

### **Condition C3: Balancing and Settlement Code (BSC)**

1. The licensee shall at all times have in force a BSC, being a document
  - (a) setting out the terms of the balancing and settlement arrangements described in paragraph 2;
  - (b) designed so that the balancing and settlement arrangements facilitate achievement of the objectives set out in paragraph 3;
  - (c) including the modification procedures required by paragraphs ~~4 to 4G, 4A to 4C, 13A and to~~ 13D;
  - (d) including the matters required by paragraph 6;
  - (e) establishing a secretarial or administrative person or body, as specified in the BSC, (the "code administrator") and setting out the code administrator's powers, duties and functions, which shall:
    - (i) include a requirement that, in conjunction with other code administrators, the code administrator will maintain, publish, review and (where appropriate) amend from time to time the Code of Practice approved by the Authority and any amendments to the Code of Practice are to be approved by the Authority;
    - (ii) include facilitating the matters required by paragraphs 4 and 6;
    - (iii) have regard to and, in particular to the extent that they are relevant, be consistent with the principles contained in, the Code of Practice;
  - (f) establishing a panel body, as specified in the BSC, (the "panel") whose functions shall include the matters required by this condition, and whose composition shall include:
    - (i) an independent chairperson approved by the Authority; and
    - (ii) a consumer representative (appointed by Citizens Advice or Citizens Advice Scotland, or any successor body) who has a vote as specified in the BSC,

and the licensee shall be taken to comply with this paragraph by modifying from time to time in accordance with the provisions of paragraphs 4 and 5 and the transition modification provisions, the document known as the BSC which existed and the licensee maintained pursuant to this licence immediately prior to the start of the transition period.

- 1A. The BSC may also include provisions about
  - (a) arrangements for the operation of any reconciliation mechanism established by the Secretary of State under section 11 of the Energy Act 2010 in connection with a scheme for reducing fuel poverty, where the operator of the reconciliation mechanism is the BSCCo (as referred to in paragraph 1B) or an affiliate of the BSCCo; and

- (b) arrangements that facilitate the operation of contracts for difference and arrangements that facilitate the operation of a capacity market pursuant to EMR legislation.
- 1B. The licensee shall establish a Balancing and Settlement Code Company (BSCCo) to provide and procure facilities, resources and services required for the proper, effective and efficient implementation of the BSC.
- 1C. The BSC shall not include provisions that prevent or restrict the BSCCo or any affiliate of the BSCCo from:
  - (a) operating the reconciliation mechanism referred to in paragraph 1A(a); or
  - (b) undertaking the calculation, collection, administration and settlement of amounts payable or arising in respect of contracts for difference and capacity agreements entered into pursuant to EMR legislation.
- 1D. The BSC may include provisions allowing the BSCCo or any affiliate of the BSCCo to undertake activities other than those referred to in paragraphs 1, 1A and 1B above, subject to Authority consent.
- 2. The balancing and settlement arrangements are
  - (a) arrangements pursuant to which BSC parties may make, and the licensee may accept, offers or bids to increase or decrease the quantities of electricity to be delivered to or taken off the total system at any time or during any period so as to assist the licensee in co-ordinating and directing the flow of electricity onto and over the national electricity transmission system and balancing the national electricity transmission system; and for the settlement of financial obligations (between BSC parties, or between BSC parties and the licensee) arising from the acceptance of such offers or bids; and
  - (b) arrangements:
    - (i) for the determination and allocation to BSC parties of the quantities of electricity delivered to and taken off the total system, and
    - (ii) which set, and provide for the determination and financial settlement of, obligations between BSC parties, or (in relation to the system operator's role in co-ordinating and directing the flow of electricity onto and over the national electricity transmission system) between BSC parties and the licensee, arising by reference to the quantities referred to in sub-paragraph (i), including the imbalances (after taking account of the arrangements referred to in sub-paragraph (a)) between such quantities and the quantities of electricity contracted for sale and purchase between BSC parties.
- 3. The objectives referred to in paragraph 1(b) are:
  - (a) the efficient discharge by the licensee of the obligations imposed upon it by this licence;
  - (b) the efficient, economic and co-ordinated operation of the national electricity transmission system;

