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Dear Jon

Re: Code Governance Review Final Proposals: Licence Drafting Consultation

Please find below NGN's response to your consultation. Please note that our response is focussed on gas distribution and the UNC and that we are not commenting on the appropriate approach for electricity and continue to believe that there is reason why the best solution for electricity would necessarily apply for gas.

NGN believes that the proposed licence changes are broadly reflective of the final proposals. The attached response addresses each of the specific questions in your consultation.

Please let me know if you would like any clarification of any aspect of this response. Note that our response can be regarded as non-confidential.

Yours sincerely



Joanna Ferguson
Network Code Manager

Code Governance Review Final Proposals – Licence Drafting Consultation

CHAPTER: Two

Question 1: Is the amending nature of the proposed changes appropriate?

NGN remains of the belief that Licence amendments are overly onerous for some of the changes proposed, but acknowledges that changes to existing licence conditions are more appropriate than the introduction of new licence conditions.

Question 2: Where the licence drafting differs between different licence conditions, because of intrinsic differences as between those licence conditions, but where the underlying policy position is identical, do you agree that the substantive effect is materially the same?

NGN is not familiar with the electricity licences, but through the recent licence drafting workshop it is apparent that the substantive effect appears to be materially the same across the relevant licences.

Question 3: Do you agree with our preservation of existing condition provision numbering?

The existing numbering method is well known amongst licensees and maintaining this style is welcomed.

Question 4: Do you agree with our approach to existing "house style"?

As in question 3, keeping with well known existing "house style" is welcomed.

Question 5: Do you agree with the order and placement of the new provisions?

NGN believes that within the UNC drafting, the new paragraph SSC A11 (6) (d) which refers to modification panel structure and constitution would sit better in paragraph 9 which outlines modification procedures where such structures reside.

Question 6: Do you agree with the references to panel consultation on the availability of the self-governance route?

Broadly speaking, we believe that the licence drafting for the self-governance route works.

Question 7: What are your views on the appropriateness of replicating the provisions relating to the UNC in SSLC A11(6)(d)(ii) for the CUSC and BSC?

NGN is not familiar with CUSC and BSC, but sees no reason why this could not be replicated across the codes.

Question 8: Do you agree with the appropriateness of the proposed deletions of provisions superseded by the code modification rules (as amended) and have you identified any potential unintended or unforeseen consequences?

It would seem appropriate to remove the provisions relating to the Authority response to charging methodology changes which have not been through the UNC modification governance as all modifications. Removal of SSC A5 (2) (a) & (2) (b) will remove potential dual governance for charging methodology changes.

Question 9: What are your views on the interaction of the charging-specific timing restrictions and obligations?

NGN remains of the belief that charging methodology changes should only take place at the same time as the current price change in line with existing practice.

Question 10: Do you agree with the wording of the licensee obligation to provide information/assistance to affected parties?

Access to reasonably requested information will no doubt be required to enable parties other than the licensee to raise charging methodology change proposals. It is essential that the licensees are not required to disclose overly detailed or commercially sensitive information, although assistance in understanding the interaction between various costs and income streams at an appropriate level would be expected.

Question 11: Do you agree with the proposed deletion of the word 'financial' and the phrase 'on society' in respect of the proposed drafting for Environmental Assessment and Code Objectives?

NGN is comfortable with this wording as drafted.

Question 12: Do you agree with the treatment of connection charging methodologies in the gas transporter licences.

NGN welcomes the exclusion of the Gas Distribution Network (GDN) connection charging methodology from the UNC change process. The parties who receive connection services from the GDNs are not generally parties to the UNC and it is therefore appropriate not to include this methodology and the governance of changes to it within the UNC

It is also relevant that gas connections (unlike electricity) is an area that has been fully opened to competition for a number of years and the majority of gas connections are provided by third parties who are not subject to the UNC applicable to the major GDNs

Question 13: Do you agree that the modification of Standard Special Condition A11 will not affect the application of the Special Conditions pertaining to the NTS operator licence?

NGN is not familiar with the NTS specific licence.

Question 14: Are the lead-in times and implementation timescales proposed appropriate?

The proposed timetable for requiring that all necessary UNC modifications are in place is extremely challenging. Some of the modification proposals which will be required will be more complex than others, and as already demonstrated by UNC modification proposals 0286/0286A NGN believes that many of the requirements will have more than one possible modification which will, no doubt, extend the process of developing the modifications and undergoing full and appropriate consultation.

Question 15: Are any transitional measures required?

While most changes can take place at the relevant implementation date of the modification proposal, the charging methodology changes in particular may require transitional arrangements for change proposals which are already in flight. Charging methodology changes can be lengthy in their development and implementation due to their complex nature and NGN believe that change proposals which have already begun under the current process should be allowed to run to completion in the existing governance.

Question 16: Have you identified any other or consequential changes not highlighted in this chapter that we should make to the licence conditions to reflect our Final Proposals?

None at this time.

Question 17: Are there any definitions in the standard licence conditions that are now redundant or need updating?

None identified.

Question 18: Do you consider it appropriate to repeat the condition-specific definitions in the global definition conditions?

NGN believes that it is useful to have the definitions within both within the relevant licence condition and within the global definitions section, especially given the substantive nature of the currently proposed changes.

Question 19: Do you consider the new defined terms are appropriate?

The new defined terms are broadly reflective of the Final Proposals. There are however some specific areas which NGN believes would benefit from further revision:

- “significant code review” – (ii) should be amended to be “statutory functions and/or **relevant** obligations arising under EU Law”
- “significant code review phase 1” – remove the number 1 as there is no other phase
- “significant code review phase 1” – (ii) the reference to 15B(d) should read 15C(b)

For clarity, these comments relate to the Gas Transporter licence and UNC.

Question 20: Do you agree with the proposed house-keeping amendments? Do you propose any additional house-keeping amendment?

Not relevant to the Gas Transporter licence

Question 21: Have you identified any unintended consequences of the licence drafting?

None at this time

Question 22: Do you agree with the proposed approach and detail of the potential alignment, accuracy and clarification amendments?

NGN agrees that the alignment of process across the codes in respect of endeavouring to ensure that codes do not conflict with each other and that the maximum time period for each process being defined is an appropriate step.

Question 23: Do you have any other (non-policy related) comments on the proposed licence drafting?

None at this time

Question 24: Are there any aspects of the drafting that you do not understand or that you consider inappropriate?

None at this time

Question 25: Are our substantive proposed changes appropriate in order to give effect to the underlying policy of the Final Proposals?

NGN remains of the belief that licence changes to implement the final proposals need to remain appropriate to the significance of the changes. It is appropriate to leave much of the detail of implementation to the relevant codes and keep the licence obligations at a higher level of principle.

CHAPTER: Three

Question 1: Are there any comments that are still valid but you consider have not been addressed by us, either in our reply or in the revised licence drafting?

All substantive matters have been addressed.

Question 2: Are there any aspects of this chapter regarding which you seek additional clarification or to which you would like to respond?

None at this time