

NI NETWORK GAS TRANSMISSION CODE MODIFICATION RULES

Version:1.0
Effective from 29th September 2017

TABLE OF CONTENTS

1. Introduction	1
2. Modification Proposal	1
3. Initial Modification Report	2
4. Preliminary Determination	3
5. Consultation Period	4
6. Consultation Meeting	4
7. Development Process	4
8. Final Modification Report	4
9. Determination and Implementation of Modification	5
10. Alternative Procedure for substantial review of part of the NI Network Gas Transmission Code ..	6
11. Extensions	7
12. Changes to the Modification Rules	7
13. Notices	8
THE APPENDIX.....	10

1. Introduction

- 1.1 In order to provide gas transmission services to Shippers on the NI Network, four Individual Transporters act together pursuant to the terms of a CJV Agreement to perform the role of the Transporter in the NI Network Gas Transmission Code and these Modification Rules.
- 1.2 The Transporter is required, pursuant to the terms of each Individual Transporter's Licence (together the "**Licences**"), to establish and implement procedures for the modification of the NI Network Gas Transmission Code so as to, inter alia, better facilitate the achievement of the Relevant Objective.
- 1.3 The Transporter is required to prepare a document setting out the procedures for the modification of the NI Network Gas Transmission Code. This document comprises the modification rules for the purposes of the Licences (these "**Modification Rules**"). It also contains rules for changing these Modification Rules.
- 1.4 Any modification to the NI Network Gas Transmission Code shall be made in accordance with these Modification Rules.
- 1.5 These Modification Rules do not constitute part of the NI Network Gas Transmission Code.
- 1.6 The definitions and rules of interpretation in the Appendix hereto shall apply to these Modification Rules.
- 1.7 Nothing in these Modification Rules shall prevent an Individual Transporter from making its own representations in relation to a Proposed Modification.

2. Modification Proposal

- 2.1 The Authority, the Transporter, and any Shipper may propose a modification to the NI Network Gas Transmission Code (a "**Proposed Modification**").
- 2.2 A Proposed Modification may be either:
 - (a) proposed by the Authority or a Shipper in which case it must be submitted to the Transporter for preparation and publication; or
 - (b) be proposed and prepared by the Transporter;(as the case may be).
- 2.3 A Proposed Modification shall include the following:
 - (a) a description of the nature and purpose of the modification;
 - (b) an indication of how the Proposed Modification would better facilitate the relevant objective as compared with the existing provisions of the NI Network Gas Transmission Code that relate to that modification;
 - (c) a list of all the sections and parts of the NI Network Gas Transmission Code that would require

amending or, in the case of a Proposed Modification proposed by the Transporter, a comparison of any text proposed for the NI Network Gas Transmission Code with the existing relevant text;

(d) the date proposed for the implementation of the Proposed Modification and any end date.

2.4 In preparing a Proposed Modification, the Transporter shall have regard to the impact that such modification might have on the operation of the NI Network and the impact that such Proposed Modification might have on any Adjacent Transporter and on any relevant agreements in respect of the NI Network including, but not limited to, the Interconnection Agreement, the Tripartite Agreement, the CJV Agreement and SOA.

2.5 In preparing a Proposed Modification, where in the sole opinion of the Transporter such modification may have a potential impact for Distribution Network Operators, the Transporter shall have regard to this and notify the Distribution Network Operators accordingly but, for the avoidance of doubt, the Transporter shall not, at any stage in the preparation or development of a Proposed Modification, be responsible for the assessment of any impacts of that Proposed Modification under the Distribution Network Operator's distribution codes.

2.6 The Transporter shall give each Proposed Modification a unique reference number.

2.7 The Transporter may, from time to time, determine, in its reasonable judgement, the form that a Proposed Modification should take.

2.8 The Transporter shall;

(a) forward any Proposed Modification to the Shippers;

(b) make any Proposed Modification otherwise available to persons who request it in an appropriate manner where it is necessary for establishing whether the proposal would better facilitate the achievement of the relevant objective;

(collectively the “**Consultees**”) it being acknowledged that (b) and (c) above shall be achieved by publishing the Proposed Modification on the Transporter's website.

2.9 The Transporter shall forward the Proposed Modification to the Consultees and the Authority within 5 business days of receipt of a Proposed Modification, or in the case of a Proposed Modification proposed by the Transporter as soon as possible after preparing the same.

