

## Response by Northern Powergrid (Northeast) plc and Northern Powergrid (Yorkshire) plc to the Data Best Practice as a Code Obligation consultation on licence modifications

### KEY POINTS

- The consultation is not presented as a statutory consultation. The only reference to a statutory consultation in respect of the licence modifications is in paragraph 2.20. Consequently, Ofgem has not issued the formal notice under the Electricity Act 1989 and, therefore, should do so on conclusion of this consultation and following the usual engagement with licensees through the Licence Drafting Working Group process.
- The licence is not the place for an exhaustive list of everything to be included in the codes. It would be more appropriate for these obligations to be included in the codes by way of the normal code modification process, particularly given Ofgem's comment in paragraph 2.20 that code modifications reflecting the changes will be progressed.
- It is quite likely that the relevant code changes could be made by way of the normal code modification process before the expiry of the period that is six months following the effective date of the licence modifications. We do not believe that the most efficient route to modification of the relevant codes is to modify the licence to oblige the licensee to include provisions in the codes that then have to be adopted through the usual code modification processes contained within those codes.
- In the event that Ofgem does decide to modify the licence, our comments on the drafting of the proposed changes, including marked-up versions of Standard Licence Conditions 21 and 22, are set out below.

## Responses to the consultation questions

We have provided answers to the questions that are relevant to our electricity distribution licences. Other licensees and/or stakeholders are better placed to answer the remaining questions.

**1) *Do you agree with our intent to expand DBP Guidance into the codes?***

We agree that expansion of the obligation to follow the Data Best Practice (DBP) Guidance into the codes is a natural next step.

**2) *Do you agree with the proposed deadline of six months after the licence condition is applied for consequential code modifications? If not please state your reasons specific to the relevant code and modification process.***

We do not object to a deadline of 6 months after the proposed licence conditions take effect for the code modifications to be processed through the relevant code modification processes and placed before Ofgem for approval. However, it is the code administrator rather than the licensee who has control of the process.

**3) *Do you agree with the minded to position that an obligation to produce DSAPs is suitable and proportionate for code bodies? If not, what alternative would you propose to achieve the same or greater benefits?***

We agree.

**6) *Do you have any concerns, or can you see any risks or issues, with the proposed change to the Electricity Distribution licence amending the Distribution Code?***

We do not agree that it is necessary to amend the Electricity Distribution Licence to introduce new requirements into the Distribution Code and there is a risk that amendment via that mechanism will cause unnecessary delay. There is a procedure for modifying the Distribution Code at paragraph 21.8 of standard condition 21 of the Electricity Distribution Licence, which includes at the Authority's request, and would likely be a quicker pathway to inclusion of the desired modifications, and no doubt agreement can be reached to initiate that process with the code administrator. As Ofgem has not served a formal statutory notice under the Electricity Act 1989 on the licensee, a formal statutory consultation will have to take place following this informal consultation, a decision issued, and the statutory 56 days thereafter allowed to elapse before the proposed licence changes can take effect.

**7) *Do you have any concerns, or can you see any risks or issues, with the proposed change to the Electricity Distribution Licence amending the DCUSA?***

Our response to question 6 equally applies to amendments to the DCUSA, other than to note that the DCUSA provides for a change proposal to be made by any person or body that may from time to time be designated in writing by the Authority (clause 10.2.4) and by the Secretariat acting at the direction of the Authority (clause 10.2.5).

**11) *Do you think this proposed principle merits discussion at the CACoP forum for inclusion in the CACoP v7.0?***

We agree that the principle of obliging code administrators following CACoP to follow the DBP and DSAP Guidance merits discussion and would support consistency across the codes.

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## 2. Comments on the proposed modifications to the Electricity Distribution licence

Notwithstanding our view expressed above that modifying the licence is not the appropriate way in which to achieve modification of the codes, we have the following comments on the proposed modifications to the licence:

1. **Paragraph 21.7A**

We have proposed minor cosmetic amendments to the drafting which should be uncontentious (removal and addition of “and” and 21.7A (a) and 21.7A (b) (iv) b.)

2. **Paragraph 21.7A (c)**

We have replaced “Distribution Code Panel” with “code administrator” as “code administrator” is the defined term in paragraph 21.7A(b) of standard condition 21 and it is the code administrator’s responsibility to ensure compliance with the code.

