

Code Governance Review Phase 2 – illustrative licence drafting

APPENDIX 1: Electricity Transmission Standard Licence Conditions

Condition C3: Balancing and Settlement Code (BSC)

1. The licensee shall at all times have in force a BSC, being a document
 - (a) setting out the terms of the balancing and settlement arrangements described in paragraph 2;
 - (b) designed so that the balancing and settlement arrangements facilitate achievement of the objectives set out in paragraph 3;
 - (c) including the modification procedures required by paragraphs 4, 4A to 4C and 13A;
 - (d) including the matters required by paragraph 6;
 - (e) establishing a secretarial or administrative person or body, as specified in the BSC, (the "code administrator") and setting out the code administrator's powers, duties and functions, which shall:
 - (i) include a requirement that, in conjunction with other code administrators, the code administrator will maintain, publish, review and (where appropriate) amend from time to time the Code of Practice approved by the Authority and any amendments to the Code of Practice are to be approved by the Authority;
 - (ii) include facilitating the matters required by paragraphs 4 and 6;
 - (iii) have regard to and, in particular to the extent that they are relevant, be consistent with the principles contained in the Code of Practice; and
 - (iv) not prevent or restrict the code administrator or an affiliate of the code administrator from operating the reconciliation mechanism referred to in paragraph 1A.
 - (f) establishing a panel body, as specified in the BSC, (the "panel") whose functions shall include the matters required by this condition, and whose composition shall include:
 - (i) an independent chairperson approved by the Authority; and
 - (ii) a consumer representative (appointed by the National Consumer Council, or any successor body) who has a vote as specified in the BSC,

and the licensee shall be taken to comply with this paragraph by modifying from time to time in accordance with the provisions of paragraphs 4 and 5 and the transition modification provisions, the document known as the BSC which existed and the licensee maintained pursuant to this licence immediately prior to the start of the transition period.

- 1A. The BSC may also include provisions about arrangements for the operation of any reconciliation mechanism established by the Secretary of State under section 11 of the Energy Act 2010 in connection with a scheme for reducing fuel poverty, where the operator of the reconciliation mechanism is the code administrator or an affiliate of the code administrator.

2. The balancing and settlement arrangements are
 - (a) arrangements pursuant to which BSC parties may make, and the licensee may accept, offers or bids to increase or decrease the quantities of electricity to be delivered to or taken off the total system at any time or during any period so as to assist the licensee in co-ordinating and directing the flow of electricity onto and over the national electricity transmission system and balancing the national electricity transmission system; and for the settlement of financial obligations (between BSC parties, or between BSC parties and the licensee) arising from the acceptance of such offers or bids; and
 - (b) arrangements:
 - (i) for the determination and allocation to BSC parties of the quantities of electricity delivered to and taken off the total system, and
 - (ii) which set, and provide for the determination and financial settlement of, obligations between BSC parties, or (in relation to the system operator's role in co-ordinating and directing the flow of electricity onto and over the national electricity transmission system) between BSC parties and the licensee, arising by reference to the quantities referred to in sub-paragraph (i), including the imbalances (after taking account of the arrangements referred to in sub-paragraph (a)) between such quantities and the quantities of electricity contracted for sale and purchase between BSC parties.
3. The objectives referred to in paragraph 1(b) are:
 - (a) the efficient discharge by the licensee of the obligations imposed upon it by this licence;
 - (b) the efficient, economic and co-ordinated operation of the national electricity transmission system;
 - (c) promoting effective competition in the generation and supply of electricity, and (so far as consistent therewith) promoting such competition in the sale and purchase of electricity;
 - (d) promoting efficiency in the implementation and administration of the balancing and settlement arrangements described in paragraph 2; and
 - (e) compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency.
4. The BSC shall include procedures for its own modification (including procedures for the modification of the modification procedures themselves), which procedures shall provide:
 - (a) subject to paragraphs 4A and 4B, for proposals for modification of the BSC to be made by the licensee, BSC parties, the Authority (in relation only to modifications which it reasonably considers are necessary to comply with or implement the Electricity Regulation and/or any relevant legally binding decisions of the European Commission and/or the Agency), and such other persons or bodies as the BSC may provide;
 - (aa) for proposals for modification of the BSC to be made by the licensee in accordance with a direction issued by the Authority pursuant to paragraphs 4(ae), 4C (the "significant code review route") and 10(b);
 - (ab) for the implementation of modification proposals without the Authority's approval in accordance with paragraphs 13A (the "self-governance route") and 13C;
 - (ac) for the provision by the code administrator of assistance, insofar as is reasonably practicable and on reasonable request, to parties (including, in particular, small participants and consumer representatives) that request the code administrator's assistance in relation to the BSC including, but not limited to, assistance with:

- (i) drafting a modification proposal;
 - (ii) understanding the operation of the BSC;
 - (iii) their involvement in, and representation during, the modification procedure processes (including but not limited to panel and/or workgroup meetings) as required by this condition, specified in the BSC, or described in the Code of Practice; and
 - (iv) accessing information relating to modification proposals and/or modifications;
- (ad) for modification proposals made by the Authority and the licensee in accordance with paragraphs 4(a), 4(aa) and 4(ae)(i) respectively:
- (i) to be accepted into the BSC modification procedure by the panel;
 - (ii) where they are raised by the licensee, not to be withdrawn without the Authority's prior consent; and
 - (iii) to proceed in accordance with any timetable(s) directed by the Authority in accordance with paragraph 4(ae);
- (ae) for compliance by the licensee and (where applicable) the panel with any directions(s) issued by the Authority under this paragraph setting and/or amending a timetable (in relation to a modification proposal which the Authority reasonably considers is necessary to comply with or implement the Electricity Regulation and/or any relevant binding decisions of the European Commission and/or the Agency) for the:
- (i) licensee to raise a modification proposal; and/or
 - (ii) completion of each of the proposal steps outlined in paragraph 4, to the extent that they are relevant; and/or
 - (iii) implementation of a modification.
- (af) for the implementation of modification proposals without the Authority's approval in accordance with paragraph 13E (the "fast track self-governance route").
- (b) where a proposal is made in accordance with paragraphs 4(a), 4(aa) and, unless otherwise directed by the Authority, 4(ab),
- (i) for bringing the proposal to the attention of BSC parties and such other persons as may have an appropriate interest in it (including consumer representatives);
 - (ii) for proper consideration of any representations on the proposal including representations made by small participants and/or consumer representatives;
 - (iiA) for properly evaluating the suitability of the significant code review or self-governance route for a particular modification proposal
 - (iii) for properly evaluating whether the proposed modification would better facilitate achieving the applicable BSC objective(s), provided that so far as any such evaluation requires information which is not generally available concerning the licensee or the national electricity transmission system, such evaluation shall be made on the basis of the licensee's proper assessment (which the licensee shall make available for these purposes) of the effect of the proposed modification on the matters referred to in paragraphs 3(a) and (b);

- (iv) for the development and consideration of any alternative modifications which may, as compared with the proposed modification, better facilitate achieving the applicable BSC objective(s), provided that:
 - the alternative proposals are made as described in the Code of Practice and as further specified in the BSC; and
 - unless an extension of time has been approved by the panel and not objected to by the Authority after receiving notice, any workgroup stage shall last for a maximum period (as specified in the BSC) from the date on which the original modification was proposed,
 - (ivA) for the evaluation required under paragraph 4(b)(iii) (and, if applicable paragraph 4(b)(iv)) in respect of the applicable BSC objective(s) to include, where the impact is likely to be material, an assessment of the quantifiable impact of the proposal on greenhouse gas emissions, to be conducted in accordance with such guidance (on the treatment of carbon costs and evaluation of the greenhouse gas emissions) as may be issued by the Authority from time to time,
 - (v) except in the case of a modification falling within the scope of paragraph 13A, for the preparation of a panel report:
 - setting out the proposed modification and, separately, any alternatives,
 - evaluating the proposed modification and, separately, any alternatives,
 - assessing the extent to which the proposed modification or any alternative would better facilitate achieving the applicable BSC objective(s) and providing a detailed explanation of the panel's reasons for that assessment (such assessment to include, where applicable, an assessment of the quantifiable impact of the proposal on greenhouse gas emissions in accordance with 4(b)(ivA)),
 - assessing the impact of the modification and any alternative on the core industry documents and the changes expected to be required to such documents as a consequence of such modification,
 - setting out a timetable for implementation of the modification and any alternative, including the date with effect from which such modification and any alternative (if made) would take effect; and
 - (vi) for the submission of the report to the Authority as soon after the proposal is made as is appropriate (taking into account the complexity, importance and urgency of the modification, and in accordance with the time periods specified in the BSC, which shall not be extended unless approved by the panel and not objected to by the Authority after receiving notice) for the proper execution and completion of the steps in sub-paragraphs (i) to (v);
 - (vii) for the revision and re-submission of the panel report provided under sub-paragraphs (v) and (vi), such re-submission to be made, if required by a direction issued by the Authority under paragraph 5(aa), as soon after the Authority's direction as is appropriate (taking into account the complexity, importance and urgency of the modification),
- (c) for the timetable (referred to in sub-paragraph (b)(v)) for implementation of any modification to be either:
- (i) in accordance with any direction(s) issued by the Authority under paragraph 4(ae)(iii); or

- (ii) where no direction has been issued by the Authority under paragraph 4(ae)(iii)

such as will enable the modification to take effect as soon as practicable after the Authority has directed or, in the case of a proposal falling under paragraphs 4(ab) and 13A, the panel has determined that such modification should be made, account being taken of the complexity, importance and urgency of the modification, and for that timetable to be extended or shortened with the consent of or as directed by the Authority after those persons likely to be affected by the revision of the timetable have been consulted;

- (d) for empowering the licensee to secure, if so directed by the Authority in circumstances specified in the BSC,
 - (i) that the modification procedures are complied with in respect of any particular modification in accordance with the terms of the direction;
 - (ii) that, where a modification has been made but not implemented in accordance with its terms, all reasonable steps are taken to implement it in accordance with the terms of the direction;
 - (iii) that the licensee can recover its reasonable costs and expenses properly incurred in complying with the direction, and
- (e) for each of the procedural steps outlined in this paragraph 4, to the extent that they are relevant, to be consistent with the principles contained in the Code of Practice.
- (f) for the completion of each of the procedural steps outlined in this paragraph 4, to the extent that they are relevant, to be in accordance with any timetable(s) directed by the Authority under paragraph 4(ae).

4A. The procedures for the modification of the BSC shall provide that proposals for modification of the BSC falling within the scope of a significant code review may not be made by the parties listed in paragraph 4(a) during the significant code review phase, except where:

- (a) the Authority determines that the modification proposal may be made, having taken into account (among other things) the urgency of the subject matter of the proposal; or
- (b) the modification proposal is made by the licensee in accordance with paragraphs 4(aa) and 4C or 4(ae)(i); or
- (c) the modification proposal is made by the Authority in accordance with paragraph 4(a).

