.15 (a) (iv) could be through a transporters' representative making a recommendation at the meeting of the	Agreed	No change	
EON015	Mod Rules	9.5.3(b)			Modification Panel, or though transporters' recommendations, made in their separate representations to	Agreed	No change	
EON017	Mod Rules	9.6.1(b)			This paragraph ought to be removed and superseded by 9.6.2. where the Transporters' would make a statement as to whether the proposal facilitates the relevant objectives (to be applied to any proposal rather than situations only where 2 proposals proceed together). It is inconsistent and confusing to have both a Panel view and a Transporter view on whether the proposal facilitates the relevant objectives; surely a Panel view of 5 transporters and 5 Users ought to adequately reflect the view of Transporters. Removing Panel recommendations and including a Transporter view / recommendation in the Modification Report would resolve the issue of inconsistency and facilitate the Transporters' licence obligation.	The proposed drafting approach, i.e. including 9.6.1 and 9.6.2, results from adopting the existing provisions. We accept that a further review of the Modification Rules could lead to some rationalisation, but that should not form part of the process associated with network sales. However, we agree that it would be better to have a Panel consideration rather than Transporters as to which of multiple proposals is most likely to facilitate achievement of the relevant objectives.	Reflected in revised drafting.	
SSE169	Mod Rules	9.6.1(e)			this must include the 'relevant Transporter' (and therefore by definition DN Users).	The present definitions already achieve this.	No change.	
NPow025	Mod Rules	9.6.1(o)			Reference to Code Standard of Service - this document should be available for review	These are the existing Standards of Service which, other than being applied on a network by network basis, are not directly impacted by Network Sales.	No change.	
EON016	Mod Rules	9.6.1(q)			proposals. The obligation does NOT necessitate a Panel recommendation.. Further references to Panel recommendations (listed left) should be removed.	We believe that allowing the Panel to make a recommendation is the best way forward in a multi-transporter environment rather than expanding this role from Transco to just the Transporters.	No change	

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TOT018	Mod Rules	9.6.1(q)			As we do not support a Panel recommendation neither do we support this paragraph. Further it would not be possible to record the number of votes against as the Panel would be requested to make a determination as to whether a modification should be implemented. Thus only those panel members voting for implementation could be recorded.	We agree that votes against should not be recorded as votes against are not formally cast.	Reflected in revised drafting.
UU124	Mod Rules	9.6.2			the words in brackets at the end do not seem to belong to anything in the text.	This is existing text.	No change
UU125	Mod Rules	9.6.4(b)			Insert "will" before "not"	We believe the existing drafting is correct and we have not sought to amend as part of the network sales process.	No change
UU126	Mod Rules	9.7.5			Cross reference should be to 9.7.4	Accepted.	Reflected in revised drafting
G031	Mod Rules	9.8.1			Subject to paragraph 7.3.1(b), paragraph 9.8 requires "The Transporters....." to prepare legal text only after the Panel has decided to recommend implementation. Paragraph 7.3.1(b) requires that "...one of the Transporters..." procures legal drafting "...for the draft and final Modification Reports..." in respect of each proposal that is sent to consultation by the Modification Panel. Paragraph 9.6.1(a)(ii) says that the draft Modification will set out "the text, if provided pursuant to paragraph 9.8;". Clearly these paragraphs are contradictory and do not work! The general rule should be for text to be provided in the draft Modification Report for the purposes of consultation.	Accepted.	Reflected in revised drafting.
STA014	Mod Rules	alternative mods			Alternative proposals are complicated and unnecessary. Alternates were only needed when shippers could not alter their modifications. Should not be included in the UNC.	We accept that a review of the alternate provisions may be justified but do not believe this should be part of the process associated with network sales.	No change.
EON005	Mod Rules	general comment			General points E.ON UK believe that the need for a Panel recommendation is driven by the ultimate form of the DTI modifications appeals process (decision unlikely before hive-down) and is therefore not an essential for day 1 gas DN sales. Changes to the UNC (including the introduction of Panel recommendations) can be proposed when the exact form of the modifications appeals process is known. However, if Transco continue to insist on Panel recommendations as part of the day 1 UNC, they should remove any reference to Transporter recommendations. One either has a Panel recommendation or a Transporter recommendation NOT BOTH. There can only be one recommendation made to the Authority. We do not understand why if Transco believes in the importance of Panel recommendations and the requirement for a balanced Panel (5 transporters and five shippers) they cannot rely solely on the Panel recommendation. If transporters want to make their views known they should rely on their individual representations on modification proposals being considered by the Authority in the normal way. This does not require a	We have proposed a review of the Modification Rules such that any such interactions can be taken into account as and when the details of an appeals process are clear. A requirement to initiate this review has been incorporated in the UNC drafting.	No change.
