

Modification proposal:	<b>Competition in Connections Code of Practice (CiCCoP) Modification 0005 – Transfer of Control Modification</b>		
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:	24 April 2017	Implementation date:	26 April 2017

## Background

The Competition in Connections Code of Practice (CiCCoP)<sup>4</sup> outlines the approach that Distribution Network Operators (DNOs) must use to authorise Independent Connection Providers (ICPs) carrying out specified Contestable Activities<sup>5</sup> on the DNO's existing distribution network. The CiCCoP currently identifies three options for authorising ICPs to do this work:

1. *Option 1 – ICP authorisation of ICP Employees and Contractors:* Under this approach the ICP will operate under their own Safety Management System (which must be of an equivalent standard to the DNOs). The ICP is then responsible for determining the relevant competency requirements for the work undertaken.
2. *Option 2 – DNO authorisation of ICP Employees:* Under this approach the ICP will operate under the DNO's Safety Management System and the DNO determines the relevant competency requirements for the ICP's employees or contractors.
3. *Option 3 – Transfer of Control:* Under this approach, the DNO transfers control of a specified part of its Distribution System for the purposes of the ICP's activity. The ICP has control of the specific part of Distribution System and carries out the work in accordance with its own Safety Management System, including its Safety Rules.

The DNOs are also required to comply with standard licence condition 26 (SLC 26) of the electricity distribution licence. This licence condition prohibits licensees from relinquishing operational control of its distribution system, except in accordance with the licence condition.

Northern Powergrid (NPg) raised concerns that the third option for authorising ICPs to carry out specified Contestable Activities on the DNOs' existing distribution network (ie 'Option 3 – Transfer of Control'), believing that it may be inconsistent with their obligations under SLC 26.

## The modification proposal

This modification was raised by NPg on 13 December 2016. NPg considers that the modification will better facilitate Relevant Objective (b).<sup>6</sup> The modification seeks to amend the description of 'Option 3 – Transfer of Control' to ensure that the CiCCoP is consistent with SLC 26. Specifically, the modification amends the description of Option 3 to make it clear that under this option the DNO is not relinquishing operation control over

<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

<sup>4</sup> A link to the CiCCoP can be found here:

[http://www.connectionscode.org.uk/assets/files/CiCCoP\\_final\\_January2017.pdf](http://www.connectionscode.org.uk/assets/files/CiCCoP_final_January2017.pdf)

<sup>5</sup> Contestable Activities are connection activities that are open to competition and can be completed by an ICP.

<sup>6</sup> Relevant Objective (b) of the CiCCoP is to "not distort, prevent or restrict competition in the Local Connections Markets"

its network. Instead, the DNO is temporarily assigning to an ICP authority to conduct the necessary specified field operations within a pre-defined part of its network.

### **CiCCoP Panel recommendation**

The Modification Report for CiCCoP Modification 0005 indicates that all CiCCoP Panel Members recommended for us to approve the modification proposal. All CiCCoP Panel Members believed that the modification better achieves the Relevant Objectives of the CiCCoP.

### **Our decision**

We have considered the issues raised by the proposal and the Modification Report dated 27 March 2017. 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;<sup>7</sup> and
- direct that the modification is approved as this is consistent with our principal objective and statutory duties.<sup>8</sup>

### **Reasons for our decision**

We consider that this modification proposal better facilitates 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 amendments will improve the clarity of the requirements under the CiCCoP and removes any perceived conflict between the CiCCoP and the electricity distribution licence. We consider that improved clarity will help facilitate DNO compliance with the requirements of the CiCCoP, thus ensuring that DNOs do not distort, prevent or restrict competition in the market for new electricity distribution connections.

### **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 0005: Transfer of Control Modification*' be made.

### **James Veaney**

#### **Head of Electricity Connections and Constraints Management**

Signed on behalf of the Authority and authorised for that purpose

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<sup>7</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.

<sup>8</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.