4B. The procedures for the modification of the BSC shall provide that where a modification proposal is made during the significant code review phase, unless otherwise exempted by the Authority, the panel shall:

- (a) comply with the steps in paragraph 4(b) subject to sub-paragraph (c) of this paragraph; and
- (b) as soon as practicable notify the Authority of:
 - (i) any representations received in relation to the suitability of the significant code review route; and
 - (ii) the panel's assessment of whether the proposal falls within the scope of a significant code review and the applicability of the exceptions under paragraph 4A(a) or (b), and its reasons for that assessment; and
- (c) not proceed with the modification proposal ~~without~~ except at the Authority's direction.

4C. The procedures for the modification of the BSC shall provide that if within twenty-eight (28) days after the Authority has published its significant code review conclusions, the Authority issues to the licensee:

- (a) directions, the licensee shall comply with those directions;
- (b) a statement that no directions under sub-paragraph (a) will be issued in relation to the BSC, the licensee shall treat the significant code review phase as ended;
- (c) neither directions under sub-paragraph (a), nor a statement under sub-paragraph (b), the significant code review phase will be deemed to have ended.

The Authority's published conclusions and directions to the licensee shall not fetter the voting rights of the members of the panel or the recommendation procedures informing the report described at paragraph 4(b)(v).

5.

- (a) Without prejudice to paragraph 13A, if a report has been submitted to the Authority pursuant to the procedures described in paragraph 4(b)(vi), and the Authority is of the opinion that a modification set out in such report would, as compared with the then existing provisions of the BSC and any other modifications set out in such report, better facilitate achieving the applicable BSC objective(s), the Authority may direct the licensee to make that modification
- (aa) If a report has been submitted to the Authority pursuant to the procedures described in paragraph 4(b)(vi) and if the Authority determines that the report prepared in accordance with paragraph 4(b)(v) is such that the Authority cannot properly form an opinion in accordance with paragraph 5(a), the Authority may issue a direction to the panel:
 - (i) specifying the additional steps (including drafting or amending existing drafting of the modification to the BSC), revision (including revision to the timetable), analysis and/or information that it requires in order to form such an opinion; and
 - (ii) requiring the report to be revised and be re-submitted in accordance with paragraph 4(b)(vii).
- (b) The licensee shall, upon receipt of a direction from the Secretary of State to do so, modify the BSC so as to incorporate any changes directed by the Secretary of State pursuant to section 90 of the Energy Act 2004 during or before the offshore transmission implementation period.
- (c) [Not used]
- (d) [Not used]
- (e) Without prejudice to paragraph 4A, only the licensee shall have power to modify the BSC.

6. The BSC shall provide for:

- (a) a copy of the BSC to be provided to any person requesting the same upon payment of an amount not exceeding the reasonable costs of making and providing such copy;
- (b) the licensee to refer to the Authority for determination, whether of its own motion or as provided in the BSC, such matters arising under the BSC as may be specified in the BSC;
- (c) information about the operation of the BSC and the balancing and settlement arrangements
 - (i) to be provided to the Authority and/or
 - (ii) to be published,

and for the licensee to be empowered to secure compliance with these requirements if so directed by the Authority.

7. [Not used]

(a) [Not used]

(b) [Not used]

8. The provisions of paragraphs 6 and 11 shall not limit the matters which may be provided for in the BSC.

9. The Authority may direct the licensee to procure the provision to the Authority of, or the publication of, such information about the operation of the BSC and/or the balancing and settlement arrangements as is referred to in paragraph 6(c) and specified in the direction.

10. The licensee shall comply with:

(a) the BSC; and

(b) any direction to the licensee made pursuant to this condition.

11.

(a) The licensee shall be a party to the BSC Framework Agreement.

(b) The BSC and/or the BSC Framework Agreement shall contain provisions:

(i) for admitting as an additional party to the BSC Framework Agreement any person who accepts the terms and fulfils the conditions (each as specified in the BSC) on which accession to the BSC Framework Agreement is offered;

(ii) for the licensee to refer to the Authority for determination, whether of its own motion or as provided in the BSC, any dispute which shall arise as to whether a person seeking to be admitted as a party to the BSC Framework Agreement has fulfilled any accession conditions; and if the Authority determines that the person seeking admission has fulfilled all relevant accession conditions, for admitting such person as a party to the BSC Framework Agreement;

(iii) for persons to be admitted as additional parties to the BSC Framework Agreement by either

- a representative (who need not be a BSC party) appointed thereunder to act on behalf of all parties to it, or

- if there is no such representative or if the representative fails to act, the licensee acting on behalf of all parties to it.
 - (c) If, following a determination of the Authority as referred to in sub-paragraph (b)(ii), the representative referred to in sub-paragraph (b)(iii) fails to act on behalf of all parties to admit such person, the licensee shall act on behalf of all parties to admit such person if directed to do so by the Authority.
12. The licensee shall take all reasonable measures to secure and implement (consistently with the procedures applicable under or in relation to the core industry documents and/or industry codes to which it is party (or in relation to which it holds rights in respect of amendment)), and shall not take any steps to prevent or unduly delay, changes to those documents, such changes being changes which are appropriate in order to give full and timely effect to and/or in consequence of any modification which has been made to the BSC, including, but not limited to, changes that are appropriate in order to avoid conflict or inconsistency as between the BSC and any core industry document or industry code.
13. For the avoidance of doubt, paragraph 12 is without prejudice to any rights of approval, veto or direction in respect of proposed changes to the documents referred to in paragraph 12 which the Authority may have.
- 13A. The procedures for the modification of the BSC shall provide that modification proposals shall only be implemented without the Authority's approval pursuant to this paragraph 13A where:
- (a)
 - (i) in the view of the panel, the modification proposal meets all of the self-governance criteria, and the panel has submitted to the Authority in respect of the modification proposal and not withdrawn a self-governance statement; or
 - (ii) if a self-governance statement has not been made, or has been withdrawn, the Authority has determined that the self-governance criteria are satisfied and the modification proposal is suitable for the self-governance route; and
 - (b) unless otherwise exempted by the Authority, the panel has sent copies of all consultation responses to the Authority at least seven (7) days before the panel intends to make its determination under paragraph 13A(d); and
 - (c) the Authority has not directed that the Authority's decision is required prior to the panel's determination under paragraph 13A(d); and
 - (d) the panel has, no earlier than seven (7) days after sending the consultation responses referred to at paragraph 13A(b), determined, in accordance with paragraphs 4(b)(i) to (v) of this condition as applicable, that the modification proposal or any alternative should be implemented on the basis that it would, as compared with the then existing provisions of the BSC and any other modifications proposed in accordance with paragraph 4(b)(iv), better facilitate the achievement of the applicable BSC objective(s); and
 - (e)
 - (i) no appeal has been raised up to and including [15 / 10] working days after the publication of the panel's determination under paragraph 13A(d) in respect of such modification proposal and any alternative in accordance with paragraph 13B; or
 - (ii) an appeal has been raised in respect of such a modification proposal and any alternative in accordance with paragraph 13B and the Authority has not quashed the panel's determination referred to at paragraph 13A(d) of this condition and either remitted the relevant modification proposal and any

alternative back to the panel for reconsideration or taken the decision on the relevant modification proposal and any alternative itself following the appeal.

13B. The procedures for the modification of the BSC shall provide that those persons set out at paragraph 4(a) may appeal to the Authority the approval or rejection by the panel of a modification proposal and any alternative falling under the self-governance route, provided the appeal has been made up to and including [15 / 10] working days after the publication of the approval or rejection and in accordance with the procedures specified in the BSC and, in the opinion of the Authority:

(a)

(i) the appealing party is, or is likely to be, unfairly prejudiced by the implementation or non-implementation of that modification or alternative proposal; or

(ii) the appeal is on the grounds that:

(1) in the case of implementation, the modification or alternative proposal may not better facilitate the achievement of at least one of the applicable BSC objectives; or

(2) in the case of non-implementation, the modification or alternative proposal may better facilitate the achievement of at least one of the applicable BSC objectives; and

(b) it is not brought for reasons that are trivial, vexatious or have no reasonable prospect of success.

13C. The procedures for the modification of the BSC shall provide that:

(a) where an appeal has been raised in respect of a modification proposal and any alternative in accordance with paragraph 13B that modification proposal and any alternative shall be treated in accordance with any decision and/or direction of the Authority following that appeal;

(b) if the Authority quashes the panel's determination referred to at paragraph 13A(d) of this condition and takes the decision on the relevant modification proposal and any alternative itself following an appeal in accordance with paragraph 13B, the panel's determination of that modification proposal and any alternative referred to in paragraph 13A(d) of this condition shall be treated as a report submitted to the Authority in accordance with the procedures specified in paragraph 4(b)(vi) of this condition and paragraph 5(a) of this condition and the panel's determination shall be treated as its recommendation.

13D. Without prejudice to any rights of approval, veto or direction the Authority may have, the licensee shall use its best endeavours to ensure that procedures are in place that facilitate its compliance with the requirements of this condition and create or modify industry documents including but not limited to the BSC, core industry documents and industry codes where necessary no later than 31 December 2010.

13E. The procedures for the modification of the BSC shall provide that modifications shall only be implemented without the Authority's approval pursuant to this paragraph 13E where:

(a) in the unanimous view of the panel, the proposed modification meets all of the fast track self-governance criteria;

(b) the panel unanimously determines that the modification should be made;

- (c) the panel has sent copies of a fast track self-governance statement to the persons named in paragraph 4(a) and has not received any objections to the proposed modification in the fifteen (15) working days immediately following the day on which the fast track self-governance statement was sent; and
- (d) the panel has sent copies of a fast track self-governance statement to the Authority and in the fifteen (15) working days immediately following the day on which the fast track self-governance statement was sent, the Authority has not directed that the proposed modification may not be made under this paragraph 13E.

14. In this condition in the expression "sale and purchase of electricity", sale excludes sale by way of assumption of an imbalance under the BSC and sale by way of supply to premises, and purchase shall be construed accordingly; and

- "applicable BSC objective(s)" means
- (a) in relation to a proposed modification of the modification procedures, the requirements of paragraph 4 (to the extent they do not conflict with the objectives set out in paragraph 3); and
 - (b) in relation to any other proposed modification, the objectives set out in paragraph 3.
- "Code of Practice" means the Code Administration Code of Practice approved by the Authority and:
- (a) developed and maintained by the code administrators in existence from time to time; and
 - (b) amended subject to the Authority's approval from time to time; and
 - (c) re-published from time to time.
- "directions" means, in the context paragraph 4C, direction(s) issued following publication of significant code review conclusions which shall contain:
- (i) instructions to the licensee to make (and not withdraw, without the Authority's prior consent) a modification proposal;
 - (ii) the timetable for the licensee to comply with the Authority's direction(s); and
 - (iii) the Authority's reasons for its direction(s).
- "industry code" means a multilateral code or agreement created and maintained pursuant to a licence granted by the Authority under section 6 of the Act or under sections 7, 7ZA or 7A of the Gas Act 1986.
- "fast track self-governance criteria" means a proposal that, if implemented,
- (a) is unlikely to have a material effect on:
 - (i) existing or future electricity consumers;
 - (ii) competition in the generation, distribution, or supply of electricity or any commercial

activities connected with the generation, distribution, or supply of electricity;

(iii) the operation of the national electricity transmission system;

(iv) matters relating to sustainable development, safety or security of supply, or the management of market or network emergencies; and

(v) the BSC's governance procedures or the BSC's modification procedures;

(b) is unlikely to discriminate between different classes of BSC parties; and

(c) is properly a housekeeping modification required as a result of some error or factual change, including

(i) updating names or addresses listed in the BSC;

(ii) correcting minor typographical errors;

(iii) correcting formatting and consistency errors, such as paragraph numbering; and

(iv) updating out of date references to other documents or paragraphs.

