

Code Governance Review Phase 2 – illustrative licence drafting

APPENDIX 2: Electricity Distribution Standard Licence Conditions

Condition 21. The Distribution Code

Licensee's obligation

- 21.1 The licensee must take all steps within its power to ensure that the Distribution Code in force under this licence at 31 May 2008 remains a code approved by the Authority that complies with each of the following requirements.
- 21.2 The first requirement is that the Distribution Code must cover all material technical aspects relating to connections to and the operation and use of the licensee's Distribution System or (so far as is relevant to such operation and use) the operation of electric lines and electrical plant connected to that system.
- 21.3 The second requirement, which is without prejudice to the first requirement, is that the Distribution Code must make express provision for the matters referred to in paragraphs 21.5 to 21.7.
- 21.4 The third requirement is that the Distribution Code, so far as is consistent with the first two requirements, must be designed so as to better facilitate the achievement of the Applicable Distribution Code Objectives, which are to:
- (a) permit the development, maintenance, and operation of an efficient, co-ordinated, and economical system for the distribution of electricity; and
 - (b) facilitate competition in the generation and supply of electricity; and
 - (c) efficiently discharge the obligations imposed upon distribution licensees by the distribution licences and comply with the Regulation and any relevant legally binding decision of the European Commission and/or the Agency for the Co-operation of Energy Regulators.

Specific contents of the Distribution Code

- 21.5 The Distribution Code must include a Distribution Planning and Connection Code (see paragraph 21.6) and a Distribution Operating Code (see paragraph 21.7).
- 21.6 The Distribution Planning and Connection Code must contain:
- (a) planning conditions that specify the technical and design criteria and procedures that are to be applied by the licensee in the planning and development of its Distribution System and taken into account by persons having a connection or seeking a connection to that system in the planning and development of their own plant and systems; and
 - (b) connection conditions that specify the technical, design, and operational criteria to be complied with by any person having a connection or seeking a connection to the licensee's Distribution System.
- 21.7 The Distribution Operating Code must specify the conditions under which the licensee must operate its Distribution System, and under which persons must operate their own plant and systems in relation to that system, so far as is necessary to protect the security, quality of supply, and safe operation of the licensee's Distribution System under both normal and abnormal operating conditions.

21.7A The Distribution Code shall provide for:

- (a) a panel body, as specified in the Distribution Code (the “panel”) whose functions shall include the matters required by this condition and as set out in the Distribution Code; and,
- (b) arrangements for a secretarial or administrative person or body, as specified in the Distribution Code, to perform the role of code administrator (the “code administrator”). In addition to any powers, duties or functions set out in the Distribution 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 Distribution Code;
 - (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 Distribution Code including, but not limited to, assistance with:
 - [drafting / raising] a modification proposal;
 - understanding the operation of the Distribution Code;
 - their involvement in, and representation during, the modification procedure processes (including, but not limited to, code panel, and/or workgroup meetings);
 - accessing information relating to modification proposals and/or modifications.

21.7B The Distribution Code shall contain procedures for the modification of the Distribution Code, including procedures for the amendment of the modification procedures themselves.

Procedure for ~~revising~~ modifying the Distribution Code

21.8 The licensee must (in consultation with other Authorised Electricity Operators likely to be materially affected) periodically review (including at the Authority’s request) the Distribution Code and its implementation.

21.8A The review undertaken under paragraph 21.8 must

- (a) where the Authority reasonably considers it necessary to comply with or implement the Regulation and/or any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators, 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 modifications to the Distribution Code; ~~and~~
- (b) involve an evaluation of whether any ~~revision or revisions~~ modification or modifications to the Distribution Code would better facilitate the achievement of the Applicable Distribution Code Objectives and, where the impact is likely to be material, this must include an assessment of the quantifiable impact of any such ~~revision~~ modification 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; ~~and~~