- (c) promoting effective competition in the generation and supply of electricity, and (so far as consistent therewith) promoting such competition in the sale and purchase of electricity;
  - (d) promoting efficiency in the implementation and administration of the balancing and settlement arrangements described in paragraph 2;
  - (e) compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency; and
  - (f) implementing and administering the arrangements for the operation of contracts for difference and arrangements that facilitate the operation of a capacity market pursuant to EMR legislation.
4. The BSC shall include procedures for its own modification (including procedures for the modification of the modification procedures themselves), which procedures shall provide:
- (a) subject to paragraphs 4A and 4B, for proposals for modification of the BSC to be made by the licensee, BSC parties, the Authority (in relation only to modifications within the scope of paragraph 4H ~~which it reasonably considers are necessary to comply with or implement the Electricity Regulation and/or any relevant legally binding decisions of the European Commission and/or the Agency~~), and such other persons or bodies as the BSC may provide;
  - (aa) for proposals for modification of the BSC to be made by the licensee in accordance with a direction issued by the Authority pursuant to paragraphs 4(ae), 4C (the "significant code review route") and 10(b);
  - (ab) for the implementation of modification proposals without the Authority's approval in accordance with paragraphs 13A (the "self-governance route") and 13C;
  - (ac) for the provision by the code administrator of assistance, insofar as is reasonably practicable and on reasonable request, to parties (including, in particular, small participants and consumer representatives) that request the code administrator's assistance in relation to the BSC including, but not limited to, assistance with:
    - (i) drafting a modification proposal;
    - (ii) understanding the operation of the BSC;
    - (iii) their involvement in, and representation during, the modification procedure processes (including but not limited to panel and/or workgroup meetings) as required by this condition, specified in the BSC, or described in the Code of Practice; and
    - (iv) accessing information relating to modification proposals and/or modifications;
  - (ad) for modification proposals made by the Authority or the licensee in accordance with paragraphs 4(a), 4(aa) and 4(ae)(i) respectively ~~which the Authority reasonably considers are necessary to comply with or implement the Electricity Regulation and/or any relevant legally binding decisions of the European Commission and/or the Agency~~ fall within the scope of paragraph 4H:
    - (i) to be accepted into the BSC modification procedures by the panel;

- (ii) where they are raised by the licensee, not to be withdrawn without the Authority's prior consent; and
  - (iii) to proceed in accordance with any timetable(s) directed by the Authority in accordance with paragraph 4(ae);
- (ae) for compliance by the licensee and (where applicable) the panel with any directions(s) issued by the Authority under this paragraph setting and/or amending a timetable (in relation to a modification proposal which ~~the Authority reasonably considers is necessary to comply with or implement the Electricity Regulation and/or any relevant binding decisions of the European Commission and/or the Agency~~ falls within the scope of paragraph 4H) for the:
- (i) licensee to raise a modification proposal; and/or
  - (ii) completion of each of the proposal steps outlined in paragraph 4 or 4F, to the extent that they are relevant; and/or
  - (iii) implementation of a modification.
- (af) for the implementation of modification proposals without the Authority's approval in accordance with paragraph 13D (the "fast track self-governance route");
- (b) except in the case of a modification falling within the scope of paragraph 4E or 13D, where a proposal is made in accordance with paragraphs 4(a), 4(aa) and, unless otherwise directed by the Authority, 4(ab),
- (i) for bringing the proposal to the attention of BSC parties and such other persons as may have an appropriate interest in it (including consumer representatives);
  - (ii) for proper consideration of any representations on the proposal including representations made by small participants and/or consumer representatives;
  - (iiA) for properly evaluating the suitability of the significant code review or self-governance route for a particular modification proposal
  - (iii) for properly evaluating whether the proposed modification would better facilitate achieving the applicable BSC objective(s), provided that so far as any such evaluation requires information which is not generally available concerning the licensee or the national electricity transmission system, such evaluation shall be made on the basis of the licensee's proper assessment (which the licensee shall make available for these purposes) of the effect of the proposed modification on the matters referred to in paragraphs 3(a) and (b);
  - (iv) for the development and consideration of any alternative modifications which may, as compared with the proposed modification, better facilitate achieving the applicable BSC objective(s), provided that:
    - the alternative proposals are made as described in the Code of Practice and as further specified in the BSC; and
    - unless an extension of time has been approved by the panel and not objected to by the Authority after receiving notice, any

