



Making a positive difference
for energy consumers

MRA parties, Gemserv and other interested parties

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Date: 14 November 2014

Dear colleagues,

Consultation on a proposed licence modification to set objectives for the Master Registration Agreement

We are proposing changes to the Electricity Distribution Licence, and we want your views. The changes would insert objectives into standard licence condition (SLC) 23, the Master Registration Agreement (MRA). Appendix 1 shows what the proposed changes might look like.

We are seeking your views by **12 December 2014**.

Why we're proposing changes

They would make MRA decision-making more transparent and bring the MRA into line with other industry codes¹.

Effects of the proposed licence modifications

The changes we propose would establish six objectives for the MRA. It would become a licence requirement that future changes to the MRA must be assessed against these objectives.

We also propose to amend certain licence provisions that were introduced as part of CGR2² – namely, the requirements around the basis and reporting of rationale for change, and the self-governance³ appeal provisions to the Authority.⁴ These provisions would change to refer to the applicable objectives. If this licence modification is made, changes to the MRA would be needed to reflect these revised processes.

¹ The industry codes underpin the electricity and gas wholesale and retail markets. Licensees must maintain, become party to, or comply with the industry codes in accordance with the conditions of their licence. The codes define the terms under which industry participants can access the electricity and gas networks.

² CGR2 was the second phase of Ofgem's 'Code Governance review'. <https://www.ofgem.gov.uk/ofgem-publications/61155/code-governance-review-phase-2.pdf>

³ Changes that do not have a material impact on competition or consumers are made under the self-governance process and do not require Authority consent.

⁴ The Gas and Electricity Markets Authority.

In drafting the proposed objectives we focused on the existing provisions of SLC 23, the objectives of other codes, including the Supply Point Administration Agreement,⁵ and the work and consultation undertaken by the MRA Code Review Expert Group (CREG)⁶.

Purpose of the objectives

Our suggested wording for the objectives is in Appendix 1. These objectives:

- Recognise that the MRA's core purpose is to enable and maintain an efficient change of supplier process.
- Ensure that the MRA arrangements support effective competition between electricity suppliers (and relevant agents). This helps ensure that the market delivers the best outcome for customers.
- Recognise that efficiency in implementing and administering the MRA arrangements is important to ensure that costs for all parties are kept to a minimum.
- Reflect the need for electricity distributors, who have a licence obligation to maintain the MRA, to discharge their obligations under the licence in an efficient manner.
- Highlight the requirement for the MRA to comply with the Electricity Regulation and any relevant, legally binding decision of the European Commission or the Agency for the Cooperation of Energy Regulators.⁷
- Recognise the interactions between the MRA and the Green Deal.

We consider that these objectives are broadly in line with those of other industry codes. We also think they reflect the core purpose and requirements of the MRA.

Background

In September 2012, we published our CGR2 Proposals. As part of these we recognised that the MRA is the only industry code which does not state objectives to assess code changes against. We considered that introducing objectives would improve transparency in the MRA's decision-making process and aid more robust and consistent analysis of the justification for any proposed change. This would also bring the MRA into line with the other industry codes, reducing complexity and unnecessary differences in the industry code arrangements.

Following a consultation on our initial proposals, we published CGR2 Final Proposals⁸ in March 2013. We agreed with respondents who said objectives would be a beneficial addition to the MRA governance processes. However, we also recognised that further consultation on the drafting of those objectives may be beneficial before taking this change forward. We welcomed the suggestion by MRASCo (Master Registration Agreement Service Company) that it could consult independently with interested parties. We confirmed that we would not implement this proposal as part of CGR2, but would give it further consideration in due course.

Since the publication of the CGR2 Final Proposals the MRA Executive Committee formed CREG. CREG has assessed and consulted on the scope and drafting of proposed MRA objectives.

⁵ SPAA is an industry code with a similar purpose to the MRA, dealing with change of supplier processes in the gas industry.

