

ElecLink Limited
4 Kingdom Street
London
W2 6BD

Industry Codes Team
Ofgem
10 South Colonnade
London
E14 4PU
industrycodes@ofgem.gov.uk

BY EMAIL ONLY

24 March 2025

RE: Consultation on the preliminary Strategic Direction Statement and code governance arrangements

Dear Industry Codes Team,

ElecLink Limited (“**ElecLink**”) welcome the opportunity to respond to Ofgem’s consultation on the preliminary Strategic Direction Statement and code governance arrangements (the “**Consultation**”).

ElecLink is a 1000MW HVDC electricity interconnector between Great Britain and France, which commenced full commercial operations in May 2022. ElecLink have responded to individual questions raised in the Consultation in the pro forma provided, included below, but for ease of reference we have also summarised our key comments.

Summary of response

In general, ElecLink are supportive of Ofgem’s preliminary Strategic Direction Statement, which we believe will help provide market participants with greater sight on the policy areas which may require changes to industry codes in the future, and the current time horizon within which Ofgem would be looking to develop these changes. However, following a review of the Consultation and its supporting information, ElecLink have concerns with the proposal to introduce a new Standard Licence Condition (SLC) which would mandate all licensees to contribute to code modifications upon request of the code manager. In summary we have the following concerns:

- a) To date, no information has been provided to demonstrate that there is an issue with the level of participation by industry participants in the development of code modifications. As such, the suggested SLC appears disproportionate and unnecessary;
- b) The proposed drafting of the SLC is open to interpretation as the definition of ‘reasonably’ is loosely defined. Combined with the fact that Ofgem intend for the SLC to be non-prescriptive in nature, this risks exposing market participants to unintended risks and consequences in the future, which include, but are not limited to: (i) ‘scope-creep’ on what is considered reasonable and/or (ii) ensuring proportionality between market parties both during a code modification and over time on an enduring basis as the markets develop; and
- c) Uncertainty around the repercussions for market parties who are perceived as non-cooperative, or how disputes would be mediated and/or remedied. For example, how will

instances will be independently reviewed, what recourse do licensees have if they believe that a code manager is making an 'unreasonable' request?

We welcome the opportunity to respond to this consultation, if you have any questions regarding this response or would like to arrange a call to discuss this further, please contact the ElecLink Regulation team - regulation@eleclink.co.uk.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'AM' with a stylized flourish.

Agustin Mengoni

Consultation on the preliminary Strategic Direction Statement and code governance arrangements – response template

This document provides a template for responses to our consultation on the preliminary Strategic Direction Statement and code governance arrangements, published on 31 January 2025.

If you are interested in responding to this consultation, please complete this word document and send it to industrycodes@ofgem.gov.uk by the end of the day on Friday 28 March 2025.

Guidance

We typically publish consultation responses when we publish our decision. To ensure that we can correctly attribute your response, please ensure that you enter all relevant details in the “your company’s details” section (template part 1).

If you would like us to treat your response as being confidential, either in full or in part, please indicate this to us below. Further information on how we will treat your response, data and confidentiality can be found at the end of this document.

Please use template part 2 to provide your responses. For all questions, the template below provides space for you to enter free text comments. Some questions also ask whether you agree with our proposals. Please indicate the extent to which you agree or disagree with relevant proposals by deleting all but one of the bullets provided.

There is also a section for “general feedback” (template part 3). Please use this section to provide any views on the overall consultation process.

Template part 1: Your organisation’s details:

Contact name	Agustin Mengoni
Role title	Policy Advisor
Company name	ElecLink Limited
Telephone number	+447342682925
Email address	regulation@eleclink.co.uk
Date of submission	24 March 2025
Do you want your response treated as confidential?	No

(If yes, please indicate whether you would like the whole of your response to be confidential, or just particular parts).	
--	--

Template part 2: consultation responses

Consultation section 2 – Approach to the Strategic Direction Statement

Question 1 – Is the structuring of SDS content into three time horizons (Act now, Think & plan, Listen & wait) helpful?

ElecLink response: Agree.

Question 2 – Do you agree with the way modifications have been categorised into these three time horizons (Act now, Think & plan, Listen & wait)? If not, please specify what changes you suggest and why.

ElecLink response: Agree. ElecLink agrees with the categories presented and welcomes the level of detail seen in section 2.2 of Subsidiary Document 1 for “Act Now” themes, to reflect the urgency of the matter, the steps taken, and next steps.

Question 3 – On the basis that the SDS should contain a strategic assessment of government policies and developments relating to the energy sector, that will or may require the making of code modifications, do you think there is anything missing from the SDS that you would expect to require code modifications in the next 1-5 years? If so, please specify.