workgroup stage shall last for a maximum period (as specified in the BSC) from the date on which the original modification was proposed,

- (ivA) for the evaluation required under paragraph 4(b)(iii) (and, if applicable paragraph 4(b)(iv)) in respect of the applicable BSC objective(s) to include, where the impact is likely to be material, an assessment of the quantifiable impact of the proposal on greenhouse gas emissions, to be conducted in accordance with such guidance (on the treatment of carbon costs and evaluation of the greenhouse gas emissions) as may be issued by the Authority from time to time,
- (v) for the preparation of a panel report:
  - setting out the proposed modification and, separately, any alternatives,
  - evaluating the proposed modification and, separately, any alternatives,
  - assessing the extent to which the proposed modification or any alternative would better facilitate achieving the applicable BSC objective(s) and providing a detailed explanation of the panel's reasons for that assessment (such assessment to include, where applicable, an assessment of the quantifiable impact of the proposal on greenhouse gas emissions in accordance with 4(b)(ivA)),
  - assessing the impact of the modification and any alternative on the core industry documents and the changes expected to be required to such documents as a consequence of such modification,
  - setting out a timetable for implementation of the modification and any alternative, including the date with effect from which such modification and any alternative (if made) would take effect; and
- (vi) for the submission of the report to the Authority as soon after the proposal is made as is appropriate (taking into account the complexity, importance and urgency of the modification, and in accordance with the time periods specified in the BSC, which shall not be extended unless approved by the panel and not objected to by the Authority after receiving notice) for the proper execution and completion of the steps in sub-paragraphs (i) to (v);
- (vii) for the revision and re-submission of the panel report provided under sub-paragraphs (v) and (vi), such re-submission to be made, if required by a direction issued by the Authority under paragraph 5(aa), as soon after the Authority's direction as is appropriate (taking into account the complexity, importance and urgency of the modification),
- (c) for the timetable (referred to in sub-paragraph (b)(v)) for implementation of any modification to be either:
  - (i) in accordance with any direction(s) issued by the Authority under paragraph 4(ae)(iii); or

- (ii) where no direction has been issued by the Authority under paragraph 4(ae)(iii)

such as will enable the modification to take effect as soon as practicable after the Authority has directed or, in the case of a proposal falling under paragraphs 4(ab) and 13A, the panel has determined that such modification should be made, account being taken of the complexity, importance and urgency of the modification, and for that timetable to be extended or shortened with the consent of or as directed by the Authority after those persons likely to be affected by the revision of the timetable have been consulted;

- (d) for empowering the licensee to secure, if so directed by the Authority in circumstances specified in the BSC,
  - (i) that the modification procedures are complied with in respect of any particular modification in accordance with the terms of the direction;
  - (ii) that, where a modification has been made but not implemented in accordance with its terms, all reasonable steps are taken to implement it in accordance with the terms of the direction;
  - (iii) that the licensee can recover its reasonable costs and expenses properly incurred in complying with the direction, and
- (e) for each of the procedural steps outlined in this paragraph 4, to the extent that they are relevant, to be consistent with the principles contained in the Code of Practice.
- (f) for the completion of each of the procedural steps outlined in this paragraph 4, to the extent that they are relevant, to be in accordance with any timetable(s) directed by the Authority under paragraph 4(ae).

