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By email only to: industrycodes@ofgem.gov.uk

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Dear Marion

Code Governance Review (Phase 3): Initial Proposals

Thank you for the opportunity to respond to the above consultation. This letter should be treated as a collective response on behalf of UK Power Networks' three licensed distribution companies: Eastern Power Networks plc, London Power Networks plc, and South Eastern Power Networks plc. Our response is not confidential and can be published on Ofgem's website.

Our answers to the consultation questions are set out in the appendix to this letter and we hope that you will find our comments helpful. If you have any questions, please do not hesitate to contact me.

Yours sincerely

James Hope
Interim Head of Regulation
UK Power Networks

Copy   Paul Measday, Regulatory Reporting & Compliance Manager, UK Power Networks

Appendix

Code Governance Review (Phase 3): Initial Proposals

Chapter 2: Significant Code Reviews

Question 1: Do you agree that Ofgem should have the ability to lead an end-to-end SCR process, including the development of code change and legal text?

We agree that Ofgem should have the ability to lead an end-to-end SCR process for the delivery of more complex code changes. However, we see a clear role for code panels in conducting a final review of the implementation of any changes subject to that process and the associated legal text. This should minimise the risk of unintended consequences being introduced by the SCR process.

Question 2: Do you agree it is appropriate to clarify that Ofgem may set timetables for the code change process under an SCR, when the existing, industry-led code development route is used?

We agree that such clarification is appropriate. This will provide certainty for all parties and ensure cross-code alignment where more than one code is impacted.

Question 3: Do you have any comments on the licence drafting set out in Appendix 3?

We do not have any material comments on the illustrative drafting. However, we would require sight of the proposed changes to other conditions in order to be comfortable that the changes work for each individual code or condition. We have some minor points of feedback, as set out below:

- The additional paragraphs have been added into the text without any renumbering of the other paragraphs (e.g. the addition of 4AA between 4A and 4B), leading to complex cross-references which are not intuitive. We believe that consideration should be given to wholesale renumbering, subject to an understanding of whether the codes themselves refer to specific paragraphs in the licence condition and would need consequential changes.
- According to 4AA(b), a "proper evaluation" is to be conducted – it is unclear what a "proper evaluation" is compared to, say, an "evaluation".

Question 4: Should Ofgem be able to directly raise a modification proposal under the standard process (option 2A)?

Yes. This approach would facilitate an SCR where the code panel has failed to raise a modification proposal within the prescribed SCR timescale.

Question 5: Do you have any other proposals for changes to the SCR process?

We have nothing further to add.

Chapter 3: Self-Governance

Question 1: Do you agree that requiring a positive identification of why Authority consent is needed (rather than why it is not) could result in additional modifications being developed under self-governance?

Yes – this would set the status quo to self-governance and require the change sponsor to identify a requirement for Authority consent.

Question 2: Do you agree that guidance on the materiality criteria may assist industry in its assessment of whether a modification should be self-governance or require Authority consent?

Yes – guidance on the materiality criteria may provide confidence to change sponsors and code panels in their assessment of whether a modification should be self-governance or require Authority consent.

Question 3: Do you agree that any potential guidance is something that panels and code administrators should develop, based on experience to date of using self-governance?

Yes – potential guidance is something that panels and code administrators should develop, based on a review of recent changes and experience of the self-governance process.

Question 4: Do you have any other proposals that may improve the self-governance processes under the codes?

We have nothing further to add.

Chapter 4: Code Administration

Question 1: Do you agree that updating the guidance in CACoP and ensuring best practice across all codes would enhance the role of the Critical Friend?

Yes. We are supportive of a review of industry best practice and effectiveness related to the role of the Critical Friend. The findings of such a review are likely to result in changes to the CACoP guidance.

Question 2: Please provide your suggestions as to how the Critical Friend role could be better advertised and what information each code administrator should include on its website.

As part of the proposed review of industry best practice and effectiveness we would welcome discussion on the information to be provided to new parties during the code accession process. It would be helpful for each of the code websites to list the CACoP requirements, with a link to the Critical Friend information available and the relevant point(s) of contact for each code.

Question 3: Could a self-governance process be introduced for the CACoP?

Yes. If such a process were introduced, we would be supportive of code panels sponsoring changes to the CACoP.

Question 4: How often should the CACoP be reviewed?

Given the need to gather evidence of the effectiveness of previous changes, we would propose that the CACoP is reviewed every two years. However, the ability to make a change at any point should be facilitated.