3. **Paragraph 21.7A (d)**

We have replaced “Distribution Code Panel” with “code administrator” for the reasons given in our response to question 2. We have also replaced “DSAP” with “Data Best Practice Guidance” because “Data Best Practice Guidance” is a defined term in paragraph 1.2 of special condition 1.2 and that term should, therefore, be used in this paragraph. A definition of “Data Best Practice Guidance” will have to be included in standard condition 1 i.e. “Data Best Practice Guidance has the meaning given to that term in Special Condition 1.2 (Definitions and Reference to Electricity Distributors)”.

In addition, “Digitalisation Strategy” and “Digitalisation Action Plan” are defined terms in special condition 1.2 and those defined terms are by reference to the Digitalisation Strategy and the Digitalisation Action Plan prepared and published by the licensee so those definitions do not work in this context. Consequently, there needs to be a definition for each term in standard condition 1 that is specific to the Digitalisation Strategy and the Digitalisation Action Plan that will be produced by each code administrator and differentiates those documents from the Digitalisation Strategy and the Digitalisation Action Plan produced by the licensee.

4. **Paragraph 21.7A (e)**

It would be clearer to divide the proposed paragraph 21.7A(d) into two parts. Consequently, we have created a new paragraph 21.7A(e) and replaced “Distribution Code Panel” with “code administrator”, amended the place of publication as the Digitalisation Strategy and the Digitalisation Action Plan should be published on the Distribution Code’s website, as opposed to the licensee’s website, and adjusted the document references as per our comments above.

5. **Paragraphs 22(h) and (i) of Appendix 1 to standard condition 22**

Current paragraph (h) states that it is not used so should be deleted and the remaining paragraph references revised accordingly.

We have amended the reference to “DCUSA code administrator” in current paragraph (i) because the defined term is “code administrator”.

Our comments above regarding the definitions of Data Best Practice Guidance, Digitalisation Strategy and Digitalisation Action Plan and regarding the website on which the Digitalisation Strategy and the Digitalisation Action Plan for the DCUSA should be published apply equally here so we have made appropriate adjustments.

There are duplicate paragraphs (g) and (h) at the end of the proposed licence condition that should be deleted.

We have included a marked-up version of the proposed modifications to the Electricity Distribution Licence at Appendix 1.

## Appendix 1

### Electricity Distribution licence

#### Standard Licence Condition 21. The Distribution Code

21.7A The Distribution Code must provide for:

- (a) a panel body, as specified in the Distribution Code (the “panel”), whose functions shall include the matters required by this condition and as set out in the Distribution Code and any ancillary documents; ~~and~~
- (b) a secretarial or administrative person or body, as specified in the Distribution Code, to perform the role of code administrator (the “code administrator”). In addition to any powers, duties, or functions set out in the Distribution Code and any ancillary documents, the code administrator shall:
  - (i) together with other code administrators, publish, review, and (where appropriate) amend from time to time the Code of Practice approved by the Authority (any amendments to the Code of Practice are to be approved by the Authority);
  - (ii) facilitate the procedures for making a modification to the Distribution Code;
  - (iii) have regard to, and in particular (to the extent relevant) be consistent with the principles contained in, the Code of Practice; and
  - (iv) provide assistance, insofar as is reasonably practicable and on reasonable request, to Authorised Electricity Operators (including, in particular, Small Participants) and, to the extent relevant, consumer representatives that request the code administrator’s assistance in relation to the Distribution Code including, but not limited to, assistance with:
    - a. understanding the operation of the Distribution Code;
    - b. their involvement in, and representation during, the modification procedure processes (including, but not limited to, code panel and/or workgroup meetings); ~~and~~
    - c. accessing information relating to modification proposals and/or modifications; ~~;~~
- (c) ~~include~~ a requirement that the ~~Distribution Code Panel~~ code administrator must, when conducting work that involves working with or making decisions about the use of Energy System Data, use its best endeavours to act in accordance with Data Best Practice Guidance; ~~;~~ and
- (d) ~~include~~ a requirement that the ~~Distribution Code Panel~~ code administrator must, publish a Digitalisation Strategy and a Digitalisation Action Plan at intervals specified in the ~~DSAP~~ Data Best Practice Guidance; ~~;~~ and
- ~~(d)~~ (e) a requirement that ~~the~~ the ~~Distribution Code Panel~~ code administrator must; ~~;~~

- (i) publish its Digitalisation Strategy and its Digitalisation Action Plan and updates to ~~the~~ its Digitalisation Strategy and its Digitalisation Action Plan on its website where they are readily accessible to the public;~~;~~
- (ii) maintain an archive of all published versions of its Digitalisation Strategy and its Digitalisation Action Plan on the ~~licensee's~~ Distribution Code's website where they are readily accessible to the public;~~;~~ and
- (iii) notify the Authority of any updates to its Digitalisation Strategy and to its Digitalisation Action Plan.