4A. Without prejudice to paragraph 4E, ~~the~~ the procedures for the modification of the BSC shall provide that proposals for modification of the BSC falling within the scope of a significant code review may not be made by the parties listed in paragraph 4(a) during the significant code review phase, except where:

- (a) the Authority determines that the modification proposal may be made, having taken into account (among other things) the urgency of the subject matter of the proposal; or
- (b) the modification proposal is made by the licensee in accordance with paragraphs 4(aa) and 4C or 4(ae)(i); or
- (c) the modification proposal is made by the Authority in accordance with paragraph 4(a).

4B. The procedures for the modification of the BSC shall provide that where a modification proposal is made during the significant code review phase, unless otherwise exempted by the Authority, the panel shall:

- (a) comply with the steps in paragraph 4(b) subject to sub-paragraph (c) of this paragraph; and
- (b) as soon as practicable notify the Authority of:
  - (i) any representations received in relation to the suitability of the significant code review route; and

- (ii) the panel's assessment of whether the proposal falls within the scope of a significant code review and the applicability of the exceptions under paragraph 4A(a) or (b), and its reasons for that assessment; and
  - (c) not proceed with the modification proposal ~~without~~ at the Authority's direction.
- 4C. The procedures for the modification of the BSC shall provide that if within twenty-eight (28) days after the Authority has published its significant code review conclusions, ~~the Authority issues to the licensee:~~
- (a) the Authority issues directions to the licensee, the licensee shall comply with those directions and shall treat the significant code review phase as ended;
  - (b) the Authority issues to the licensee a statement that no directions under sub-paragraph (a) will be issued in relation to the BSC, the licensee shall treat the significant code review phase as ended;
  - (ba) the Authority makes a modification proposal in accordance with paragraph 4(a), the licensee shall treat the significant code review phase as ended;
  - (bb) the Authority issues a statement that it will continue work on the significant code review, the licensee shall treat the significant code review phase as continuing until it is brought to an end in accordance with paragraph 4D;
  - (c) neither directions under sub-paragraph (a), nor a statement under sub-paragraphs (b) or (bb), ~~has~~ have been issued, nor a modification proposal under sub-paragraph (ba) has been made, the significant code review phase will be deemed to have ended.

The Authority's published conclusions and directions to the licensee shall not fetter the voting rights of the members of the panel or the recommendation procedures informing the report described at paragraph 4(b)(v).

- 4D. The procedures for modification of the BSC shall provide that, if the Authority issues a statement under paragraph 4C(bb) and/or a direction in accordance with paragraph 4G, the significant code review phase will be deemed to have ended when either:
- (a) the Authority issues a statement that the significant code review phase has ended;
  - (b) one of the circumstances in paragraphs 4C(a) or (ba) occurs (irrespective of whether such circumstance occurs within twenty-eight (28) days after the Authority has published its significant code review conclusions); or
  - (c) the Authority makes a decision consenting or otherwise to the modification of the BSC following the panel's submission of its report under paragraph 4F(b).
- 4E. The procedures for the modification of the BSC shall provide that, where the Authority has issued a statement in accordance with paragraph 4C(bb) and/or a direction in accordance with paragraph 4G, the Authority may submit a modification proposal for a modification falling within the scope of paragraph 4H(b) to the panel.

4F. The procedures for the modification of the BSC shall provide, where the Authority submits a significant code review modification proposal to the panel in accordance with paragraph 4E:

- (a) for the preparation of a panel report:
  - (i) evaluating the proposed modification;
  - (ii) assessing the extent to which the proposed modification would better facilitate achieving the applicable BSC objective(s) and providing a detailed explanation of the panel's reasons for that assessment (such assessment to include, where the impact is likely to be material, an assessment of the quantifiable impact of the proposal on greenhouse gas emissions, to be conducted in accordance with such guidance on the treatment of carbon costs and evaluation of the greenhouse gas emissions as may be issued by the Authority from time to time); and
  - (iii) setting out a timetable for implementation of the modification, including the date with effect from which such modification (if made) would take effect;
- (b) for the submission of the report to the Authority as soon after the significant code review modification proposal is submitted for evaluation as is appropriate (taking into account the complexity, importance and urgency of the modification, and in accordance with the time periods specified in the BSC, which shall not be extended unless approved by the panel and not objected to by the Authority after receiving notice) for the proper execution and completion of the steps in sub-paragraph (a);
- (c) for the revision and re-submission of the panel report provided under paragraphs (a) and (b), such re-submission to be made, if required by a direction issued by the Authority under paragraph 5(aa), as soon after the Authority's direction as is appropriate (taking into account the complexity, importance and urgency of the modification);
- (d) for the timetable (referred to in sub-paragraph (a)(iii)) for implementation of any modification to be either:
  - (i) in accordance with any direction(s) issued by the Authority under paragraph 4(ae)(iii); or
  - (ii) where no direction has been issued by the Authority under paragraph 4(ae)(iii), such as will enable the modification to take effect as soon as practicable after the Authority has directed that such modification should be made, account being taken of the complexity, importance and urgency of the modification, and for that timetable to be extended or shortened with the consent of or as directed by the Authority after those persons likely to be affected by the revision of the timetable have been consulted; and
- (e) for the completion of each of the procedural steps outlined in this paragraph 4F, to the extent that they are relevant, to be in accordance with any timetable(s) directed by the Authority under paragraph 4(ae).

The Authority's published conclusions and significant code review modification proposal shall not fetter the voting rights of the members of the panel or the

recommendation procedures informing the report described at paragraph 4F(a).

4G. The procedures for the modification of the BSC shall provide that, where a proposal has been made in accordance with paragraph 4C(a) or 4(ae)(i), or by the Authority under paragraph 4C(ba) and it falls within the scope of paragraph 4H(b), the Authority may issue a direction (a "backstop direction"), which requires such proposal(s) and any alternatives to be withdrawn and which causes the significant code review phase to re-commence.

4H. Modification proposals fall within the scope of this paragraph where:

- (a) the Authority reasonably considers the modifications are necessary to comply with or implement the Electricity Regulation and/or any relevant legally binding decisions of the European Commission and/or the Agency; and/or
- (b) the modification proposal is in respect of a significant code review.

5.

- (a) Without prejudice to paragraph 13A, if a report has been submitted to the Authority pursuant to the procedures described in paragraph 4(b)(vi) or 4F(b), and the Authority is of the opinion that a modification set out in such report would, as compared with the then existing provisions of the BSC and any other modifications set out in such report, better facilitate achieving the applicable BSC objective(s), the Authority may direct the licensee to make that modification
- (aa) If a report has been submitted to the Authority pursuant to the procedures described in paragraph 4(b)(vi) or 4F(b) and if the Authority determines that the report prepared in accordance with paragraph 4(b)(v) or 4F(a) is such that the Authority cannot properly form an opinion in accordance with paragraph 5(a), the Authority may issue a direction to the panel:
  - (i) specifying the additional steps (including drafting or amending existing drafting of the modification to the BSC), revision (including revision to the timetable), analysis and/or information that it requires in order to form such an opinion; and
  - (ii) requiring the report to be revised and be re-submitted in accordance with paragraph 4(b)(vii) or 4F(c).
- (b) The licensee shall, upon receipt of a direction from the Secretary of State to do so, modify the BSC so as to incorporate any changes directed by the Secretary of State pursuant to section 90 of the Energy Act 2004 during or before the offshore transmission implementation period.
- (d) [Not used]
- (e) [Not used]
- (f) Without prejudice to paragraph 4A or 4E, only the licensee shall have power to modify the BSC.

6. The BSC shall provide for:

- (a) a copy of the BSC to be provided to any person requesting the same upon payment of an amount not exceeding the reasonable costs of making and providing such copy;
- (b) the licensee to refer to the Authority for determination, whether of its own motion or as provided in the BSC, such matters arising under the BSC as may be specified in the BSC;
- (c) information about the operation of the BSC and the balancing and settlement arrangements
  - (i) to be provided to the Authority and/or
  - (ii) to be published,

and for the licensee to be empowered to secure compliance with these requirements if so directed by the Authority.

