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Dear Lisa

**Code Governance Review (Phase 2) Proposals – (ref: 123/12)  
Consultation on illustrative licence modifications – Code Governance Review Phase 2  
proposals – (ref: 125/12)**

Thank you for the opportunity to respond to Ofgem's Code Governance Review (Phase 2) Proposals. This response is provided on behalf of National Grid Electricity Transmission plc (NGET) and National Grid Gas plc (NGG). NGET owns the electricity transmission system in England and Wales and is the National Electricity Transmission System Operator (NETSO). It is responsible for administering the electricity Connection and Use of System Code (CUSC), the Grid Code and the System Operator – Transmission Owner Code (STC). NGG owns and operates the Gas Transmission System and also owns and operates four of the gas Distribution Networks. In association with the three other gas Distribution Network Operators, NGG also jointly provides for the administration of the Uniform Network Code (UNC) Governance arrangements through the Joint Office of Gas Transporters.

We have addressed the questions posed in your consultation in Appendix 1 to our letter. We have made specific comments in relation to the industry codes that we are involved with, whether as a signatory or Code Administrator. Due to the differences that exist between the industry codes, we have split our comments between the electricity CUSC, Grid Code and STC and the gas UNC. Appendix 2 proposes timelines for implementing modifications to the STC and CUSC and Appendix 3 addresses the questions posed in Ofgem's consultation on illustrative licence modifications. We also provide detailed comments on Ofgem's proposed licence drafting.

The second phase of the Code Governance review is focusing on extending the Code Governance Review conclusions on the remaining codes, of which there is a major impact to the Grid Code which is currently administered, owned and maintained by NGET. We do not consider it appropriate to apply the same governance arrangements or open governance to the Grid Code without significant changes to the existing governance arrangements as detailed in our responses in Appendix 1. Although we support the role of the Code Administration Code of Practice (CACoP) in introducing governance best practice across industry codes, we consider that without a full review of the governance arrangements for the Grid Code, including the Constitution and Rules, that few of the principles would be relevant to the existing arrangements.

We wish to highlight a concern regarding the proposed timetable for progressing CGR Phase 2, in that the timetable currently shows that both the conclusions document and the Statutory consultation on Licence Modifications will be published at the same time, in January 2013. Given that Ofgem has yet to reach a conclusion on which policy will be progressed, for the Grid Code in particular, it is essential that licensees are given an opportunity to review and comment on an updated draft of the licence modifications which reflect Ofgem's policy conclusions, prior to the

Statutory consultation on Licence Modifications being issued. We also consider that the implementation timetable for consequent code modifications is unrealistic; we have provided timetables based on the relevant code modification process in the appendices to this letter.

If you wish to discuss this further, or have any queries regarding this response, please contact me or Louise McGoldrick on 01926 655422.

Yours sincerely

[By e-mail]

**Paul Whittaker**  
**UK Director of Regulation**

## **Appendix 1: Responses to Questions in Code Governance Review (Phase 2) Proposals Consultation Reference 123/12**

### **Chapter 2: Self Governance**

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

#### **CUSC response:**

In principle we support a “fast track” self governance process to be made available for minor housekeeping changes which will require the scrutiny, discussion and unanimity of the Panel. This will add an additional route for changes to progress. We note the Licence requirements are prescriptive and by using the Licence to outline the process it reduces the flexibility for future changes after implementation and therefore question whether it needs to be as prescribed in the Licence. We would also like to confirm whether fast track self governance will require evaluation against the applicable CUSC objectives.

#### **STC response:**

As per the CUSC response, in principle we support a “fast track” self governance process.

#### **Grid Code response:**

We note that Ofgem is not proposing to incorporate self governance into the Grid Code governance processes at this point in time. We support this approach as we consider that comprehensive changes would need to be introduced to the Grid Code governance arrangements to facilitate implementation of a self governance process. Please see our response to questions 4 and 5 below for more details.

#### **UNC response:**

Yes. We support the proposal that a ‘fast track’ self governance process be used for very minor changes, that would be capable of being approved by the Panel without the need to consult with industry parties and/or to follow the full UNC modification process.

A similar process already exists for minor gas changes, which is commonly known as the “Consent to Modify” (CTM) process. This process is carried out subject to Standard Special Condition A11 ‘Network Code and the Uniform Network Code’ of the Gas Transporters Licence. In the CTM process a party to the UNC may propose a non-material change to the UNC by completion of the accepted template, as overseen by the Joint Office of Gas Transporters, which requires witnessing by the Joint Office and approval by the Authority.

This process is greatly simplified in comparison with the Modification Rules. The User completes the agreed template and the UNC Panel discusses the proposed CTM before it is passed to the Authority for approval. The process can be completed in a few weeks, as opposed to the typical 6 to 9 month timescale required for a simple UNC Modification.

We consider that any self governance “fast-track” process should not be more complex or less efficient than the existing CTM process. It is critical that any fast track process should have governance commensurate to the impact of the proposed change. We agree with Ofgem that such changes should not undergo a full investigation and consultation process that would be applied to a normal proposal. However, care must be taken in defining the criteria for determining a proposal’s classification as minor, and vice versa, so that proposals are not delayed or given due consultation due to the incorrect classification of their proposal.

