

Modification proposal:	Smart Energy Code (SEC) SECMP084 – Other User Panel Seating Amendment		
Decision:	The Authority ¹ has determined to reject ² this modification ³		
Target audience:	Data and Communications Company (DCC), SEC Panel, Parties to the SEC and other interested parties		
Date of publication:	27 May 2020	Implementation date:	n/a

Background to the modification proposal

The composition of the SEC Panel is set out at Section C (Governance)⁴ of the SEC. The Panel includes, among others, eight Elected Members⁵ representing various industry Party categories. Two of these Elected Member seats are allocated to 'Other SEC Parties'⁶. For the purposes of the Panel Member election process, the 'Other SEC Parties' category also includes Parties that are categorised as 'Other Users'⁷.

The Smart Energy Code Administrator and Secretariat (SECAS) received feedback to a SEC Panel questionnaire that suggested that the existing Panel composition could lead to Other Users being underrepresented. Representation for Other Users is currently provided by the two Elected Members for Other SEC Parties. However, the Other SEC Parties category covers a broad range of Party types, and so not all Other SEC Parties are Other Users. As a result, it was suggested that the Panel composition could be amended to include a standalone 'Other Users' Elected Member to ensure proportionate and fair representation.

The modification proposal

SECMP084 was raised by the Energy Saving Trust (the Proposer) on 10 September 2019. The Proposed Solution would retain the total number of eight Elected Members on the Panel. However it proposes to remove one of the two 'Other SEC Party' Elected Members and replace them with an 'Other User' Elected Member.

The Proposer argued that SECMP084 would better facilitate the efficient and transparent implementation of this Code, the seventh General SEC Objective (g). The Proposer considers this change will allow all Parties to be adequately represented on the Panel ensuring that they can give input on the arrangements to ensure the SEC objectives are met.

¹ 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.

² This document is notice of the reasons for this decision as required by section 49A of the Electricity Act 1989 and by section 38A of the Gas Act 1986.

³ 'Change' and 'modification' are used interchangeably in this document.

⁴ <https://smartenergycodecompany.co.uk/the-smart-energy-code-2/>

⁵ In accordance with SEC Section C3.1, the SEC Panel includes, among others, the following Elected Members: two persons elected by the Large Supplier Parties; two persons elected by the Small Supplier Parties; one person elected by the Electricity Network Parties; one person elected by the Gas Network Parties; two persons elected by the Other SEC Parties.

⁶ The SEC defines an 'Other SEC Party' as a Party that is not the DCC, is not a Network Party, and is not a Supplier Party.

⁷ The SEC defines an 'Other User' as a User that is not currently acting in the User Role of Import Supplier, Export Supplier, Gas Supplier, Electricity Distributor, Gas Transporter or Registered Supplier Agent (regardless of whether in fact that User is a Responsible Supplier or the Electricity Distributor or the Gas Transporter or the Registered Supplier Agent during that period of or at that point in time).

The Working Group developed an Alternative Solution to SECMP084 (SECMP084 Alternative Solution). SECMP084 Alternative Solution proposes to retain the current Panel composition but add a new 'Other User' Elected Member. This would increase the total number of Elected Members on the Panel to nine.

SEC Change Board⁸ recommendation

At the SEC Change Board meeting on 26 February 2020, the Change Board considered unanimously that neither SECMP084 nor SECMP084 Alternative Solution would better facilitate the SEC objectives and the Change Board therefore recommended that both solutions be rejected by the Authority. The Change Board considered that the issue identified by SECMP084 was not well supported in industry, and that the needs case for this change had not been demonstrated throughout the development of the Modification Proposal.

Our decision

We have considered the issues raised by SECMP084 and the Final Modification Report received by us on 28 February 2020. We have considered and taken into account the votes of the SEC Change Board on the proposal which is attached to the Change Report. We have concluded that implementation of either the Proposed Solution or the Alternative Solution will not better facilitate the achievement of the SEC objectives.⁹

Reasons for our decision

We consider that SECMP084 and SECMP084 Alternative Solution will not better facilitate the seventh SEC objective and have a neutral impact on the other objectives.

The seventh General SEC Objective is to facilitate the efficient and transparent administration and implementation of the SEC.

We agree with the unanimous recommendation of the Change Board that neither SECMP084 or SECMP084 Alternative Solution would better facilitate this objective. We note the comments from the Change Board that it considered there was not enough of a needs case to justify this change. Further, we agree with the views of the SEC Panel, set out in the Final Modification Report (FMR), that there is a lack of clarity regarding how many Other Users were engaged in the development of the solution, given that the Other SEC Party Panel representatives had not previously received concerns from Parties about this issue.

We recognise that the four respondents to the Modification Report Consultation supported the modification. In particular we note that the three respondents from the Other SEC Party category were supportive of SECMP084 Alternative Solution. Respondents argued that there was a need for further Other User representation and that the modification would ensure that Other Users were better represented at Panel meetings. However, while we recognise that both the Proposed and Alternative Solutions would result in more substantial representation for Other Users, we do not consider that sufficient evidence has been provided to demonstrate that Other Users are being underrepresented by the current Panel seating arrangements. Further, we have not been presented with sufficient

⁸ The SEC Panel and Change Board are established and constituted pursuant to and in accordance with DCC Licence 22.25(a).

⁹ The Objectives in accordance with DCC Licence 22.10-22.17

justification that either the Proposed or Alternative Solutions would provide more proportionate and fair representation of SEC Parties at Panel meetings than do the current seating arrangements. We therefore do not consider that SECMP084 would better facilitate the SEC Objectives, compared with the current baseline.

We do however agree with a respondent to the Modification Report consultation that the composition of the Panel and its forums should be regularly reviewed. This should include ensuring fair representation for all SEC parties at Panel meetings. However, we would expect a modification proposing to amend the composition of the Panel to be fully assessed and to provide a robust evidence-based case for change. Based on the FMR submitted to us we do not consider the case for this Proposed Solution, or SECMP084 Alternative Solution, has been demonstrated.

On this basis we consider that SECMP084 and SECMP084 Alternative Solution would not better facilitate the efficient and transparent administration and implementation of the SEC, and therefore do not better facilitate the SEC Objectives.

Decision notice

In accordance with standard licence condition 23 of the Smart Meter Communication licence, the Authority hereby determines that modification proposal SECMP084 'Other User Panel Seating Amendment' and modification proposal SECMP084 'Other User Panel Seating Amendment' Alternative Solution should not be made.

David Hall

Head of Code Governance, Consumers and Markets

Signed on behalf of the Authority and authorised for that purpose