

## Code Administrators Working Group Meeting 1 - 28/08/2008

### Attendees:

Roger Barnard – Edf Energy	Robert Hammond - Energywatch
Peter Bolitho – E.on	Phil Lucas – National Grid
Duncan Burt – National Grid	Rosie McGlynn – Edf Energy
Emma Carr – National Grid	Eddie Proffitt - MEUC
Juliet Davenport – Good Energy	Ed Reed – Cornwall Consulting
Tim Davis – Joint Office	Chris Rowell - Elexon
Jon Dixon – Ofgem	Louisa Stuart-Smith - Npower
Nick Durlacher – Elexon	Chrissie Sykes - Statoil
Sebastian Eyre – EdF	Chris Wright - Centrica
Mark Feather – Ofgem	Barbara Vest (telecon) - AEP
Arjan Geveke – BERR	Cathy Wheeler - Ofgem

**Introduction** - Mark Feather gave an introduction about the purpose of the meeting and its aims. The meetings will be monthly with an open door policy for industry and consumer representatives. It was highlighted that Ofgem was interested in measuring the accessibility and transparency of the codes partly from a small participant/new entrant/customer perspective and seeking opportunities for convergence along best practice lines and was aiming to facilitate discussions. Mark emphasised it was important for the group to play an active role in coming up with the ideas. A group member wanted to know whether the 6 work-strands of the governance review (strategic policy reform/self governance package, charging methodologies, code objectives, performance of code administrators, small participant initiatives and code administrators working group) would overlap with each other. It was advised that although the work-strands would all be separate they would all have to take into consideration work being done by the other strands and whether any issues raised belong in this work-strand or another.

**Terms of Reference** – A group member felt that the terms of reference overly focused on small parties. They felt that although these issues are important and should be included in the considerations of the group, the key task for the group was to suggest revisions to the codes that would make them more robust and better able to manage current and future changes/issues in the market. This would help all parties and not just smaller parties. It was agreed that the terms of reference would be reworded to reflect that all market participants would benefit from improved governance, whilst nevertheless retaining an emphasis on the needs of smaller parties, new entrants and customer groups. Mark Feather noted that in deciding on the scope of the governance review, the Authority was particularly concerned that the Code arrangements were complex and created barriers to entry. As a result the Authority has emphasised the importance of ensuring the arrangements are transparent and accessible from a small player, new entrant perspective.

Another group member felt the language used in the terms of reference was a bit strong and suggested that terms such as 'prohibiting' should be replaced with terms like 'limiting', etc. This was agreed. They also wanted the group to specifically consider code panel's constitution, processes, elections, funding, etc. This was agreed with the caveat that the group make sure the discussions do not get too bogged down in debates (such as panel representation) which may not lead to beneficial changes. A group member also suggested that working group practices should be considered as well. Another group member wanted funding issues considered from a smaller participant and consumer perspective. It was

agreed that question 8 of the Scope and Deliverables (“In what areas could the modification procedures appropriately be simplified and/or aligned to achieve best practice?”) would be reworded and bullet points added to include these more specifically.

A group member sought clarification on whether the working group would consider structural reforms including mergers of code administrators. The group member commented that structural issues were likely to arise to the extent that the group was considering convergence. Mark Feather indicated that structural reform was not within the group’s remit.

However, Mark commented that if, based on discussions around convergence issues, the group believed that structural reforms should be considered then it was open to it to make recommendations of that nature in its draft report. Mark indicated that Ofgem was open to considering structural reforms such as mergers of codes and/or administrators where there was significant industry support for such reforms.

### **Presentations (slides available on the Ofgem website)**

**BSC Presentation (Chris Rowell)** – Consultation during modification process considered to be very good, although there is quite often limited engagement from industry parties and the responses rarely give full explanations for costs and implementation dates. Also respondents have difficulty in putting arguments forward for how the modification would benefit the BSC objectives.

The process for proposing a modification or raising an issue is set out in section F of the BSC and the administrator will help interested parties understand the process and the timetables involved. Elexon indicated it also provides a lot of the analysis for modification proposals. However, there is so much information available that interested parties may feel overloaded.

It was felt that there were often differing objectives for working groups, the code panels and Ofgem which can result in confusion over a decision made by Ofgem.

Parties can raise urgent modifications, and the timetable for modification processes can be (but rarely are) varied. Every modification has to be treated exactly the same way, even housekeeping modifications. Once a modification proposal is launched it can not be terminated and any gaps in analysis that are found by Ofgem can only really be dealt with by rejecting it. Once a modification proposal has been put forward it has to go through to Ofgem. It was suggested that it would be useful for there to be an ability to stop the modification proposal procedure at any time.

**CUSC and Grid Code Presentation (Duncan Burt)** – CUSC administered by National Grid; there was a discussion about whether the CUSC should be administered by an independent party rather than National Grid and Mark Feather noted that this would be considered by the “Performance of Code Administrators” work-strand.

National Grid indicated it does a lot of the analysis for CUSC modification proposals. The CUSC panel members are also involved in the working groups on modification proposals. National Grid indicated that the administration of the CUSC is cost effective and is funded using RPI-X, however it could act as a disincentive in spending too much on the analysis of a modification proposal. It was suggested that perhaps modification costs should be ring-fenced. National Grid noted it can be difficult to process modifications where the issues raised

overlap with matters of public interest. Also the terminology used in the CUSC modification procedure is inconsistent with the other codes which could lead to confusion.

In the Grid Code it is possible to change legal text once an amendment is with Ofgem. Developments are by consensus. National Grid is required to respond to each consultation response to address the points raised.

