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05 May 2016

Dear Marion,

**British Gas response to Ofgem's Code Governance Review (Phase 3) Final Proposals  
- Consultation on licence modifications**

Thank you for the opportunity to respond to Ofgem's above consultation.

Our responses to Ofgem's consultation questions are attached in the Appendix. We would however like to take this opportunity to provide some comments on the draft updated Significant Code Review (SCR) guidance that was attached to the CGR3 Final Proposal.

We remain concerned that the SCR process is being extended to enable Ofgem to lead the end-to-end process and raise and develop modification proposals. As stated in our response to the initial proposals consultation in December, we do not believe that extending the powers for Ofgem to raise code changes and develop legal text will have a material impact on the timescales for delivering complex changes.

In our experience, high level conclusions are reached during the SCR process that requires detailed design work to be undertaken under the code modification process. This takes a considerable amount of industry engagement and discussion to ensure a robust working solution is implemented, regardless of whether the process is industry or Ofgem led.

We note and welcome Ofgem's recognition that the CMA's proposed remedies, in relation to Ofgem having powers to initiate and prioritise strategically important modification proposals, may in time result in revisiting the need for the SCR process.

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The updated draft SCR guidance document states that Ofgem would expect to consult on which of the three SCR options would be followed prior to launching an SCR. Whilst the guidance includes criteria that Ofgem would expect to consider, it is unclear what specific circumstances might influence Ofgem to opt to lead the process end-to-end. Further clarity within the updated guidance would be welcome. In particular, we would like the guidance to make clear that the new options will only be chosen if there are complex, cross code changes required. It would also be helpful if the guidance also clearly referenced the right to appeal to the CMA regardless of which of the SCR routes are followed.

We believe that the structure of the updated guidance document is not as helpful as the existing version, which currently enables the user of the guidance to obtain a clear understanding of the process and answers their potential questions. In particular, given the current SCR process will be retained, we do not understand why the guidance has been rewritten for that process. With the introduction of additional process options, we would expect the existing guidance to be extended to explain any differences to approach across the three options. We note that large parts of the existing guidance have been removed from the updated version which, in our opinion, is not necessary or helpful and should be retained.

Detail of how any alternative modification proposals raised will be treated under each of the three process options has not included and requires clarification. Reference to conducting an impact assessment during the SCR process has been reworded and removed from the main text and added as a footnote. We request that the guidance provides express confirmation that the requirement for an impact assessment during the SCR process is retained.

The progression of robust impact assessments is an essential part of the SCR process and should therefore be included within the guidance. Indeed, some SCRs may require numerous IAs to be undertaken; for instance we would expect individual IAs to be undertaken for various elements of the current Faster and More Reliable Switching SCR. The process for conducting IAs should also be explained.

It is unclear from the updated guidance how or if any alternative modification proposals can be raised and progressed under an Ofgem-led end to end process. Any party that may wish to propose an alternative solution will require clarity as to how their proposal would be progressed under a process where Ofgem are leading the development of the original proposal and legal text. Please could Ofgem expressly confirm that this ability remains.

Please do not hesitate to contact me if you require any further detail on our response.

Yours sincerely,

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Code Governance Review (Phase 3) Final Proposals – Consultation on licence modifications  
– British Gas Question Responses

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*Question 1: Do you consider that the licence drafting would achieve the policy proposals set out in the CGR3 Final Proposals?*

Yes, we consider that the licence drafting achieves the policy proposals. Whilst we acknowledge that the revised licence drafting amends existing text, the drafting is in places difficult to follow and would benefit from some re-structuring and sign posting - with clear headings, clearer numbering, consecutive ordering and cross-referencing.

This would provide greater clarity of the process changes being introduced and assist code parties and code administrators when drafting the consequential changes that will be required to code modification rules.

Specific examples of where the drafting could be made clearer are, using the changes to condition C3 (BSC) as a baseline:

- Paras 4C(ba) and 4C(bb) would be easier to follow if they were 4C(d) and 4C(e) in the list.
- Para 4C(c) would be easier to follow as a list with the wording in italics added:

“neither:

- (i) directions under sub-paragraph *4C(a) have been issued*; or
- (ii) a statement under subparagraphs *4C(b) or 4C(bb) has been issued*;  
or
- (iii) a modification proposal....”

- Para 4F sets out a list of requirements. One of those requirements in para 4F(a)(iii) is that there’s a panel report which contains a timetable. Details of that timetable are then set out further down the paragraph at paragraph 4F(d), so the drafting is not consecutive and is difficult to follow. The details of the timetable could be moved up into 4F(a)(iii).

*Question 2: Do you consider that the licence drafting in Electricity Transmission Licence SLC C14 would also facilitate the implementation of GC0086?*

We agree that the licence drafting would also facilitate the implementation of Grid Code modification proposal GC0086.

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*Question 3: Do you agree that, where licence drafting differs between licence conditions, the substantive effect is materially the same?*

We recognise that the various industry codes have different modification processes and arrangements and that this is reflected in the different licence drafting. We agree that the substantive effect of the drafting is materially the same. However, further to our response to Question 1, clearer drafting of the licence text will enable appropriate consequential changes to be made to code modification rules.