***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?***

#### **UNC response:**

Although not mentioned in the proposal, National Grid Gas Transmission is also subject to the ACS arrangements along with the DNs.

We believe that the Review of Xoserve (Ofgem’s Open Letter Consultation: Review of Xoserve, reference 121/11), may be best placed to consider whether the ACS should fall under the governance of the UNC, rather than the Gas Transporter licence.

Notwithstanding the above view, we have the following comments:

- It is not clear within the proposals document which aspects of Agency Charging Statement (ACS) governance are proposed to be adopted within the UNC. The proposals include an example, referring to the incorporation of the actual Charging Methodologies themselves into the UNC as part of Code Governance Review Phase 1. This example implies an intention to incorporate the ACS methodology itself within the UNC. Having reviewed the outcome of the Modification 0334 Review Group we recognise that the Review Group report indicated that this recommendation would remove dual governance arrangements by requiring one change process (i.e. UNC Governance) for changes related to an Xoserve service or system and that this would allow all parties to participate in the governance of the process (as not all parties are signatories to the User Pays agreement). We agree that this change may provide clarity on the charges for a Xoserve service or system change.
- We have identified an issue with this proposal in that the ACS covers both code and non-code based services. Transferral, in full, of ACS governance and methodology into the UNC would necessitate the clear carve-out, within the ACS, of code and non-code services. We feel the treatment of non-code services requires further consideration and clarification as part of the Ofgem proposal.
- We also recognise that transferral of the ACS methodology into the UNC would mandate a UNC Mod for every ACS change. The UNC Modification process is more complex and time consuming than the current ACS amendment process. Mandating the incorporation of ACS changes into a proposal, where appropriate, or the requirement to raise a second modification to effect an ACS change in relation to an existing proposal may add additional time and complexity to the UNC Modifications process. The ACS currently sits under the terms of Standard Special Condition A15 of the Gas Transporter (GT) Licence, rather than the UNC. Changes to that statement may only be made by the GTs. The Modification 0334 Review Group Report identified that Modification of the UNC to incorporate ACS governance would have to be carefully and robustly drafted to avoid inefficiency such as requiring UNC Modifications to effect periodic changes to the ACS.

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

**STC response:**

Over the last two years, six modifications have followed the existing STC governance processes, of which we estimate 0 would have been suitable to follow the proposed “fast track” self governance process and 2 would have been suitable for the self governance process. We therefore consider that there may be some merits in introducing the self governance process into the STC, however, we note the differing approaches the various Panels are taking when applying the self governance criteria.

***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?***

**Grid Code response:**

If the same governance principles are applied then we consider a number of issues would require reviewing as set out in our response to Question 5.

The Grid Code is administered, owned and maintained by NGET and the current Grid Code governance arrangements are a reflection of the Licence and contractual obligations. We consider that it is not always appropriate to apply the same governance principles to all industry codes as the current differences have evolved due to the individual nature and effect each code has on the industry. The Grid Code is a technical code which contains parameters which stem from, or are set by, primary legislation or regulatory standards such as the Electricity Safety, Quality and Continuity Regulations (ESQCR) and National Electricity Transmission System Security and Quality of Supply Standards (NETS SQSS).

As a technical code, the current governance arrangements facilitate a collaborative industry approach to the development of modification proposals to resolve technical issues which has delivered and enabled the effective introduction of complex technical changes in recent years. Key to this approach is the active participation of all interested parties, inclusive of Ofgem, at all stages of the modification process.

The Grid Code is reviewed by a Grid Code Review Panel (GCRP) whose membership comprises representation from across the industry that are party to the technical provisions. Issues with and proposed changes to the Grid Code, are presented at the GCRP and may be developed by a Workgroup with NGET circulating a consultation to all authorised electricity operators before the proposed change is submitted by us to the Authority for approval.

***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?***

If open governance is applied then we consider that a number of issues would require reviewing as set out in our response below:

***Allowing Code users to raise code modifications:***

**Grid Code response:**

Under the current governance arrangements, users are able to raise an issue at the GCRP via their GCRP Representative. The GCRP discusses the appropriate mechanism for dealing with the issue raised and how it should be progressed (i.e. is an ad-hoc meeting required to address the issue, is a change required to the Grid Code and, if a change is required, should the issue progress to a workgroup or to industry consultation?). Should open governance be pursued for the Grid Code, we consider that there are many aspects of the existing governance arrangements that would need to be reviewed and that the full scope and potential outcomes of the work required should be understood by the industry before it commits to open governance. We consider the following issues would require reviewing as set out below.

a) Constitution of the GCRP

If open governance is introduced, the role of the GCRP would change significantly, in that it would become a decision making body responsible for providing recommendations on modification proposals to the Authority. As the role of the GCRP would change, we consider that the constitution of the GCRP would also need to change. Specifically, the membership of the GCRP would need to be reviewed to assess whether it appropriately reflects the make-up of the parties bound by Grid Code obligations; the size of the Panel may need to be reduced to allow for a more efficient decision-making process and the current practice of each GCRP Member **and** their alternate **and/or** advisor attending each meeting may need to be discouraged. If the GCRP were to be reduced in size, it would be necessary to consider establishing a more formal and rigorous nomination/election process for each GCRP Member. Furthermore, it is worth considering whether GCRP members are required to act impartially, as required on other code Panels.

