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Kate Lloyd
Ofgem
10 South Colonnade,
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Dear Kate,

This non-confidential representation is made on behalf of Cadent in response to Ofgem's Energy Code Reform consultation on template code text. As a party to several energy codes and the holder of licence conditions that currently confer obligations to establish and maintain a network code, we welcome the continued policy clarity provided by this, and similar consultations; in particular, on areas relating to code modification processes and how duties may transfer from parties/panel to Stakeholder Advisory Forums (SAFs).

Overall, we agree that the proposed drafting of the Code Modification Text reflects the policy intent within the main document, noting that Ofgem envisage separate consultations for bespoke adjustments required to the "phase two" Unified Gas Network Code. We have provided more general comments on the presented template code text below:

- In general, we agree with the policy's structuring of decision points/scenarios that require the code manager to inform or alternatively consult the SAF. A well-functioning and expert SAF will be critical to the future success and independency of code managers' decision making, and it will be important that they have the chance to record a formal view at key stages of the modification process.
- Under the proposal for sub-committees to possess the ability raise code modifications, it will be important that the code manager ensures the sub-group's terms of reference are sufficiently clear on the parameters of issues and solutions within its vires. For instance, the framework could require sub-committees to evidence to the code manager that proposed modifications not only further the code's relevant objectives, but also the relevant sub-committee's specific objective – e.g., the Uniform Network Code

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Performance Assurance Committee's "performance assurance objective" linked to gas settlement.

- To strike the right balance between holding the code manager's performance to account, and protecting against an overly burdensome regulatory process, we think code manager decisions could be appealable to the Authority only in cases where they have ruled against the majority view of the SAF. Today's framework already adopts similar principles; for example, the ruling of panel decisions as a feature of appeals of Authority Direction decisions to the Competition and Markets Authority (CMA).
- With regards to the alternative modification process, we note that code managers may direct workgroups to amalgamate options into a single alternative solution. Experience suggests that modifications which are more susceptible to alternatives are likely to centre on polarising code issues. It may be challenging for the code manager to effectively direct a workgroup towards a single alternative solution, particularly if members are not required to act impartially. As a result, the code manager's-imposed cap on the number of alternative modifications may need to consider the practicalities of parties aligning behind a small number of solutions.
- We agree with the potential complexity and scope for subjectivity posed by the triage criteria – "does not have reasonable prospect of being approved." The workgroup process is an important stage in the modification lifecycle and allows input from other stakeholders that can advance business rules and improve a modification's prospects of success (or conversely, identify new issues that reduce the likelihood of implementation). Therefore, a code manager's determination of a modification proposal's probability of approval could be precarious and highly assumptions based, especially if classified as self-governance or fast track self-governance.
- It will be important for the future modification rules to provide clarity to the code manager and proposers on the pre-requisites for subjecting a modification proposal to the pre-modification process. The proposed text states that the pre-modification process is not a mandatory step for all modification proposals. This implies that it may be for certain forms of modification, but it is not clear on the circumstances under which the pre-modification process would be mandatory.



- Although Gas Transporters (GTs) will be party to the Unified Gas Network Code and as such, will be able to raise modifications, it will be important to ensure that the exceptional cases prescribed under Standard Special Condition (SSC) A11 of the GT Licence are accounted for in the reformed modification process. For instance, SSC A11 requires licensees to make modifications to the relevant individual network code and/or the Uniform Network Code when receiving a direction under section 19 or 21 of the Gas Act 1986. Additionally, the modification procedures in Licence distinctly account for changes to GTs' connections and transportation charging methodologies, and cases where licensees receive notices from the Health and Safety Executive that require consequential code modifications. The reformed modification process should not frustrate licensees from complying with such directions and notices, and the breadth of parties able to propose modifications to GTs' connections and transportation charging methodologies may need to be proportionately restricted.
- The template code text lists criteria under A9.7 that determine whether a modification is Authority Consent. Whilst recognising that Ofgem are likely to consult upon phase two code-specific text at the right time, we think it is important to highlight the operation of GTs' Safety Cases. Experience from the Uniform Network Code (UNC) suggests that parties (including shippers) can propose modifications that create consequential changes to Safety Cases GTs are required to prepare under the Gas Safety (Management) Regulations (GSMR). The preparation and maintenance of a Safety Case is critical to GTs' compliance with GSMR and modifications that pose associated impacts should be considered of a materiality to warrant Authority Consent classification.
- With regards to proposed SAF text, we think the responsibilities under part B3.1 could be broadened to include monitoring of the code manager's performance. The draft code manager Licence conditions propose for creation of performance metrics and KPIs, and the SAF's unique position makes them well placed to adjudge the effectiveness of the code manager's operations. On the other hand, the proposed text may leave scope for ambiguity on how the code manager and Ofgem deal with cases of poor SAF performance. We agree with the insertion of a process that manages the removal of individual SAF members, but the oversight of the forum's overall functioning is less clear.
- In terms of SAF membership and quoracy, B6.1 proposes a minimum member availability of attending at least 50% of meetings each year. We think an increase closer to 70% could be



justified and would better preserve the balance and integrity of the forum. Additionally, the text proposes for a SAF meeting to be considered quorate if at least half of all members (or their alternates) are present. In our view, this approach to quoracy creates a greater risk of imbalanced views/voting, and a more effective option may be to apply the >50% attendance at a constituency level (e.g. code parties, independent parties, consumer advocates).

We remain committed to supporting Ofgem's implementation of Energy Code Reform and would welcome continued dialogue to help ensure a robust and smooth transition from the legacy framework to the reformed codes.

Yours faithfully,

Edward Allard
Industry Codes Manager