

Energy Code Reform Response to Call for Evidence

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Introduction

About ENA

Energy Networks Association (ENA) represents the owners and operators of licenses for the transmission and/or distribution of energy in the UK and Ireland. Our members control and maintain the critical national infrastructure that delivers these vital services into customers' homes and businesses.

ENA's overriding goals are to promote UK and Ireland energy networks ensuring our networks are the safest, most reliable, most efficient and sustainable in the world. We influence decision-makers on issues that are important to our members. These include:

- Regulation and the wider representation in UK, Ireland and the rest of Europe
- Cost-efficient engineering services and related businesses for the benefit of members
- Safety, health and environment across the gas and electricity industries
- The development and deployment of smart technology
- Innovation strategy, reporting and collaboration in GB

As the voice of the energy networks sector, ENA acts as a strategic focus and channel of communication for the industry¹. We promote interests and good standing of the industry and provide a forum of discussion among company members.

Our members and associates

Membership of Energy Networks Association is open to all owners and operators of energy networks in the UK.

- ▶ Companies which operate smaller networks or are licence holders in the islands around the UK and Ireland can be associates of ENA too. This gives them access to the expertise and knowledge available through ENA.
- ▶ Companies and organisations with an interest in the UK transmission and distribution market are now able to directly benefit from the work of ENA through associate status.

ENA members



ENA associates

- Chubu
- EEA
- Guernsey Electricity Ltd
- Heathrow Airport
- Jersey Electricity
- Manx Electricity Authority
- Network Rail
- TEPCO

Introduction

This document sets out our response to the Ofgem Energy Code Reform Call for Input, including the Cornwall Insights Code Consolidation Assessment. This response is representative of the views of ENA members, however, some of our members will also be providing their own company specific responses.

Code Reform Options

Code Consolidation Options	
Option 0 - Other reform	<p>We believe this is likely to be the easiest of the options to accept and deliver.</p> <p>This option could be used to deliver the goals of the reform by changing the obligations on the existing code administrators, requiring them for example to simplify the explanation of the code obligations, improve accessibility, harmonise definitions with other codes etc. Whilst we are mindful that this option is not preferred as the end solution, the delivery of Option 0 should be considered as the initial phase of implementing wider reform.</p>
Option 1A-Minimal Reform (networks code)	<p>We believe a wider understanding of the inter-relationships between DCUSA and DCode and CUSC and Grid Code is required before commenting further. Our initial view is that there is too great a disconnect in the obligations, stakeholders and modification and management processes in these codes for them to be consolidated. The Code Managers would need to have a good understanding of commercial issues (addressed in CUSC and DCUSA) and technical issues (as addressed in the DCode and the Grid Code).</p>
Option 1B - Minimal Reform (technical code)	<p>We are unsure there is great benefit to be had from a single electricity technical code whilst keeping DCUSA/CUSC separate. STC is arguably wider than a technical code, providing detail of for managing processes between the ESO and the TOs.</p> <p>More detail is therefore needed on the anticipated benefits. It also needs to be remembered that the STC and SQSS manages the interaction between licenced parties and not end customers (unlike the DCode and Grid Code which relate to end customers), so a single technical code could well be confusing for end customers. This option appears to be more of a trial attempt to consolidate codes before a wider implementation. Care needs to be taken that the resulting code does not become overly complex for end customers.</p>
Option 2B - Partial Horizontal alignment	<p>Whilst in theory the consolidation of like-for-like codes could be envisaged to allow the selection of "expert" Code Managers (allowing stakeholders to focus on particular requirements and/or queries) the reality points to gas and electricity codes being, commercially and technically, very different.</p> <p>We believe re-arranging the current structure into 5 codes is likely to be considerably more complex than outlined. CUSC / DCUSA, for example, are considerably wider reaching than 'cost recovery' and the work involved in modifying current code content will be considerable. Without future development of needs case/benefit, ENA would not be supportive of the separation of gas and electricity codes.</p>

Option 4B - Dual fuel retail, single fuel upstream:	We agree with the assessment comment that this options appears to be one of the less viable of the shortlisted options, presenting significant complexity/risk in implementation for questionable reward. As with Option 2B, we do not consider the dual-fuel code options as viable.
Option 4C - Dual fuel retail, single fuel upstream v2	Whilst we believe the retention of single fuel codes to be essential, care must be taken to ensure the resulting code does not become overly complex in trying to be all things to all stakeholders. Especially for the “Electricity Code”, there is a need to ensure the obligations in the different codes are compatible before attempting consolidation. Whilst preferable to Option 4B in retaining the Electricity / Gas separation, the detail of complexity / risk / reward may make pursuing this option questionable.
Option 6 - Framework agreement:	This would certainly have the most impact on the codes and has the potential to deliver all of the reforms in one hit but could be extremely intensive on resources, legal costs and time to achieve. This would be a significant undertaking and therefore could only be considered as the final product in a staged change approach. The single overarching “core” code (delivering consistent approach to code functions) has its merits, whilst maintaining clear electricity (T&D) and gas splits in the modules. Again, the devil would be in the detail of how this code (modifications, etc.) would be managed.