b) Ownership of modifications

Under the current governance arrangements, NGET as owner of the Grid Code consequently owns modifications during the change process. Should open governance be introduced, the party raising the modification proposal would need to retain ownership of that proposal throughout the life of the proposal.

c) Establishing a more formal pre-modification process

The GCRP currently acts as an informal pre-modification process which allows issues to be discussed before formal changes are raised. Should open governance be introduced, it may be necessary to establish a formal pre-modification process which would remove this role from the GCRP meetings and allow the GCRP to focus on assessing formally raised change proposals.

The pre-modification process would enable issues to be discussed and, in principle, lead to more robust proposals being formally raised at the GCRP. This would ensure that industry resource is not inefficiently utilised on proposals that haven't been sufficiently developed prior to being formally raised.

d) Appeal process

One consequence of applying open governance to the Grid Code is that Authority decisions made against a GCRP recommendation would need to be subject to the Competition Commission appeals mechanism, as set out in the relevant Statutory Instrument.

Currently, the Competition Commission appeals process does not apply to Authority decisions on Grid Code modifications as there is no Panel recommendation to compare to the final outcome and therefore no grounds for appeal.

***Enabling code Panels to have a more formal role in evaluating and recommending code changes***

**Grid Code response:**

Under the current governance arrangements, the role of the GCRP is to review any suggested amendments that are proposed and keep the Grid Code under review. In fulfilling their role, the GCRP does not utilise voting but rather operates by consensus to establish a way forward.

If the GCRP was to have a more formal role in evaluating and recommending code changes, voting would likely become a decision making tool that was used by the GCRP. The Grid Code constitution and rules currently provide arrangements for voting but they are inadequate for the GCRP to use in a more formal capacity.

In order for us to support the GCRP having a more formal role, we would require a complete review of the constitution and rules, including panel constitution and voting arrangements, as suggested in our response to Question 5. In addition, we suggest that if the GCRP has a more formal role, that a separate NETSO recommendation, in addition to an NGET and GCRP recommendations, may be required in light of the different obligations and constraints faced by the System Operator compared to other users.

***The governance procedures brought into the codes***

**Grid Code response:**

The GCRP constitution and rules which set out the governance arrangements is publically available on the National Grid website<sup>1</sup> and requires any amendments to the document to be agreed by the GCRP and approved by the Authority. If open governance is introduced for the Grid Code, we would support the governance arrangements being brought into the Grid Code document itself, subject to our comments regarding review of the constitution and rules.

***Are there any other areas of governance that you consider could be improved in Distribution Code and Grid Code?***

**Grid Code response:**

Please see our response to Question 5.

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

No response

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

**SPAA response:**

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<sup>1</sup><http://www.nationalgrid.com/uk/Electricity/Codes/gridcode/gridcodedocs/>

We strongly advocate that this should occur. We believe that SPAA has failed to meet its full potential as a retail governance framework largely due to the failure to require all Suppliers to sign on to and comply with its provisions. In some cases sub-optimal solutions to enduring industry issues have been reached due to this deficiency.

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

**SPAA response:**

Noting that self governance procedures already exist to some extent under SPAA governance we see no reason why these could not be extended to 'mandatory' schedule changes and be subject to a materiality test.

**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?**

**CUSC response:**

**Ofgem Guidance**

Previous drafts of the guidance for discharging self governance appeals has included an appeals fee, however the current guidance does not mention this. We request that Ofgem confirms whether a fee is to be charged.

**Adjustment to Appeal Window**

Due to the existing CUSC processes, Ofgem's proposed changes to the appeal window may result in implementation of Modification Proposals which meet the self governance criteria taking longer than they currently do. The current CUSC process to notify both Ofgem and the Industry of the Panel's determination on self governance and that the appeals window has commenced is via the CUSC Headline report which is issued within one working day of the Panel meeting. The CUSC Final Modification Report is also updated with the Panel's determination and clarifies the appeals window dates. A draft of the CUSC Final Modification Report is issued to Panel members for comment for no less than 5 Business Days in line with CUSC obligations in Section 8. The CUSC Final Modification Report is issued to Ofgem and published to the industry approximately 8 working days following the Panel determination. We anticipate that a party considering appealing the Panel's determination would wait to do so until they had read the full detail of that determination in the Final Modification Report.

The current process from Panel's determination to implementation takes 25 working days, as the trigger for the 15 working day appeal window is the date of Panel determination and not the date of publication of that determination. Applying the existing CUSC processes to Ofgem's proposal would lengthen implementation to 28 working days, assuming that the publication of the CUSC Final Modification Report is used as the trigger to start the appeal window, which would take 8 Business Days, plus a reduced appeal window of 10 Business Days and a further 10 Business days for the standard CUSC implementation timescale. You could reduce this 28 day period by using the publication of the Panel's determination in the CUSC Headline Report as the trigger to start the appeal window; however this report would not contain a detailed description of the rationale for the Panel's determination.