⁶ The Code Review Expert Group is a sub-committee of MRA Executive Committee established in accordance with clauses 6.53 and 6.54 of the MRA, to review Ofgem's Code Governance Review.

⁷ Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity.

⁸ <https://www.ofgem.gov.uk/ofgem-publications/61109/cgr-2-final-proposals.pdf>

Code modification process

The existing licence provisions require a modification report to be produced that sets out the detailed reasons for recommendations or decisions⁹ on change. This rationale must explain how the 'requirements' of SLC 23 are better facilitated. The proposed licence modification will mean recommendations and decisions are made against the new objectives with reasons given on how they better facilitate those objectives. We think this will focus the MRA's decision-making and create a more efficient and transparent process which is aligned with other industry codes.

Self-governance appeal process

CGR2 also extended the reasons for an MRA party to appeal a self-governance code modification decision to the Authority. The Electricity Distribution Licence¹⁰ currently sets out that an MRA party (or other persons specified in the MRA) may raise an appeal if they do not agree that a change better facilitates, or does not better facilitate (as applicable), the requirements of SLC 23.

In light of the proposed introduction of objectives, and the revised basis for MRA decisions described above, we propose that the grounds for appeal would be that the modification may or may not better facilitate the applicable objective(s). This is in line with the appeal provisions of the other industry codes, and ensures that appeals are linked to the rationale for the decision in question.

Green Deal

The MRA contains Green Deal¹¹ provisions. CREG has considered, with input from the Department of Energy and Climate Change (DECC) and Ofgem, whether a specific Green Deal objective is appropriate. It also looked into the scope of such an objective. We understand that the aim of a Green Deal objective would be to ensure that changes to the MRA take into account the MRA interactions with the Green Deal. We have included a proposed Green Deal objective in appendix 1. We are seeking respondents' views on whether this is required, and on the drafting.

Consultation questions

We would like your responses to these questions:

Question 1: Do you agree with the drafting of the proposed objectives in Appendix 1?

Question 2: Do you agree with the proposed changes to the decision-making, reporting and appeal provisions?

Question 3: Do you agree with the proposed deletions of SLCs 23.3(f) and 23.4, given that these matters will be covered by the new objectives?

Question 4: Do you think it is necessary to have a specific objective (SLC 23.3A(f)) covering the MRA interactions with the Green Deal? If so, do you agree with the proposed drafting of SLC 23.3A(f)? If not, how could these interactions be accounted for under the other proposed objectives?

Question 5: Do you have any other suggestions for the drafting?

⁹ Decisions on proposed changes to the MRA are made by the MRA Development Board on behalf of the code panel under the MRA's self-governance process. Where Authority consent for change is required in accordance with the code provisions, a recommendation is made to the Authority.

¹⁰ SLC 23.5(d)

¹¹ Green Deal is a framework to enable private firms to offer consumers energy efficiency improvements to their homes, community spaces and businesses without upfront cost. They can then recoup payments through a charge in instalments on the energy bill. Green Deal was introduced by DECC in 2013.

Next steps

If you'd like to respond to this consultation, please email raymond.elliott@ofgem.gov.uk by 12 December 2014. We will publish consultation responses on our website. Please mark your response as confidential if you do not want it to be published. After we've considered the responses, if we decide to proceed with a licence modification, we will publish a statutory consultation.

Yours faithfully,

Lesley Nugent
Head of Industry Codes and Licensing

Appendix 1.

Electricity Distribution Licence containing marked-up changes.

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 ~~conforms to the requirements of:~~

- (a) conforms to the requirements of paragraph 23.2 in respect of its contractual constitution; ~~and~~
- (b) conforms to the requirements of paragraph 23.3 in respect of its contents; and
- (c) is designed to facilitate the achievement of the objectives set out in paragraph 23.3A.