"fast track self-governance statement"

means a statement made by the panel:

(a) confirming that, in its unanimous opinion, the fast track self-governance criteria are met and the modification is suitable for the fast track self-governance route;

(b) stating that the modification will not be made if any person to whom the statement was sent objects within fifteen (15) working days and providing instructions on how to make any objection known; and

(c) setting out the revised legal text showing the changes that will be made.

"self-governance criteria"

means, a proposal that, if implemented:

(a) is unlikely to have a material effect on:

(i) existing or future electricity consumers; and

(ii) competition in the generation, distribution, or supply of electricity or any commercial activities connected with the generation, distribution, or supply of electricity; and

(iii) the operation of the national electricity transmission system; and

(iv) matters relating to sustainable development, safety or security of supply, or the management of market or network emergencies; and

(v) the BSC's governance procedures or modification procedures, and

(b) is unlikely to discriminate between different classes of BSC parties.

"self-governance statement"

means a statement made by the panel and submitted to the

Authority in accordance with paragraph 13A(a)(i):

- (a) confirming that, in its opinion, the self-governance criteria are met and the modification is suitable for the self-governance route; and
- (b) providing a detailed explanation of the panel's reasons for that opinion.

The inclusion of this statement within the formal minutes of a panel meeting, sent to the Authority within [6] working days of that meeting, shall be taken to have fulfilled the requirement to submit this statement to the Authority

“significant code review”

means a review of one or more matters which the Authority considers likely to;

- (a) relate to the BSC (either on its own or in conjunction with other industry code(s)); and
- (b) be of particular significance in relation to its principal objective and/or general duties (under section 3A of the Act), statutory functions and/or relevant obligations arising under EU law; and concerning which the Authority has issued a notice to the BSC parties (among others, as appropriate) stating:

- (i) that the review will constitute a significant code review;
- (ii) the start date of the significant code review; and
- (iii) the matters that will fall within the scope of the review.

“significant code review phase”

means the period commencing on the start date of a significant code review as stated by the Authority, and ending either:

- (a) on the date on which the Authority issues a statement under paragraph 4C(b) (that no directions will be issued in relation to the BSC); or
- (b) if no statement is made under 4C(b), on the date on which the licensee has made a modification proposal in accordance with paragraphs 4(aa), 4C(a) and 10(b); or
- (c) immediately under paragraph 4C(c), if neither a statement, or directions are issued by the Authority up to and including twenty-eight (28) days from the Authority's publication of its significant code review conclusions.

“small participant”

means

- (a) a generator, supplier, distributor, or new entrant to the electricity market in Great Britain that can demonstrate to the code administrator that it is resource-constrained and, therefore, in particular need of assistance;
- (b) any other participant or class of participant that the code administrator considers to be in particular need of assistance; and
- (c) a participant or class of participant that the Authority has notified the code administrator as being in particular need of assistance.

"transition modification provisions" means the provisions of this condition which apply or applied during the transition period and which enable or enabled the Authority (whether with or without the consent of the Secretary of State) to direct the licensee to modify the BSC in certain circumstances.

"affiliate of the code administrator" means any holding company or subsidiary of the code administrator or any subsidiary of a holding company of the code administrator, in each case within the meaning of section 1159(1) of the Companies Act 2006.

Condition C10: Connection and Use of System Code (CUSC)

1. The licensee shall establish arrangements for connection and use of system in respect of matters which, other than those to which standard conditions C14 (Grid Code) and C5 (Use of system charging methodology) to C9 (Functions of the Authority) relate are calculated to facilitate the achievement of the following objectives:
 - (a) the efficient discharge by the licensee of the obligations imposed upon it under the Act and by this licence;
 - (b) facilitating effective competition in the generation and supply of electricity, and (so far as consistent therewith) facilitating such competition in the sale, distribution and purchase of electricity; and
 - (c) compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency,

and the licensee shall be taken to comply with this paragraph by modifying from time to time in accordance with the provisions of paragraphs 6 and 7 and the transition modification provisions, the document setting out the arrangements for connection and use of system which existed and which the licensee maintained pursuant to this licence immediately prior to the start of the transition period.

2. The licensee shall prepare a connection and use of system code ("CUSC") setting out:
 - (a) the terms of the arrangements made in pursuance of paragraph 1;
 - (b) the procedures established in pursuance of paragraphs 6, 6A, to 6C and 13A; ~~and~~
 - (c) such other terms as are or may be appropriate for the purposes of the CUSC; and
 - (d) the charging methodologies,

(e) and establishing:

 - (f) a secretarial or administrative person or body, as specified in the CUSC, (the "code administrator") and setting out the code administrator's powers, duties and functions, which shall:
 - (i) include a requirement that, in conjunction with other code administrators, the code administrator will maintain, publish, review and (where appropriate) amend from time to time the Code of Practice approved by the Authority and any amendments to the Code of Practice are to be approved by the Authority;
 - (ii) include facilitating the matters required by paragraph 6; and
 - (iii) have regard to and, in particular to the extent that they are relevant, be consistent with the principles contained in, the Code of Practice;
 - (g) a panel body, as specified in the CUSC (the "panel"), whose functions shall include matters required by this condition, and whose composition shall include:
 - (h) (i) an independent chairperson approved by the Authority; and
 - (i) (ii) a consumer representative (appointed by the National Consumer Council, or any successor body) who has a vote as specified in the CUSC.

3. The licensee shall only enter into arrangements for connection and use of system which are in conformity with any relevant provisions of the CUSC.
4. The CUSC shall provide for:
 - (a) the licensee and each CUSC user to be contractually bound insofar as is applicable by the terms of the Grid Code from time to time in force;
 - (b)
 - (i) the licensee and each CUSC user, where appropriate, to enter into an agreement or agreements, supplemental to and in a form prescribed by the CUSC, setting out site specific details in respect of each site at which the CUSC user's electrical lines or electrical plant is connected to the national electricity transmission system;
 - (ii) each CUSC user, where appropriate, to enter into an agreement or agreements with a transmission licensee (other than the licensee) supplemental to and in a form prescribed by the CUSC setting out site specific details in respect of each site at which the CUSC user's electrical lines or electrical plant is connected to the national electricity transmission system;
 - (c) there to be referred to the Authority for determination such matters arising under the CUSC as may be specified in the CUSC; and
 - (d) a copy of the CUSC to be provided to any person requesting the same upon payment of an amount not exceeding the reasonable costs of making and providing such copy.
5. The provisions of paragraphs 4 and 10 shall not limit the matters which may be provided for in the CUSC.
6. The licensee shall establish and operate procedures for the modification of the CUSC (including procedures for modification of the modification procedures themselves), so as to better facilitate achievement of the applicable CUSC objectives, which procedures shall provide (without prejudice to the transition modification provisions and the procedures for modification provided for at paragraph 7 below):
 - (a) subject to paragraphs 6A and 6B, for proposals for modification of:
 - (i) the CUSC (other than in respect of proposals for modification of the charging methodologies) to be made by the licensee, CUSC users, the Authority (in relation only to modifications which it reasonably considers are necessary to comply with or implement the Electricity Regulation and/or any relevant legally binding decisions of the European Commission and/or the Agency), and such other persons and bodies as the CUSC may provide; and
 - (ii) the charging methodologies to be made by the licensee and/or CUSC users, the Authority (in relation only to modifications which it reasonably considers are necessary to comply with or implement the Electricity Regulation and/or any relevant legally binding decisions of the European Commission and/or the Agency), the National Consumer Council, BSC parties and/or a materially affected party and in accordance with the provisions of the CUSC unless otherwise permitted by the Authority;
 - (aa) for proposals for modification of the CUSC to be made by the licensee in accordance with a direction issued by the Authority pursuant to paragraphs 6(af), 6C (the "significant code review route") and 14;

- (ab) for the implementation of modification proposals without the Authority's approval in accordance with paragraph 13A (the "self-governance route") and 13C;
- (ac) for the provision by the code administrator of assistance insofar as is reasonably practicable and on reasonable request to parties, (including, in particular, small participants and consumer representatives) that request the code administrator's assistance in relation to the CUSC including, but not limited to, assistance with:
 - (i) drafting a modification proposal;
 - (ii) understanding the operation of the CUSC;
 - (iii) their involvement in, and representation during, the modification procedure processes (including but not limited to panel, and/or workgroup meetings) as required by this condition, specified in the CUSC, or described in the Code of Practice; and
 - (iv) accessing information relating to modification proposals and/or modifications; ~~and~~
- (ad) for:
 - (i) the regular convening of the charging methodology forum for the purposes of discussing further development of the charging methodologies;
 - (ii) for the provision of information by the licensee in accordance with paragraphs 9 and 10 of standard condition C4 (Charges for use of system) and paragraphs 13 and 14 of standard condition C6 (Connection charging methodology); and
 - (iii) insofar as reasonably practicable, the provision by the licensee of such other information or assistance as a materially affected party may reasonably request for the purposes of preparing a proposal to modify a charging methodology;
- (b) (ae) for modification proposals made by the Authority or the licensee in accordance with paragraphs (6a), 6(aa) and 6(af)(i) respectively:
 - (i) to be accepted into the CUSC modification procedures by the panel;
 - (ii) where they are raised by the licensee, not to be withdrawn without the Authority's prior consent; and
 - (iii) to proceed in accordance with any timetable(s) directed by the Authority in accordance with paragraph 6(af);
- (c) (af) for compliance by the licensee and (where applicable) the panel with any direction(s) issued by the Authority under this paragraph setting and/or amending a timetable (in relation to a modification proposal which the Authority reasonably considers is necessary to comply with or implement the Electricity Regulation and/or any relevant legally binding decisions of the European Commission and/or the Agency) for the:
 - (i) licensee to raise a modification proposal; and/or
 - (ii) completion of each of the procedural steps outlined in paragraph 6, to the extent that they are relevant; and/or
 - (iii) implementation of a modification.

