

## **British Gas Response to Code Governance Review (Phase 2) Proposals**

### **Self Governance – Chapter Two**

#### ***Question 1: Do you consider that a ‘fast track’ self governance process should be available in the industry codes for minor housekeeping changes?***

We agree that the inclusion of a fast track process for minor housekeeping changes is a sensible and pragmatic approach for dealing with changes that simply relate to a matter of fact and will prevent the requirement for such changes to go through the full rigour of the normal change process.

We concur that any such changes should be supported by a unanimous panel decision and agree that the inclusion of an opportunity for code parties to object will provide adequate protection for non-panel parties.

#### ***Question 2: Do you agree that the Agency Charging Statement should fall under the governance of the Uniform Network Code, rather than the Gas Transporter licence?***

Suppliers have long argued for greater transparency and engagement within certain UNC governance arrangements. The inclusion of the ACS within the governance would be welcome and would provide opportunity for code Users to propose changes to the ACS, providing for more inclusive arrangements.

We are mindful of the wider piece of work currently being undertaken regarding the review of xoserve’s funding, governance and ownership arrangements. As the implementation timeframe of any new arrangements are yet to be established, this proposed change should be progressed, even if it is only relatively temporary in nature.

#### ***Question 3: Do you agree that self governance should be introduced into the iGT UNC and STC, and increased in the DCUSA?***

We believe that self governance arrangements, incumbent within certain industry codes, work reasonably well and we are supportive of the extension of self governance arrangements into these codes. However we believe that code parties should have the ability to appeal decisions to Ofgem.

We concur that where it is clear that a change proposal is not of particular importance or value and particularly where a proposal is unlikely to have a material impact upon consumers or competition, self governance enables a more prompt and efficient method of progression, whilst still enabling parties to engage within an appeal process if required.

We do however note that within the DCUSA arrangements views are often polarised between suppliers and DNO's, therefore the introduction of more self governance could result in stalemate between parties. We would recommend reviewing the appeal arrangements for Part 2 matters in the DCUSA before further self governance is introduced.

***Question 4: Do you consider it appropriate to apply the same governance principles to the Grid and Distribution Codes as are applied to the commercial codes?***

Yes we believe it would be appropriate to apply the same governance principles to these codes. We believe that self governance may work better within these codes as they deal with technical rather than commercial issues and there is less polarisation of views.

***Question 5: Do you consider that both the Distribution Code and the Grid Code should be modified to allow for an open governance framework? In particular, allowing code users to raise code modifications; enabling code panels to have a more formal role in evaluating and recommending code changes; and the governance procedures brought into the codes? Are there any other areas of governance that you consider could be improved in Distribution Code and Grid Code?***

In our view the Grid Code Review Panel needs to be more receptive to suggestions / proposals from parties, with more clarity and certainty that proposals are properly considered at the Review Panel when raised.

***Question 6: Should MRA modifications be subject to a materiality test, to determine whether Authority approval of changes is required?***

We support the view that MRA modifications should be subject to a materiality test, in order to determine whether Authority approval should be required. This will ensure consistency

with other codes, where it is judged that a modification has a material impact upon customers, competition etc.

***Question 7: Do you consider that it is appropriate to obligate non-domestic gas suppliers to accede to the SPAA?***

Since the inception of SPAA in 2004, we have been advocates of the inclusion of non-domestic gas suppliers within SPAA arrangements.

Given the fact that there has been numerous, unsuccessful attempts to amend the SPAA to enable non-domestic suppliers to voluntarily accede, we believe that it is now the right time to extend the provision of a licence condition to all suppliers.

This is particularly important as the remit of SPAA has significantly extended in recent times with the inclusion of MAMCoP arrangements and the forthcoming inclusion of the Theft Risk Assessment Service.

Going forward, In order for the SPAA arrangements to function efficiently across the whole gas market, we believe that engagement and participation by all gas suppliers is essential.

***Question 8: Do you agree that SPAA modifications should be subject to a materiality test, to determine whether Authority approval of changes is required?***

We agree that any modification proposal which, upon assessment, is judged as having or potentially having a material impact upon customer, competition etc, should be subject to Authority determination, consistent with other codes.

***Question 9: Do you have any comments on Ofgem's guidance for discharging self governance appeals (Appendix 7), and on the proposed adjustment to the BSC, CUSC and UNC appeal windows?***

We support retaining the existing 15 days on self governance modification appeals. Sufficient time should be allowed for parties to consider modifications that have been approved via self governance mechanisms and for preparing appeal documentation.

***Question 10: Do you consider that the ability to appeal a self governance determination should be consistent across all codes?***

Yes, we are supportive of consistency across codes on this matter.

## **Significant Code Reviews**

### **CHAPTER: Three**

***Question 1: Do you agree with the proposal to extend the Significant Code Review process to DCUSA, iGT UNC, MRA, SPAA, STC, Grid Code and Distribution Code?***

We agree with the proposal to extend the Significant Code Review process across other codes and agreements.

This will ensure a consistent approach across all codes and agreements and ensures that where change proposals or modifications impact upon an SCR, regardless of where they reside across the industry governance framework, they will be identified and included.

