

White House  
24 Upper West Street  
Reigate  
Surrey  
RH2 9BU  
Home: 01737 242960  
Mobile Telephone Number: 07770 341581  
e-mail: miketoms53@btinternet.com

01 June 2012

Declan Tomany  
Associate Partner Legal – Smarter Grids and Governance  
Ofgem  
9 Millbank  
London  
SW1P 3GE

Dear Mr Tomany

**Industry Code Governance Review – second phase (ref: 60/12)**

I am writing to you as the Connection and Use of System Code (CUSC) Modifications Panel Chairman on behalf of the Panel ("the Panel"). Thank you for the opportunity to respond to this consultation. We have provided responses to the questions set out in your open letter below, where the Panel feels they are relevant to the CUSC.

**Question 1: Has the requirement on code panels to provide rationale for their recommendations been effective in improving analysis to support code changes?**

The Panel was one of the first industry code Panels to provide such clarity, by recording its decisions in the minutes of the Panel's meetings and attributing views and reasoning to specific Panel Members. This level of clarity has been available since before the implementation of the Code Governance Review (CGR). Panel Members feel that this is useful as it makes them think carefully about their vote on the Panel recommendation and makes Members clearly accountable for how and why they voted.

**Question 2: Has the concept of "critical friend" been effectively embraced by the Code Administrators (i.e. an obligation to assist interested parties, particularly smaller participants/ new entrants and consumer groups)?**

The Panel had mixed views on how effective the "critical friend" role had been to date. On one hand, Panel Members noted feedback provided by smaller parties recognising the assistance provided by the CUSC Code Administrator in raising CUSC Modification Proposals. On the other hand, recent CUSC Modification Proposals raised to the charging methodologies at a time when similar issues were already being discussed within the industry could be attributed to a lack of engagement by smaller parties in wider industry issues, which could be due to a lack of appreciation of the potential opportunity to optimise their participation by engagement with the Code Administrator.

The Panel concluded that it is not the role of the CUSC Code Administrator to provide detailed training on wider industry issues, such as Electricity Market Reform, and that it should only be responsible for providing signposting of these wider industry issues to CUSC stakeholders.

**Question 4: Are the self governance criteria introduced by the CGR appropriate and has the implementation of self governance been effectively achieved in BSC, CUSC and UNC? & Question 5: Do you consider that introducing or increasing self governance in the codes would be beneficial?**

The Panel discussed these two questions together and concluded that, as currently drafted, the self governance criteria are quite restrictive. In principle, the Panel supports the criteria being relaxed to allow more Modification Proposals to follow the self-governance route. However, in respect of the CUSC, the Panel noted that most Modifications raised are likely to be "material" given that the CUSC deals with charging and connection issues. The Panel also agreed that it would be likely to err on the side of caution where a Proposer had stated clearly in its proposal that it wished the "standard" (rather than the "self-governance") CUSC Modification process to be followed.

**Question 6: Has the SCR process met with your expectations thus far, in terms of frequency of SCRs, timings and process?**

The Panel discussed each of the issues of frequency, timings and process for SCRs seen to date. In terms of frequency, the Panel noted that Ofgem originally anticipated 1 to 2 SCRs per annum, but the Panel was concerned that there is a danger of too many SCRs being raised.

With regard to timing, the Panel focussed on the transmission charging SCR (Project TransmiT), agreeing that the Ofgem part of the process had taken longer than expected (c.18 months instead of the CGR anticipated 12 months). The Panel also noted that given the content of the Project TransmiT SCR conclusions document and the Authority direction (published on 25<sup>th</sup> May 2012), the CUSC Modification process would likely take longer than the 6 months the CGR anticipated, due to the range and scale of issues to be resolved through the CUSC Workgroup process.

In terms of the SCR process, the Panel noted that it may be too early to provide views on this, given that stakeholders have not yet seen an SCR process through from start to finish.

However, from the Project TransmiT SCR process to date, a number of Panel members felt that the overall process was less efficient under an SCR than under previous processes. This was due to the length of time taken to run the Ofgem part of the SCR process and the general nature of the conclusions provided in the SCR conclusions document and the Authority direction. This view was supported by feedback given by a number of the attendees at the May 2012 Transmission Charging Methodologies Forum meeting, who expressed frustration at the perception that the industry would have to go through the whole SCR technical working group process again, during the CUSC Workgroup process, due to the generality of the conclusions provided by Ofgem.

On a specific point of process, one Panel Member referred to Ofgem's statement on SCR post-implementation reviews in the open letter. The Panel Member asked Ofgem to be mindful of the House of Lords Select Committee report of 2007 and its recommendation to set targets for the post-implementation review prior to the review commencing.

If you wish to discuss further please do not hesitate to contact me at the contact details above or via the Code Administrator.

Yours sincerely

A handwritten signature in black ink, appearing to read 'M Toms', with a stylized flourish at the end.

Mike Toms