2.10 Any person who has submitted a Proposed Modification may at any time, up to the submission of a Final Modification Report to the Authority, request the Transporter to withdraw its Proposed Modification from the process described in these Modification Rules. The Transporter shall withdraw the Proposed Modification unless, in the opinion of the Transporter, implementation of the Proposed Modification would better facilitate the achievement of the relevant objective in which case the Transporter shall become the proposer of the Proposed Modification.

3. Initial Modification Report

3.1 The Transporter shall, after receiving or preparing a Proposed Modification, prepare an “**Initial Modification Report**” containing:

- (a) the Proposed Modification;
 - (b) where the Transporter has not made the proposal:
 - (i) and it believes that an alternative proposal would better achieve the relevant objective, that alternative;
 - (ii) the Transporter's opinion of the Proposed Modification;
 - (iii) any text which the Transporter may wish to propose as an alternative to that contained in the Proposed Modification;
 - (c) without prejudice to sections 8.3(d) and (g), the Transporter's estimate of an implementation date if the Proposed Modification were to be approved by the Authority pursuant to section 9.
- 3.2 In preparing an Initial Modification Report, the Transporter shall have regard to the impact that such modification might have on the operation of the networks of the Individual Transporters and the impact that such Proposed Modification might have on any Adjacent Transporter and on any relevant agreements in respect of the NI Network including, but not limited to, the Interconnection Agreement, the Tripartite Agreement, the CJV Agreement and SOA.
- 3.3 The Transporter shall, subject to section 4.1 (a), issue an Initial Modification Report to the Consultees within 25 business days of receiving a Proposed Modification.

4. Preliminary Determination

- 4.1 The Transporter or any Consultee may, before an Initial Modification Report is issued, seek the preliminary view of the Authority in relation to any matter arising in respect of any Proposed Modification, in accordance with this section 4, (a **“Preliminary Determination”**) including as to whether:
- (a) the matter is sufficiently urgent to justify adopting a procedure which may result in the implementation of a Proposed Modification earlier than if the procedure set out in these Modification Rules was followed;
 - (b) the Proposed Modification should be considered in an Alternative Procedure in accordance with section 10;
 - (c) any Alternative Procedure issued by the Transporter in accordance with section 10.6 should be adopted;
 - (d) the Proposed Modification should be rejected without further consultation;
 - (e) a meeting of Consultees shall be held in accordance with section 6.
- 4.2 The Transporter shall notify the Consultees and any Consultee shall notify the Transporter that it has sought a Preliminary Determination setting out the matter on which the Authority's view is being sought and its reasons for doing so.

- 4.3 The Transporter and each Consultee shall be bound by the Authority's Preliminary Determination in relation to any Proposed Modification.

5. Consultation Period

- 5.1 Each Consultee shall have 20 business days within which it may respond to an Initial Modification Report (the "**Consultation Period**").

6. Consultation Meeting

- 6.1 The Transporter may elect to facilitate a meeting of Consultees to discuss a Proposed Modification where it considers it appropriate.
- 6.2 Any Consultee may request the Transporter to facilitate a meeting of Consultees to discuss a Proposed Modification where it considers it appropriate. If the Transporter does not consider a meeting to be appropriate such Consultee may request a Preliminary Determination, in accordance with section 4.1(e), in relation to whether a meeting shall be held.

7. Development Process

- 7.1 Where, following the Consultation Period, amendments should, in the opinion of the Transporter, be made to the Proposed Modification which will not change the aim stated in the Proposed Modification, such changes may be incorporated into the proposed wording contained in the Final Modification Report. The Transporter or any Consultee may propose any such amendments.
- 7.2 Where, following the Consultation Period, amendments should, in the opinion of the Transporter, be made to the Proposed Modification which will change the aim stated in the Proposed Modification, an alternative Proposed Modification will be issued for consultation containing such amendments (an "**Alternative Proposed Modification**"). Such Alternative Proposed Modification will be issued to the Consultees within 10 business days of the end of the Consultation Period for the first Proposed Modification. The Consultees will have 10 business days to respond to such Alternative Proposed Modification.
- 7.3 In preparing any Alternative Proposed Modification, the Transporter shall have regard to the impact that such Alternative Proposed Modification might have on the operation of the networks of the Individual Transporters and the impact that such Alternative Proposed Modification might have on any Adjacent Transporter and on any relevant agreements in respect of the NI Network including, but not limited to, the Interconnection Agreement, the Tripartite Agreement, the CJV Agreement and SOA.