**UNC response:**

No. The proposed appeals process detailed within Appendix 7 looks straight-forward. Furthermore we support the proposed reduction to the length of the appeals window from 15 days to 10 days as this should reduce the overall timescales to implement a self governance modification, and we feel that 10 days still provides sufficient time to raise an appeal.

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

**STC response:**

We support the ability to appeal a self governance determination within the STC if self governance is introduced.

**UNC response:**

Yes. We would be supportive of consistency in the application of appeals process across all industry codes.

National Grid Gas is of the opinion that the consistent application of self governance determination across all codes would build upon the success from the first phase of the Code Governance Review.

**Chapter 3: Significant Code Reviews**

***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?***

**STC & Grid Code response:**

We support the proposal to extend the Significant Code Review process into the STC and the Grid Code as it should provide a more effective cross governance arrangement for the industry. In terms of the Grid Code, we believe SCR can be introduced without a review of the GCRP Constitution and Rules.

**UNC response:**

Yes. Our experience with SCR processes on the UNC has been beneficial and we would be supportive of consistency in the application of SCR processes across all industry codes.

**Chapter 4: Code Administration**

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

**CUSC response:**

Detailed records of individual Panel Members' votes have been recorded in CUSC Modification Reports since November 2009.

**STC response:**

We support the provision of reasons for Panels' recommendations.

**Grid Code response:**

Currently when we submit a Final Modification Report to the Authority it contains substantive reasons for our recommendation to change the Grid Code. If the GCRP were to take on a more formal role we would expect the GCRP to also provide substantive reasoning for their recommendation/decision.

**UNC response:**

Yes. We believe that implementation of this proposal into the UNC as a result of Code Governance Review Phase 1 has improved the UNC governance structure and quality of analysis. We can see that similar benefits might be realised in other codes.

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

No response.

***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?***

**STC response:**

We support the Authority being able to "send back" Final Modification Reports to the Panel rather than rejecting a modification which is sound in principle on what may be a technicality. We also



agree that any concerns the Authority may have with a modification should be appropriately raised at the earliest opportunity in the process to avoid having to use the 'send back' powers.

**Grid Code response:**

We note that under the current governance arrangements the Authority has returned Final Modification Reports back to us for further consideration without any licence drafting provision to specifically allow for it. We support the use of "send back" as an efficient process, as per our response for the STC above.

**UNC response:**

Yes. 'Send back' powers already exist under the UNC governance (UNC Modification Rules 9.3.8). Although we note that 'send back' powers can theoretically lead to an inefficient situation whereby a given modification has been submitted and 'sent back' repeatedly we also recognise that appropriate engagement by parties to the governance process should naturally minimise any such risk. We therefore agree that the potential improvements to efficiency that can be realised by this proposal should outweigh any risk.

**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?**

**STC response:**

We support that the STC should be consistent with the Code Administration Code of Practice (CACoP) 12 high level principles to the extent they are relevant. In order to determine the relevance of each of the 12 principles and whether or not they are being satisfied, each transmission licensee would need to understand how relevance should be assessed prior to implementation. It would be helpful to understand the process for establishing the relevance of each principle; whether it is acceptable for the STC Panel to decide the relevance or whether this is Ofgem's role.

**Grid Code response:**

Although we support the role of the CACoP in introducing governance best practice across industry codes, we consider that without a full review of the governance arrangements for the Grid Code, including the Constitution and Rules, that few of the principles would be relevant to the existing arrangements.

We will need to confirm understanding and relevance of each of the principles prior to implementation. It would be helpful to understand the process for establishing the relevance of each principle; whether it is acceptable for NGET as code owner to decide the relevance or whether this is Ofgem's role.

We note that Ofgem has confirmed that the finer level of detail for each principle is considered to be best practice which the licensee must have regard to but does not preclude innovative approaches. As already highlighted in previous consultations, and set out below, we consider that much of the detail of the CACoP is not applicable to the existing Grid Code governance arrangements:

- **Alternatives:** the concept of competing proposals does not exist under the current governance arrangements as a single proposal is developed and submitted to the Authority. This however, does not preclude the consideration of multiple solutions by the Workgroup and the Panel.
- **Proposer Ownership:** NGET as Licensee owns all modifications during the change process.
- **Standard Modification Process:** While this does not form part of the 12 high-level principles, we note that the CACoP aims to standardise the code modification process as far as possible and even provides an indicative timetable for each stage of the modification process. The Grid Code does not currently adhere to this standard process, to the extent that timescales are not prescribed anywhere in the Grid Code. We consider that it may be useful to introduce indicative timescales to the Grid Code process, on an informal basis.

We currently provide the secretariat for both the Grid Code and STC with the cost flows being recovered by NGET's internal price control arrangements and are incentivised to minimise costs via the BSIS arrangements. We consider that, subject to the outcome of RIIO-T1, we have currently sufficient resources to undertake the Code Administrator role however; this may need to be reassessed should the role of the Code Administrator be expanded.

**UNC response:**

We have accepted CACoP principles on the UNC; however we note that Ofgem's proposals document highlights mixed responses to the open letter on this.