Constitution of the MRA

23.2 The MRA 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 MRA 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 MRA, between users of the Central Change Database, or between any persons for Settlement Purposes or for any related purposes;
- (d) arrangements for the modification of the MRA 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 MRA are not to be capable of 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; and~~
- (f) NOT USED
- (g) provisions to facilitate, and procedures and practices to be followed in relation to, the establishment, operation, and maintenance of the Central Change Database.

23.3A The objectives of the Master Registration Agreement are:

- (a) to develop, maintain and operate efficient, coordinated and economical procedures and practices to be followed in relation to changes of Electricity Supplier;
- (b) to promote effective competition between Electricity Suppliers and their agents;
- (c) to promote efficiency in implementing and administering the Master Registration Agreement arrangements;
- (d) so far as is consistent with sub-paragraphs (a), (b) and (c), to efficiently discharge the licensee's obligations under this licence;
- (e) to comply with the Electricity Regulation and any relevant, legally binding decision of the European Commission or the Agency for the Cooperation of Energy Regulators; and
- (f) to facilitate, so far as is consistent with sub-paragraphs (a) to (e), the maintenance and operation of an accessible, efficient, coordinated and economical system for the Green Deal.

~~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.~~

23.4 NOT USED

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

- (a) for proposals for the modification of the MRA to be made by the Authority (in relation only to 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);
- (b) for 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 MRA 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 paragraph 23.5(c);
- (c) for compliance by the licensee and (where applicable) the panel with any direction(s) issued by the Authority under this paragraph setting and/or amending a timetable (in relation to a modification proposal which the Authority reasonably considers is necessary to comply with or implement the 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:
- 1. licensee to raise a modification proposal; and/or
 - 2. completion of each of the procedural steps outlined in the direction, to the extent that they are relevant; and/or
 - 3. implementation of a modification.
- (d) for parties to the MRA, and any such other persons as may be specified in the code, to appeal against any decision to implement or reject a proposed modification of the MRA, which does not require the Authority's approval, to the Authority for determination;
- (e) for a modification report to be prepared in such manner and with all such contents as specified in the MRA, which shall include an assessment of the proposed modification in reference to whether, and if so how, it ~~facilitates the requirements of this condition-~~ would better facilitate achieving the objectives and a detailed explanation of the reasons for that assessment;
- (f) where the proposed modification requires Authority approval in accordance with the provisions of the MRA, 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;
- (g) that proposals for the modification of the MRA 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;
- (h) 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:

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
- b. if the Authority so directs, not proceed with the modification proposal until the Significant Code Review Phase has ended; and
- (i) that where an appeal has been raised in respect of a modification proposal in accordance with sub-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:

- (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 MRA, the licensee must 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 MRA parties or members of the panel, or the procedures informing the modification report described at sub-paragraph 23.5(e).

23.7 The MRA must provide for:

- (a) a panel body, as specified in the MRA (the "panel") whose functions must include the matters required by this condition and as set out in the MRA; and,
- (b) a secretarial or administrative person or body, as specified in the MRA, 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 must:
 - (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 MRA;
 - (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, to the

extent relevant, consumer representatives that request the code administrator's assistance in relation to the MRA including, but not limited to, assistance with:

- drafting a modification proposal;
- understanding the operation of the MRA;
- 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:

1. in the case of implementation, the modification proposal may not better ~~enable the MRA to fulfil the requirements of this condition~~ facilitate the achievement of at least one of the objectives; or

2. in the case of non-implementation, the modification may better ~~enable the MRA to fulfil the requirements of this condition~~ facilitate the achievement of at least one of the 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 MRA must provide that recommendations or decisions for or against the implementation of a modification proposal shall be made with regard to whether that modification would, as compared with the existing provisions of the MRA, better enable the MRA to ~~fulfil the requirements of this condition~~ achieve the objectives.

23.10 The procedures for the modification of the MRA 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 must use its best endeavours to ensure that procedures are in place that facilitate its compliance with the requirements of this condition including, but not limited to, modifying the MRA where necessary no later than 31 December 2013.