(ag) for the implementation of modification proposals without the Authority's approval in accordance with paragraph 13D (the "fast track self-governance route");

(b) where a proposal is made in accordance with paragraphs 6(a), 6(aa) and, unless otherwise directed by the Authority, 6(ab),

(i) for bringing the proposal to the attention of CUSC parties and such other persons as may properly be considered to have an appropriate interest in it (including consumer representatives);

(ii) for proper consideration of any representations on the proposal (including representations made by small participants and consumer representatives);

(i) (iiA) for properly evaluating the suitability of the significant code review or self-governance route for a particular modification proposal;

(iii) for properly evaluating whether the proposed modification would better facilitate achieving the applicable CUSC objectives, provided that so far as any such evaluation requires information which is not generally available concerning the licensee or the national electricity transmission system, such evaluation shall be made on the basis of the licensee's proper assessment (which the licensee shall make available for these purposes) of the effect of the proposed modification on the matters referred to in paragraph 1(a) and (b);

(iv) for the development and consideration of any alternative modification which may, as compared with the proposed modification, better facilitate achieving the applicable CUSC objective(s) provided that:

- the alternative proposal is made as described in the Code of Practice and as further specified in the CUSC; and

- unless an extension of time has been approved by the panel and not objected to by the Authority after receiving notice, any workgroup stage shall last for a maximum period (as specified in the CUSC) from the date on which the original modification was proposed,

(ivA) in relation to proposals for the modification of charging methodologies, for compliance (as applicable) with:

- paragraph 5 of standard condition C4 (Charges for use of system); and

- paragraphs 4 and 10(b) of standard condition C6 (Connection charging methodology).

(ii) (ivB) for the evaluation required under paragraph 6(b)(iii) (and, if applicable, paragraph 6(b)(iv)) in respect of the applicable CUSC objective(s) to include, where that impact is likely to be material, an assessment of the quantifiable impact of the proposal on greenhouse gas emissions to be conducted in accordance with such guidance (on the treatment of carbon costs and evaluation of the greenhouse gas emissions) as may be issued by the Authority from time to time;

(v) except in the case of a modification falling within the scope of paragraph 13D, for the preparation of a panel report:

- setting out the proposed modification and, separately, any alternatives;

- evaluating the proposed modification and, separately, any alternatives;
 - assessing the extent to which the proposed modification or any alternative would better facilitate achieving the applicable CUSC objectives and providing a detailed explanation of the panel's reasons for that assessment (such assessment to include, where applicable, an assessment of the quantifiable impact of the proposal on greenhouse gas emissions in accordance with paragraph 6(b)(ivB));
 - assessing the impact of the modification and any alternative on the core industry documents and the changes expected to be required to such documents as a consequence of such modification;
 - setting out a timetable for implementation of the modification and any alternative, including the date with effect from which such modification and any alternative (if made) would take effect; and
- (vi) subject to paragraph 6(b)(ivA), for the submission of the report to the Authority as soon after the proposal is made as is appropriate (taking into account the complexity, importance and urgency of the modification and in accordance with the time periods specified in the CUSC, which shall not be extended unless approved by the panel and not objected to by the Authority after receiving notice) for the proper execution and completion of the steps in sub-paragraphs (i) to (v); and
- (vii) subject to paragraph 6(b)(ivA), for the revision and re-submission of the panel report provided under sub-paragraphs (v) and (vi), such re-submission to be made, if required by a direction issued by the Authority under paragraph 7(aa), as soon after the Authority's direction as is appropriate (taking into account the complexity, importance and urgency of the modification);
- (c) subject to paragraph 6(b)(ivA) and without prejudice to paragraph 3 of standard condition C4 (Charges for use of system), for the timetable (referred to in sub-paragraph (b)(v)) for implementation of any modification to be either:
- (i) in accordance with any direction(s) issued by the Authority under paragraph 6(af)(iii); or
 - (ii) where no direction is issued by the Authority under paragraph 6(af)(iii),
- (d) such as will enable the modification to take effect as soon as practicable after the Authority has directed or, in the case of a proposal falling under paragraphs 6(ab) and 13A, the panel, has determined that such modification should be made, account being taken of the complexity, importance and urgency of the modification, and for that timetable to be extended with the consent of or as required by the Authority;
- (d) for each of the procedural steps outlined in this paragraph 6, to the extent that they are relevant, to be consistent with the principles contained in the Code of Practice; and
- (e) for the completion of each of the procedural steps outlined in this paragraph 6, to the extent that they are relevant, to be in accordance with any timetable(s) directed by the Authority under paragraph 4(af).
- 6A. The procedures for the modification of the CUSC shall provide that proposals for modification of the CUSC falling within the scope of a significant code review may not be made by the parties listed in paragraph 6(a) during the significant code review phase, except where:

- (a) the Authority determines that the modification proposal may be made, having taken into account (among other things) the urgency of the subject matter of the proposal; or
 - (b) the modification proposal is made by the licensee in accordance with paragraphs 6(aa) and 6C or 6 af)(i); or
 - (c) the modification proposal is made by the Authority in accordance with paragraph 6(a).
- 6B. The procedures for the modification of the CUSC shall provide that where a modification proposal is made during the significant code review phase, unless otherwise exempted by the Authority, the panel shall:
- (a) comply with the steps in paragraph 6(b) subject to sub-paragraph (c) of this paragraph; and
 - (b) as soon as practicable notify the Authority of:
 - (i) any representations received in relation to the suitability of the significant code review route; and
 - (ii) the panel's assessment of whether the proposal falls within the scope of a significant code review and the applicability of the exceptions under paragraph 6A(a) or (b), and its reasons for that assessment; and
 - (c) not proceed with the modification proposal at the Authority's direction.
- 6C. The procedures for the modification of the CUSC shall provide that if within twenty-eight (28) days after the Authority has published its significant code review conclusions, the Authority issues to the licensee:
- (a) directions, the licensee shall comply with those directions;
 - (b) a statement that no directions under sub-paragraph (a) will be issued in relation to the CUSC, the licensee shall treat the significant code review phase as ended;
 - (c) neither directions under sub-paragraph (a), nor a statement under sub-paragraph (b), the significant code review phase will be deemed to have ended.
 - (e) The Authority's published conclusions and directions to the licensee shall not fetter the voting rights of the members of the panel or the recommendation procedures informing the report described at paragraph 6(b)(v).
7. (a) Without prejudice to paragraph 13A, if a report has been submitted to the Authority pursuant to procedures described in paragraph 6(b)(vi), and the Authority is of the opinion that a modification set out in such report would, as compared with the then existing provisions of the CUSC and any alternative modifications set out in such report, better facilitate achieving the applicable CUSC objectives the Authority may direct the licensee to make that modification.
- (aa) If a report has been submitted to the Authority pursuant to the procedures described in paragraph 6(b)(vi) and if the Authority determines that the report prepared in accordance with paragraph 6(b)(v) is such that the Authority cannot properly form an opinion in accordance with paragraph 7(a), the Authority may issue a direction to the panel:
- (i) specifying the additional steps (including drafting or amending existing drafting of the amendment to the CUSC), revision (including revision to the timetable), analysis or information that it requires in order to form such an opinion; and

- (i) (ii) requiring the report to be revised and be re-submitted in accordance with paragraph 6(b)(vii).
 - (b) The licensee shall, upon receipt of a direction from the Secretary of State to do so, modify the CUSC so as to incorporate any changes directed by the Secretary of State pursuant to section 90 of the Energy Act 2004 during or before the offshore transmission implementation period.
 - (c) [Not used].
 - (d) The licensee shall only modify the CUSC:
 - (i) in order to comply with any direction of the Secretary of State pursuant to sub-paragraph (b) or any direction of the Authority pursuant to sub-paragraph (a); or
 - (ii) with the consent of the Authority; or
 - (iii) in accordance with paragraphs 6 (ab) and 13A; or
 - (iv) in accordance with paragraphs 6 (ag) and 13Dand it shall not have the power to modify the CUSC in any other circumstance; and the licensee shall furnish the Authority with a copy of any modification made.
 - (e) Without prejudice to paragraph 6A, only the licensee shall have the power to modify the CUSC.
8. The licensee shall prepare and publish a summary of the CUSC as modified or changed from time to time in such form and manner as the Authority may from time to time direct.
9. The licensee shall be a party to the CUSC Framework Agreement and shall comply with the CUSC.
10. The CUSC Framework Agreement shall contain provisions:
- (a) for admitting as an additional party to the CUSC Framework Agreement any person who accepts the terms and fulfils the conditions (each as specified in the CUSC) on which accession to the CUSC Framework Agreement is offered; and
 - (b) for referring for determination by the Authority any dispute which shall arise as to whether a person seeking to be admitted as a party to the CUSC Framework Agreement has fulfilled any accession conditions; and if the Authority determines that the person seeking accession ~~has~~ fulfilled all relevant standard conditions, for admitting such person to be a party to the CUSC Framework Agreement.
11. [Not used].
12. The licensee shall take all reasonable steps to secure and implement (consistently with the procedures applicable under or in relation to such documents), and shall not take any steps to prevent or unduly delay, changes to the core industry documents and/or industry codes to which it is a party (or in relation to which it holds rights in respect of amendment), such changes being changes which are appropriate in order to give full and timely effect to and/or in consequence of any modification which has been made to the CUSC, including, but not limited to, changes that are appropriate in order to avoid conflict or inconsistency as between the CUSC and any core industry document or industry code.

13. For the avoidance of doubt, paragraph 12 is without prejudice to any rights of approval, veto or direction in respect of proposed changes to the documents referred to in paragraph 12 which the Authority may have.

13A. The procedures for the modification of the CUSC shall provide that modification proposals shall only be implemented without the Authority's approval pursuant to this paragraph 13A where:

(a)

- (i) in the view of the panel, the modification proposal meets all of the self-governance criteria and the panel has submitted to the Authority in respect of the modification proposal and not withdrawn a self-governance statement; or
- (ii) if a self-governance statement has not been made, or has been withdrawn, the Authority has determined that the self-governance criteria are satisfied and the modification proposal is suitable for the self-governance route; and

(b) unless otherwise exempted by the Authority, the panel has sent copies of all consultation responses to the Authority at least seven (7) days before the panel intends to make its determination under paragraph 13A(d); and

(c) the Authority has not directed that the Authority's decision is required prior to the panel's determination under paragraph 13A(d); and

(d) the panel has, no earlier than seven (7) days after sending the consultation responses referred to at paragraph 13A(b), determined, in accordance with paragraphs 6(b)(i) to (v) of this condition as applicable, that the modification proposal or any alternative should be implemented on the basis that it would, as compared with the then existing provisions of the CUSC and any other modifications proposed in accordance with paragraph 6(b)(iv), better facilitate the achievement of the applicable CUSC objective(s); and

(e)

- (i) no appeal has been raised up to and including [15 / 10] working days after the publication of the panel's determination under paragraph 13A(d) in respect of such modification proposal and any alternative in accordance with paragraph 13B; or
- (ii) an appeal has been raised in respect of such a modification proposal and any alternative in accordance with paragraph 13B and the Authority has not quashed the panel's determination referred to at paragraph 13A(d) of this condition and either remitted the relevant modification proposal and any alternative back to the panel for reconsideration or taken the decision on the relevant modification proposal and any alternative itself following the appeal.