***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?***

**STC response:**

NGET supports Ofgem's view that given the limited participation of parties other than transmission licence holders that the critical friend concept may not be required in the STC and should not be set out in the relevant licence.

**Grid Code response:**

We are supportive of a critical friend role and consider that this role may be fulfilled by a Code Administrator if the CACoP is adopted. However, given the issues we have raised elsewhere in this response regarding uncertainty over the proposals for the Grid Code, we do not support putting an obligation in our licence to fulfil this role at this stage in the process.

**UNC response:**

Yes. Our response to Ofgem's open letter 60/12 notes the benefits of embracing the critical friend role for the UNC with no identified drawbacks for any other codes.

***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?***

**CUSC, Grid Code and STC response:**

We agree with the proposed amendments to the CACoP. We consider that the standard process and templates described by the CACoP should have the status of guidance and agree with the amendments to the CACoP. However, please note our comments in respect to the CACoP review process detailed below in the "other comments" section of our response.

**UNC response:**

Yes.

**Chapter 5: Way forward and timetable**

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

**CUSC response:**

Although the changes to the CUSC are not as detailed as the STC and Grid Code, we consider that they will still require some industry debate at a Workgroup. We have therefore used the standard CUSC process to propose a revised timeline for implementation that we think is more realistic. Please see Appendix 2 for the detailed timeline, which shows an indicative implementation date of 1<sup>st</sup> November 2013. Please note however, that this indicative timeline is subject to the usual caveats regarding the CUSC process, including the Panel deciding which route a Modification Proposal should take, whether it requires a Workgroup to be established to consider and develop it, the timetable for a Workgroup to report back to the Panel (4 months as standard). We note that Ofgem has not included a deadline for implementation within the proposed licence modification drafting and we support this approach. We will work with Ofgem, the CUSC Modifications Panel and the industry to ensure that the appropriate changes are progressed as efficiently as possible through the modifications process.

**STC response:**

Although some of the initiatives, e.g. self governance, have already been adopted by other Codes, a careful review of the current STC governance arrangements will be required to identify and clarify changes needed and we therefore consider the July 2013 timescales to be too ambitious. Should an STC Workgroup not be required, we consider an implementation date of November 2013 would be more realistic and if a STC Workgroup is required then an implementation of April 2014 would be more appropriate; please refer to appendix 2 for proposed timelines. We consider that any implementation date included within the licence should reflect the STC process timeline and the fact that NGET, as licensee, does not have complete control over the progress of STC Modification Proposals.

**Grid Code response:**

Until we have greater certainty over the extent of Ofgem's proposals for Grid Code governance, we are unable to accurately assess how long any changes to the governance arrangements would take. We therefore do not support any implementation dates being included in our licence.

**UNC response:**

NGG considers that the shortest feasible timescale for implementing a modification is normally about 6 months, and they commonly take more than 9 months. Therefore implementing Code Modifications in July 2013 is extremely challenging and January 2014 is a more realistic timescale.

**Other Comments:****Chapter 2****Self Governance statements:****CUSC response:**

Currently, if a code Panel considers that a Modification Proposal meets the criteria for self governance, a statement is required to be sent to Ofgem to that effect. We note from your consultation that when an Ofgem representative is present at a Panel meeting, that it will be sufficient to record the Panel's determination within the ordinary minutes. However, at present, draft minutes of a CUSC Panel meeting are circulated to Panel Members within 2 weeks of the Panel meeting with the final minutes being approved at the next month's Panel meeting. We would therefore like to clarify whether it is acceptable to record the self governance statement in the CUSC Headline Report instead of the Panel Minutes. We note, however, that should the Panel need to review and approve the self governance Statement prior to submitting it to Ofgem, this would delay publication of the Headline Report. Please see Appendix 3 for our comments on the licence drafting in relation to this, which we do not support for the CUSC as it is not achievable under the current arrangements.

**Self Governance****UNC response:**

We note that Ofgem proposes no changes to the criteria for assessing what should and should not be considered as a self governance proposal, but we are of the view that the criteria would benefit from further clarity to aid consistency in its application in the UNC. As mentioned in our response to the Ofgem CGR Phase 2 open letter, a lack of clarity and consistent application of the arrangements has occasionally led to confusion for both Modification proposers and the UNC Panel Members in regard to how the CACoP and UNC rules should be applied to these proposals.

Whilst further clarity on the criteria would be beneficial, we also see merit in amending the UNC voting rules regarding self governance proposals so that if a Panel Member (or a constituency – DNs or Shippers or National Grid Transmission) considers that the proposal will have a material impact on themselves or their customers then the proposal should not be classed as self governance. We would then expect the Authority to review the Panel decision and, where it felt the proposal met the self governance criteria, use their powers to make the proposal self governance.

We also note that Ofgem are proposing that self governance statements should only be required to be produced in the event that Ofgem do not attend the Panel meeting when the self governance

status is determined (as opposed to production of a self governance statement for all self governance modifications as required following the original Code Governance Review).