## **Code Administration**

### **CHAPTER: Four**

***Question 1: Do you agree that all industry code panels (or their equivalent) should provide substantive reasons for their recommendations/decisions?***

Where an industry change proposal has been raised which seeks to better facilitate a relevant objective of that code, it is prudent that the specific code panel should provide to the Authority reasons for their decision or recommendation and to specifically explain the relevance of the proposal to the relevant objective(s).

We believe that such a requirement would align all codes with industry best practice and make the code panels more accountable for the decisions and recommendations that they make. This will ensure that all reasons for accepting or rejecting a change proposal are thoroughly considered and are transparent to both the Authority and all code parties.

In particular, we are concerned about instances where a panel has submitted a recommendation/decision that is contrary to the recommendation of the working group that has reported to the panel. Under these circumstances the panel should be required to provide substantive reasons for their recommendations, the specific reasons why they are in disagreement with the working group and why they did not choose to send the report back to the working group before making a final recommendation/decision, if this is the case.

Given the detailed consideration and analysis that the working group is likely to have completed we would be concerned if work-group recommendations were being contradicted in anything other than extreme cases. We do, however, believe it is valid purpose of a panel to return a report to a working group if they believe analysis is incorrect or insufficient.

***Question 2: Do you agree that the MRA should contain objectives against which code modifications are assessed?***

We believe that the governance arrangements of the MRA generally work well, which may historically have been a consequence of not having a set of relevant objectives with which to test a change proposal. Code parties do at times have difficulty in absolutely matching the benefits of a proposal to a rigid set of objectives. We believe that the ultimate test of any proposal should be in relation to the reduction of costs to consumers, which would normally be linked to efficiency in terms of the relevant objectives.

However, we agree that a more consistent approach across industry codes and agreements will ultimately be beneficial to code parties, though any code relevant objectives should be reviewed on an ongoing basis to ensure that they remain fit for purpose and relevant.

***Question 3: Do you agree that the Authority should be able to 'send back' final modification reports in all codes, where a deficiency/ flaw in the report is identified?***

It is reasonable and efficient to enable the Authority to refer a change proposal or modification back to the relevant code panel for further consideration, where it is evident that there is insufficient accompanying reasoning or analysis.

We agree that this is preferable to the Authority accepting a flawed proposal or rejecting one which is generally sound but requires some specific clarification or amendment. It is not in the interests of code parties to have to constantly re-raise industry change proposals and be subject to the full change process, to simply address an issue which could otherwise be quickly and efficiently addressed under 'send back' arrangements.

We welcome the view that the use of 'send back' powers by the Authority would only be used as a last resort, so that it does not become the norm for a proposal to be referred back to panel. Extra vigilance by code panels and early engagement with the Authority throughout the change process, should be able to ensure that the volume of proposals that need to be sent back are minimal.

***Question 4: Do you agree with the proposal to require all codes to have regard to and, to the extent relevant, be consistent with the CACoP principles?***

We agree that the principles of the Code Administration Code of Practice should be extended across all codes and agreements.

It is our view that the Code Administration Code of Practice has had a positive impact on the energy industry and we consider it to be fit for purpose. The convergence of code modification processes is an objective that we support.

We believe that the UNC, BSC & CUSC have benefited from being part of the Code Administration Code of Practice and would support other industry codes being obliged or mandated to comply. For example, under DCUSA there is no concept of a draft or pre-modification, a feature of the UNC and other codes that we feel benefits the industry and delivers more appropriate and acceptable modifications.

As a result of the implementation of the Code Administration Code of Practice, we believe that documentation has improved considerably; the increased clarity has facilitated more effective impact assessment and progression.

Extension of these principles across codes will deliver these benefits across a wider set of arrangements.

***Question 5: Do you consider that a requirement on code administrators to fulfil a ‘critical friend’ role should be set out in the relevant licence?***

We fully support the principle of ‘Code Administrators shall be critical friends’ and believe that the concept is very beneficial to the overall process.

The knowledge and expertise of the Code Administrators reduces time wasted, delivers better quality proposals and supports smaller parties, though we believe that some Code Administrators are better positioned to deliver a ‘Critical Friends’ service than others.

We recognise there will be a cost associated to Code Administrators providing expertise and a balance between the cost and the benefit to the industry will need to be achieved.

***Question 6: Do you agree with the amendments to the CACoP (Appendix 2) and do you consider that the standard process and templates described by the CACoP should have the status of guidance (rather than being mandatory) at this stage?***

We concur with the proposed amendments to the Code Administrators Code of Practice and with the view that the standard process and templates, at this this, should have the status of guidance.

## **Way Forward and Timetable**

### **CHAPTER: Five**

***Question 1: Do you agree with the timetable proposed?***

We agree with the proposed timetable in principle; however we are cognisant of the fact that the development and implementation of the relevant code modifications necessary to introduce these arrangements may, in some cases, take longer than July 2013.

We believe that there should be a best endeavours approach taken to delivering against this timetable and that individual codes should flag to Ofgem their expectation on the degree of work required and expected development and implementation timescales.