Call for Evidence Questions

General response

From the legislation proposal we note the code reforms programme will be in place for up to 7 years, with the first 2 years used to agree a code consolidation approach and to appoint Code Managers. We believe it vital that any code consolidation retains the purpose and legal importance of the individual codes and the authority of the network operators to influence how their respective networks are operated is not diluted. It is important also not to try and consolidate too many codes, or incompatible codes, as this could make any resulting code structure more complex instead of simplified, as well as potentially leading to an enlarged code being in a constant state of change as modifications are proposed and delivered.

Gas and Electricity Codes should continue to remain separate, particularly the technical codes where the differences in operation and requirements would make a combined code effectively impossible to deliver and manage.

Our initial comments on the selected options from the Cornwall Insights Assessment are in the table above. We would highlight that these remain subject to further understanding of the detail at this time and believe that consideration of the wider reform options are best achieved on a phased basis, starting with alignment before progressing to consolidation of compatible codes.

ENA would welcome more detail on the Code Manager role and how the consolidation process will be undertaken. We would also be interested in the resource requirements expected by Ofgem from industry and Code Administrators / Managers in the consolidation of the codes. The importance of Ofgem's role in providing guidance and support to the industry in the development and transition to consolidated codes should not be underestimated.

Code Consolidation

Q1: Do you agree with the design principles proposed to frame our assessment of code consolidation options? If 'no', please explain why.

It is accepted that there is a requirement to make Codes easier to access and use and we agree with the design principles used to frame Ofgem's assessment of code consolidation options. If consolidation is the agreed solution, it is important that the individual purpose and legal enforceability of the Codes remains, and that simplification does not weaken their application and users' compliance .

Q2: What are your views on the high-level options for code consolidation we have described ('no consolidation', 'vertical' & 'horizontal')? We welcome input on the possible benefits/disbenefits of each option.

ENA considers the 'no consolidation' option as a viable first stage in a phased transition, with learnings taken along the way.

While we believe horizontal consolidation may facilitate the development of specific code experts we have concerns that the differences in how gas and electricity networks are designed, operated and managed, compounded by the staggered relative regulatory periods could lead to complications in managing the codes and future modifications, where they are led by different drivers.

A vertical consolidation, keeping gas and electricity codes separate, is our preferred option as each would be able to encompass the specifics of the resource. Care should be taken when considering which and how many codes to

consolidate as the consolidation of too many codes, or codes dealing with broadly different themes could lead to an enlarged code that is continually in a state of modification. Consolidating a high number of existing electricity codes could lead to a much more complex document than the sum of its parts, defeating the purpose of consolidation and could even lead to the requirement of more than one Code Manager to provide the expert guidance required.

Any consolidation of the REC and SEC should be considered at a later stage. The REC needs longer to establish a track record.

Q3: Do you agree with our initial preference to explore vertical code consolidation options and, if so, do you have any observations on the potential models set out in Cornwall Insight's April 2022 report? We welcome specific views on the following:

- **Whether the UNC and IGTUNC should be consolidated;**
- **If/how to consolidate the electricity codes;**
- **Whether the REC and SEC should remain separate; and/or**
- **Whether the consolidation of any codes should be prioritised, and if so, why.**

Our view is that keeping the gas and electricity codes separate is essential to providing a deliverable consolidation and reduction in the number of codes. When reviewing codes for consolidation, consideration must be given to ensure that the subject matters are compatible; we believe any consolidation of similar codes e.g. consolidating technical codes together and commercial codes together may be more effective than consolidating technical and commercial codes across transmission networks and consolidating technical and commercial codes across distribution networks codes.

Q4: Do you agree with our preferred implementation approach (Option 2)?

- **If so, do you have any additional observations on what we should consider when further developing this approach, including which code provisions should be considered within the scope of governance arrangements?**
- **If not, please provide details.**

We do not believe a consolidation of gas and electricity codes into "whole system" codes is achievable.

Based on the limited information on the implementation and management of the options, ENA would suggest that Options 1A or 1B would be the most achievable solutions, noting our views on the use of Option 0.

It is essential that industry retains its influence in code reform and modification and that transparency and involvement in decision making is forefront. We are keen to understand, in more detail, the implications of the various options.

Code Manager Licensing

Q5: Are any of the contents we have identified for the licence conditions unnecessary, or, would be more effectively covered outside of the licence (e.g. in the codes)?

It seems appropriate that the contents listed are relevant for inclusion with the Code Manager Licence, with additional detail included as appropriate in the relevant Code.

Q6: Are there any additional areas that should be subject to licence rules? See shortlist options 1A, 1B, 4B and 4C in Cornwall Insight's April 2022 report.

Code Manager obligations with respect to establishing and maintaining an effective Code Modification process, including its timescales, should be included.

Q7: Do you agree with our indicative prioritisation for policy development, and do you identify any specific dependencies that you think we should factor into our policy considerations?

Careful consideration should be given to the funding mechanism and existing licence conditions when developing policy to ensure that networks are not left with obligations they are no longer in control of following the appointment of the Code Manager.