8. Final Modification Report

- 8.1 Subject to section 7.2 the Transporter will compile and submit a final modification report (a "**Final Modification Report**") to the Authority within 20 business days after the end of the Consultation Period.

- 8.2 If an Alternative Proposed Modification is prepared the Transporter will compile and submit a Final Modification Report to the Authority in respect of the original Proposed Modification and the Alternative Proposed Modification, within 15 business days after the end of the Consultation Period for the Alternative Proposed Modification.
- 8.3 The Final Modification Report or (in the case of an Alternative Proposed Modification both Final Modification Reports) will contain:
- (a) any proposed text amending the NI Network Gas Transmission Code;
 - (b) an indication of how the modification would better facilitate the relevant objective as compared with the existing provisions of the NI Network Gas Transmission Code that relate to the modification;
 - (c) the particulars of any representations or objections made (and not withdrawn) by any Consultee and other person who is likely to be materially affected and an explanation of how those representations or objections have been addressed;
 - (d) the Transporter's recommendation of whether the Proposed Modification should or should not be made;
 - (e) the factors which, in the Transporter's opinion, justify making or not making a Proposed Modification (as appropriate);
 - (f) details of any amendment made in accordance with section 7.1 together with an explanation of why, in the opinion of the Transporter, the amendment should be made; and
 - (g) the date proposed for the implementation of the Proposed Modification and any end date having regard to any system or procedural changes that may be necessary as a result of the modification. If such proposed date is different to that estimated by the Transporter pursuant to section 3.1(c), the Transporter will ensure that before completing the Final Modification Report Consultees will have been given a further opportunity to comment on the Transporter's latest proposed implementation date and will include in the Final Modification Report any views on implementation dates expressed by Consultees that differ to that proposed by the Transporter.
- 8.4 In preparing a Final Modification Report, the Transporter shall have regard to the impact that such modification might have on the operation of the networks of the Individual Transporters and the impact that such Final Modification Report might have on any Adjacent Transporter and on any relevant agreements in respect of the NI Network including, but not limited to, the Interconnection Agreement, the Tripartite Agreement the CJV Agreement and SOA.

9. Determination and Implementation of Modification

- 9.1 The Authority shall, after having received any Final Modification Report in relation to:
- (a) a Proposed Modification, determine whether it will, in the opinion of the Authority, as compared to the existing provisions of the NI Network Gas Transmission Code, better facilitate the achievement of the relevant objective;

- (b) a Proposed Modification and an Alternative Proposed Modification, determine whether either of, or which of, such proposals will, in the opinion of the Authority, as compared to the existing provisions of the NI Network Gas Transmission Code, better facilitate the achievement of the Relevant Objective;

and inform the Transporter of its determination.

9.2 If the Authority's determination is that a Proposed Modification or an Alternative Proposed Modification, (as appropriate), will better facilitate the relevant objective the Authority shall direct the Transporter to implement the Proposed Modification or Alternative Proposed Modification (as appropriate) on the date proposed for its implementation in the Final Modification Report or such other date as the Authority determines.

9.3 The Transporter shall comply with any direction by the Authority to make a modification to the NI Network Gas Transmission Code in accordance with a Final Modification Report.

9.4 The Transporter shall promptly:

- (a) notify the Consultees of any determination of the Authority in relation to the implementation of a Proposed Modification or Alternative Proposed Modification (as appropriate); and
- (b) provide a copy of such modification to the NI Network Gas Transmission Code to the Authority and the Consultees.

10. Alternative Procedure for substantial review of part of the NI Network Gas Transmission Code

10.1 The Transporter may, if it considers that any Proposed Modification would make such a significant change to the NI Network Gas Transmission Code that the procedure set out in sections 2, 3 and 5 is not adequate to allow the Proposed Modification to be properly considered, request a Preliminary Determination as to whether an alternative procedure should be adopted in relation to it (an "**Alternative Procedure**") in accordance with section 4.1 (b).

10.2 If the Authority's Preliminary Determination is that an Alternative Procedure should be adopted the Transporter shall prepare a document setting out:

- (a) the Transporter's reason for adopting an Alternative Procedure;
- (b) an outline of the proposed Alternative Procedure including a proposed timetable but which shall provide each Consultee with not less than the Consultation Period in which to comment;
- (c) any proposed amendment or addition to the Proposed Modification;
- (d) details of any analysis it proposes is prepared to enable the Proposed Modification to be properly considered;
- (e) details of any proposed working group or review group to consider the Proposed Modification.