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

21.9 After completing any such review, the [licensee / panel] must send to the Authority:

- (a) a report on the outcome of the review conducted in accordance with paragraphs 21.8 and 21.8A, to be prepared in such manner and with all such contents as specified in the Distribution Code, which shall include an assessment of the extent to which the proposed modification or modifications would better facilitate achieving the applicable Distribution Code objectives, as required under paragraph 21.8A(b), and a detailed explanation of the reasons for that assessment;
- (b) a statement of any proposed ~~revisions~~ modifications to the Distribution Code that the [licensee / panel] (having regard to the outcome of the review) reasonably thinks are appropriate for the continuing achievement of the objectives referred to in paragraph 21.4; and
- (c) any written representations or objections from Authorised Electricity Operators ~~[(including any proposals by such operators for revisions to the Distribution Code that have not been accepted by the licensee in the course of the review)]~~ that were received during the consultation process and have not been withdrawn.

21.10 ~~Revisions~~ Modifications to the Distribution Code ~~[that are proposed by the licensee and sent to the Authority under paragraph 21.9(b)]~~ must not be implemented without the Authority's approval.

21.11 The Authority (having regard to any representations or objections referred to in paragraph 21.9(c) and after any further consultation that it considers appropriate) may give a direction to the licensee that requires it to ~~revise~~ modify the Distribution Code in such manner as may be specified in the direction and the licensee shall forthwith comply with any such directions.

21.11A The procedures for modifying the Distribution Code shall provide:

- (a) for the revision and resubmission of the report provided for under 21.9(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;
- (b) that proposals for the modification of the Distribution 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.

23.6 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 Distribution 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 Distribution Code panel or the procedures informing the report described at sub-paragraph 21.9(a).

Availability of the Distribution Code

21.12 The licensee must give or send a copy of the Distribution Code (as from time to time ~~revised~~ modified):

- (a) to the Authority; and
(b) to any person who requests it.

21.13 The licensee may make a charge for any copy of the Distribution Code given or sent under paragraph 21.12(b) but this must not exceed the amount specified in directions issued by the Authority for the purposes of this condition generally, based on its estimate of the licensee's reasonable costs of providing the copy.

Performance of obligations

21.14 The licensee must fulfil its obligations under this condition in conjunction and co-operation with all other Electricity Distributors and in accordance with such arrangements for that purpose as are approved by the Authority.

21.15 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 Distribution Code, core industry documents and industry codes where necessary no later than [1 July 2013].

Definitions

<u>"Code of Practice"</u>	<u>means the Code Administration Code of Practice approved by the Authority and:</u> <u>(a) developed and maintained by the code administrators in existence from time to time; and</u> <u>(b) amended subject to the Authority's approval from time to time; and</u> <u>(c) re-published from time to time.</u>
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<u>“directions”</u>	<p><u>means, in the context paragraph 23.6(a), direction(s) issued following publication of significant code review conclusions which shall contain:</u></p> <p><u>(i) instructions to the licensee to make (and not withdraw, without the Authority's prior consent) a modification proposal;</u></p> <p><u>(ii) the timetable for the licensee to comply with the Authority's direction(s); and</u></p> <p><u>(iii) the Authority's reasons for its direction(s).</u></p>
<u>“significant code review”</u>	<p><u>means a review of one or more matters which the Authority considers likely to:</u></p> <p><u>(a) relate to the Distribution Code (either on its own or in conjunction with other industry code(s)); and</u></p> <p><u>(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 Distribution Code licensee (among others, as appropriate) stating:</u></p> <p><u>(i) that the review will constitute a significant code review;</u></p> <p><u>(ii) the start date of significant code review; and</u></p> <p><u>(iii) the matters that will fall within the scope of the review.</u></p>
<u>“significant code review phase”</u>	<p><u>means the period commencing on the start date of a significant code review as stated by the Authority, and ending either:</u></p> <p><u>(a) on the date on which the Authority issues a statement that no directions will be issued in relation to the Distribution Code; or</u></p> <p><u>(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</u></p> <p><u>(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.</u></p>
<u>“small participant” means</u>	<p><u>(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;</u></p> <p><u>(b) any other participant or class of participant that the code administrator considers to be in particular need of assistance; and</u></p> <p><u>(c) a participant or class of participant that the Authority has notified the code administrator as being in particular need of assistance.</u></p>