13B. The procedures for the modification of the CUSC shall provide that those persons set out at paragraph 6(a) may appeal to the Authority the approval or rejection by the panel of a modification proposal and any alternative falling under the self-governance route, provided the appeal has been made up to and including [15 / 10] days after the publication of the approval or rejection and in accordance with the procedures specified in the CUSC and, in the opinion of the Authority:

(a)

- (i) the appealing party is, or is likely to be, unfairly prejudiced by the implementation or non-implementation of that modification or alternative proposal; or
- (ii) the appeal is on the grounds that:

- (1) in the case of implementation, the modification or alternative proposal may not better facilitate the achievement of at least one of the applicable CUSC objectives; or
 - (2) in the case of non-implementation, the modification or alternative proposal may better facilitate the achievement of at least one of the applicable CUSC objectives; and
- (b) it is not brought for reasons that are trivial, vexatious or have no reasonable prospect of success.

13C. The procedures for the modification of the CUSC shall provide that:

- (a) where an appeal has been raised in respect of a modification proposal and any alternative in accordance with paragraph 13B, that modification proposal and any alternative shall be treated in accordance with any decision and/or direction of the Authority following that appeal;
- (b) if the Authority quashes the panel's determination referred to at paragraph 13A(d) of this condition and takes the decision on the relevant modification proposal and any alternative itself following an appeal in accordance with paragraph 13B, the panel's determination of that modification proposal and any alternative referred to in paragraph 13A(d) of this condition shall be treated as a report submitted to the Authority in accordance with the procedures specified in paragraph 6(b)(vi) of this condition and paragraph 7(a) of this condition and the panel's determination shall be treated as its recommendation.

13D. The procedures for the modification of the CUSC shall provide that modifications shall only be implemented without the Authority's approval pursuant to this paragraph 13D where:

- (e) in the unanimous view of the panel, the proposed modification meets all of the fast track self-governance criteria;
- (f) the panel unanimously determines that the modification should be made;
- (g) the panel has sent copies of a fast track self-governance statement to the persons named in paragraph 6(a) and has not received any objections to the proposed modification in the fifteen (15) working days immediately following the day on which the fast track self-governance statement was sent; and
- (h) the panel has sent copies of a fast track self-governance statement to the Authority and in the fifteen (15) working days immediately following the day on which the fast track self-governance statement was sent, the Authority has not directed that the proposed modification may not be made under this paragraph 13D.

14. The licensee shall comply with any direction to the licensee made pursuant to this condition.

14A. Without prejudice to any rights of approval, veto or direction the Authority may have, the licensee shall use its best endeavours to ensure that procedures are in place that facilitate its compliance with the requirements of this condition, and shall create or modify industry documents including, but not limited to, the CUSC, core industry documents and industry codes where necessary no later than 31 December 2010.

15. In this condition:

- "applicable CUSC objectives" means:
- (a) in relation to a proposed modification of the modification procedures only, the requirements of paragraph 6 (to the extent that they do not conflict with the objectives set out in paragraph 1);
 - (aa) in relation to a proposed modification of the charging methodologies only, the objectives (as applicable) set out at:
 - (i) paragraph 5 of standard condition C5 in relation to the use of system charging methodology; and
 - (ii) paragraph 11 of standard condition C6 in relation to the connection charging methodology, and
 - (b) in relation to any other proposed modification, the objectives set out in paragraph 1.
- "charging methodologies" means
- (a) the use of system charging methodology established in accordance with standard condition C4 (Charges for use of system); and/or
 - (b) the connection charging methodology established in accordance with standard condition C6 (Connection charging methodology),
- "charging methodology forum" as applicable.
- means the forum (and related arrangements) established in the manner specified in the CUSC to facilitate meetings between the licensee and any other persons whose interests are materially affected by the applicable charging methodologies for the purpose of discussing the further development of the applicable charging methodologies, as shall be specified in the CUSC;
- "Code of Practice" means the Code Administration Code of Practice approved by the Authority and:
- (a) developed and maintained by the code administrators in existence from time to time; and
 - (b) amended subject to the Authority's approval from time to time; and
 - (c) re-published from time to time.

“directions”

means, in the context of paragraph 6C, direction(s) issued following publication of significant code review conclusions which shall contain:

- (i) instructions to the licensee to make (and not withdraw, without the Authority’s prior consent) a modification proposal;
- (ii) the timetable for the licensee to comply with the Authority’s direction(s); and
- (iii) the Authority’s reasons for its direction(s).

"fast track self-governance criteria"

means a proposal that, if implemented,

(a) is unlikely to have a material effect on:

(i) existing or future electricity consumers;

(ii) competition in the generation, distribution, or supply of electricity or any commercial activities connected with the generation, distribution, or supply of electricity;

(iii) the operation of the national electricity transmission system;

(iv) matters relating to sustainable development, safety or security of supply, or the management of market or network emergencies; and

(v) the CUSC’s governance procedures or the CUSC’s modification procedures;

(b) is unlikely to discriminate between different classes of CUSC parties; and

(c) is properly a housekeeping modification required as a result of some error or factual change, including

(i) updating names or addresses listed in the CUSC;

(ii) correcting minor typographical errors;

(iii) correcting formatting and consistency errors, such as paragraph numbering; and

(iv) updating out of date references to other documents or paragraphs.

“fast track self-governance statement”

means a statement made by the panel:

- (d) confirming that, in its unanimous opinion, the fast track self-governance criteria are met and the modification is suitable for the fast track self-governance route;
- (e) stating that the modification will not be made if any person to whom the statement was sent objects within fifteen (15) working days and providing instructions on how to make any objection known; and
- (f) setting out the revised legal text showing the changes that will be made.

“industry code”

means a multilateral code or agreement created and maintained pursuant to a licence granted by the Authority under section 6 of the Act or under sections 7, 7ZA or 7A the Gas Act 1986.

“materially affected party”

any person or class of persons designated by the Authority for this purpose.

"self-governance criteria"

means a proposal that, if implemented,

- (a) is unlikely to have a material effect on:
 - (i) existing or future electricity consumers; and
 - (ii) competition in the generation, distribution, or supply of electricity or any commercial activities connected with the generation, distribution, or supply of electricity; and
 - (iii) the operation of the national electricity transmission system; and
 - (iv) matters relating to sustainable development, safety or security of supply, or the management of market or network emergencies; and
 - (v) the CUSC’s governance procedures or the CUSC’s modification procedures, and
- (b) is unlikely to discriminate between different classes of CUSC parties.

“self-governance statement”

means the statement made by the panel and submitted to the Authority in accordance with paragraph 13A(a)(i):

- (a) confirming that, in its opinion, the self-governance criteria are met and the modification is suitable for the self-governance route; and
- (b) providing a detailed explanation of the panel’s reasons for that opinion.

The inclusion of this statement within the formal minutes of a panel meeting, sent to the Authority within [6] working days of that meeting, shall be taken to have fulfilled the requirement to submit this statement to the Authority

“significant code review”

means a review of one or more matters which the Authority considers is likely to:

- (a) relate to the CUSC (either on its own or in conjunction with other industry codes); and
- (b) be of particular significance in relation to its principal objective and/or general duties (under section 3A of the Act), statutory functions and/or relevant obligations arising under EU law, and

concerning which the Authority has issued a notice to the CUSC parties (among others, as appropriate) stating:

- (i) that the review will constitute a significant code review;
- (ii) the start date of the significant code review; and
- (iii) the matters that will fall within the scope of the review.

“significant code review phase”

means the period commencing on the start date of a significant code review as stated by the Authority, and ending either:

- (a) on the date on which the Authority issues a statement under paragraph 6C(b) (that no directions will be issued in relation to the CUSC); or
- (b) if no statement is made under 6C(b), on the date on which the licensee has made a modification proposal in accordance with paragraphs 6(aa), 6C(a) and 7(d)(i); or
- (c) immediately under paragraph 6C(c), if neither a statement, or directions are issued by the Authority up to and including twenty-eight (28) days from the Authority’s publication of its significant code review conclusions.

“small participant”

means

- (a) a generator, supplier, distributor, or new entrant to the electricity market in Great Britain that can demonstrate to the code administrator that it is resource-constrained and, therefore, in particular need of assistance;
- (b) any other participant class of participant that the code administrator considers to be in particular need of assistance; and
- (c) a participant or class of participant that the Authority has notified to the code administrator as being in particular need of assistance.

"transition modification provisions"

means the provisions of this condition which apply or applied during the transition period and which enable or enabled the Authority (whether with or without the consent of the Secretary of State) to direct the licensee to modify the CUSC in certain circumstances.

Condition C14: Grid Code

1. The licensee shall in consultation with authorised electricity operators liable to be materially affected thereby prepare and at all times have in force and shall implement and comply (subject to paragraph 11) with the Grid Code:
 - (a) covering all material technical aspects relating to connections to and the operation and use of the national electricity transmission system or (in so far as relevant to the operation and use of the national electricity transmission system) the operation of electric lines and electrical plant connected to the national electricity transmission system or any distribution system of any authorised distributor and (without prejudice to the foregoing) making express provision as to the matters referred to in paragraph 5 below; and
 - (b) which is designed so as:
 - (i) to permit the development, maintenance and operation of an efficient, co-ordinated and economical system for the transmission of electricity;
 - (ii) to facilitate competition in the generation and supply of electricity (and without limiting the foregoing, to facilitate the national electricity transmission system being made available to persons authorised to supply or generate electricity on terms which neither prevent nor restrict competition in the supply or generation of electricity) ;
 - (iii) subject to sub-paragraphs (i) and (ii), to promote the security and efficiency of the electricity generation, transmission and distribution systems in the national electricity transmission system operator area taken as a whole; and
 - (iv) to efficiently discharge the obligations imposed upon the licensee by this licence and to comply with the Electricity Regulation and any relevant legally binding decisions of the European Commission and/or the Agency.

1A. The Grid Code shall provide for:

(a) a panel body, as specified in the Grid Code (the “panel”) whose functions shall include the matters required by this condition and as set out in the Grid Code; and,

(b) arrangements for a secretarial or administrative person or body, as specified in the Grid Code, to perform the role of code administrator (the “code administrator”). In addition to any powers, duties or functions set out in the Grid Code, the code administrator shall:

- (i) together with other code administrators, publish, review and (where appropriate) amend from time to time the Code of Practice approved by the Authority (any amendments to the Code of Practice are to be approved by the Authority);
- (ii) facilitate the procedures for making a modification to the SPAA;
- (iii) have regard to, and in particular (to the extent relevant) be consistent with the Principles contained in, the Code of Practice; and
- (iv) provide assistance, insofar as is reasonably practicable and on reasonable request, to [Authorised Electricity Operators / code users] (including, in particular, small participants and consumer representatives) that request assistance in relation to the Grid Code including, but not limited to, assistance with:

1. [drafting / raising] a modification proposal;

2. understanding the operation of the Grid Code:

3. their involvement in, and representation during, the modification procedure processes (including but not limited to code panel, and/or workgroup meetings):

4. accessing information relating to modification proposals and/or modifications.