Question 5: Do you agree that greater visibility of the CACoP can be achieved by having clear links available on all code websites to a dedicated CACoP page?

Yes – the proposed approach would achieve this aim.

Question 6: How could the quantitative metrics be improved?

We believe there would be value in Ofgem organising a workshop for code administrators and code panel chairs to discuss potential changes to reporting and whether these would improve cross-code comparison.

Question 7: Should a single body send out one qualitative survey across all codes? If so, who would be best placed to undertake this role?

Yes – as this would simplify the current process. To ensure impartiality, an independent research company might be better suited to undertake a survey across all codes.

Question 8: Do you agree that the modification process and template should be standardised across all codes?

Standardising the modification process and templates would only result in minor improvements. We consider that the current guidance and advice provided via the Critical Friend role adequately supports the existing process.

Question 9: Is it appropriate that all panel chairs be completely independent of industry?

It is not clear from the analysis presented that the benefits outweigh the costs of appointing independent panel chairs.

Question 10: Is it appropriate that all panel members are required to be impartial, i.e. not to represent the interests of their company?

We agree that all panel members should be required to be impartial.

Question 11: Should DCUSA and SPAA voting be undertaken by panel, rather than all parties?

Our preference would be for the current voting arrangements to remain in place as they allow all parties to review what are potentially complex changes and directly influence the outcome.

Question 12: Should code administrators provide a chair for workgroups?

It is not clear from the analysis presented that the benefits outweigh the costs of appointing independent workgroup chairs.

Question 13: Would including a consumer impacts section on each change proposal form help to ensure consumer interests are discussed and published?

To ensure consumer interests are discussed and published, changes need to be made to the modification report in addition to the change report. All industry parties have an interest in consumer impacts and including a dedicated section would help to provide additional focus in this area.

Question 14: Do you agree with the housekeeping changes we have proposed?

Yes. We are supportive of the proposed changes as they will help to align the codes.

Chapter 5: Charging Methodologies

Question 1: Should all 'material' charging modifications proceed through pre-modification processes and demonstrate some initial evidence against the relevant charging objectives prior to being formally raised?

We would support this approach for all 'material' charging modifications and propose that this be undertaken as part of the Distribution Charging Methodology Forum (DCMF) and/or Methodologies Issues Group (MIG) discussions.

Question 2: Could the current pre-modifications processes for charging code changes be applied more effectively in line with CACoP Principles 5 and 6?

Yes – however, further work is required to fully realise these two principles and this will depend on the implementation of other changes to the arrangements.

Question 3: Should panels develop forward work plans for charging modifications in line with agreed priority area(s) to provide a more robust approach to managing modifications?

The proposal that panels should develop forward work plans for charging modifications lacks clarity on the principles that panel members should apply when agreeing priorities. Furthermore, any forward work plan should not prevent code parties who recognise new issues from raising a modification proposal at any time and any forward work plan should make this clear to all parties.

Question 4: Do you agree that charging modifications which are 'not material' (in line with self-governance criteria) should be progressed through the self-governance route?

Yes. We are supportive of this approach as it will allow Ofgem to focus on significant modifications.

Question 5: Do you agree that bringing all current charging methodologies forums under DCUSA governance could help to improve stakeholder engagement and increase the consistency of processes for charging modifications?

In our view, this may not help to improve stakeholder engagement. In our experience, the limited number of people participating in some change proposal discussions indicates that wider communication does not necessarily lead to a greater number of parties engaging in the process. As an alternative, changes to the ENA website (or a similar DNO charging website) would allow all parties to be directed to a single location to access all relevant information.

We do not believe that it is appropriate to include the ENA Commercial Operations Group (COG) alongside the DCMF and the MIG and place these under DCUSA governance. The COG does not discuss details of charging methodologies and/or change proposals.

Question 6: Do you agree that having a panel sponsor would help the DCUSA Panel better understand the origins of charging modifications and the DCUSA Panel would be more accountable for, and engaged with, efficiently progressing them?

We would support further work in this area in order to more fully understand the impact on DCUSA Panel members' workload. However, we have concerns with the proposed change on the basis that the DCMF and MIG are attended by experienced people with close involvement in the development and implementation of the charging methodologies. We would like to understand how involving a DCUSA Panel member as a sponsor would significantly improve the work that these groups undertake.

Question 7: Please set out any other proposals you may have for improving the governance for charging methodologies under open governance arrangements.

We have no additional comments at this stage.