ElecLink response: ElecLink do not hold a view.

Question 4 – Did you find the SDS easy to understand and do you think that the level of detail included is sufficient to allow you to begin raising and implementing code changes?

ElecLink response: Yes. ElecLink are of the view that the SDS presents a very comprehensive document and finds that its diction is clear and thoroughly complemented by frequent references to past publications. However, it would be beneficial to see further details on the “Act Now” categorised themes to ensure clarity and a thorough understanding of the urgency of the topic by market parties.

Question 5 - If you are a code administrator or code panel what action do you intend to take, if any, to implement the SDS following publication?

ElecLink response: No response provided.

Question 6 - Do you have any suggestions about the best way to implement the SDS in the context of budget setting, delivery planning and the introduction of a harmonised prioritisation process? Please note we will be doing stakeholder engagement in early 2025 to discuss this further.

ElecLink Response: ElecLink do not hold a view.

Question 7 - Do you have any other feedback?

ElecLink response: No response provided.

Consultation section 3 – Code governance arrangements

Prioritisation of code modifications

Question 8 – Do you agree with our proposed prioritisation process, including the requirements that:

- (a) a proposer of a modification proposal should be required to include an assessment of their proposal against the prioritisation criteria
- (b) that the code panel should then be responsible for determining the prioritisation category of the modification proposal
- (c) that code panels should reassess the prioritisation category of modification proposals on a quarterly basis
- (d) that all codes contain a requirement for a code modification register, that also includes whether a modification is urgent and the prioritisation category

If not, please specify what changes you suggest and why.

ElecLink response: Neither agree nor disagree.

Question 9 – Do you agree with our proposed prioritisation criteria and prioritisation categories? If not, please specify what changes you suggest and why.

ElecLink response: Disagree.

ElecLink welcome Ofgem's position on maintaining the urgency process as it is.

However, ElecLink are of the view that the new Prioritisation Criteria are redundant metrics that are likely to delay the code modification process. There is a clear overlap between the SDS and the criteria, forcing the code proposer and panel to undergo unnecessary analysis/discussions on categorising code modifications. For example, if a given code

modification falls under the Think & Plan or Listen & Wait category in the SDS, we can inherently identify it will be classed as 'Standard'. Therefore, ElecLink believe that the criteria identified should either be revisited to include non-overlapping factors or be simplified to solely refer to the SDS albeit reliant on the level of detail of the document.

Question 10 – Do you agree with our proposed legal drafting of code modification prioritisation procedure included in Annex A? If not, please specify what changes you suggest and why.

ElecLink response: ElecLink hold no view.

Question 11 – Do you agree with our proposed definitions to form future guidance on Code Modification Prioritisation included in Annex B? If not, please specify what changes you suggest and why.

ElecLink response: Strongly agree.

Question 12 – Do you have views on whether this proposed prioritisation process should apply to all live modifications that exist at the date that the proposed code changes take effect, as well as newly proposed modifications from this date onwards?

ElecLink response: ElecLink hold no view.

Role of stakeholders

Question 13 – Do you agree with our proposed drafting of a new principles-based standard condition, for cooperation with code modifications related to SDS, for all gas and electricity licences, included in Annex C?

ElecLink response: Strongly disagree. ElecLink strongly oppose the introduction of a new Standard Licence Condition (SLC). As an industry participant, ElecLink actively engage within the existing code modification change process when a change relates to the interconnector industry and/or ElecLink have expertise that can support the development of a code modification. ElecLink are concerned with the prospect of a new licence condition being implemented broadly across all gas and electricity licences. Prima facie, the suggested SLC appears disproportionate and unnecessary, given that Ofgem have not presented any evidence to suggest that there is an issue with the functioning of the existing code modification process that needs addressing, or that industry will not cooperate with future code modifications.

Even if it was the case that the introduction of a new SLC was required, ElecLink are surprised that a principles-based approach is being suggested in this instance. Under the

proposed principles-based approach, there is a risk that code managers will be able to request specific private entities within the energy industry to engage in a process, when the Code Manager does not know whether the requested entities have either the expertise and/or internal resourcing to meet the demands of a code modification process. It is thus clear that the reasonableness has significant limitations, as there exists clear limits to the code manager's knowledge of a code party's capacity, budgets, and/or timelines for delivery of certain information. These new requirements could prove burdensome and disproportionate, particularly for industry participants with limited resources and may be asked to provide levels of information which appear "reasonable" for larger companies than themselves.

