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Dear Mark

Review of Industry Codes Governance – Major Policy Reviews and Self Governance

I am writing to you as the Grid Code Review Panel Chair on behalf of the Grid Code Review Panel (GCRP). The Panel welcomes the opportunity to respond to the review of industry codes governance – major policy reviews and self governance. The comments provided are applicable to the Grid Code only.

The Grid Code covers the technical aspects that parties must adhere to in relation to the connection of, operation of and use of the GB Electricity Transmission System. The Grid Code also specifies data which system users are obliged to provide to National Grid for use in the planning and operation of the transmission system, including demand forecasts, availability of generating sets and intended dates of overhaul of large generating sets. The Grid Code, and its sister Code – Distribution Code, were established at the time of the privatisation of the electricity industry and its governance arrangements (of which there are many similarities between the two Codes) reflect the role of the Grid Code within the industry.

As a technical code, the governance arrangements facilitate a collaborative industry approach to the development of proposals to technical issues which has delivered and enabled the effective introduction of complex technical changes in recent years¹. Key to this approach is the active participation of all interested parties, inclusive of the Authority, at all stages of the amendment process. The governance framework has evolved since the establishment of the Grid Code; with the Code being amended in recent years to incorporate elements of self-governance² and the Grid Code Review Panel Membership adapted to reflect the changes in the electricity industry³.

The Grid Code governance arrangements are an indication of the licence and contractual obligations of the parties and the remit of the Code, with the Code being administered, owned and maintained by National Grid Electricity Transmission in accordance with its licence requirements. The Grid Code is reviewed by an independent panel whose membership comprises representation from all the main categories of industry participants who are party to the technical provisions.

¹ Grid Codes Consultation H/04 (Changes to Incorporate New Generation Technologies and DC Inter-connectors (Generic Provisions) and G/06 (Power Park Modules and Synchronous Generating Units).

² Governance of Electrical Standards.

³ Introduction of Supplier, Relevant Transmission Licensee Representative(s).

Therefore the proposals outlined in Ofgem's consultation should not in themselves seek to force fit a uniform approach to governance across all industry codes as the current differences have evolved due to the individual nature and effect each code has on the industry.

KEY ISSUES AND OBJECTIVES

Question 1: Do you agree with our assessment of the deficiencies of the codes governance arrangements and do you agree that there is a case for reform? Are the proposed reforms a proportionate response to the problems with the status quo that we have identified?

The Grid Code governance framework has worked well in introducing complex technical provisions. The existing framework provides a flexibility and adaptable structure which promotes and facilitates a collaborative industry approach to the development of technical proposals. However, the GCRP does acknowledge the importance of having seamless code governance arrangements for strategic reforms which will impact a majority of codes and the fact that improvements in the governance regime can always be made.

It is worth noting that the timeline of a Grid Code proposal is inclusive of the fact that only one proposal is developed and submitted to the Authority for determination; therefore the concept of competing amendment proposals is not applicable to the Grid Code given the existing governance framework provisions.

Question 2: Would the Major Policy Review process enable key strategic issues (e.g. electricity cash-out or transmission access reform) to be progressed more effectively and efficiently with consequent consumer benefits?

The current Grid Code governance framework has seen the development and introduction of complex technical issues. The challenge remains for effective code management to enable the progression of key strategic issues which cross over multi-codes. The importance of having a strategic approach, when managing significant change is crucial to the effective and efficient progression of the proposals. The GCRP would therefore like to see more clarification about the intended process before commenting further.

Question 3: Would a Self Governance route be suitable for a significant proportion of modification proposals?

In line with the majority of other Codes, the Grid Code recognises the concept and has itself limited self governance provisions. The expansion of this provision to include housekeeping amendments, for instance, may be conceptually possible. However given the licence standards which govern the Grid Code, the expansion of the self governance provision would require careful consideration.

Question 4: If both the Major Policy Review and Self Governance routes were implemented, is there a case for retaining an Improved Status Quo path?

An improved status quo path may still be necessary, depending on the criteria applied to modifications which could be progressed under the self-governance route. The majority of Grid Code amendments

are neither 'housekeeping' nor 'major policy change' in nature and as such a third option would be required to progress the remaining Grid Code changes.

Question 5: If this package of reforms is implemented, should it apply to all codes? If not all, which? Should the introduction be phased?

It is not for the GCRP to comment on the appropriateness of the provisions for other industry codes. From a Grid Code perspective, it is unlikely that the self governance provisions would improve the effectiveness or efficiency of governance process given the nature of the Code changes i.e. the majority of Grid Code will have an impact on Users and as such may not be captured by the self governance provisions.

The 'Major Policy Review' may provide more effective cross governance arrangements for the industry however more detailed information regarding how the provisions would work in practice is required.

FILTERING CRITERIA

Question 1: Once a modification has been raised, should the filtering decision be Ofgem veto?

If the criteria for filtering was clear and had agreement from the applicable parties then there should be no need for a filtering decision by Ofgem.

Question 2: What criteria should be applied to assessing whether a modification falls into Path 1 or Path 2?

If the provisions were to be applicable to the Grid Code; it would be appropriate for the criteria to be clearly defined and previously agreed by the applicable parties.

Question 3: How should we treat modifications that fall within the scope of an existing Major Policy Review?

GCRP would expect that the governance arrangement should be sufficiently adaptable to permit modifications which are raised and are deemed to fall within the scope of an existing Major Policy Review to be absorbed into the Major Policy Review process.

PROPOSED 'MAJOR POLICY REVIEW' PROCESS

Question 1: What process should be adopted for Major Policy Reviews?