Condition 22. Distribution Connection and Use of System Agreement

Licensee's obligation

- 22.1 The licensee must take all steps within its power to ensure that the Distribution Connection and Use of System Agreement ("the DCUSA") in force under this licence at 31 May 2008 remains an agreement that:
- (a) is designed to facilitate achievement of the Applicable DCUSA Objectives set out in Part A of this condition;
 - (b) conforms to the requirements of Parts B to D of this condition in relation to the ~~amendment~~ modification of the DCUSA; and
 - (c) makes express provision for the matters described in the Schedule of DCUSA Contents ("the Schedule") set out at Appendix 1, which is part of this condition.

Part A: Applicable DCUSA Objectives

- 22.2 The Applicable DCUSA Objectives are these:
- (a) the development, maintenance and operation by the licensee of an efficient, co-ordinated, and economical Distribution System;
 - (b) the facilitation of effective competition in the generation and supply of electricity and (so far as is consistent with that) the promotion of such competition in the sale, distribution, and purchase of electricity;
 - (c) the efficient discharge by the licensee of the obligations imposed upon it by this licence;
 - (d) the promotion of efficiency in the implementation and administration of the DCUSA arrangements;
 - (e) compliance with the Regulation and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators; and
 - (f) in relation to the Common Distribution Charging Methodology, the EHV Distribution Charging Methodology or the Common Connection Charging Methodology, the Applicable Charging Methodology Objectives listed in Part B of Standard Licence Condition 22A.

Part B: Principles for making an ~~amendment~~ a modification to the DCUSA

- 22.3 Any proposals to ~~amend~~ modify the DCUSA must be designed to better facilitate the achievement of the Applicable DCUSA Objectives.
- 22.4 The DCUSA may be ~~amended~~ modified at any time in accordance with such procedures (including procedures for amending those procedures) as may be Specified and are in conformity with the principles set out in paragraph 22.5.
- 22.5 Those principles are that:
- (a) proposals for the ~~amendment~~ modification of the DCUSA may be made by any Electricity Distributor, any other party to the DCUSA, the Authority (in relation only to ~~amendments~~ modifications which it reasonably considers are necessary to comply with or implement the Regulation and/or any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators), the Consumer Council, the GB System Operator, and such other persons or bodies as may be designated by the Authority;
 - (b) the ~~amendment~~ modification procedures for dealing with any such proposal must comply with the requirements of Part C below;

- (c) the making and implementation of any ~~amendment~~ modification of the DCUSA must comply with the provisions of Part D below;
- (d) ~~those parts of the DCUSA that are Specified pursuant to paragraph A3(g) of the Schedule may not be amended without the Authority's approval, which must be sought in accordance with the appropriate procedures set out in the DCUSA;~~ modifications to the DCUSA require Authority approval except in accordance with paragraph 22.9F;
- (e) ~~amendment~~ modification proposals made by the Authority or the licensee in accordance with paragraphs 22.5(a) and 22.5(f)(i) respectively are:
 - (i) to be accepted into the DCUSA ~~amendment~~ 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 22.5(f); and
- (f) the licensee and (where applicable) the panel are to comply with any direction(s) issued by the Authority under this paragraph setting and/or amending a timetable (in relation to ~~an amendment~~ a modification proposal which the Authority reasonably considers is necessary to comply with or implement the Regulation and/or any relevant legally binding decisions of the European Commission and/or Agency for the Co-operation of Energy Regulators) for the:
 - (i) licensee to raise ~~an amendment~~ a modification proposal; and/or
 - (ii) completion of each of the procedural steps outlined in Part C, to the extent that they are relevant; and/or
 - (iii) implementation of ~~an amendment~~ a modification proposal.

