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Sent by email to: industry_codes@ofgem.gov.uk

Dear Kate and Ofgem Codes Team,

RE: Statutory consultation on modifications to industry codes to implement the harmonised code modification prioritisation process

Thank you for the opportunity to respond to this consultation on behalf of the SSE Group¹. We have been following the development of this policy area closely over the last two years and welcome this statutory consultation as a means to finalise Ofgem's proposals. We are mostly content with the final statutory consultation details and welcome the updated guidance document in Annex A in particular, but wanted to highlight below our two most prominent concerns:

(i) – We continue to be concerned surrounding the lack of an impact assessment on code panel resource constraints. We anticipate that the impact on code panel resource will be intense. Assessing every live modification to inform what level of information is available to be able to either conduct or not conduct an assessment against the new criteria, and then conducting the assessment itself, will take a significant period of time. This is especially concerning given the other policy areas panels are expected to work on in parallel that are critical to industry, connection reform and reformed national pricing to name but a few, that will be of the upmost importance. We would urge that a full assessment is undertaken for each code affected, including quantifying the number of expected modifications in each code that qualify as live and then expanding this exercise to identify what a suitable timeframe to work towards should look like before proceeding.

(ii) - Ofgem must set out a concise and summarised vision of the reformed code process industry is moving towards. Whilst we appreciate that this consultation focusses solely on amending the existing codes process in advance of new initiatives such as the Strategic Direction Statement (SDS) being formally introduced, it would be helpful to have access to a concise summary of what the end state will look like. Related issues such as what the role of new functions like the Stakeholder Advisory Forums (SAFs) is within the prioritisation process, or what the 'applying for urgency' process will look like within the future process, and how to assess the role of actors like the Cross Codes Steering Group (CCSG) in the future are all currently unknown. There has been significant consultation period to date on code reform that has covered a large variety of areas, we are increasingly finding it difficult to thread together the various work streams to understand what we collectively are working towards. Having a "plan on a page" diagram

¹ The SSE Group is one of the largest UK listed companies and includes six business units – SSE's Network Businesses (SSEN Distribution, and SSEN Transmission) and SSE's Energy Businesses (SSE Renewables, SSE Thermal, SSE Energy Solutions, and SSE Energy Markets).

outlining clearly the end vision, inclusive of roles and responsibilities for each actor throughout the process, would help fully inform stakeholders. In turn, they are then able to submit high quality responses having fully understood how each part of code reform works within the vision of the future we are moving towards.

As ever, we would be more than happy to discuss any aspects of our response and would like to reiterate that we remain fully committed to help ensure that the implementation of a new end to end code process is successful for both Ofgem and industry. A full response to the consultation questions are contained with the appendix subsequent to this covering letter.

To confirm, our response is not confidential.

Yours sincerely,

Nicholas Phillips
Regulation Manager

Appendix 1: SSE Response to consultation questions

PRIORITISATION PROCESS

Q1) Do you agree with the policy and associated code modifications proposed in Section 1. Prioritisation process?

Yes, we agree this is a sensible approach for implementing the amended prioritisation process within the existing system. We are supportive in particular of the proposers of modifications retaining responsibility for conducting the initial assessment against the prioritisation criteria, given that it is the proposer who holds the expertise and knowledge relevant to the modification in question.

As raised previously, outlining how this part of the code modification process will work within the wider reformed end to end code modification process would be helpful. Whilst we appreciate that the statutory consultation in question relates to modifying the existing process and does not refer to the future process, it would help with wider understanding as to what the roles of new instruments would be, for example Stakeholder Advisory Forums (SAFs), in the prioritisation process post implementation.

PRIORITISATION CRITERIA AND CATEGORIES

Q2) Do you agree with the policy and associated code modifications proposed in Section 2. Prioritisation criteria and governance?

We somewhat agree. The confirmation of the two categories as standard or high and the three assessment criteria as alignment with the SDS, complexity, and importance is welcome, as well as the removal of time sensitivity given the potential for misunderstanding with the separate urgency process. However, we are concerned around the potential for subjectivity within the proposed assessment criteria definitions, in particular for complexity and importance. We are unsure as to how these definitions are to be interpreted consistently both by modification proposers and by code panels. The guidance in Annex A: Proposed Authority guidance on code modification prioritisation does not provide any additional useful information in how to practically apply these criteria, and as a result, we would anticipate that this will be an issue for proposers and code panels alike.

PRIORITISATION REPORTING AND GOVERNANCE

Q3) Do you agree with the policy and associated code modifications proposed in Section 3. Prioritisation reporting and governance?

Yes, we agree that the proposal is appropriate for reporting and governance. The bi-annual review paired with ad hoc events such as the SDS publication or the publication of relevant government and Ofgem policy is sufficient for reporting requirements within industry, and we agree with maintaining status quo appeal arrangements on challenges for a prioritisation decision.

Further, we support the proposals surrounding modification registers and the upkeep of these governance arrangements. Ensuring clear transparency is critical for delivering a successfully reformed code process, we welcome the proposed steps for the rationale behind prioritisation decisions to be included within each update to priority registers.

POLICY IMPLEMENTATION

Q4) Do you agree with the policy and associated code modifications proposed in Section 4. Policy implementation?

No, we do not agree. Whilst confirming the definition of a live modification is useful, we retain the same concerns raised previously on the lack of an impact assessment on the resource impact from Ofgem's proposal. The anticipated impact on code panels from assessing live and future modifications on which modifications contains sufficient information for a decision on prioritisation to be made, and which have to be resubmitted as a starting point, would be significant. Following this, the process of conducting the primary assessment against the prioritisation criteria itself is no small feat and is expected to have a significant impact.

This is especially worrying when considering some of the industry critical developments that panels are expected to be working on, with connection reform and reformed national pricing in particular critical for wider industry objectives over the same period. In addition to the lack of any impact assessment to quantify the impact on code panels, the definitions within the guidance and consultation itself is not comprehensive. Section 5.16 states:

"We also propose that code panels will be expected to undertake the process of reviewing and prioritising live modification proposals in a timely manner after policy implementation, to ensure all modifications have a prioritisation determination as soon as reasonably possible"

This does not give an indication as to what sort of timelines this exercise is expected to be conducted upon, nor is this requirement being introduced by being codified with draft amendments to each code as is being pursued to make the other changes within this consultation. Overall, this proposal has the potential to create significant unintended consequences on taking up the resource of key industry groups, without attention or care being applied to what the outcomes could be. A more extensive assessment focussing on quantifying what the tangible impact will be for each code should be brought forward as a result of this consultation.

MISCELLANEOUS AREAS

Q5) Do you agree with our proposed implementation date of 28 days from the publication of the related prioritisation policy decision notice?

No, we do not agree. As outlined in our answer to Q4) above, there has not been sufficient attention given to assessing the resource impact on code panels from introducing these proposals. As a result, 28 days is too short a timeframe given the anticipated impact on code panels.

Q6) Do you agree with the proposed guidance in 'Annex A: Proposed Authority guidance on code modification prioritisation'?

Yes, we agree. We appreciate and welcome the publication of updated guidance given the scale of changes and updates to code drafting. Based upon our answers above, we would anticipate that redrafting of guidance would be required to account for our suggestions.

Q7) Do you agree with the proposed code text drafting published in annexes B-L?

As per our responses above, we would expect changes and redrafting to the annexes to account for the recommendation and suggestions in the answers above.