EDF016	Mod Rules	general comment			We are concerned with Ofgem's and Transco's proposals for a 5 GT and 5 User panel and believe that User's powers have been significantly undermined relative to current network code arrangements. We believe that the constitution of the panel is not an issue for discussion under the DN sale as it is not a priority for the Sale to go through. Many shippers and DNOs have stated their preference for fewer GTs on the panel and believe that Ofgem and Transco should listen to the industry, the majority of which believe that 2 GTs is sufficient. A panel recommendation is not warranted at this stage and should be removed until the outcome of the DTI appeal's process is known. Once the rules for referring a modification decision to the Competition Commission is known then a modification can then be raised to introduce appropriately considered panel recommendations. We do not believe the panel chair should be the one to provide the casting vote in the event of a deadlock 5 vs 5 vote situation as this vote is likely to be a GT. We believe an independent party should be elected onto the panel as an 11th member to cast the deciding vote.	The provisions are clear that determinations are made by a Panel Majority. There is, therefore, no such thing as a deadlock - either a determination is made, or is not. With ten voting members present, the same outcome would be achieved whether five or no members voted in favour of a proposal. No casting vote is therefore required.	No change

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CE003	Mod Rules	general comment			Although much progress has been made in revising the Modification Rules since their inclusion within Network Code, the translation of these rules into the UNC has required a number of uncertainties to be resolved. The current status of the rules is more clear but it is still to be determined what constitutes a "Panel Majority" in reaching a recommendation. We share the view expressed by a number of other Users that this issue will require resolution prior to the adoption of any appeals process, but until the nature of this process has been determined this will remain unresolved.	We believe the concept of a Panel Majority is clear - unless more than half present vote in favour, the vote fails. However, we also agree that this needs revisiting when the appeals process is clearer, which is why we have included a requirement for a review at this time. However, we have redrafted for the avoidance of doubt.	Reflected in revised drafting.
G014	Mod Rules	Mod proposal 0745			Gemserv is concerned that this proposal was proposed for, and granted, Urgent status under circumstances where it could and should have followed the normal procedures. NGT put forward as it's reasons for requesting Urgency that the proposal was linked to an imminent date related event, namely the divestment of some of its DN businesses, which requires a complex chain of steps to be completed. Secondly, NGT advanced the argument that failure to complete these steps in sequence could result in significant commercial impact upon itself and its prospective buyers with consequent loss of benefits to customers. Whilst not seeking to challenge either of these statements Gemserv believes that they are an economical representation of reality. The overall timing of the DN sales process has been largely under NGTs control and the need for (and largely the shape of) this proposal must have been understood months prior to 22nd February when it was actually raised. It is significant that NGT has not argued that it was unaware of the need for, or unable to raise, this proposal at an earlier date. Naturally the timing of the implementation of this proposal is critical but it could and should have been raised earlier. Gemserv now believes it incumbent upon Ofgem to issue clarification on the meaning of an "imminent date".	The request for urgency status was based on ensuring the timing of the NWC consultation in parallel to Ofgem's UNC and Licence consultations, to ensure that the industry has the fullest picture of the commercial and regulatory framework in considering its representations to the Authority in respect of all these consultations. This would allow the Authority to consider all such representations when making its decisions on whether to direct the NWC modification and licence changes to support network sales.	No change.
STA020	Mod Rules	panel composition			STUK are concerned over the fundamental changes being proposed for governance of the UNC. The notable concern is in regards to the panel composition. STUK consider that the 5 transporter votes and the 5 shipper votes could work but the key issue is when there is no panel determination and this is likely to happen over contentious issues. It is not clear on whether the DTI appeals decision has been made yet and STUK believe that any form of appeals process will need to be worked into the document at a later date.	We agree that the provisions will need to be reconsidered when the appeals process is clearer.	No change.
STA015	Mod Rules	panel role			There are no deadlock provisions for when the panel is split in its decision, thus the likely outcome is a failure in making a determination	The provisions are clear that determinations are made by a Panel Majority. There is, therefore, no such thing as a deadlock - either a determination is made, or is not. With ten voting members present, the same outcome would be achieved whether five or no members voted in favour of a proposal.	No change