



Dora Ianora  
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Dear Dora,

### **Open letter consultation on Code Modification Urgency Criteria – 30/11**

Thank you for the opportunity to respond to the consultation on the criteria for granting urgent status to a code modification. This response is submitted on behalf of ScottishPower.

We agree that there is a requirement for clarification of the existing Urgency Criteria which currently only refer to the Network Code whereas provision for an urgent procedure exists within the majority of industry codes. We also agree that a careful balance has to be struck between ensuring that industry has sufficient time to fully consider, develop and assess a proposal and the need to meet specific immovable time deadlines. In this regard we welcome Ofgem's consultation to determine urgency criteria. We are supportive of the addition of an imminent legal requirement to the criteria, however, we do have a couple of points we believe should be considered and incorporated within the final guidance.

#### **Requirement to meet more than one of the Urgency Criteria**

We note that Ofgem are proposing to change from the existing requirements, where urgency can be granted should a Modification meet any one of the urgency characteristics, to only being considered / granted where a two tier test is met. This two tier test being that firstly the change relates to a time related event **and** also meets at least one of the other criteria (i.e. the change has a potential commercially significant impact; or a potential impact to security of supply; or is related to an imminent legal requirement). ScottishPower does not think this change is sensible since there will be certain circumstances where the first hurdle cannot be met despite one, or indeed more than one, of the other criteria being valid. We recognise that the individual circumstances of each proposal will be considered, but do not understand or support the more onerous test proposed. In relation to the imminent date criteria ScottishPower believes that it should be made clear that the commencement of a network owner's financial year should not automatically be assumed to be an "imminent date". This will help ensure that delay by network owners or others in raising a modification cannot be used in effect to curtail industry assessment of that modification.

We also believe that the criteria related to "a potentially commercially significant impact" should be extended to include any party upon whom the proposed modification would have a material impact, not solely code parties and consumers.

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### **Changing the Urgent Status**

It seems logical to allow for the status of a proposal to be changed should the circumstances require this. So we welcome the clarification in the guidance that the urgency status can be amended to 'non-urgent', if the rationale for granting it in the first place no longer exists. However, we think this requirement should also operate in reverse, so that Ofgem can also reconsider a proposal they originally deemed to be 'non-urgent' should the circumstances change, which would alter the original decision.

Please call me if you have any queries on any of the matters raised.

Yours sincerely,

**James Anderson**  
**Commercial and Regulation Manager**