Part C: Procedures for making ~~an amendment~~ a modification to the DCUSA

- 22.6 The procedures contained in the DCUSA for the making of ~~amendments~~ modifications to the DCUSA ("the procedures") must have as their objective the achievement of the matters set out in the following provisions of this Part C.
- 22.7 The procedures must ensure that every proposed ~~amendment~~ modification is brought to the attention of all parties mentioned in or pursuant to paragraph 22.5(a).
- 22.8 ~~They~~ The procedures must ensure that any and all representations made in respect of a proposed ~~amendment~~ modification are able to be properly considered by the relevant decision makers.
- 22.9 ~~They~~ The procedures must ensure that the question of whether any proposed ~~amendment~~ modification better facilitates the achievement of the Applicable DCUSA Objectives is able to be properly evaluated.
- 22.9A ~~They~~ The procedures must ensure that the evaluation required under paragraph 22.9 in respect of the Applicable DCUSA Objective(s) includes, where the impact is likely to be material, an assessment of the impact of the proposed ~~amendment~~ modification on greenhouse gas emissions, to be conducted in accordance with any such guidance (on the treatment of carbon costs and evaluation of the impact on greenhouse gas emissions) as may be issued by the Authority from time to time.
- 22.9B The procedures must provide for the proper evaluation of the suitability of modification by self governance pursuant to paragraph 22.9F for a particular modification proposal, in accordance with the self governance criteria.

22.9C. The procedures shall provide that proposals for the modification of the DCUSA 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;

22.9D The procedures shall provide that where a modification proposal is made during a significant code review phase the panel shall:

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

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

22.9E If within twenty eight (28) days after the Authority has published its significant code review conclusions, the Authority issues to the licensee:

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

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

(f) 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 DCUSA parties or the procedures informing the modification report described at paragraph 22.10.

22.9F The procedures shall provide that modifications to the DCUSA may be made by self governance pursuant to this paragraph 22.9F 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 issues the modification report for DCUSA parties' determination under paragraph 22.12A(a); and

- (c) the Authority has not directed that the Authority's approval is required prior to the modification report being issued for DCUSA parties' determination under paragraph 22.12A(a) and
- (d) the DCUSA parties have, no earlier than seven (7) days after the consultation responses referred to at paragraph 22.9F(b) were sent to the Authority, 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 DCUSA, better facilitate the achievement of the applicable DCUSA objective(s); and
- (e)
 - (i) no appeal has been raised up to and including [15 / 10] working days after the publication of the outcome of the party vote under paragraph 22.13 in respect of such a modification proposal in accordance with paragraph 22.9H; or
 - (ii) an appeal has been raised in respect of such a modification proposal in accordance with paragraph 22.9G and the Authority has not quashed the DCUSA parties determination made pursuant to 22.12A(a) and 22.13 (and either remitted the relevant modification proposal back to the parties for reconsideration or taken the decision on the relevant modification proposal itself following the appeal).

22.9G The procedures shall provide that those persons set out at paragraph 22.5(a) may appeal to the Authority the approval or rejection of a modification proposal determined under self governance, 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 DCUSA 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 proposal; or
- (ii) the appeal is on the grounds that:
 - (1) in the case of implementation, the modification may not better facilitate the achievement of at least one of the applicable DCUSA objectives; or
 - (2) in the case of non-implementation, the modification proposal may better facilitate the achievement of at least one of the applicable DCUSA 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.

22.9H. The procedures shall provide that:

- (a) where an appeal has been raised in respect of a modification proposal in accordance with paragraph 22.9G that modification proposal shall be treated in accordance with any decision and/or direction of the Authority following that appeal;
- (b) if the Authority quashes the parties' determination pursuant to 22.12A(a) and 22.13 and takes the decision on the relevant modification proposal itself following an appeal in accordance with paragraph 22.9G, the parties' determination of that modification proposal pursuant to 22.12A(a) and 22.13 shall be treated as a recommendation pursuant to 22.12A(b) and 22.13.

