



“Timing out” of code modification proposals (13 May 2009) Response by SP Energy Networks

SP Energy Networks (SPEN) welcomes the opportunity to comment on the open letter issued on 13 May 2009.

We accept, in certain limited circumstances, that there is a case for providing for extensions to implementation-related dates for changes to the BSC and CUSC. It is in no-one's interest for time and resources to be expended on the preparation of proposals and accompanying analyses that are not able to be fully assessed by the Authority before the relevant date. However, it is not clear to us that the proposals should provide for the Authority to be able to, unilaterally, set a revised date (as opposed to a minimum period). We consider it appropriate, in such limited circumstances, for the Authority to engage with the appropriate Code Panel prior to the setting of a revised date providing explanation of the delay and its proposals in relation to the extension of the timeframe.

It also seems to us that there should be an option for the relevant panel to decide to withdraw a modification proposal, perhaps for further work, in the light of difficulties with the timescale for consideration by the Authority, rather than be required to work to amended timescales over which it has no control. A less prescriptive approach would provide the flexibility needed. We also have some comments on the detailed drafting of licence conditions in the paper.

Our detailed comments are as follows.

(1) Possible withdrawal of a modification

We understand the reasons for Option C taking into account the possible need for updated analysis to be submitted to the Authority. However, depending on the length of time that the Authority considers necessary to fully assess the proposals, the relevant code users may feel that the case for the proposals concerned in their original form is less strong, and may need further work. Just as the original proposals are developed by users, so too should they have a chance to rework (or withdraw) proposals if there is an unforeseen delay to implementation. We therefore think that Option C should provide for a modification proposal to be withdrawn (if users so wish) in the event of a delay to its consideration.

(2) Provisions for Directions as to timescales

We note that option C provides for the Authority to be able to set firm revised “Decide By” dates. The draft licence conditions are somewhat more general in this regard, and appear to provide for the Authority to be able to issue “... **instructions concerning the required extension ...** “. We would have thought that the Authority should be able to give a minimum period considered necessary for considering the proposals, but without necessarily prescribing to the relevant panel all the relevant revised implementation-related dates.

(3) Requirements on licensees to enable new provisions to take effect

The draft licence conditions require the licensee to “... *ensure that the [code] enables the licensee to comply with the requirements ...* “. As code changes are not in the gift of the licensee, this drafting needs some more work, we think. This point could be addressed by editing draft conditions C3 (4C) and 10 (6C) of NGET's licence so as require the licensee to take appropriate steps to bring forward enabling modification proposals as necessary.