We are of the opinion that the production of a self governance statement for all such modifications does not present an undue additional administrative burden as the Joint Office of Gas Transporters (JO) only need to publish a standard statement that requires minimal manipulation. We consider that the posting of the statement on the JO website provides a useful visible record for parties who did not attend the Panel discussion. Therefore we would not be supportive of making this proposed change. Furthermore we consider that further UNC changes to alter the existing arrangements would require further administrative effort that would outweigh any benefits introduced through making the change.

**CACoP Review process:**

**CUSC response:**

Ofgem have stated it is a requirement of the relevant licences that Code Administrators in collaboration with each other maintain, publish, review and amend the code of practice. To date, Ofgem has co-ordinated this review and we consider that it would be more efficient for Ofgem to continue to oversee this process rather than the Code Administrators leading these reviews. The consultation is proposing to apply the CACoP to a number of new Code Administrators, which may make co-ordination difficult particularly where there is a lack of consensus among the Code Administrators. We also note that some Code Administrators operate on a service contract basis and may be restricted by this in their activities and that there are differing levels of resource available to the varied Code Administrators.

## Appendix 2: Proposed Timelines for CUSC and STC

### CUSC Proposed Timeline with Workgroup:

<b>31 January 2013</b>	<b>Anticipated publication of CGR Phase 2 Conclusions</b>
<b>22 February 2013</b>	<b>Modification Proposal presented to CUSC Panel</b>
<b>4 March 2013</b>	<b>Deadline for TOR comments/ WG nominations</b>
<b>22 April 2013</b>	<b>Workgroup Meetings Finish</b>
<b>25 April 2013</b>	<b>WG consultation issued to Workgroup</b>
<b>3 May 2013</b>	<b>Deadline for comments</b>
<b>9 May 2013</b>	<b>Issue WG Consultation for 3 weeks</b>
<b>30 May 2013</b>	<b>Consultation Closes</b>
<b>3 June 2013</b>	<b>Post-consultation Workgroup meeting</b>
<b>11 June 2013</b>	<b>Circulate draft Workgroup Report</b>
<b>19 June 2013</b>	<b>Deadline for comment on Workgroup report</b>
<b>28 June 2013</b>	<b>Present Workgroup report to CUSC Modifications Panel</b>
<b>3 July 2013</b>	<b>Issue Code Administrator Consultation for 3 weeks</b>
<b>24 July 2013</b>	<b>Code Administrator Consultation closes</b>
<b>29 July 2013</b>	<b>Issue draft Final Modification Report for industry comment – 1 week</b>
<b>30 August 2013</b>	<b>Panel Recommendation Vote</b>
<b>4 September 2013</b>	<b>Final Modification Report circulated for Panel comment</b>
<b>11 September 2013</b>	<b>Deadline for Panel comment</b>
<b>13 September 2013</b>	<b>Final report sent to Authority for decision</b>
<b>18 October 2013</b>	<b>Indicative Authority decision date (25 working day KPI)</b>
<b>1 November 2013</b>	<b>CUSC Implementation Date (10 working day standard period)</b>



### **Appendix 3: Responses to Questions in Consultation on illustrative licence modifications – Code Governance Review Phase 2 proposals ref 125/12**

#### ***1. Do you consider that the licence drafting would achieve the policy proposals set out in the CGR2 consultation?***

##### **Electricity Transmission Standard Licence Conditions B12: System Operator – Transmission Owner Code**

We suggest that if the STC panel are making a more formal recommendation then we also suggest that a separate NETSO recommendation is required in light of the different obligations and constraints faced by the NETSO compared to other STC parties and that the Licence drafting is revised for B12 paragraph 6 (b) (vi).

As a general comment the Licence drafting for B12 is not clear in its references to roles of the panel, the licensee and STC Parties, could this be considered further?

We are concerned over the proposed consultation process and timescales and that the industry should have a further opportunity to review and respond to the proposed STC licence modifications. The current timetable does not appear to include this.

##### **Electricity Transmission Standard Licence Conditions C14: Grid Code**

No. It is still unclear as to what the policy proposals are with regards to the Grid Code. We have addressed some issues relating to the licence drafting of the Grid Code and have appended our comments to this letter. We would welcome the opportunity to meet with Ofgem to discuss the licence drafting in further detail at an appropriate stage in the process.

As already stated in Appendix 1, as it is unclear as to whether open governance will be pursued for the Grid Code, we consider that there are many aspects of the existing governance arrangements that would need to be reviewed and that the full scope and potential outcomes of the work required should be understood by the industry before it commits to open governance.

We are concerned over the proposed consultation process and timescales and consider that a further round of consultation is required for the Grid Code proposals, once Ofgem has reached its conclusions on whether to pursue open governance. It is essential that once Ofgem has made a policy decision, that NGET as licensee and the industry have a further opportunity to review and respond to the proposed licence modifications. The current timetable does not appear to include this.

We are also concerned that there is a mismatch in the timing of implementation of the proposed licence obligations when compared to the code modification process. The current timeline shows implementation of the Licence modifications from April 2013, with implementation of the Code Modifications in July 2013. This could result in us being subject to Licence obligations that we are unable to comply with, due to the Grid Code modification process not currently being subject to any standard timetables.

##### **Gas Transporter Licence Standard Special Conditions (SSC):**

No. As mentioned in Appendix 1, it is unclear what the proposal is with regards to the Agency Charging Statement (ACS) and how Ofgem intends to transfer governance and methodology for the ACS into the UNC.