22.10 They The procedures must ensure that an amendment a modification report is prepared in such manner and has all such contents as may be Specified, including:

- (a) a proposed implementation date either:
 - (i) in accordance with any direction(s) issued by the Authority under paragraph 22.5(f)(iii); or
 - (ii) where no direction has been issued by the Authority under paragraph 22.5(f)(iii), that would enable any proposed amendment-modification to take effect as soon as practicable after the decision to implement it has been reached, taking into account the complexity, importance, and urgency of that amendment-modification ~~and~~;
 - (b) a summary of and copies of all submissions made in respect of the proposed amendment-modification; and
 - (c) an assessment of the extent to which the proposed modification would better facilitate achieving the applicable DCUSA objectives and a detailed explanation of the 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 22.9A);
- 22.11 ~~They~~ The procedures must ensure that the proposed implementation date may be altered with the consent of or as directed by the Authority.
- 22.12 ~~They~~ The procedures must ensure that parties to the DCUSA, ~~after~~ are able to considering the amendment-modification report prepared in accordance with paragraph 22.10 and whether the amendment-modification would, as compared with the existing provisions of the DCUSA, better facilitate the achievement of the Applicable DCUSA Objectives.
- 22.12A The procedures must ensure that parties to the DCUSA are able to vote, by reference to their assessment of the modification against the relevant objectives, for:
- (a) the implementation or rejection of the proposed amendment-modification, in the case of a proposal ~~to amend any part of the DCUSA that is to be determined in accordance with 22.9F not Specified pursuant to paragraph A3(g) of the Schedule;~~
 - (b) a recommendation to the Authority to approve or reject the proposed amendment-modification, in the case of a proposal ~~to amend any part of the DCUSA that requires Authority approval. Specified pursuant to paragraph A3(g) of the Schedule.~~
- 22.13 ~~They~~ The procedures must ensure that all votes cast pursuant to paragraph 22.12A are compiled so that the DCUSA Panel ~~established in accordance with paragraph A3(d) of the Schedule~~ may take such steps as are necessary to facilitate the implementation of any proposed amendment-modification or (as the case may be) to put forward a recommendation to the Authority.
- 22.13A ~~They~~ The procedures must ensure that completion of each of the procedural steps outlined in this Part C, to the extent that they are relevant, is in accordance with any timetable(s) directed by the Authority under paragraph 22.5(f).
- 22.13B The procedures must provide for the revision and resubmission of the modification report prepared in accordance with paragraph 22.10 (and submitted to the Authority pursuant to the procedures described in Part C) 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.
- 22.13C The procedures for the modification of the DCUSA shall be consistent with the Principles set out in the Code of Practice, to the extent that they are relevant.

Part D: Implementation of an amendment-a modification to the DCUSA

22.14 No ~~amendment~~modification of the DCUSA may be made unless:

- (a) the parties to the DCUSA have voted, pursuant to paragraph 22.12A(a), in favour of the ~~amendment~~modification described in the relevant ~~amendment~~modification report; or
- (b) the Authority, having had regard to the Applicable DCUSA Objectives, directs the licensee, in conjunction with every other Electricity Distributor, to amend the DCUSA in such manner as is stated in that direction following the making of a recommendation to the Authority by the parties to the DCUSA pursuant to paragraph 22.12A(b).

Part E: Interpretation

22.15 For the purposes of this condition:

- (a) "~~amendment~~" "modification" must be read in accordance with the meaning given to the term "~~modification~~" in section 111 of the Act, and any related expressions are to be read accordingly; and
- (b) words and expressions appearing in Appendix 1 that are defined under any provision of the DCUSA have the meaning given by, or are to be read in accordance with, that provision.

Specified means specified in the DCUSA.

"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 22.9E(a), direction(s) issued following publication of significant code review conclusions which shall contain:

- (a) instructions to the licensee to make (and not withdraw, without the Authority's prior consent) a modification proposal;
- (b) the timetable for the licensee to comply with the Authority's direction(s); and
- (c) 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 DCUSA's governance procedures or modification procedures, and
- (b) is unlikely to discriminate between different classes of DCUSA parties.

“self-governance statement” means a statement made by the DCUSA panel and submitted to the Authority in accordance with paragraph 22.9F(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 DCUSA (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 DCUSA 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 DCUSA; 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.

22.16 Appendix 1 follows immediately below.

22.17 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 DCUSA, core industry documents and industry codes where necessary no later than [1 July 2013].

Appendix 1: Schedule of DCUSA Contents

- A1. In accordance with paragraph 22.1(c), the matters for which the DCUSA must make express provision are set out in the following paragraphs of this Schedule.