We generally agree with the prioritisation of the code manager's licence.

Q8: Are there any issues that we should take into account when considering moving the current 'code owner' licence provisions to the new code manager licence (such as unintended consequences)?

ENA believes the role of duty holder, including network licensees, should be formalised ensuring Code Managers are licenced to have codified governance procedures for the Stakeholder Advisory Forum (SAF) (reflecting the current Panel governance sections) within their code. Duty holders should have formal and codified involvement in the process of code change and formal and codified involvement in the approval of code change. Any code manager function must be held to account where a change impacts upon the safety, security, reliability and economic operation of networks.

It is important that any Code Manager has relevant expertise in the subject of the code, whether that is technical, balancing or commercial. Irrespective of the expertise of the Code Managers it will be essential that they listen and incorporate, as appropriate, the views and concerns of stakeholder expertise in order to ensure that implementation of Ofgem's strategic direction is carried out in a way that doesn't have unintended technical or commercial consequences. Code Managers should be considered on their ability and resource to provide or, if an existing Administrator, to continue to provide a good level of service meeting stakeholder expectations. KPIs should be set to ensure good service but not at "any cost".

The Code Manager should only approve code modifications that support the improvement of the operation of the networks and should avoid raising multiple modifications for financial reasons.

From a Code party transition perspective, it will be important to ensure any existing disputes, outstanding code breaches (debt, etc.) and rules for transfer of credit cover provisions are managed effectively so as to not place existing code parties at any additional risk.

Stakeholder Advisory Forum

Q9: What do you think the stakeholder advisory forums' key roles and/or functions should be, and what areas (other than code change) should the forum(s) potentially have a role in?

It is important that any SAF has the ability to provide advice pertinent to the code, as well as support to the Code Manager in assessing modifications, without prejudice. A SAF should be able to operate as a technical committee and provide expert advice to the Code Manager.

It is essential that the Code Manager's decision making process is transparent and that, where appropriate, the Code Managers should explicitly seek out smaller stakeholder companies and encourage them in committing resources to consultation comments and reviewing advice and understanding from the SAF.

The Technical Committee must be formalised to include technical experts from code signatories and duty holders. This would include Transmission Owners where any code development has an impact on the reliability, security, safety, and economic operation of the network. Our experts are essential to the development of code modifications in the STC, SQSS, Grid Code and the CUSC. We think there should be a technical committee constituted formally in each, with formalised and codified involvement from transmission owners. The Call for Input notes that 'there may be more than one stakeholder advisory forum per code', we would expect this to mean there is at least one per code, including the STC, SQSS, Grid Code and CUSC.

Q10: What options/issues should be considered in terms of constituting the stakeholder advisory forum(s), in terms of membership and securing appropriate representation?

Membership should not be a free-for-all; all potential members should be suitably engaged with the energy networks industry before becoming members of the forums.

It is essential that industry retains a guiding influence in code management particularly with regards to the technical codes where non-compliance would negatively impact on the operation, resilience and stability of the networks. Ofgem's role under the SAF should be made clear.

Q11: Are there any lessons learnt (either good or bad) from the current code arrangements that should be considered?

A clear purpose and strategy needs to be set out as each SAF is set up. While it is accepted there will need to be flexibility of approach and membership, as different modifications or queries are ranged, the SAF shouldn't be influenced by individual member commercial drivers.

Whilst it is easy to criticise the current governance arrangements it should be remembered that the codes and code panels have been effective in ensuring that, post privatisation, GB has one of the most reliable and resilient energy networks in the world – and that it is important to ensure that any new code management arrangements preserve this position. The codes have been developed over time by technical and commercial experts and have been subject to proper peer review and governance, hence it is reasonable that codes in the future are developed by a similarly rigorous process.

The use or retention of existing panels should not be overlooked in the transfer to SAF governance; the governance structure of many codes has enabled the extension of membership to impacted parties, and the consultation framework allows multiple interested parties to have their comments considered in the modification approval process.

SAF members should not be allowed to raise or support modifications for a commercial advantage especially where they block strategic changes required to meet Net Zero objectives or negatively impact in the safe and reliable operation the networks.

Conclusions

- Option 0 should be further explored as part of a phased approach to achieving code alignment, providing learnings in achieving further simplification, prior to final agreement on any future consolidation.
- Should consolidation remain the preferred choice to deliver code reform, then the separation of gas and electricity codes should be retained through vertical alignment.
- Further work is required to assess the compatibility of codes identified for vertical alignment to work as a whole.
- The funding mechanism for managing and engaging with the codes requires further development, including how networks could claim costs back through the regulatory mechanism.
- Industry involvement in the development and management of any revision to the code structure and governance is essential.
- Industry must be allowed to engage with all code modifications as a significant stakeholder.

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Energy Networks Association

4 More London Riverside

London SE1 2AU

t. +44 (0)20 7706 5100

w. energynetworks.org

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Energy Networks Association Limited is a company registered in England & Wales No. 04832301
Registered office: 4 More London Riverside, London, SE1 2AU