One group member felt that there had been significant process and participation issues around some CUSC modification proposals. They were asked to advise Ofgem of where the problems were so this could be discussed at the next meeting.

Another group member felt that it was difficult to know how to develop a modification proposal because of gaps in Ofgem and BERR's policy.

It was also felt that tight time frames in the modification process made major reform difficult. However, it was pointed out that most codes had an option to extend the time frame for a modification proposal.

**UNC Presentation (Tim Davis)** – The UNC is a very large and complicated document that could in itself be considered a barrier. The modification process for the UNC is very flexible in terms of process, time scales and consultation periods. There are no fixed timetables and this could be seen as a negative. However, the panel does try to get things done in the time scales required by the proposer depending the nature of the modification.

There are five different routes you can go through to modify the UNC. The first is if a party has concerns there are deficiencies with a section of the code you can put a suggestion in that this section of the code be reviewed. A review group is set up to consider the section and a subsequent modification may or may not be raised. It was pointed out that this is similar to the 'issues groups' used in the BSC and standing groups in CUSC. There is no obligation on the review group to propose a modification and the group is not bound by a specific modifications terms of reference.

The second route for modification proposals is when a proposal is suggested but needs more work on it. It is sent to a development work group to consider it with or without terms of reference. Also, proposals can go to a work-stream discussion for tidying up and work-streams can work on a number of proposals at a time. One of the group members felt that these work-streams are quite useful as they are a group of people who meet regularly about different aspects of the code and have a good understanding of it.

The third route is for much simpler modification proposals that can be put straight out to consultation.

The fourth route is for modifications such as 'house-keeping' modifications where the panel can write to Ofgem requesting consent to change the document. It was pointed out that the UNC currently had the consent process available to it where as other codes do not.

The final route is where a modification is being made to a UNC related document. If it states in the UNC that any changes to the related document should be treated in the same way as a UNC modification proposal then the proposer would have to go through one of the above process otherwise they just need approval from the UNC Committee (some members as the UNC panel). If a proposer is not

happy with the decision of the UNC Committee they can raise it as a formal modification proposal to go to Ofgem.

Tim indicated that the UNC website is very informative and provides all documents related to the UNC, unless they are confidential. However, there are no requirements in the UNC to do this; it is just published out of good practice. Also, the wording of the UNC doesn't necessarily promote inclusive, accessible and effective consultation, for example there is only a requirement to send out the results of a modification decision to the proposer and those who responded to the consultation rather than all parties. In practice the decision is sent out to all parties.

A group member said that there appeared to be a gap between rules and the actual processes of the code administrators in the case of the UNC. They felt that the codes/licence conditions needed to be updated to reflect the processes. The group member also felt that there are no incentives on parties to raise certain types of modifications. Where an issue is identified by a review/issue group that could be resolved by a modification parties won't always raise them due to costs and time. Also, the quantitative and qualitative analysis of some modifications was not as good as it could be as the modification groups, work-stream groups, etc were relying on information provided by respondents who did not always provide fully thought out responses.

It was noted that legal text can be changed once it's been sent to Ofgem with some codes but not others.

**MRA, SPAA and DCUSA (Rosie McGlynn)** – It was stated that all 3 Agreements are very accessible and transparent via their websites as they hold all relevant information relating to working groups, change proposals and Authority decisions. This view was challenged by one group member who argued that they were only accessible if you were a member of the website, which was not always granted. Each Agreement has a helpdesk facility which can be utilised if parties need assistance with any aspect of the change process.

The MRA Change Process has been designed to facilitate MRA Parties making the majority of the decisions in relation to Change Proposals. Few change proposals go to Ofgem for decision; for example there has only been one change proposal which has been sent to Ofgem for decision this year (the MRA Breach and Appeals Process).

The SPAA Change Process currently results in the majority of SPAA Changes being sent to Ofgem for decision. This has the effect of minor housekeeping changes being issued to Ofgem for decision. The SPAA Constitution Group has drafted a revised process which should result in the number of changes issued to Ofgem declining.

The DCUSA Change Process also results in the majority of Change Proposals being sent to Ofgem. This also has the effect of minor changes being issued to Ofgem for decision. Best practice has been shared between the MRA and the DCUSA as a change has recently been proposed to set up a standing issues group which can be utilised to discuss industry issues and potential changes in advance of change proposals being formally raised.

One work group member felt that it was good that with the DCUSA most modification proposals went to Ofgem. They felt that the voting procedures for the DCUSA disadvantaged smaller parties in determining whether a modification

should be recommended for approval or rejection. This view was not shared by the majority of the working group.

It was pointed out by the same group member that it would be a big issue for smaller parties if the industry did make a move towards self-governance. It was agreed that this was an issue more suited to the self-governance work-strand of the governance review.

A suggestion was made that each Agreement could issue out overviews of activities undertaken to interested parties on a regular basis.

**Work/Actions for Next Meeting** – It was decided that the issues log that was provided by Ofgem would be updated to reflect the issues raised and group members were asked to consider the issues and bring back suggestions if they felt that other issues should be addressed.

It was suggested that a matrix of the different codes should be produced highlighting the differences in the processes. As this had been done in the Brattle report Ofgem agreed to send the matrix to the group members for their consideration.

Mark Feather indicated that he would invite some members of the group to give presentations for the next meeting giving their perspectives on codes processes, focussing on UNC, BSC and CUSC.

Next meeting will be 1 October 2008, 10am, at Ofgem's offices.