7. [Not used]

(a) [Not used]

(b) [Not used]

8. The provisions of paragraphs 6 and 11 shall not limit the matters which may be provided for in the BSC.

9. The Authority may direct the licensee to procure the provision to the Authority of, or the publication of, such information about the operation of the BSC and/or the balancing and settlement arrangements as is referred to in paragraph 6(c) and specified in the direction.

10. The licensee shall comply with:

(a) the BSC; and

(b) any direction to the licensee made pursuant to this condition.

11.

(a) The licensee shall be a party to the BSC Framework Agreement.

(b) The BSC and/or the BSC Framework Agreement shall contain provisions:

(i) for admitting as an additional party to the BSC Framework Agreement any person who accepts the terms and fulfils the conditions (each as specified in the BSC) on which accession to the BSC Framework Agreement is offered;

(ii) for the licensee to refer to the Authority for determination, whether of its own motion or as provided in the BSC any dispute which shall arise as to whether a person seeking to be admitted as a party to the BSC Framework Agreement has fulfilled any accession conditions; and if the Authority determines that the person seeking admission has fulfilled all relevant accession conditions, for admitting such person as a party to the BSC Framework Agreement;

- (i) for persons to be admitted as additional parties to the BSC Framework Agreement by either
    - a representative (who need not be a BSC party) appointed thereunder to act on behalf of all parties to it, or
    - if there is no such representative or if the representative fails to act, the licensee acting on behalf of all parties to it.
  - (c) If, following a determination of the Authority as referred to in sub-paragraph (b)(ii), the representative referred to in sub-paragraph (b)(iii) fails to act on behalf of all parties to admit such person, the licensee shall act on behalf of all parties to admit such person if directed to do so by the Authority.
12. The licensee shall take all reasonable measures to secure and implement (consistently with the procedures applicable under or in relation to the core industry documents and/or industry codes to which it is party (or in relation to which it holds rights in respect of amendment)), and shall not take any steps to prevent or unduly delay, changes to those documents, such changes being changes which are appropriate in order to give full and timely effect to and/or in consequence of any modification which has been made to the BSC, including, but not limited to, changes that are appropriate in order to avoid conflict or inconsistency as between the BSC and any core industry document or industry code.
13. For the avoidance of doubt, paragraph 12 is without prejudice to any rights of approval, veto or direction in respect of proposed changes to the documents referred to in paragraph 12 which the Authority may have.
- 13A. The procedures for the modification of the BSC shall provide that modification proposals shall only be implemented without the Authority's approval pursuant to this paragraph 13A where:
- (a)
    - (i) in the view of the panel, the modification proposal meets, all of the self-governance criteria, and the panel has submitted to the Authority in respect of the modification proposal and not withdrawn a self-governance statement; or
    - (ii) if a self-governance statement has not been made, or has been withdrawn, the Authority has determined that the self-governance criteria are satisfied and the modification proposal is suitable for the self-governance route; and
  - (b) unless otherwise exempted by the Authority, the panel has sent copies of all consultation responses to the Authority at least seven (7) days before the panel intends to make its determination under paragraph 13A(d); and
  - (c) the Authority has not directed that the Authority's decision is required prior to the panel's determination under paragraph 13A(d); and
  - (d) the panel has, no earlier than seven (7) days after sending the consultation responses referred to at paragraph 13A(b), determined, in accordance with paragraphs 4(b)(i) to (v) of this condition as applicable, that the modification proposal or any alternative should be implemented on the basis that it would, as compared with the then existing provisions of the BSC and any other

modifications proposed in accordance with paragraph 4(b)(iv), better facilitate the achievement of the applicable BSC objective(s); and

(e)

- (i) no appeal has been raised up to and including 15 working days after the panel's determination under paragraph 13A(d) in respect of such modification proposal and any alternative in accordance with paragraph 13B; or
- (ii) an appeal has been raised in respect of such a modification proposal and any alternative in accordance with paragraph 13B and the Authority has not quashed the panel's determination referred to at paragraph 13A(d) of this condition and either remitted the relevant modification proposal and any alternative back to the panel for reconsideration or taken the decision on the relevant modification proposal and any alternative itself following the appeal.