The existing licence text at SSC A15, paragraph 7 (a) states that the ACS sets out "...the scope of core services and user pays services, the methodology for deriving charges for user pays services and the charges associated with such services." However, the proposed licence drafting for SSC A11, paragraph 6 (k) states that the ACS sets out "a. the scope of core services and user pays services; b. the charges associated with such services; and c. the methodology for deriving those charges."

This new text requires the ACS to set out the charges and methodology for core services, which the current ACS does not do and the reasons for doing so need to be clearly explained.

**2. Have you identified any other or consequential changes that would be required to implement these proposals?**

**Electricity Transmission Standard Licence Conditions C14: Grid Code**

There may be further consequential changes to the Grid Code once the policy proposals have been clarified.

**Gas Transporter Licence Standard Special Conditions (SSC):**

No.

**3. Have you identified any unforeseen consequence of the licence drafting?**

**Electricity Transmission Standard Licence Conditions C10: Connection and Use of System Code (CUSC)**

As highlighted in Appendix 1, we would be unable to comply with the proposed timeline set out in the definition of "self-governance statement" due to the current governance process relating to the publication of CUSC Modifications Panel meeting minutes.

**Gas Transporter Licence Standard Special Conditions (SSC):**

Yes. Regarding SSC A11, paragraph 6 (i), this paragraph lists requirements for inclusion within the UNC, with effect to the date from which the licence condition becomes effective. Given that the inclusion of a joint ACS provision is new, in Ofgem's decision it should be made clear that Ofgem consent to this requirement being effective from a certain point in time (i.e. following implementation of the necessary UNC changes).

Furthermore in SSC A15, paragraph 7-12 (inclusive) the deletion of these paragraphs means that the defined terms for "core services" and "user pays services" has been removed from the licence. The deletion (and the brief drafting at A11), has also had the consequence of losing certain details from the Licence which were previously included. One key point to note is the loss of the reference to unduly discriminating/unduly preferring between person, classes or classes of person. No such change is mentioned in the Code Governance Review (Phase 2) Proposals document. It is not clear whether this is intentional change or not.

**Electricity Transmission Standard Licence Conditions B12: System Operator – Transmission Owner Code**

Due to the inclusion of an appeals process in the STC self governance we note that this will should be also subject to The Electricity and Gas Appeals (Designation and Exclusion) Order 2005.

**4. Do you agree that, where licence drafting differs between licence conditions, the substantive effect is materially the same?**

**Electricity Transmission Standard Licence Conditions C14: Grid Code**

We consider due to further clarity being sought on the licence drafting and policy that we are unable to make this assessment.

**Gas Transporter Licence Standard Special Conditions (SSC):**

No. Please see detail under question 1, above.

**5. Are there any elements of the drafting that you do not understand or that you consider inappropriate?**

**Electricity Transmission Standard Licence Conditions C10: Connection and Use of System Code (CUSC)**



Yes, C10 paragraph 13D makes reference to the “panel has sent copies of a fast track self-governance statement” and would suggest that the “panel has provided copies of a fast track self-governance statement” would be more appropriate, as the Panel may circulate the self-governance statement through publishing it on the Code Administrator website rather than sending a copy of it to every party.

**Electricity Transmission Standard Licence Conditions C14: Grid Code**

Yes. Please see detail under question 1 and our comments on the drafting attached to this letter.

**Gas Transporter Licence Standard Special Conditions (SSC):**

Yes. In addition to the points already noted, we have observed a reference in SSC A11, paragraph 15 which points to paragraph 12(G). We cannot find such a paragraph in the current or proposed text. Therefore we cannot determine the impact of the intended reference to this paragraph.

**6. Do you agree with our preservation of existing provision numbering?**

**Gas Transporter Licence Standard Special Conditions (SSC):**

Yes. We agree with the intention to preserve existing provision numbering. However, our review of the draft licence proposals has highlighted an error in the draft. SSC A11 paragraph 6 is repeated on the last page of the proposal document to illustrate the changes required for the Agency Charging Statement. However, the paragraph numbering here proceeds from 6(f) and counts up from there, which we believe is a typo. We suggest that the word processing application used to draft the proposals has continued the paragraph numbering from earlier in the document.

**7. Do you agree with the alignment of terminology across the licence conditions?**

**Gas Transporter Licence Standard Special Conditions (SSC):**

No. We do agree with the intention to align terminology across the licence conditions, but we do not agree this has been achieved. Specifically, this relates to the aforementioned differences in incorporating the Agency Charging Statement in the licence, as described in our answer for question 1.

**8. Have you identified any other housekeeping amendments that may be required?**

**Electricity Transmission Standard Licence Conditions C3: Balancing and Settlement Code (BSC)**

Yes. Further housekeeping amendments are required as follows:

- C10 paragraph 14 in the - definition of "fast track self governance criteria" - add "and" to end of (v), assuming the intention is for these requirements to be cumulative

**Electricity Transmission Standard Licence Conditions C10: Connection and Use of System Code (CUSC)**

Yes. Further housekeeping amendments are required as follows:

- C10 paragraph 15 in the - definition of "fast track self governance criteria" - add "and" to end of (v), assuming the intention is for these requirements to be cumulative
- C10 paragraph 6 contains references to sub-paragraphs (b) and (c) which are superfluous and should refer to sub-paragraphs (ae) and (af)
- C10 paragraph 13D has incorrect sub-paragraph referencing (it starts from (e) instead of (a)).