- 10.3 Any such Alternative Procedure shall be forwarded to the Consultees along with the Proposed Modification.
- 10.4 A Consultee may, within 15 business days of the date that the Alternative Procedure was issued, submit to the Transporter any comments it may have on the Alternative Procedure including its availability to attend any meeting proposed in the Alternative Procedure.
- 10.5 The Transporter shall within 25 business days from the date that the Alternative Procedure was issued, finalise and issue to the Consultees, the Alternative Procedure which shall, subject to section 10.6, be adopted and followed.
- 10.6 A Consultee may, within 10 business days of the date that the Alternative Procedure was issued, request a Preliminary Determination, in accordance with section 4.1 (c), as to whether the Alternative Procedure proposed should be adopted.
- 10.7 The Transporter may, at any time, amend the Alternative Procedure with the consent of the Authority or the unanimous agreement of Shippers.

11. Extensions

- 11.1 The Transporter or any Consultee may, at any time, make a request to the Authority for approval of an extension to the time scales outlined in these Modification Rules. Where the Authority has approved such a request, the Transporter shall inform the Consultees of the revised time scales.

12. Changes to the Modification Rules

- 12.1 Any modification to these Modification Rules shall be made in accordance with this section 12.
- 12.2 The Transporter and Shippers may propose to amend these Modification Rules by preparing an **“Application for Change”** which will include;
- (a) the proposed change including the proposed text;
 - (b) a description of the objective of the proposed change; and
 - (c) its proposed date of implementation
- and in the case of Shippers, by sending the Application for Change to the Transporter.
- 12.3 In preparing any Application for Change, the Transporter shall have regard to the impact that such Application for Change might have on the operation of the networks of the Individual Transporters and the impact that such Application for Change might have on any Adjacent Transporter and on any relevant agreements in respect of the NI Network including, but not limited to, the Interconnection Agreement, the Tripartite Agreement the CJV Agreement and SOA.
- 12.4 The Transporter shall forward any Application for Change to Shippers inviting their comments on it.

Any such comments shall be made within 15 business days of the date the Application for Change was forwarded or any such shorter period as the Transporter may have requested the Authority to approve and the Authority shall have so approved.

12.5 The Transporter shall prepare a report to be issued to the Authority including:

- (a) the Application for Change;
- (b) any such comments on it as Shippers shall have made;
- (c) the Transporter's views on such comments and where it was submitted by a Shipper the Application for Change;
- (d) any proposed text amending these Modification Rules to incorporate the change.

12.6 If the Authority approves the change to these Modification Rules proposed in such report the Transporter shall provide Shippers with 5 business days' notice of the implementation of such change.

13. Notices

13.1 Any notice or other communication given or made by any person under these Modification Rules shall be:

- (a) in writing and may be delivered by electronic mail, by hand to the addressee, by first class prepaid letter to the address of the addressee or sent by fax to the addressee's fax transmission number specified in writing by the addressee or such other address or number as may be notified by a person from time to time in writing for this purpose; and
- (b) deemed to have been given or made and delivered, if by hand, when left at the relevant address, if by letter, on the second day after posting, and if by fax transmission or electronic mail between the hours of 09:00 and 17:00 on Monday to Thursday and between the hours of 09:00 and 16:00 on Friday, at the time of receipt by the sender of confirmation of transmission and otherwise at 09:00 on the next business day after transmission;
- (c) marked clearly and conspicuously for the attention of the relevant addressee.

13.2 If a communication by fax is received in an incomplete or illegible form:

- (a) if the addressee so requests (by telephone or otherwise), the sender shall promptly retransmit the communication to the addressee; and
- (b) provided that the request for re-transmission was made within 24 hours after time of receipt (in accordance with section 13.1) of the first fax, the communication shall not be deemed to have been received until the time (whether or not between 09:00 and 17:00 hours) of receipt by the sender of confirmation of such retransmission.

13.3 No accidental omission or neglect in sending any notice or other communication to, or non-receipt of any or notice or other communication by, any person shall be capable of invalidating any act or

thing done pursuant to these Modification Rules.

- 13.4 Notwithstanding any other terms of these Modification Rules any requirement for the Transporter to issue, forward or otherwise provide any notice, report, document or other communication to the Consultees shall be satisfied by the Transporter publishing the communication on its website.