## **Standard Licence Condition 22. Distribution Connection and Use of System Agreement**

### **Appendix 1: Schedule of DCUSA Contents**

Without prejudice to any of the matters set out in paragraph A2, the DCUSA must also include:

- (a) Terms for the creation of an agreement, to which the licensee, every other Electricity Distributor, and any other Authorised Electricity Operator (not being an Electricity Distributor, and so far as the DCUSA is applicable to it) must be a party on such terms and conditions of accession as may be Specified (“the DCUSA Accession Agreement”).
- (b) Provisions for the referral for determination by the Authority of any dispute arising as to whether a person seeking to be admitted as a party to the DCUSA Accession Agreement has fulfilled any such accession conditions.
- (c) Terms that provide for the licensee and such other parties to the DCUSA Accession Agreement as may be Specified to be contractually bound by some or all of the provisions of the DCUSA.
- (d) Arrangements for establishing and maintaining, in accordance with such procedures for appointment or election as may be Specified, a panel (“the panel”) which is to be responsible, by way of such proceedings as may be Specified, for the governance and administration of the DCUSA and whose members are to be required as a condition of appointment or election to act independently and not as delegates.
- (e) Arrangements for the establishment and funding of a secretariat that is able to service the panel to such extent and in respect of such matters as may be Specified.
- (f) Arrangements for a secretarial or administrative person or body, as specified in the DCUSA, to perform the role of code administrator (the “code administrator”). In addition to any power, duties, or functions set out in the DCUSA, the code administrator shall:
  - (i) together with other code administrators, publish, review, and (where appropriate) amend from time to time the Code of Practice approved by the Authority (any amendments to the Code of Practice are to be approved by the Authority);
  - (ii) facilitate the procedures for making a modification to the DCUSA;
  - (iii) have regard to, and in particular (to the extent relevant) be consistent with the principles contained in, the Code of Practice; and
  - (iv) provide assistance, insofar as is reasonably practicable and on reasonable request, to parties (including, in particular, Small Participants) and, to the extent relevant, consumer representatives that request the code administrator’s assistance in relation to the DCUSA including, but not limited to, assistance with:
    - (1) drafting a modification proposal;
    - (2) understanding the operation of the DCUSA;
    - (3) their involvement in, and representation during, the modification procedure processes (including, but not limited to, panel and/or workgroup meetings);

(4) accessing information relating to modification proposals and/or modifications.

(g) Such criteria as are Specified for the modification of the DCUSA without the Authority's approval, in accordance with Parts B to D of this condition.

~~(h) — Not used.~~

~~(i)(h)~~ ~~include~~ a requirement that the ~~DCUSA~~ code administrator must, when conducting work that involves working with or making decisions about the use of Energy System Data, use its best endeavours to act in accordance with Data Best Practice Guidance, ~~and~~

~~(i)(i)~~ ~~include~~ a requirement that the ~~DCUSA Manager~~ code administrator must, publish a Digitalisation Strategy and a Digitalisation Action Plan at intervals specified in the ~~DSAP~~ Data Best Practice Guidance. The ~~DCUSA Manager~~ code administrator must:

- (a) publish its Digitalisation Strategy and its Digitalisation Action Plan and updates to ~~the its~~ Digitalisation Strategy and its Digitalisation Action Plan on its website where they are readily accessible to the public.
- (b) maintain an archive of all published versions of its Digitalisation Strategy and its Digitalisation Action Plan on ~~its the DCUSA~~ website where they are readily accessible to the public.
- (c) notify the Authority of any updates to its Digitalisation Strategy and to its Digitalisation Action Plan.

~~(g) Such criteria as are Specified for the modification of the DCUSA without the Authority's approval, in accordance with Parts B to D of this condition.~~

~~(h) Not used~~