**Electricity Transmission Standard Licence Conditions B12: System Operator – Transmission Owner Code**

Yes. Further housekeeping amendments are required as follows:

- B12 paragraph 4 contains references to sub-paragraphs (v), (vi) and (vii) and should refer to sub-paragraphs (i), (ii) and (iii)
- B12 paragraph (b) states “where a modification proposal is made the procedures shall provide:” remove “the procedure shall provide”
- B12 paragraph 6 (f) currently refers to: “that the procedures for the modification of the STC shall”, remove “that the procedures” and also replace “shall” with “to”.

- B12 paragraph 6G contains reference to sub-paragraphs (i) – (l) and should refer to sub-paragraphs (a) – (d).
- B12 paragraph 13A mentions “industry documents” we request detail as to which documents Ofgem are referring to.

**Electricity Transmission Standard Licence Conditions C14: Grid Code**

Yes. Further housekeeping amendments are required as follows:

- C14, paragraph 1A (b)(ii) refers to the "SPAA" instead of the "Grid Code"

**Gas Transporter Licence Standard Special Conditions (SSC):**

Yes. Further housekeeping amendments are required as follows:

- SSC A11 paragraph 9 (db): delete “for” at the beginning of the provision.
- SSC A11 paragraph 13 (b): delete “or” at the end.
- SSC A11 paragraph 24 (b): in the definition of “fast track self governance criteria” add “and” to the end of (v).

**9. Do you have any other (non-policy related) comments on the proposed licence drafting?**

**Gas Transporter Licence Standard Special Conditions (SSC):**

No.

**Issues relating to the licence drafting of the Grid Code Licence**

As mentioned in Question 1, please find appended some of our issues relating to the licence drafting of the Grid Code.

National Grid Electricity Transmission  
Comments 14/11/2012

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 1) 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:~~ *and the licensee shall be taken to comply with the obligation to prepare the Grid Code in this paragraph by modifying the Grid Code from time to time in accordance with the provisions of paragraphs 1B, 4A and 4B.*
- (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 modifications to the SPAA;~~ *Grid 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 Grid Code including, but not limited to, assistance with:~~
      - 1. ~~[drafting / raising] a modification proposal;~~

**NOTE:**  
Unless there is intended to be a consumer representative on the panel, this should be deleted.

1. [drafting / raising] a modification proposal:  
*CUASC refers to "drafting" only.*

**NOTE:**  
The drafting at paragraph 1B and 2B are not clear on whether or not other AEOs/code users are intended to be able to raise Grid Code mods. This role for the code administrator implies they are.

COMMENT: Serious thought needs to be given to the implementation of any changes (once extent is clear) as currently the 'modification rules' for the Grid Code are really in the licence. Therefore the Licence should not be amended ahead of all other changes (to create mod rules if necessary in the Grid Code and change

2. understanding the operation of the Grid Code; Constitution of panel)
3. their involvement in, and representation during, the modification procedure processes (including but not limited to ~~panel~~ panel, and/or workgroup meetings); being made.
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. [Consider whether to add wording to ensure that all GC Mods must aim to better facilitate the applicable GC objectives. If the intention is that AEOs should be able to propose GC Mods then the Statement would best sit here. However, note issues re implementation raised above]
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. delete
- 2B. The review undertaken under paragraph 2A shall

NOTE:

It is unclear from this drafting if AEOs are being given the ability to raise GC Mods, or whether the intention is for the licensee to review the GC and consider whether changes would be required to allow AEOs to raise GC Mods

- (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.

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.

NOTE:

Deleted as would be unnecessary if a panel recommendation and views are in the report. Mod rules could specify?

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. Only the licensee shall have the power to modify the Grid Code.

NOTE:  
Deleted as it is unclear how this differs from 2C(a)

NOTE:

This wording has been included to reflect C10(7) (e) for CUSE licence drafting.

If a report has been submitted to the Authority pursuant to the modification procedures of the Grid Code, and the Authority is of the opinion that a modification set out in such report would better facilitate the achievement of the applicable Grid Code objectives, the Authority may direct the licensee to make that modification.

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~~ code administrator shall give or send a copy of the Grid Code (as from time to time revised modified) to the Authority.

9. The ~~licensee~~ code administrator 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~~ code administrator 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 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.

NOTE:  
Deleted as duplicates general CI duty and would not be appropriate in this context to be purely a licensee obligation if open governance is adopted.

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.~~ Not used

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

↑  
COMMENT: As highlighted above implementation and the timelines needed requires much further consideration. Once proposals for the GC are clearer work needs to be undertaken to establish best methods to implement and associated timelines.

Needs to be more specific.

documents including but not limited to the Grid Code, core industry documents and industry codes where necessary no later than 1 July 2013. *very, very short. meaning?*

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.