Matters of a commercial nature

- A2. The DCUSA must include all such material terms, procedures, and arrangements of a commercial nature as relate to the use of the licensee's Distribution System and (where appropriate) to connections to that system, and in particular must make express provision for the following matters:
- (a) Conditions (including as to the provision of credit cover) that are to apply to any person in respect of the commencement, continuation, or termination of use of the licensee's Distribution System by or on behalf of that person ("the user"), and obligations owed by the licensee to the user in relation to such use.
 - (b) Terms, arrangements, and procedures that are to apply or to be available to the user in respect of the payment of the charges due on either an individual or an aggregated basis to the licensee from the user for use of the licensee's Distribution System.
 - (c) Terms, arrangements, and procedures that are to apply or to be available to the user in respect of such activities or works (including the energisation, de-energisation, or re-energisation of Entry Points and Exit Points) as may be carried out by or on behalf of the user on the licensee's Distribution System.
 - (d) Terms, arrangements, and procedures that are to apply or to be available to the user in respect of the activities of system demand control and revenue protection, the installation and maintenance of Metering Equipment, and the provision of metering data and other relevant information arising from use of the licensee's Distribution System.
 - (e) Terms that provide (i) for the circumstances in which, in relation to the use of or connection to the licensee's Distribution System, a party's liability for any contravention of the provisions of the DCUSA may be restricted, and (ii) for the extent to which and the circumstances in which such liability will otherwise attach to that party in respect of any claims against it.

Governance and administration

- A3. Without prejudice to any of the matters set out in paragraph A2, the DCUSA must also include:
- (a) Terms for the creation of an agreement to which the licensee, every other Electricity Distributor, and any other Authorised Electricity Operator (not being an Electricity Distributor, and so far as the DCUSA is applicable to it) must be a party on such terms and conditions of accession as may be Specified ("the DCUSA Accession Agreement").
 - (b) Provisions for the referral for determination by the Authority of any dispute arising as to whether a person seeking to be admitted as a party to the DCUSA Accession Agreement has fulfilled any such accession conditions.
 - (c) Terms that provide for the licensee and such other parties to the DCUSA Accession Agreement as may be Specified to be contractually bound by some or all of the provisions of the DCUSA.

- (d) Arrangements for establishing and maintaining, in accordance with such procedures for appointment or election as may be Specified, a panel ("the DCUSA Panel") which is to be responsible, by way of such proceedings as may be Specified, for the governance and administration of the DCUSA and whose members are to be required as a condition of appointment or election to act independently and not as delegates.
- (e) Arrangements for the establishment and funding of a secretariat that is able to service the DCUSA Panel to such extent and in respect of such matters as may be Specified.
- (eA) Arrangements for a secretarial or administrative person or body, as specified in the DCUSA, to perform the role of code administrator (the "code administrator"). In addition to any power, duties or functions set out in the DCUSA, 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 DCUSA;
 - (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 parties (including, in particular, small participants and consumer representatives) that request assistance in relation to the DCUSA including, but not limited to, assistance with:
 - drafting a modification proposal;
 - understanding the operation of the DCUSA;
 - their involvement in, and representation during, the modification procedure processes (including, but not limited to, panel and/or workgroup meetings);
 - accessing information relating to modification proposals and/or modifications.
- (f) ~~Procedures for the amendment, in accordance with Parts B to D of this condition, of the DCUSA as are Specified to be capable of being amended without the Authority's approval. Procedures for making modifications to the DCUSA.~~
- (g) ~~Provisions by virtue of which such parts of the DCUSA as may be Specified are not to be capable of being amended without the Authority's prior approval, and procedures for seeking such approval. Not used~~

A3A. ~~Amendment~~ Modification proposals raised by the Authority or the licensee under paragraphs 22.5(a) and 22.5(f)(i) respectively and/or any ~~amendment~~ modification proposal in respect of which the Authority has issued a direction(s) under paragraph 22.5(f) require Authority approval.

Other matters to be included

- A4. Without prejudice to any of the matters set out in paragraphs A2 and A3, the DCUSA must also include:
 - (a) provision for a copy of DCUSA to be supplied to any person who requests it, upon payment of an amount not exceeding the reasonable costs of making and supplying that copy.