13AA. In no circumstances can the self-governance procedure set out in paragraph 13A be used to amend the BSC to expand the range of activities that can be undertaken by the BSCCo as contemplated by paragraph 1D above.

13B. The procedures for the modification of the BSC shall provide that those persons set out at paragraph 4(a) may appeal to the Authority the approval or rejection by the panel of a modification proposal and any alternative falling under the self-governance route, provided the appeal has been made up to and including 15 working days after the approval or rejection and in accordance with the procedures specified in the BSC and, in the opinion of the Authority:

(a)

- (i) the appealing party is, or is likely to be, unfairly prejudiced by the implementation or non-implementation of that modification or alternative proposal; or
- (ii) the appeal is on the grounds that:
  - (1) in the case of implementation, the modification or alternative proposal may not better facilitate the achievement of at least one of the applicable BSC objectives; or
  - (2) in the case of non-implementation, the modification or alternative proposal may better facilitate the achievement of at least one of the applicable BSC objectives; and

(b) it is not brought for reasons that are trivial, vexatious or have no reasonable prospect of success.

13C. The procedures for the modification of the BSC shall provide that:

- (a) where an appeal has been raised in respect of a modification proposal and any alternative in accordance with paragraph 13B that modification proposal and any alternative shall be treated in accordance with any decision and/or direction of the Authority following that appeal;

- (b) if the Authority quashes the panel's determination referred to at paragraph 13A(d) of this condition and takes the decision on the relevant modification proposal and any alternative itself following an appeal in accordance with paragraph 13B, the panel's determination of that modification proposal and any alternative referred to in paragraph 13A(d) of this condition shall be treated as a report submitted to the Authority in accordance with the procedures specified in paragraph 4(b)(vi) of this condition and paragraph 5(a) of this condition and the panel's determination shall be treated as its recommendation.
- 13D. The procedures for the modification of the BSC shall provide that modifications shall only be implemented without the Authority's approval pursuant to this paragraph 13D (the "fast track self-governance route") where:
- (a) in the unanimous view of the panel, the proposed modification meets all of the fast track self-governance criteria;
  - (b) the panel unanimously determines that the modification should be made;
  - (c) BSC parties, the licensee and the Authority have been notified of the proposed modification;
  - (d) none of the persons named in sub-paragraph (c) have objected to the proposed modification being made via the fast track self-governance route in the fifteen (15) working days immediately following the day on which notification was sent; and
  - (e) notification under sub-paragraph (c) contains details of the modification proposed, that it is proposed to be made via the fast track self-governance route, how to object to the modification being made via the fast track self-governance route, the proposed legal drafting and the proposed implementation date.
- 13E. Without prejudice to any rights of approval, veto or direction the Authority may have, the licensee shall use its best endeavours to ensure that procedures are in place that facilitate its compliance with the requirements of this condition and create or modify industry documents including but not limited to the BSC, core industry documents and industry codes where necessary no later than ~~31 December 2013~~31 March 2017.
14. In this condition in the expression "sale and purchase of electricity", sale excludes sale by way of assumption of an imbalance under the BSC and sale by way of supply to premises, and purchase shall be construed accordingly; and

"applicable BSC objective(s)"

Means

- ~~(a) in relation to a proposed modification of the modification procedures, the requirements of paragraph 4 (to the extent they do not conflict with the objectives set out in paragraph 3); and~~
- ~~(b) in relation to any other proposed modification, the objectives set out in paragraph 3.~~

"Code of Practice"

means the Code Administration Code of Practice approved by the Authority and:

- (a) developed and maintained by the code administrators in existence from time to time;

- and
- (b) amended subject to the Authority's approval from time to time; and
- (c) re-published from time to time.