1B. The Grid Code shall contain procedures for the modification of the Grid Code, including procedures for the amendment of the modification procedures themselves.

2. The Grid Code shall be the code which existed and which the licensee maintained pursuant to its licence immediately prior to the start of the transition period, modified from time to time in accordance with the transition modification provisions and the provisions of this condition.

2A. The [licensee / panel] shall (in consultation with authorised electricity operators liable to be materially affected thereby) periodically review (including upon the request of the Authority) the Grid Code and its implementation.

2B. The review undertaken under paragraph 2A shall

(a) where the Authority reasonably considers it necessary to comply with or implement the Electricity Regulation and/or any relevant legally binding decisions of the European Commission and/or the Agency, proceed in accordance with any timetable(s) directed by the Authority under this paragraph in relation to the progress of the review and/or implementation of any ~~revisions~~ modifications to the Grid Code; and

(b) involve an evaluation of whether any ~~revisions~~ modification or ~~revisions~~ modifications to the Grid Code would better facilitate the achievement of the Grid Code objectives and, where the impact is likely to be material, this shall include an assessment of the quantifiable impact of any such ~~revision~~ modification on greenhouse gas emissions, to be conducted in accordance with any guidance (on the treatment of carbon costs and evaluation of greenhouse gas emissions) as may be issued by the Authority from time to time.

(c) provide for [Authorised Electricity Operators / code users] to propose modifications to the Grid Code.

2C. Following any such review, the [licensee / panel] shall send to the Authority:

(a) a report on the outcome of such review conducted in accordance with paragraphs 2A and 2B, to be prepared in such manner and with all such contents as specified in the Grid Code, which shall include an assessment of the extent to which the proposed modification or modifications would better facilitate achieving the applicable Grid Code objectives, as required under paragraph 2B(b) of this condition, and a detailed explanation of the reasons for that assessment; and

(b) any proposed ~~revision~~ modification to the Grid Code from time to time as the [licensee / panel] (having regard to the outcome of such review) reasonably thinks fit for the achievement of the objectives referred to in paragraph (b) of paragraph 1; and

(c) any written representations or objections from authorised electricity operators liable to be materially affected thereby [~~including any proposals by such operators for revisions to the Grid Code not accepted by the licensee in the course of the review~~] arising during the consultation process and subsequently maintained.

3. ~~Revisions~~ Modifications to the Grid Code ~~proposed by the licensee and sent to the Authority pursuant to paragraph 2 shall require to be approved by the Authority. must not be implemented without the Authority's approval.~~

4. Having regard to any written representations or objections referred to in sub-paragraph (c) of paragraph 2C, and following such further consultation (if any) as the Authority may consider appropriate, the Authority may issue directions requiring the licensee to ~~revise~~ modify the Grid Code in such manner as may be specified in the directions, and the licensee shall forthwith comply with any such directions.

4A. The procedures for modifying the Grid Code shall provide:

(a) for the revision and resubmission of the report provided for under paragraph 2C(a) upon, and in accordance with, a direction issued to the [licensee / panel] by the Authority where the Authority determines that it cannot properly form an opinion on the approval of the modification proposal in accordance with paragraph 4;

(b) that proposals for the modification of the Grid Code falling within the scope of a significant code review may not be made during the significant code review phase, except:

(i) where the Authority determines that the modification proposal may be made, having taken into account (among other things) the urgency of the subject matter of the proposal; or

(ii) at the direction of the Authority;

(c) where a modification proposal is made during a significant code review phase the [licensee / panel] shall:

(i) unless exempted by the Authority, notify the Authority as soon as practicable of:

1. any representations received in relation to the relevance of the significant code review; and

2. the [licensee's / panel's] assessment of, whether the proposal falls within the scope of the significant code review and its reasons for that assessment; and

(ii) if the Authority so directs, not proceed with the modification proposal until the significant code review phase has ended.

4B. If within twenty eight (28) days after the Authority has published its significant code review conclusions, the Authority issues to the licensee:

(a) directions, the licensee shall comply with those directions;

(b) a statement that no directions under sub-paragraph (a) will be issued in relation to the Grid Code, the licensee shall treat the significant code review phase as ended;

(c) neither directions under sub-paragraph (a) nor a statement under sub-paragraph (b) the significant code review phase will be deemed to have ended.

The Authority's published conclusions and directions to the licensee will not fetter the voting rights of the Grid Code panel or the procedures informing the report described at sub-paragraph 2C(a) of this condition.

5. The Grid Code shall include codes relating to the technical operation of the national electricity transmission system, including:

- (a) connection conditions specifying the technical, design and operational criteria to be complied with by the licensee and by any person connected or seeking connection with the national electricity transmission system or by any person authorised to generate who is connected with or seeks connection with the national electricity transmission system or any distribution system of any third party which is located in the national electricity transmission system operator area;
 - (b) an operating code specifying the conditions under which the licensee shall operate the national electricity transmission system and under which persons shall operate their plant and/or distribution systems in relation to the national electricity transmission system, in so far as necessary to protect the security and quality of supply and safe operation of the national electricity transmission system under both normal and abnormal operating conditions;
 - (c) a planning code specifying the technical and design criteria and procedures to be applied in the planning and development of the national electricity transmission system and to be taken into account by persons connected or seeking connection with the national electricity transmission system in the planning and development of their own plant and systems; and
 - (d) procedures relating to the outage of generation sets and a balancing code specifying, among other matters, information to be submitted by authorised electricity operators to the licensee for the purposes of, and the making of offers and bids in, the balancing mechanism, and the issuing by the licensee of instructions by reference to such offers and bids.
6. The licensee shall, upon receipt of a direction from the Secretary of State to do so, ~~revise~~ modify the Grid Code so as to incorporate any changes directed by the Secretary of State pursuant to section 90 of the Energy Act 2004 during or before the offshore transmission implementation period.
 7. [Not used].
 8. The licensee shall give or send a copy of the Grid Code (as from time to time ~~revised~~ modified) to the Authority.
 9. The licensee shall (subject to paragraph ~~9~~10) give or send a copy of the Grid Code (as from time to time ~~revised~~ modified) to any person requesting the same.
 10. The licensee may make a charge for any copy of the Grid Code (as from time to time ~~revised~~ modified) given or sent pursuant to paragraph ~~8~~9 of an amount which will not exceed any amount specified for the time being for the purposes of this condition in directions issued by the Authority.
 11. In preparing, implementing and complying with the Grid Code (including in respect of the scheduling of maintenance of the national electricity transmission system), the licensee shall not unduly discriminate ~~against or unduly prefer any person or class or classes of person in favour of or as against any person or class or classes of persons in favour of or against, or unduly prefer, any person or class (or classes) of person.~~
 12. The Authority may (following consultation with the licensee) issue directions relieving the licensee of its obligations to implement or comply with the Grid Code in respect of such parts of the national electricity transmission system and/or to such extent as may be specified in the directions.
 - 12A. Without prejudice to any rights of approval, veto or direction the Authority may have, the licensee shall use its best endeavours to ensure that procedures are in place that facilitate its compliance with the requirements of this condition and to create or modify industry

documents including but not limited to the Grid Code, core industry documents and industry codes where necessary no later than [1 July 2013].

13. In this condition, authorised electricity operator includes any person transferring electricity to or from the national electricity transmission system operator area across an interconnector; and

"Grid Code objectives" means the objectives referred to in paragraph 1(b) of this condition; and

"transition modification provisions" means the provisions of this condition which apply or applied during the transition period and which enable or enabled the Authority (whether with or without the consent of the Secretary of State) to direct the licensee to ~~revise~~ modify the Grid Code in certain circumstances.

Definitions

"Code of Practice" means the Code Administration Code of Practice approved by the Authority and:

(a) developed and maintained by the code administrators in existence from time to time; and

(b) amended subject to the Authority's approval from time to time; and

(c) re-published from time to time.

"directions" means, in the context paragraph 4B(a), direction(s) issued following publication of significant code review conclusions which shall contain:

(i) instructions to the licensee to make (and not withdraw, without the Authority's prior consent) a modification proposal;

(ii) the timetable for the licensee to comply with the Authority's direction(s); and

(iii) the Authority's reasons for its direction(s).

"significant code review" means a review of one or more matters which the Authority considers likely to:

(a) relate to the Grid Code (either on its own or in conjunction with other industry code(s)); and

(b) be of particular significance in relation to its principal objective and/or general duties (under section 3A of the Electricity Act), statutory functions and/or relevant obligations arising under EU law; and concerning which the Authority has issued a notice

to the Grid Code licensee (among others, as appropriate) stating:

(i) that the review will constitute a significant code review;

(ii) the start date of significant code review; and

(iii) the matters that will fall within the scope of the review.

“significant code review phase”

means the period commencing on the start date of a significant code review as stated by the Authority, and ending either:

(a) on the date on which the Authority issues a statement that no directions will be issued in relation to the Grid Code; or

(b) if no statement is made, on the date on which the licensee has made a modification proposal in accordance with directions issued by the Authority; or

(c) immediately, if neither a statement nor directions are issued by the Authority within (and including) twenty-eight (28) days from the Authority's publication of its significant code review conclusions.

“small participant” means

(a) a generator, supplier, distributor, or new entrant to the electricity market in Great Britain that can demonstrate to the code administrator that it is resource-constrained and, therefore, in particular need of assistance;

(b) any other participant or class of participant that the code administrator considers to be in particular need of assistance; and

(c) a participant or class of participant that the Authority has notified the code administrator as being in particular need of assistance.