THE APPENDIX

Definitions and Interpretation

1. Definitions

In these Modification Rules:

“Adjacent Transporter”	has the meaning given to it in the NI Network Gas Transmission Code;
“Alternative Procedure”	has the meaning set out in section 10.1;
“Alternative Proposed Modification”	has the meaning set out in section 7.2;
“Application for Change”	has the meaning set out in section 12.2;
“Authority”	shall mean the Northern Ireland Authority for Utility Regulation;
“BGTL”	means Belfast Gas Transmission Limited, a company incorporated and registered in Northern Ireland with company number NI026420;
“CJV Agreement”	means the contractual joint venture agreement between the Individual Transporters dated [TBC];
“Consultation Period”	has the meaning set out in section 5.1;
“Consultees”	has the meaning set out in section 2.8 and “Consultee” shall be construed accordingly;
“Distribution Network Operator” or “DNO”	has the meaning given to it in the NI Network Gas Transmission Code;
“Final Modification Report”	has the meaning set out in section 8.1;
“Framework Agreement”	means the framework agreement dated [TBC] pursuant to which the NI Network Gas Transmission Code is given contractual effect as between the Transporter and each Shipper;
“GB Uniform Network Code”	means the network code as in force from time to time, which governs the operation of the national gas transmission system in Great Britain, such network code having been prepared pursuant to the public gas transporters licence granted or treated as granted pursuant to section 7 of the Gas Act 1986, as amended from time to time (and which licence is held by National Grid Gas plc as at May 2012).

“Gas Networks Ireland”	means Gas Networks Ireland, a company incorporated in the Republic of Ireland with registered number 555744 which is responsible for the transportation of gas in the ROI System;
“GNI (UK)”	means GNI (UK) Limited, a company incorporated and registered in England and Wales with company number 02827969;
“Individual Transporter”	means each of PTL, BGTL, WTL and GNI (UK) and “Individual Transporters” means all of them;
“Initial Modification Report” “Interconnection Agreement”	has the meaning set out in section 3.1; means the agreement of that name made the 29 th April 2016 between GNI (UK) and Gas Networks Ireland as such agreement may be amended, supplemented or varied from time to time;
"Licence"	means a licence to convey gas granted to an Individual Transporter under Article 8 (1) (a) of the Gas (Northern Ireland) Order 1996;
“Licences”	has the meaning given to it in section 1.2;
“Modification Rules”	has the meaning set out in section 1.3;
“National Grid”	means National Grid Gas plc which is responsible for the transportation of gas in the NTS;
“NI Network”	has the meaning given to it in the NI Network Gas Transmission Code;
“NI Network Gas Transmission Code”	means the transportation code governing the relationship between the Transporter and each Shipper in relation to the transportation of gas on the NI Network;
“NTS”	means the national transmission system and has the meaning given to it in the GB Uniform Network Code;
“Proposed Modification” “Preliminary Determination” “PTL”	has the meaning set out in section 2.1; has the meaning set out in section 4.1; means Premier Transmission Limited, a company incorporated and registered in Northern Ireland with company number NI026421;
“Relevant Objective”	has the meaning given to it in the Licences;

“ROI System”	has the meaning given to it in the NI Network Gas Transmission Code;
“Shipper”	<p>means:</p> <ul style="list-style-type: none"> (i) a person other than the Transporter; and (ii) a DNO; <p>who is for the time being a party to the Framework Agreement and “Shippers” shall be construed accordingly;</p>
“SOA”	means the system operator agreement between the Individual Transporters dated [TBC];
“Transporter”	means the Individual Transporters acting together pursuant to the terms of the CJV Agreement;
“Tripartite Agreement”	means the tripartite agreement in relation to arrangements at the interconnection point at Moffat between National Grid, GNI (UK) and Premier Transmission dated 29 th September 2015;
“WTL”	means West Transmission Limited, a company incorporated and registered in Northern Ireland with company number NI073229.

2. Interpretation

2.1 Unless the context otherwise requires, any reference in these Modification Rules to:

2.1.1 **"including"** shall mean including but not limited to;

2.1.2 **"business day"** shall be construed as a reference to a day (other than a Saturday or Sunday) on which banks are generally open for business in Belfast, Northern Ireland;

2.1.3 a person shall be construed as a reference to any person, firm, company, corporation, government or agency of a state or any association or partnership (whether or not having separate legal personality) or two or more of the foregoing;

2.1.4 time shall be construed by reference to whatever time may from time to time be in effect in Northern Ireland; and

2.1.5 the singular shall include the plural and vice versa.

2.2 Headings in these Modification Rules are for ease of reference only and shall not affect its construction.

2.3 References in these Modification Rules to sections are to sections of these Rules.