

Modification proposal:	Master Registration Agreement Change Proposal (MCP) 196: Powers of the Secretary of State to modify the MRA (MCP196)		
Decision:	The Authority ¹ has decided to accept this proposal		
Target audience:	The Joint Office, Parties to the MRA and other interested parties		
Date of publication:	24 April 2012	Implementation date:	25 April 2012

Background to the modification proposal

The Secretary of State for Energy and Climate Change ('SoS') has certain powers under the Gas Act 1986 (as amended) and Electricity Act 1989 (as amended) to direct a modification to the Standard Conditions of licences granted under those Acts or documents subsidiary to those licences. This includes industry codes and agreements such as the Master Registration Agreement ('MRA').

Whilst such directions would only be made following consultation, they would not follow the normal MRA change process and would, if so directed, have immediate effect.

The modification proposal

The proposal states that currently, the MRA does not contemplate implementing a change other than through the MRA change process. Therefore, if the SoS powers were invoked to direct a modification to the MRA, it is likely that this would have to go through the change process, even though the modification has been processed through a statutory consultation. This change proposal therefore seeks to clarify that the MRA change process would not be required where an SoS direction is received. It also seeks to clarify that:

- Where a notification directing a SoS Modification is received, MRA Executive Committee (MEC) shall notify Parties within 5 Working Days of receiving such a notification;
- MEC shall implement the SoS Modification and the provisions of this Agreement or the relevant MRA Product (as the case may be) shall be amended in accordance with the SoS Modification on the effective date contained within the relevant notice;
- In the absence of an effective date within the notification or SoS Modification, within 90 Working Days of receiving such notification.

MRA Development Board

The MRA Development Board ('MDB') considered the change proposal at its meeting of 22 February 2012 and voted unanimously to accept the change, as modified at that meeting. In particular the text was amended to include reference to "other relevant instrument" that may convey the SoS powers to modify the MRA, in addition to those set out in the Electricity Act 1989. The MDB also agreed to include a heading of "Secretary of State Changes" ahead of the amended section for ease of reference.

The Authority's decision

The Authority has considered the issues raised by the change proposal and the Change Report submitted to it on 16 March 2012. The Authority has also considered and taken into account the responses to the consultation on this proposal. The Authority has

¹ The terms 'the Authority', 'Ofgem' and 'we' are used interchangeably in this document. Ofgem is the Office of Gas and Electricity Markets.

concluded that the implementation of the change proposal is consistent with the intent of the MRA as set out in Standard Condition 23 of the Distribution Licence².

Reasons for Authority decision

We disagree with some of the rationale for the proposal insofar as nothing in the MRA can preclude a direction of the SoS from being given effect. Therefore a secondary process of raising a MRA Change Proposal in the wake of a SoS direction should not arise and in any case could not alter the effect of the direction. However, we agree that greater clarity on what would happen upon receipt of such a direction would be helpful, and that the change proposal – MCP196 – provides such clarity. Pursuant to clause 9.5, we consent to change proposal MCP196 being made.

Declan Tomany

Associate Partner, Smarter Grids and Governance - Legal

Signed on behalf of the Authority and authorised for that purpose

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<http://epr.ofgem.gov.uk/Pages/EPRInformation.aspx?doc=http%3a%2f%2fepr.ofgem.gov.uk%2fEPRFiles%2fElectricity+Distribution+Consolidated+Standard+Licence+Conditions+-+10-11-2011+-+Current+Version.pdf>