Condition B12: System Operator – Transmission Owner Code

1. The licensee shall, in common with those other transmission licensees to which this condition applies, at all times have in force a STC, being a document which:
 - (a) sets out terms as between STC parties whereby the national electricity transmission system and each STC party's transmission system forming part thereof is to be planned, developed or operated and transmission services are to be provided together with any associated arrangements;
 - (b) is designed to facilitate achievement of the objectives set out in paragraph 3;
 - (c) includes the ~~amendment~~ modification procedures required by paragraph 6-6G; ~~and~~
 - (d) provides for mechanisms for the resolution of any disputes arising in relation to any of the matters addressed in the STC; and
 - (e) The licensee shall be taken to comply with this paragraph by:
 - (i) adopting (through entry into the STC Framework Agreement), as the STC in force with effect from the date this condition comes into effect, the document designated by the Secretary of State for the purposes of this condition; and
 - (ii) ~~amending~~ modifying such document from time to time in accordance with the transition amendment provisions and the provisions of paragraphs 6 and 7 below.
2. For the purposes of this condition, the terms and arrangements referred to in paragraph 1(a) whereby the national electricity transmission system and each STC party's transmission system forming part thereof are to be planned, developed or operated and transmission services are to be provided, are those which:
 - (a) are requisite for the enjoyment and discharge of the rights and obligations of transmission licensees and STC parties arising under any relevant licences, codes or other document as may be specified from time to time by the Authority including, but not limited to, rights and obligations which may arise under each of the core industry documents, the BSC and the CUSC; and
 - (b) provide for matters which include:
 - the provision of transmission services,
 - the operation, including the configuration, of the national electricity transmission system,
 - the co-ordination of the planning of STC parties' transmission systems,
 - the progression of matters necessary to respond to applications for new connections (or amendments of existing connections),
 - planning for, and co-ordination of, transmission outages,
 - procedures for developing, agreeing and implementing party entry processes,
 - the resolution of disputes,
 - the exchange of information between STC parties, which information they are free to disclose and relates to the discharge of their duties under the Act, transmission licences and other relevant statutory obligations,

- procedures to enable the system operator to produce information about the national electricity transmission system in accordance with standard condition C11 (Production of information about the national electricity transmission system), and
- procedures established in pursuance of paragraph 6-6G.

Nothing in this condition shall preclude the licensee entering into other terms and arrangements connected with these terms and arrangements, outside of the STC, where such other arrangements are not inconsistent or in conflict with this licence or the STC or other relevant statutory requirements.

3. The objectives of the STC referred to in sub-paragraph 1(b) are the:
 - (a) efficient discharge of the obligations imposed upon transmission licensees by transmission licences and the Act;
 - (b) development, maintenance and operation of an efficient, economical and co-ordinated system of electricity transmission;
 - (c) facilitating effective competition in the generation and supply of electricity, and (so far as consistent therewith) facilitating such competition in the distribution of electricity;
 - (d) protection of the security and quality of supply and safe operation of the national electricity transmission system insofar as it relates to interactions between transmission licensees;
 - (e) promotion of good industry practice and efficiency in the implementation and administration of the arrangements described in the STC; and
 - (f) facilitation of access to the national electricity transmission system for generation not yet connected to the national electricity transmission system or distribution system.

4. The STC shall provide for:
 - (a) there to be referred to the Authority for determination such matters arising under the STC as may be specified in the STC; ~~and~~
 - (b) a copy of the STC or any part(s) thereof (which excludes any confidential information contained in the STC, as provided in that document) to be provided to any person requesting the same upon payment of an amount not exceeding the reasonable costs of making and providing such copy;
 - (c) a panel body, as specified in the STC (the “panel”) whose functions shall include the matters required by this condition and as set out in the STC;
 - (d) arrangements for a secretarial or administrative person or body, as specified in the STC, to perform the role of code administrator (the “code administrator”). In addition to any powers, duties or functions set out in the STC, the code administrator shall:
 - (v) together with other code administrators, publish, review and (where appropriate) amend from time to time the Code of Practice approved by the Authority (any amendments to the Code of Practice are to be approved by the Authority);
 - (vi) facilitate the procedures for making a modification to the STC; and
 - (vii) have regard to, and in particular (to the extent relevant) be consistent with the Principles contained in, the Code of Practice;

5. The provisions of paragraphs 1, 2, 4 and 10 shall not limit the matters which may be provided for in the STC.

6. The STC shall include procedures for its own amendment modification (including procedures for the amendment modification of the amendment modification procedures themselves), so as better to facilitate achievement of the applicable STC objectives, which procedures shall provide:
- (a) for proposals for amendment modification of the STC to be made by any of the STC parties or such other persons or bodies as the STC may provide;
 - (b) where ~~such a~~ modification proposal is made, the procedures shall provide:
 - (i) for bringing the proposal to the attention of the STC parties and such other persons as may properly be considered to have an appropriate interest in it;
 - (ia) for the proper evaluation of the suitability of the self governance route (in accordance with 6A) for a particular modification proposal;
 - ~~(ib) during a significant code review phase, for the proper evaluation of the relevance of the significant code review to a particular modification proposal;~~
 - (ii) for proper consideration of any representations on the proposal itself or on the likely effect of the proposal on the core industry documents;
 - (iii) for the preparation by the ~~STC Committee panel~~ of an assessment of the likely impact of the proposal on each STC party's transmission system and its other systems, provided that, so far as any such assessment requires information which is not generally available concerning any STC party or STC party's transmission system, such assessment shall be made on the basis of the ~~STC Committee panel's~~ proper assessment (which that ~~STC Committee panel~~ shall make available for these purposes) of the impact of the proposal on each STC party's transmission system;
 - (iv) for properly evaluating whether the proposed amendment modification would better facilitate achieving the applicable STC objectives, provided that so far as any such evaluation by the ~~STC Committee panel~~ requires information which is not generally available concerning another any STC party or STC party's transmission system or the national electricity transmission system, such evaluation shall be made on the basis of the ~~STC Committee panel's~~ proper assessment (which the licensee shall make available for these purposes) of the effect of the proposed amendment modification on the matters referred to in paragraph 3;
 - (v) for development of any alternative amendment modification which may, as compared with the proposed amendment modification, better facilitate achieving the applicable STC objectives;
 - (vA) for the evaluation required under paragraph 6(b)(iv) (and, if applicable, paragraph 6(b)(v)) in respect of the applicable STC objective(s) to include, where the impact is likely to be material, an assessment of the quantifiable impact of the proposal on greenhouse gas emissions, to be conducted in accordance with any such guidance (on the treatment of carbon costs and evaluation of greenhouse gas emissions) as may be issued by the Authority from time to time;
 - (vi) except for modifications made pursuant to 6G, for the preparation of a report on behalf of the STC parties which includes the following:
 - the proposed amendment modification and any alternative;
 - an evaluation of the proposed amendment modification and any alternative;

- an assessment of the extent to which the proposed amendment modification or any alternative would better facilitate achieving the applicable STC objectives and a detailed explanation of the reasons for that assessment (such assessment to include, where applicable, an assessment of the quantifiable impact of greenhouse gas emissions in accordance with paragraph 6(b)(vA));
 - to the extent practicable, an assessment of the likely impact on each STC party's transmission system and any other systems of that STC party and an assessment of the likely impact on the national electricity transmission system, of the proposed amendment modification;
 - an assessment of the impact of the amendment modification on the core industry documents and the changes expected to be required to such documents as a consequence of the amendment modification;
 - a recommendation by the panel (or in the case of a proposal falling within the scope of paragraph 6A, a determination), by reference to the panel's assessment against the applicable STC objectives, as to whether the proposed modification or any alternative should be made;
 - to the extent practicable, the inclusion in the report of ~~a recommendation or recommendations being~~ the combined views of the STC parties concerning the amendment modification and any alternative and, where a combined view is not practicable, setting out the views of each STC party;
 - a timetable for implementation of the amendment modification and any alternative, including the date with effect from which such amendment modification (if made) is to take effect; and
- (vii) for the submission of the report to the Authority as soon after the proposal is made as is appropriate (taking into account the complexity, importance and urgency of the amendment modification) for the proper execution and completion of the steps in sub-paragraphs (i) to (vi);
- (c) for the timetable (referred to in sub-paragraph (b)(vi)) for implementation of any amendment modification to be such as will enable the amendment modification to take effect as soon as practicable after the Authority has directed such amendment modification to be made (or after a determination by the panel in accordance with paragraph 6A), account being taken of the complexity, importance and urgency of the amendment modification, and for that timetable to be extended with the consent of or as required by the Authority after those persons likely to be affected by the revision of the timetable have been consulted; ~~and~~
- (d) for separate processes for the amendment modification of STC procedures and the schedule listing the STC procedures in force from time to time, and which otherwise forms a part of the STC to those for the amendment modification of other parts of the STC set out in sub-paragraphs (a) to (c) above and paragraphs 6A-7;
- (e) for the revision and resubmission of the modification report submitted to the Authority pursuant to sub-paragraphs 6(b)(vi) and 6(b)(vii) upon, and in accordance with, a direction issued to the panel by the Authority where the Authority determines that it cannot properly form an opinion on the approval of the modification proposal; and
- (f) that the procedures for the modification of the STC shall be consistent with the Principles set out in the Code of Practice, to the extent that they are relevant.

6A. The procedures for the modification of the STC shall provide that modification proposals shall only be implemented without the Authority's approval pursuant to this paragraph 6A where:

(a)

(i) in the view of the panel, the modification proposal meets, all of the self-governance criteria, and the panel has submitted to the Authority in respect of the modification proposal and not withdrawn a self-governance statement; or

(ii) if a self-governance statement has not been made, or has been withdrawn, the Authority has determined that the self-governance criteria are satisfied and the modification proposal is suitable for the self-governance route; and

(b) unless otherwise exempted by the Authority, the panel has sent copies of all consultation responses to the Authority at least seven (7) days before the panel intends to make its determination under paragraph 6A(d); and

(c) the Authority has not directed that the Authority's decision is required prior to the panel's determination under paragraph 6A(d); and

(d) the panel has, no earlier than seven (7) days after sending the consultation responses referred to at paragraph 6A(b), determined that the modification proposal or any alternative should be implemented on the basis that it would, as compared with the then existing provisions of the STC and any other modifications proposed in accordance with paragraph 6(b)(v), better facilitate the achievement of the applicable STC objective(s); and

(e)

(i) no appeal has been raised up to and including [15 / 10] working days after the publication of the panel's determination under paragraph 6A(d) in respect of such modification proposal and any alternative; or

(ii) an appeal has been raised in respect of such a modification proposal and any alternative in accordance with paragraph 6B and the Authority has not quashed the panel's determination referred to at paragraph 6A(d) (and either remitted the relevant modification proposal and any alternative back to the panel for reconsideration or taken the decision on the relevant modification proposal and any alternative itself following the appeal).

6B. The procedures for the modification of the STC shall provide that those persons set out at paragraph 6(a) may appeal to the Authority the approval or rejection by the panel of a modification proposal and any alternative falling under the self-governance route (in accordance with paragraph 6A), provided the appeal has been made up to and including [15 / 10] working days after the publication of the approval or rejection and in accordance with the procedures specified in the STC and, in the opinion of the Authority:

(a)

(i) the appealing party is likely to be unfairly prejudiced by the implementation or non-implementation of that modification or alternative proposal; or

(ii) the appeal is on the grounds that:

(1) in the case of implementation, the modification or alternative proposal may not better facilitate the achievement of at least one of the applicable STC objectives; or

(2) in the case of non-implementation, the modification or alternative proposal may better facilitate the achievement of at least one of the applicable STC objectives; and

(b) the appeal is not brought for reasons that are trivial or vexatious, nor does the appeal have no reasonable prospect of success.

