

Modification proposal:	<b>Master Registration Agreement (MRA) Change Proposal (CP) 0218: EU Third Package – Authority Powers</b>		
Decision:	The Authority <sup>1</sup> provides its consent <sup>2</sup> for this modification <sup>3</sup> to be made		
Target audience:	MRASCo, Parties to the MRA and other interested parties		
Date of publication:	5 November 2014	Implementation date:	6 November 2014

## Background

The EU Third Energy Package<sup>4</sup> (the Third Package) was implemented in Great Britain (GB) on 10 November 2011 by making amendments to relevant domestic legislation. The Electricity and Gas (Internal Markets) Regulations 2011 (the Regulations) gave effect to these changes. The Regulations made numerous changes to gas and electricity licences once they came into force.<sup>5</sup>

The licence changes included changes to Standard Licence Condition (SLC) 23 'Master Registration Agreement' of the electricity distribution licence. These changes enable us to raise or direct a licensee to raise a MRA modification proposal (variation) which we reasonably consider is necessary to comply with or implement the Electricity Regulation and/or any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators (ACER). They also enable us to direct or amend the timetable for relevant modifications, and that such modifications cannot be withdrawn without our consent. The MRA does not currently reflect these provisions.

In June 2014, we wrote to the MRA Secretariat noting that the MRA does not reflect the licence changes above. The MRA Executive Committee (MEC) instructed the Code Review Expert Group (CREG) to consider our views and develop an MRA modification proposal.

## The modification proposal

MRA CP 0218 was raised in August 2014. The modification proposal seeks to align the MRA governance rules (particularly Clause 9 'Change Control') with the licence changes made to implement the Third Package by:

- inserting new definitions for 'Regulation' and 'Agency for the Co-operation of Energy Regulators' in Clause 1.1 of the MRA

<sup>1</sup> References to the 'Authority', 'Ofgem', 'we' and 'our' are used interchangeably in this document. The Authority refers to GEMA, the Gas and Electricity Markets Authority. The Office of Gas and Electricity Markets (Ofgem) supports GEMA in its day to day work.

<sup>2</sup> This document is notice of the reasons for this decision as required by section 49A of the Electricity Act 1989.

<sup>3</sup> 'Change' and 'modification' are used interchangeably in this document.

<sup>4</sup> The term 'Third Package' refers to 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 and repealing Directive 2003/54/EC (Electricity Directive); Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003 (Electricity Regulation); Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC (Gas Directive); Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005 (Gas Regulation); and Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators (ACER).

<sup>5</sup> SI 2011/2704 which can be found here: <http://www.legislation.gov.uk/ukSI/2011/2704/part/1/made>. We made further consequential licence changes relevant to implementation of the Third Package (see our licence modification decision here: <https://www.ofgem.gov.uk/publications-and-updates/decision-modify-gas-and-electricity-licence-conditions-following-implementation-third-package-and-other-house-keeping-changes>)

- reflecting that the Authority may raise, or direct a licensed Distributor to raise, an MRA modification proposal which the Authority reasonably considers is necessary to comply with the Regulation and/or any relevant legally binding decisions of the European Commission and/or ACER
- reflecting that where the licensed Distributor raises such an MRA modification proposal, it cannot be withdrawn without prior Authority consent
- setting out that the MEC must comply with any Authority directed timetable in respect of such a modification proposal. Compliance includes completion of the relevant change process steps and implementation of the modification proposal in accordance with the Authority's directed timetable, if any.

## **MRA Development Board and MRA Forum**

The MRA Development Board (MDB) considered CP 0218 at its meeting of 8 October 2014. The MDB voted unanimously to accept CP0218 and the proposed implementation date of 6 November 2014. No appeals to the MRA Forum were made.

This modification proposal seeks to confer rights on the Authority and Authority consent to make these changes is required.<sup>6</sup>

## **Our decision**

CP 0218 makes changes to the current MRA governance rules to align and achieve greater consistency between them and the EU Third Package licence changes made to SLC 23. In particular, it updates the arrangements for the modification of the MRA to reflect that we may make or direct the making of MRA modification proposals where these are required to comply with relevant EU legislation, as well as reflecting that we may direct a timetable for such modification proposals.

For this reason we consider that implementation of CP 0218 better facilitates the requirements of SLC 23 of the Distribution Licence<sup>7</sup> compared with the existing provisions and should be implemented. We also consider CP 0218 to be consistent with our principal objective and statutory duties.

We note that a further MRA modification (CP 0225), that proposes to make further clarificatory changes to the proposed CP 0218 legal text, has been raised and is currently under consideration.

## **Decision notice**

In accordance with Standard Condition 23 of the Electricity Distribution Licence, the Authority hereby consents that CP 0218 '*EU Third Package – Authority Powers*' be made.

**Lesley Nugent**  
**Head of Industry Codes and Licensing**

Signed on behalf of the Authority and authorised for that purpose

<sup>6</sup> In accordance with clause 9.5 of the MRA.

<sup>7</sup> The Electricity Distribution Licence standard licence conditions are available on our website here: <https://epr.ofgem.gov.uk/Content/Documents/Electricity%20Distribution%20Consolidated%20Standard%20Licence%20Conditions%20-%20Current%20Version.pdf>