"directions"

means, in the context paragraph 4C, direction(s) issued following publication of significant code review conclusions which shall contain:

- (i) instructions to the licensee to make (and not withdraw, without the Authority's prior consent) a modification proposal;
- (ii) the timetable for the licensee to comply with the Authority's direction(s); and
- (iii) the Authority's reasons for its direction(s).

"fast track self-governance criteria"

means that a proposal, if implemented,

- (b) would meet the self-governance criteria; and
- (c) is properly a housekeeping modification required as a result of some error or factual change, including but not limited to:
  - (i) updating names or addresses listed in the BSC;
  - (ii) correcting minor typographical errors;
  - (iii) correcting formatting and consistency errors, such as paragraph numbering; or
  - (iv) updating out of date references to other documents or paragraphs.

"industry code"

means a multilateral code or agreement created and maintained pursuant to a licence granted by the Authority under section 6 of the Act or under sections 7, 7ZA or 7A of the Gas Act 1986.

"self-governance criteria"

means, a proposal that, if implemented:

- (a) is unlikely to have a material effect on:
  - (i) existing or future electricity consumers; and
  - (ii) competition in the generation, distribution, or supply of electricity or any commercial activities connected with the generation, distribution, or supply of electricity; and
  - (iii) the operation of the national electricity transmission system; and
  - (iv) matters relating to sustainable development, safety or security of supply, or the management of market or network emergencies; and
  - (v) the BSC's governance procedures or modification procedures, and

- (b) is unlikely to discriminate between different classes of BSC parties.
- “self-governance statement” means a statement made by the panel and submitted to the Authority in accordance with paragraph 13A(a)(i):
- (a) confirming that, in its opinion, the self-governance criteria are met and the modification is suitable for the self-governance route; and
  - (b) providing a detailed explanation of the panel’s reasons for that opinion.
- “significant code review” means a review of one or more matters which the Authority considers likely to;
- (a) relate to the BSC (either on its own or in conjunction with other industry code(s)); and
  - (b) be of particular significance in relation to its principal objective and/or general duties (under section 3A of the Act), statutory functions and/or relevant obligations arising under EU law; and
- concerning which the Authority has issued a notice to the BSC parties (among others, as appropriate) stating:
- (i) that the review will constitute a significant code review;
  - (ii) the start date of the significant code review; and
  - (iii) the matters that will fall within the scope of the review.
- “significant code review phase” means the period
- (a) commencing either:
    - (i) on the start date of a significant code review as stated by the Authority, or
    - (ii) on the date the Authority makes a direction under paragraph 4G (a “backstop direction”), and
  - (b) ending either:
    - (i) on the date on which the Authority issues a statement under paragraph 4C(b) (that no directions will be issued in relation to the BSC); or
    - (ii) if no statement is made under paragraph 4C(b) or (bb), on the date on which the licensee has made a modification proposal in accordance with paragraphs 4(aa), 4C(a) and 10(b), or the Authority makes a modification proposal under paragraph 4C(ba); or
    - (iii) immediately under paragraph 4C(c), if neither a statement, a modification proposal or directions are issued made by the Authority up to and including twenty-eight (28) days from the Authority’s publication of its significant code review conclusions; or
    - (iv) if a statement has been made under paragraph 4C(bb) or a direction has been made under paragraph 4G (a “backstop

direction”), on the date specified in accordance with paragraph 4D.

“small participant”

means

- (a) a generator, supplier, distributor, or new entrant to the electricity market in Great Britain that can demonstrate to the code administrator that it is resource-constrained and, therefore, in particular need of assistance;
- (b) any other participant or class of participant that the code administrator considers to be in particular need of assistance; and
- (c) a participant or class of participant that the Authority has notified the code administrator as being in particular need of assistance.

“transition modification provisions”

means the provisions of this condition which apply or applied during the transition period and which enable or enabled the Authority (whether with or without the consent of the Secretary of State) to direct the licensee to modify the BSC in certain circumstances.

“affiliate of the BSCCo”

means any holding company or subsidiary of the BSCCo or any subsidiary of a holding company of the BSCCo, in each case within the meaning of section 1159(1) of the Companies Act 2006.