6C. The procedures for the modification of the STC shall provide that:

(c) where an appeal has been raised in respect of a modification proposal and any alternative in accordance with paragraph 6B that modification proposal and any alternative shall be treated in accordance with any decision and/or direction of the Authority following that appeal;

(d) if the Authority quashes the panel's determination referred to at paragraph 6A(d) of this condition and takes the decision on the relevant modification proposal and any alternative itself following an appeal in accordance with paragraph 6A(d), the panel's determination of that modification shall be treated as a recommendation under sub-paragraph 6(b)(vi).

6D The procedures for the modification of the STC shall provide that proposals for modification of the STC falling within the scope of a significant code review may not be made during the significant code review phase, except:

(iii) where the Authority determines that the modification proposal may be made, having taken into account (among other things) the urgency of the subject matter of the proposal; or

(iv) at the direction of the Authority.

6E. The procedures for the modification of the STC shall provide that where a modification proposal is made during a significant code review phase the panel shall:

(a) unless exempted by the Authority, notify the Authority as soon as practicable of:

i. any representations received in relation to the relevance of the significant code review; and

ii. the panel's assessment of, whether the proposal falls within the scope of the significant code review and its reasons for that assessment; and

(b) if the Authority so directs, not proceed with the modification proposal until the significant code review phase has ended.

6F. The procedures for the modification of the STC shall provide that if within twenty-eight (28) days after the Authority has published its significant code review conclusions, the Authority issues to the licensee:

(a) directions, the licensee shall comply with those directions;

(b) a statement that no directions under sub-paragraph (a) will be issued in relation to the STC, the licensee shall treat the significant code review phase as ended;

- (c) neither directions under sub-paragraph (a), nor a statement under sub-paragraph (b), the significant code review phase will be deemed to have ended.

The Authority's published conclusions and directions to the licensee will not fetter the voting rights of the members of the panel or the recommendation procedures informing the report described at paragraph 6(vi)..

6G. The procedures for the modification of the STC shall provide that modifications shall only be implemented without the Authority's approval pursuant to this paragraph 6G where:

- (i) in the unanimous view of the panel, the proposed modification meets all of the fast track self governance criteria;
- (j) the panel unanimously determines that the modification should be made;
- (k) the panel has sent copies of a fast track self governance statement to the persons named in paragraph 6(a) and has not received any objections to the proposed modification in the fifteen (15) working days immediately following the day on which the fast track self governance statement was sent; and
- (l) the panel has sent copies of a fast track self governance statement to the Authority and in the fifteen (15) working days immediately following the day on which the fast track self governance statement was sent, the Authority has not directed that the proposed modification may not be made under this paragraph 6G.

7.

- (a) If a report has been submitted to the Authority pursuant to paragraph 6(b)(vii), and the Authority is of the opinion that an ~~amendment~~ modification set out in such report would, as compared with the then existing provisions of the STC and any alternative ~~amendment~~ modification set out in such report, better facilitate achieving the applicable STC objectives, the Authority may direct the system operator to make that ~~amendment~~ modification on behalf of the STC parties and the system operator shall provide a copy of the direction to all other STC parties.
- (b) The system operator, on behalf of the STC parties, shall only ~~amend~~ modify the STC:
 - (i) in order to comply with any direction of the Authority pursuant to sub-paragraph (a); or
 - (ii) in order to comply with any direction from the Secretary of State to do so, so as to incorporate any changes directed by the Secretary of State pursuant to section 90 of the Energy Act 2004 during or before the offshore transmission implementation period; or
 - (iii) with the consent of the Authority; or
 - (iv) in accordance with paragraph 6A (the 'self governance route'); or
 - (v) in accordance with paragraph 6G (the 'fast track self governance route').

and it shall not have the power to ~~amend~~ modify the STC in any other circumstance; and the system operator shall furnish the Authority with a copy of any ~~amendment~~ modification made.

- (c) Only the system operator shall have the power to ~~amend~~ modify the STC.

- (d) The system operator shall ensure that a copy of any direction of the Authority pursuant to sub-paragraph (a) is made available to each STC party, including by way of publication.
- (e) The system operator shall ensure that the other STC parties are furnished with a copy of any ~~amendment~~ modification so made.
8. The system operator shall prepare and publish a summary of the STC as ~~amended~~ modified or changed from time to time in such form and manner as the Authority may from time to time direct.
9. The licensee shall be a party to the STC Framework Agreement and shall comply with the STC.
10. The STC Framework Agreement shall contain provisions:
- (a) for admitting as an additional party to the STC Framework Agreement any person who accepts the terms and fulfils the conditions (each as specified in the STC) on which accession to the STC Framework Agreement is offered; and
- (b) for referring for determination by the Authority any dispute which shall arise as to whether a person seeking to be admitted as a party to the STC Framework Agreement has fulfilled any accession conditions; and if the Authority determines that the person seeking accession has fulfilled all relevant accession conditions, for admitting such person to be a party to the STC Framework Agreement.
11. The licensee shall, in conjunction with the other STC parties, take all reasonable steps to secure and implement (consistently with the procedures applicable under or in relation to such documents), and shall not take any steps to prevent or unduly delay, changes to the core industry documents (other than the Grid Code) to which it is a party (or in relation to which it holds rights in respect of ~~amendment~~ modification), such changes being changes which are appropriate in order to give full and timely effect to and/or in consequence of any ~~amendment~~ modification which has been made to the STC.
12. The licensee shall, in conjunction with the other STC parties, take all reasonable steps to secure and implement (consistently with the procedures for ~~amendment~~ modification set out in the STC and in this condition), and shall not take any steps to prevent or unduly delay, changes to the STC which are appropriate in order to give full and timely effect to or in consequence of any change which has been made to the core industry documents (other than the Grid Code).
13. For the avoidance of doubt, paragraphs 11 and 12 are without prejudice to any rights of approval, veto or direction in respect of proposed changes to the documents referred to in those paragraphs, which the Authority may have.
- 13A. Without prejudice to any rights of approval, veto or direction the Authority may have, the licensee shall use its best endeavours to ensure that procedures are in place that facilitate its compliance with the requirements of this condition and to create or modify industry documents including but not limited to the STC, core industry documents and industry codes where necessary no later than [1 July 2013].
14. The licensee shall comply with any direction to the licensee made pursuant to this condition.
15. The Authority may (following consultation with all affected STC parties) issue directions relieving the licensee of its obligations to implement or comply with the STC in respect of such parts of the licensee's transmission system or the national electricity transmission system or to such extent as may be specified in the direction.
16. In this condition:
- "applicable STC objectives" means:
- (a) in relation to a proposed ~~amendment~~ modification of

the ~~amendment~~ modification procedures, the requirements of paragraph 6 (to the extent that they do not conflict with the objectives set out in paragraph 3); and

(b) in relation to any other proposed ~~amendment~~ modification, the objectives set out in paragraph 3.

"party entry processes"

means the procedures, processes and steps to be followed by a party following accession to the STC Framework Agreement.

~~"STC Committee"~~

~~means the committee established by STC parties in accordance with the provisions of the STC.~~

"STC procedures"

means the processes and procedures from time to time listed in the STC that the parties to such processes and procedures consider and agree are appropriate to support their compliance with the rest of the STC.

"transition amendment provisions"

means the provisions of this condition which apply or applied during the transition period and which enable or enabled the Authority (whether with or without the consent of the Secretary of State) to direct the licensee to modify the STC in certain circumstances.

"fast track self governance criteria"

means a proposal that, if implemented,

(a) is unlikely to have a material effect on:

(i) existing or future electricity consumers;

(ii) competition in the generation, distribution, or supply of electricity or any commercial activities connected with the generation, distribution, or supply of electricity; and

(iii) the operation of the national electricity transmission system;

(iv) matters relating to sustainable development, safety or security of supply, or the management of market or network emergencies; and

(v) the STC's governance procedures or the STCs modification procedures;

(b) is unlikely to discriminate between different classes of STC parties; and

(c) is properly a housekeeping modification required as a result of some error or factual change, including

(i) updating names or addresses listed in the STC;

(ii) correcting minor typographical errors;

(iii) correcting formatting and consistency errors, such as paragraph numbering; and

(iv) updating out of date references to other documents or paragraphs.

"fast track self governance statement"

means a statement made by the panel:

(g) confirming that, in its unanimous opinion, the fast track self governance criteria are met and the modification is suitable for the fast track self governance route;

(h) stating that the modification will not be made if any person to whom the statement was sent objects within fifteen (15) working days and providing instructions on how to make any objection known; and

(i) setting out the revised legal text showing the changes that will be made.

"Code of Practice"

means the Code Administration Code of Practice approved by the Authority and:

(a) developed and maintained by the code administrators in existence from time to time; and

(b) amended subject to the Authority's approval from time to time; and

(c) re-published from time to time.

"directions"

means, in the context paragraph 6F(a), direction(s) issued following publication of significant code review conclusions which shall contain:

(i) instructions to the licensee to make (and not withdraw, without the Authority's prior consent) a modification proposal;

(ii) the timetable for the licensee to comply with the Authority's direction(s); and

(iii) the Authority's reasons for its direction(s).

"self-governance criteria"

means, a proposal that, if implemented:

(a) is unlikely to have a material effect on:

(i) existing or future electricity consumers; and

(ii) competition in the generation, distribution, or supply of electricity or any commercial activities connected with the generation, distribution, or supply of electricity; and

(iii) the operation of the national electricity transmission system; and

(iv) matters relating to sustainable development, safety or security of supply, or the management of market or network emergencies; and

(v) the STC's governance procedures or modification procedures, and

(b) is unlikely to discriminate between different classes of STC parties.

"self-governance statement"

means a statement made by the panel and submitted to the Authority in accordance with paragraph 6A(a)(i)

(a) confirming that, in its opinion, the self governance criteria are met and the modification is suitable for the self governance route; and

(b) the panel's reasons for that opinion.

The inclusion of this statement within the formal minutes of a panel meeting, sent to the Authority within [6] working days of that meeting, shall be

taken to have fulfilled the requirement to submit this statement to the Authority.

“significant code review”

means a review of one or more matters which the Authority considers likely to:

(a) relate to the STC (either on its own or in conjunction with other industry code(s)); and

(b) be of particular significance in relation to its principal objective and/or general duties (under section 3A of the Electricity Act), statutory functions and/or relevant obligations arising under EU law; and concerning which the Authority has issued a notice to the STC parties (among others, as appropriate) stating:

(i) that the review will constitute a significant code review;

(ii) the start date of significant code review; and

(iii) the matters that will fall within the scope of the review.

“significant code review phase”

means the period commencing on the start date of a significant code review as stated by the Authority, and ending either:

(a) on the date on which the Authority issues a statement that no directions will be issued in relation to the STC; or

(b) if no statement is made, on the date on which the licensee has made a modification proposal in accordance with directions issued by the Authority; or

(c) immediately, if neither a statement nor directions are issued by the Authority within (and including) twenty-eight (28) days from the Authority’s publication of its significant code review conclusions.