

## Competition in Connections Code of Practice (CiCCoP) Modification 0007 – Review of DNO Exclusion at 2.2.1

Modification proposal	Competition in Connections Code of Practice (CiCCoP) Modification 0007 – Review of DNO Exclusion at 2.2.1		
Decision:	The Authority <sup>1</sup> directs this modification <sup>2</sup> be made <sup>3</sup>		
Target audience:	CiCCoP Panel, DNOs and other interested parties		
Date of publication:	23 October 2019	Implementation date:	25 October 2019

### Background

The market for the provision of electricity connections to the distribution system is open to competition. A customer can choose to use an alternative provider for some connections work known as “contestable work”. Contestable work can be carried out by the local Distribution Network Operator (DNO), an Independent Distribution Network Operator (IDNO) or an Independent Connection Provider (ICP). In each region, the DNO is the sole provider of a number of the key inputs needed to make a connection (eg approving connection designs). It provides these input services to both its own connections business and to its competitors.

The DNOs are required to comply with standard licence condition 52 of the electricity distribution licence. This licence condition requires them to provide input services to all connection parties on an equivalent basis. The Relevant Objectives of the CiCCoP also makes it clear that the DNOs must provide input services on an equivalent basis.

The CiCCoP outlines the processes and practices that DNOs must adopt when providing input services. Paragraph 2.2.1 of the CiCCoP identifies the areas not included within the scope of CiCCoP. Some stakeholders are concerned that the wording could be misinterpreted to exclude DNOs from providing input services to themselves on an equivalent basis.

<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. This decision is made by or on behalf of GEMA.

<sup>2</sup> ‘Change’ and ‘modification’ are used interchangeably in this document.

<sup>3</sup> This document is notice of the reasons for this decision as required by section 49A of the Electricity Act 1989

## The modification proposal

Under the terms of the CiCCoP, any interested party can propose a change to the CiCCoP. This modification was raised by P N Daly Ltd on 13 July 2018. The Proposer considers that modifying 2.2.1 will better facilitate Relevant Objectives (a) and (b) of the CiCCoP.<sup>4</sup> The modification seeks to clarify paragraph 2.2.1 to make it clearer that DNOs must provide input services on an equivalent basis to all parties.

## CiCCoP Panel recommendation

The Modification Report for CiCCoP Modification 0007 indicates that the majority of CiCCoP Panel Members believed that the proposed modification better achieves the Relevant Objectives of the CiCCoP.

The working group considered several alternative changes to the legal drafting to improve the clarity of paragraph 2.2.1. The Proposer did not consider that the proposed changes to the legal drafting reflect the intent of the modification proposal. The Proposer considered that additional legal drafting changes would better clarify paragraph 2.2.1 and ensure that DNOs provide input services on an equivalent basis to all parties, including their own connections business.

## Our decision

We have considered the issues raised by the proposal and the Modification Report dated 22 July 2019. We have taken into account the CiCCoP Panel's recommendation which is included as part of the Modification Report. We have concluded that:

- implementation of the modification proposal better facilitates the achievement of the CiCCoP Relevant Objectives and the recommended legal text gives effect to this;<sup>5</sup> and

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<sup>4</sup> Relevant Objective (a) of the CiCCoP is to "Facilitate competition in the market for new electricity distribution connections through: Minimising, to the fullest extent reasonably practicable, the number and scope of Input Services which are only available to the DNO; providing Input Services on an equivalent basis to all Connection Parties that operate in the Local Connections Markets; and harmonising, to the fullest extent reasonably practicable, the Input Services provided by Distribution Service Providers." Relevant Objective (b) of the CiCCoP is to "not to distort, prevent or restrict competition in the market for new electricity distribution connections".

<sup>5</sup> The Relevant Objectives for the CiCCoP are set out in paragraph 2.3 of the CiCCoP and are also set out in Standard Licence Condition 52.3 of the Electricity Distribution Licence.

- direct that the modification is approved as this is consistent with our principal objective and statutory duties.<sup>6</sup>

### **Reasons for our decision**

We consider that this modification proposal better facilitates Relevant Objective (a) to facilitate competition in the market for new electricity distribution connections through providing input services on an equivalent basis to all connection parties that operate in the local connections market and Relevant Objective (b) not to distort, prevent or restrict competition in the market for new electricity distribution connections. We consider that this modification has a neutral impact on the other Relevant Objectives.

We consider that the proposed amendment will improve the clarity of the requirements under the CiCCoP. We consider that improved clarity will help facilitate DNO compliance with the requirements of the CiCCoP, thus better ensuring that DNOs do not distort, prevent or restrict competition in the market for new electricity distribution connections.

The Modification Report includes proposed legal text. We acknowledge that the Proposer considers that alternative changes to the legal drafting would help better clarify the scope of the CiCCoP and ensure that DNOs provide input services on an equivalent basis to all connection parties. However, this alternative legal drafting is not proposed or recommended as part of the Modification Report. We have considered that the Proposer's concerns that the proposed legal text fails to achieve what they intended. However, based on the Modification Report provided to us, the proposed legal text included within the Modification Report and the panel recommendation that it better achieves the Relevant Objectives, we are of the view that it is appropriate to accept this recommendation on that basis. We note that the Proposer can submit an alternative modification proposal to the Panel Secretary identifying the proposed changes that it considers would better meet the Relevant Objectives.

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<sup>6</sup> The Authority's statutory duties are wider than matters that the Parties must take into consideration and are detailed mainly in the Electricity Act 1989 as amended.

## **Decision notice**

The Authority approves the modification and the amendments contained within that modification will be made in accordance with clause 5.50 in Appendix 1 headed "Governance Arrangements" of the Competition in Connections Code of Practice.

The Authority hereby approves that '*Competition in Connections Code of Practice Modification 0007: Review of DNO Exclusion at 2.2.1*' be made.

**Jon Parker**

**Head of Electricity Network Access, Charging & Access**

Signed on behalf of the Authority and authorised for that purpose