Furthermore, ElecLink have concerns with the proposed legal drafting of the new SLC. These concerns include, but are not limited to:

- the definition of 'reasonably' and 'reasonable steps'. What is considered as reasonable for one organisation may differ from another due to organisational size, level of internal resources and expertise available to them. These factors may also change over time depending on other regulatory requirements that may have priority or competing code modifications.
- the frequency with which information needs to be provided to code managers. At present, code modifications can be complex, evolving initiatives, involving the attendance at regular meetings and the inputting into documentation. Modifications can also be complicated when several alternative proposals are submitted for consideration. It is unclear whether industry participants would be compelled to participate within all phases of a code modification process, and/or what level of cooperation is deemed reasonable.
- the repercussions for not cooperating. If a code manager was of a view that a market participant's participation was unreasonable, how would this be assessed by Ofgem to ensure that the requests from code managers were proportionate? If a market participant was found to be 'unreasonable', what recourse do licensees have?
- the requirement to "provid[e] the code manager with information". The proposed legal drafting does not stipulate what types of information must be provided. There is a risk of 'scope-creep' and that this changes over time, with little recourse for licensees.

Given the wide-reaching implications of the licence conditions, and the potential for undesirable outcomes, we are concerned with the level of detail provided. We believe that due consideration and justification needs to be provided in a future consultation, should Ofgem pursue this initiative.

Question 14 – Do you agree with the proposed criteria the code manager should consider prior to issuing a request for cooperation?

ElecLink response: Neither agree nor disagree. As noted in our response to question 13, ElecLink strongly oppose the introduction of a new licence condition. However, ElecLink are supportive of an optional approach, whereby market parties can provide input into code modifications where they have expertise to do so. ElecLink believe that key considerations need to be taken into account by code managers, if/when asking for voluntary input into a modification.

Requests should remain unbiased: Code parties contacted in the request for information should encompass parties of different sizes and different sectors. The information obtained should be representative of the whole scope of market parties affected by the code modifications. Along those lines, ElecLink believe that code managers should vary the parties they reach out to for information in order to maintain an unbiased inflow of information and limit the extent of impact on the same code parties.

Confidentiality: ElecLink believe that there should be restrictions placed on code managers request for commercially sensitive information despite Ofgem’s position. Failure to do so may introduce an industry practice of systematically refusing to provide information to code managers in a generic manner in order to ensure that refusing to provide certain details does not of itself confirm or reveal sensitive insights.

Furthermore, in the case that this information is shared, Ofgem should put forward a mechanism by which to disclose the information in an anonymous manner, and that enough parties are contacted in order to prevent the information to be traced back to certain parties.

Relevance/Importance: Although hard to quantify or prove, ElecLink are of the thought that requests for information should add value to the code modification process and not present a delay to the development of a code modification.

Template part 3: General feedback:

We believe that consultation is at the heart of good policy development. We welcome any comments about how we’ve run this consultation. We’d also like to get your answers to the following questions.

Question	Response
Do you have any comments about the overall process of this consultation?	ElecLink are of the view that a web portal/poll would be an easier format by which to answer this consultation.
Do you have any comments about its tone and content?	No Comment
Was it easy to read and understand? Or could it have been better written?	Yes
Were its conclusions balanced?	Yes, counter arguments were presented on a variety of topics.
Did it make reasoned recommendations for improvement?	No Comment
Any further comments?	No Comment

Your response, data and confidentiality

You can ask us to keep your response, or parts of your response, confidential. We'll respect this, subject to obligations to disclose information, for example, under the Freedom of Information Act 2000, the Environmental Information Regulations 2004, statutory directions, court orders, government regulations or where you give us explicit permission to disclose. If you do want us to keep your response confidential, please clearly mark this on your response and explain why.

If you wish us to keep part of your response confidential, please clearly mark those parts of your response that you *do* wish to be kept confidential and those that you *do not* wish to be kept confidential. Please put the confidential material in a separate appendix to your response. If necessary, we'll get in touch with you to discuss which parts of the information in your response should be kept confidential, and which can be published. We might ask for reasons why.

If the information you give in your response contains personal data under the General Data Protection Regulation (Regulation (EU) 2016/679) as retained in domestic law following the UK's withdrawal from the European Union ("UK GDPR"), the Gas and Electricity Markets Authority will be the data controller for the purposes of GDPR. Ofgem uses the information in responses in performing its statutory functions and in accordance

with section 105 of the Utilities Act 2000. Please refer to our Privacy Notice on consultations, see Appendix 4.

If you wish to respond confidentially, we'll keep your response itself confidential, but we will publish the number (but not the names) of confidential responses we receive. We won't link responses to respondents if we publish a summary of responses, and we will evaluate each response on its own merits without undermining your right to confidentiality.