- (b) Provision for information about the operation of any of the DCUSA arrangements to be supplied on request to the Authority or to be published by it or by the DCUSA Panel (having particular regard to the provisions of section 105 of the Utilities Act 2000).
- (c) Provision for the DCUSA Panel to be able to secure the compliance of any party to the DCUSA Accession Agreement with any of the requirements of sub-paragraphs (a) and (b).
- (d) Provision for such other matters as may be appropriate, having regard to the requirement for the DCUSA to be maintained as a document designed to facilitate achievement of the Applicable DCUSA Objectives.

Condition 23. Master Registration Agreement

Licensee's obligation

23.1 The licensee, in conjunction and co-operation with all other Electricity Distributors, must take all steps within its power to ensure that the Master Registration Agreement ("the MRA") in force under this licence at 31 May 2008 remains an agreement that is designed to facilitate the achievement of the applicable objectives set out in paragraph 23.3A and conforms to the requirements of:

- (a) paragraph 23.2 in respect of its contractual constitution; and
- (b) paragraph 23.3 in respect of its contents.

Constitution of the MRA

23.2 The Master Registration Agreement must be an agreement made between:

- (a) on the one part, the licensee and all other Electricity Distributors; and
- (b) on the other part:
 - (i) all Electricity Suppliers (or their agents) that require the provision of Metering Point Administration Services from at least one Electricity Distributor, and
 - (ii) such other persons as are, for Settlement Purposes, appropriate parties to the agreement.

Contents of the MRA

23.3 The Master Registration Agreement must comprise:

- (a) terms for the provision of Metering Point Administration Services in accordance with the requirements of standard condition 18 (Provision of and charges for Metering Point Administration Services);
- (b) provisions to facilitate, and procedures and practices to be followed by Electricity Suppliers in relation to, changes of Electricity Supplier in respect of any premises;
- (c) the Data Transfer Catalogue, being a catalogue of definitions, flows, and forms of such data as may require to be transferred by or to parties to the Master Registration Agreement, or between any persons for Settlement Purposes or for any related purposes;
- (d) arrangements for the ~~variation~~ modification of the Master Registration Agreement following consultation with the parties, or representatives of the parties, to that agreement;
- (e) provisions (which must require the Authority's approval) by virtue of which the whole or specified parts of the Master Registration Agreement are not to be capable of ~~variation~~ modification without the Authority's approval; and
- (f) such other matters as are or may be appropriate ~~for the development, maintenance, and operation of an efficient, co-ordinated, and economical system for the supply of electricity and for the purpose of facilitating competition in electricity supply in~~ accordance with the applicable objectives of the Master Registration Agreement.

23.3A The applicable objectives of the Master Registration Agreement are:

- (a) the development, maintenance and operation of an efficient, coordinated and economical change of supplier process;
- (b) the furtherance of effective competition between Electricity Suppliers and between relevant agents;
- (c) the promotion of efficiency in the implementation and administration of the Master Registration Agreement arrangements;
- (d) so far as is consistent with sub-paragraphs (a), (b) and (c), the efficient discharge of the licensee's obligations under this licence; and
- (e) compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency for the Co-operation of Energy Regulators.

23.4. The Master Registration Agreement must be compliant with the Regulation and any relevant decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators.