No comment on the process which should be adopted for Major Policy Reviews. It would be useful for the GCRP to have access to Ofgem's proposed MPRs in advance of amendment proposals being considered within a key strategic area.

Question 2: What are your views on the Options for determining the outcome of a Major Policy Review?

Given the current remit and role of Ofgem it appears that Option 1 is the most appropriate route. This route would require active participation from all industry participants throughout the process and necessitate adaptable governance arrangements. Although it may be most appropriate for Ofgem to issue 'non binding conclusion' which will ensure flexibility during the amendment proposals development process.

Option 3 would challenge the remit of the GCRP and its role in the amendments process i.e. purely administrative not actively participating in the development of the Code. This is especially important in the case of the Grid Code given the highly specialist, technical nature, of its provisions.

Question 3: How ought the outcomes of a Major Policy Review to be implemented?

No comment on how the outcomes of a Major Policy Review should be implemented. Although the GCRP would request further clarity from Ofgem regarding the impact on affected parties, and their role during the development of the necessary proposal(s), of being obligated to raise the relevant modifications to reflect the outcome of the Major Policy Review.

Question 4: What safeguards and appeals mechanisms should be in place?

Given the consensus nature of the Grid Code, the GCRP do not actively vote on the proposals and no Panel recommendation is included within the final report submitted to the Authority (although it is inclusive of any comments made by affected parties e.g. industry participants). Therefore the only appeals mechanism applicable to the Grid Code is a Judicial Review on the Authority's decision i.e. Competition Commission appeal mechanism is not applicable to the Grid Code.

If Ofgem took a more active role in the development of Grid Code amendments, the role of the GCRP and the appeals process would have evaluated and adequate safeguards and appeals mechanisms incorporated within the governance framework.

Question 5: Should there be a moratorium on subsequent code modifications following the completion of a Major Policy Review?

The ability to allow modifications to be raised following the completion of a Major Policy Review appears appropriate given past experience of introducing significant industry change. Therefore the GCRP does not believe it appropriate to have a moratorium on relevant proposal after a Major Policy Review especially given the remit of the Grid Code e.g. promote the security and efficiency of the electricity generation, transmission and distribution system in Great Britain which may be comprised by an inability to raised code amendments following a Major Policy Review.

PROPOSED 'SELF GOVERNANCE PROCESS'

Question 1: Which model is optimal (Independent Panel, Representative Panel, signatory voting)?

No comment.

Question 2: Should it be mandatory for panels to have a consumer and a small market participant representative?

The GCRP constitution is multi-faceted ensuring that all affected parties are represented. The GCRP has provisions for small generators and suppliers representation (panel member will represent all members of their constituency). The constitution of the GCRP may be amended to have a consumer representative but given the highly technical nature of the Grid Code proposals and indirect consumer impact (e.g. cost, security of supply) it may not be the best use of consumer organisation resources.

Question 3: What voting procedure should apply governing code decisions?

In the event of the 'Self Governance' provisions being applicable to the Grid Code, the GCRP believes that the current provisions of a majority vote (with the Chairperson having a second or casting vote) are sufficient. It is extremely rare for the GCRP membership to vote on panel matters as wherever possible members strive for consensus on any proposal.

Question 4: What appeal mechanisms should be in place? Should defined appeals arrangements be set out or should Ofgem have discretion over whether or not to hear an appeal?

As mentioned previously, the only appeals process applicable to the Grid Code currently is a Judicial Review of the Authority's decision. In the event of the 'Self Governance' provisions being applicable to the Grid Code, it would be important for the appeal's process to be appropriate for the decisions it will have to consider and the licence obligations which govern the Grid Code.

Question 5: Should a consumer and small participant representative have an automatic right of appeal?

The Grid Code provisions are based on equality amongst all affected parties and therefore the provisions of certain parties having automatic right of appeal would undermine one of the fundamental principles of the Code.

IMPACT ASSESSMENT

Question 1: Do you agree with our assessment of the package of reforms against the Review Objectives?

No comment.

Question 2: Do you agree with our quantitative assessment of the potential cost savings of reforms?

No comment.

Question 3: Do you agree with our assessments of the potential impact of reform on consumers, competition and sustainable development?

No comment.

Question 4: Do you agree with our assessment of the potential unintended risks and consequences?

The GCRP notes that it is only appropriate for it to assess the potential impact on Grid Code. The proposals may potentially impact the effectiveness of the Grid Code in developing and implementing complex technical amendments given the significant change which it would represent which may not be proportional to the changes proposed and the piecemeal improvements which would potentially introduce into the Code.

Summary

The GCRP acknowledges the importance of having an effective and efficient code governance arrangement which facilitates and delivers industry change and as such will continue to work with Ofgem to ensure the management of effective Code governance and the submission of high quality proposals. However that does not imply that a uniform approach to governance across all industry code will bring the improved benefits sought by Ofgem given the individual nature of each industry code.

The appropriateness of the proposals to the Grid Code remain uncertain; given the flexibility which currently exists within the governance frameworks and its track record of working with the industry and other industry codes⁴ in developing and implementing complex technical changes. Therefore the GCRP requests further clarity and rationale from Ofgem regarding the applicability of the reforms proposed to the Grid Code given its technical remit and consensus orientated approach to developing and implementing Code amendments.

Should you wish to discuss any aspect of this response, please do not hesitate to contact me.

Yours sincerely

David Smith
Grid Code Review Panel Chairman

⁴ Examples of existing cross code collaboration are: (i) Joint Balancing Service Standing Group (CUSC) and Grid Code Frequency Response Working Group, (ii) Joint Distribution Code and Grid Code E3C Small Embedded Generation Frequency Obligations Working Group and (iii) Joint CUSC and Grid Code Gas Insulated Switchgear Working Group.