



East Surrey Pipelines Limited,  
Shippers and other interested  
parties.

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24<sup>th</sup> May 2005

Dear Colleague,

**Modification Proposal ESP109: 'Incorporation of the Modification Rules into the Code'.**

Ofgem<sup>1</sup> has considered the issues arising from modification proposal ESP109: 'Incorporation of the Modification Rules into the Code' and has decided to direct East Surrey Pipelines Ltd (ESP) to implement the modification, as we believe that it will better facilitate the achievement of the relevant objectives of ESP's Network Code, as set out in Standard Condition 9 of its GT licence. Ofgem also considers that this decision is consistent with its wider statutory duties. In this letter we explain the background to the modification proposal and outline the reasons for making our decision.

**Background to the proposal**

The GT licence requires ESP to establish transportation arrangements consistent with its duties under section 9 of the Act and to facilitate the achievement of the relevant objectives. These arrangements are to be in a document referred to as the Network Code. The licensee is similarly required to prepare a document setting out the modification procedures for the Network Code.

Currently, the ESP modification rules form a separate document to the Network Code itself. This has implications insofar as the modifications rules are not subject to the governance that they themselves provide, though they may only be changed with the consent of the Authority. ESP has raised a complementary request, ESPMod2, for consent to amend its modification rules, which would have the effect of withdrawing them as a separate document, should this modification proposal be accepted.

**The Modification Proposal**

Modification proposal ESP109 seeks to include the Network Code modification rules formally into the Network Code itself. In effect this would mean that the modification rules would constitute part of the Network Code and therefore be subject to the same change control procedures, allowing parties to the Network Code to propose changes to the rules.

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<sup>1</sup> Ofgem is the office of the Gas and Electricity Markets Authority. The terms 'Ofgem' and the 'Authority' are used interchangeably in this letter.

## **Respondent's views**

ESP received two representations to its consultation on modification proposal ESP109, both of which supported its implementation. One respondent commented that they supported the principle of aligning iGT Network Codes with those of NGT (which now incorporates by reference, the Uniform Network Code). There were no other substantive comments.

## **ESP's View**

ESP supports the implementation of this modification proposal. It states that it will allow shippers to propose modifications to the procedures, and increase confidence in their ability to seek change, thus facilitating competition. ESP also considers that implementation of the proposal will promote efficiency in the operation of the pipeline system by allowing the operator to manage the Network Code within a single document.

## **Ofgem's View**

Ofgem welcomes the principle of more open access to the governance of gas and electricity industry codes by contracted parties. Open and transparent processes underpin effective and efficient consultation and consideration of modification proposals.


While the Network Code and modification rules are mentioned separately within the licence, this does not preclude them from being part of the same document. Ofgem notes and agrees with ESP's comment that it will be more efficient to manage the Network Code within a single document. Ofgem also agree with ESP's view that incorporating the modification rules within the Network Code will increase shipper confidence in their ability to influence change, and therefore facilitate competition.

## **Ofgem's decision**

Having considered the issues arising from this modification proposal Ofgem has decided to direct ESP to implement modification proposal ESP109, as it will contribute to the efficient and economic operation of the pipe-line system by improving the existing governance procedures. To the extent that improved governance can increase transparency and parties' confidence in the market framework, it should also further facilitate the securing of effective competition between gas shippers and suppliers. Ofgem has also decided to consent to the complementary request for the revision of the modification rules, ESPMod2, which has the effect withdrawing those rules as a separate document.

If you have any further queries regarding this decision letter please feel free to contact Samantha McEwen on 020 7901 7032.

Yours sincerely



**Nick Simpson,**  
**Director, Modifications**