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Response to the Statutory Consultation from the Energy code reform programme – modifications to industry codes to implement the harmonised code modification prioritisation process

BUUK Infrastructure (BUUK) welcomes the opportunity to respond to the recent statutory consultation on changes to the industry codes to implement a new common harmonised prioritisation process for modifications.

As well as our response to the consultation we've provided a short overview of our business.

Overview of our business

BUUK is a leading British multi-utility infrastructure investor, working across Great Britain and competing against incumbent utility companies.

Our initial interest in utilities began with ownership of regulated gas networks and we have gradually expanded our portfolio into other utility sectors including electricity, fibre, water, wastewater, and heat. We have provided over three million utility connections and serve these customers across 48,000 discrete networks. We also provide smart low carbon technology (LCT) solutions to help decarbonise homes through our Passiv and Levelise businesses.

Summary

As an organization active in the development of gas and electricity industry codes and regulation we have long championed greater process harmonisation and efficiencies. We recognise the previous efforts that Ofgem has undertaken in this area, for example in developing the Code Administrator Code of Practice, and share the frustration around the lack of progress.

We therefore welcome the proposed changes to the industry codes and the sentiment to deliver a common process for prioritisation across all industry codes.

Our experience of code modification prioritisation is that this is only really required during periods of excessive change to a specific area of regulation and its associated industry codes.

Outside of these times the standard change processes and available resource within the code administrators and industry are adequate to manage changes. We therefore welcome the proposed priority classification as this recognises this situation.

Some codes already operate a prioritisation process and experience of these has demonstrated that the concept has merits.

One aspect that is missed in the consultation is a link from the prioritisation process to the annual business planning cycle by each industry code administrator (or licenced code manager in the future).

A long queue of changes to a code that are not being progressed suggests that valuable innovation and development in the sector is not happening and that market participants and ultimately consumers are missing out on improvements to their service. Greater resources should therefore be employed by the code to ensure that change is delivered in a reasonable timescale.

We would expect to see this addressed in the future code manager licence arrangements, with specific targets and reporting on how code change is being progressed, including clarity on delays, prioritisation outcomes and how well change is facilitated.

Yours faithfully,

Alex Travell

Head of Regulation

Responses to consultation questions:

Question 1. Do you agree with the policy and associated code modifications proposed in Section 1. Prioritisation process?

Yes

Question 2. Do you agree with the policy and associated code modifications proposed in Section 2. Prioritisation criteria and governance?

Yes

Question 3. Do you agree with the policy and associated code modifications proposed in Section 3. Prioritisation reporting and governance?

Yes

Question 4. Do you agree with the policy and associated code modifications proposed in Section 4. Policy implementation?

Mostly, although the proposal to have appeals processes for prioritisation decisions for some codes and not for others seems at odds with the objective of these reforms to implement common approaches to change.

Although we understand the view that this may delay the implementation of reforms we do not think in practice that it would be too onerous to include this option for all codes.

Some codes already include a defined process for appealing a periodisation decision and these can remain.

Those codes that currently do not include a prioritisation process do have existing appeals process for certain decisions that their Panels may make. For example decisions on self-governance modifications taken by the UNC Panel can be appealed to Ofgem for determination. Extending these existing appeals processes to decisions made by the relevant Panel on the classification of a modification would be straight-forward.

As stated in the consultation the number of appeals on a prioritisation classification should be minimal if the process is followed robustly but it would be appropriate to include a safeguard in the decision-making process.

Question 5. Do you agree with our proposed implementation date of 28 days from the publication of the related prioritisation policy decision notice?

Yes, although the practical delivery of a prioritisation status for all current modifications may take some time to complete for those codes where the concept does not currently exist.

Question 6. Do you agree with the proposed guidance in ‘Annex A: Proposed Authority guidance on code modification prioritisation’?

Yes, this is a helpful document and provides support for Code Panels and administrators when considering the relevant prioritisation status to allocate to a modification.

Question 7. Do you agree with the proposed code text drafting published in annexes B-L?

Yes