23.5 The arrangements referred to in paragraph 23.3(d) shall provide:

- (d) for proposals for the ~~variation~~ modification of the Master Registration Agreement to be made by the Authority (in relation only to ~~variations~~ modifications which it reasonably considers are necessary to comply with or implement the Regulation and/or any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators);
- (e) for ~~variation~~ modification proposals made by the Authority or the licensee in accordance with paragraphs 23.5(a) and 23.5(c)(i) respectively:
 - (i) to be accepted into the Master Registration Agreement ~~variation~~ modification procedures by the committee;
 - (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 paragraph 23.5(c);
- (f) for compliance by the licensee and (where applicable) the ~~committee panel~~ with any direction(s) issued by the Authority under this paragraph setting and/or amending a timetable (in relation to a ~~variation~~ modification proposal which the Authority reasonably considers is necessary to comply with or implement the Regulation and/or any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators) for the:
 - (i) licensee to raise a ~~variation~~ modification proposal; and/or
 - (ii) completion of each of the procedural steps outlined in the direction, to the extent that they are relevant; and/or
 - (iii) implementation of a ~~variation~~ modification.
- (g) in relation to any proposed modification of the Master Registration Agreement which does not require the Authority's approval, for parties to the Master Registration Agreement to appeal against a proposed modification to the Authority for determination;
- (h) for a modification report to be prepared in such manner and with all such contents as specified in the Master Registration Agreement, which shall include an assessment of the extent to which the proposed modification would better facilitate achieving the

applicable Master Registration Agreement objectives and a detailed explanation of the reasons for that assessment;

- (i) where the proposed modification requires Authority approval in accordance with the provisions of the Master Registration Agreement, for the revision and resubmission of the modification report 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;
- (j) that proposals for the modification of the Master Registration Agreement falling within the scope of a significant code review may not be made during the significant code review phase, except:
 - (v) 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
 - (vi) at the direction of the Authority;
- (k) 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:
 - any representations received in relation to the relevance of the significant code review; and
 - 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; and
- (l) that where an appeal has been raised in respect of a modification proposal in accordance with paragraph (d), that modification proposal shall be treated in accordance with any decision and/or direction of the Authority following that appeal.

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

- (g) directions, the licensee shall comply with those directions;
- (h) a statement that no directions under sub-paragraph (a) will be issued in relation to the Master Registration Agreement, the licensee shall treat the significant code review phase as ended;
- (i) 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 Master Registration Agreement parties or the panel, or the procedures informing the modification report described at sub-paragraph 23.5(e).

23.7 The Master Registration Agreement shall provide for:

- (a) a panel body, as specified in the Master Registration Agreement (the "panel") whose functions shall include the matters required by this condition and as set out in the

Master Registration Agreement; and.

- (b) arrangements for a secretarial or administrative person or body, as specified in the Master Registration Agreement, to perform the role of code administrator (the “code administrator”). In addition to any powers, duties or functions set out in the Master Registration Agreement, 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 MRA;
 - (vii) have regard to, and in particular (to the extent relevant) be consistent with the Principles contained in, the Code of Practice; and
 - (viii) provide assistance, insofar as is reasonably practicable and on reasonable request, to parties (including, in particular, small participants and consumer representatives) that request assistance in relation to the Master Registration Agreement including, but not limited to, assistance with:
 - drafting a modification proposal;
 - understanding the operation of the Master Registration Agreement;
 - their involvement in, and representation during, the modification procedure processes (including but not limited to code panel, and/or workgroup meetings);
 - accessing information relating to modification proposals and/or modifications.

23.8 Eligible grounds for appeal under the provisions referred to in sub-paragraph 23.5(d) shall be that, 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 proposal; or
- (ii) the appeal is on the grounds that:
- i. in the case of implementation, the modification proposal may not better facilitate the achievement of at least one of the relevant MRA objectives; or
 - ii. in the case of non-implementation, the modification may better facilitate the achievement of at least one of the relevant MRA 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.

23.9 The procedures for the modification of the Master Registration Agreement must provide that, where parties are able to indicate their vote for or against the implementation of a modification proposal, that vote is made by reference to their assessment of the modification proposal against the relevant objectives.

23.10 The procedures for the modification of the Master Registration Agreement shall be consistent with the Principles set out in the Code of Practice, to the extent that they are relevant.

23.11. 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 Master Registration Agreement, core industry documents and industry codes where necessary no later than [1 July 2013].

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 23.6(a), direction(s) issued following publication of significant code review conclusions which shall contain:

- (a) instructions to the licensee to make (and not withdraw, without the Authority's prior consent) a modification proposal;
- (b) the timetable for the licensee to comply with the Authority's direction(s); and
- (c) 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 Master Registration Agreement (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 Master Registration Agreement 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 Master Registration Agreement; 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 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.