

Modification proposal:	Smart Energy Code (SEC) SECMP088 – Power to raise modifications		
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:	18 September 2020	Implementation date:	n/a

Background to the modification proposal

SEC Section D1.3⁴ sets out who can raise a Draft Proposal to modify the SEC. This includes SEC Parties, the DCC, Citizens Advice and Citizens Advice Scotland, any person specifically designated by the Authority for that purpose, and the Authority where the Draft Proposal is in relation to a Significant Code Review. The SEC Panel is also able to raise Draft Proposals in specific circumstances.⁵

There are examples where a SEC Party has chosen to raise a modification after a change has been identified by a body that is not authorised under the SEC to raise a modification. This has happened, for example, when the SEC Panel or the Smart Energy Code Administrator and Secretariat (SECAS) have identified issues and SEC Parties have then chosen to raise related modifications.

The modification proposal

SECMP088 was raised by British Gas (the Proposer) on 8 October 2019 and seeks to amend SEC Sections D (Modification Process), G (Security) and L (Smart Metering Key Infrastructure and DCC Key Infrastructure). This modification proposes to extend who can raise Draft Proposals to:

- SECAS and the SEC Panel where the Draft Proposal modifies any part of the SEC
- all SEC Sub-Committees where the Draft Proposal relates to the powers, duties and functions of that Sub-Committee
- the Alternative Home Area Network (Alt HAN) Forum where the Draft Proposal has an effect on the Alt HAN Arrangements.

The Proposer considers that SECMP088 would better facilitate the seventh SEC Objective (g).⁶ The Proposer considers that the current limits on who can raise a Draft Proposal are blocking the efficient progress of changes. This is because of the time required to find a SEC Party who agrees that a Draft Proposal is needed as well as the time and effort that the Proposer needs to commit to the development of the Modification Proposal. The Proposer argues that removing the need to find a SEC Party willing to raise a Draft

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 The circumstances in which the Panel can raise Draft Proposals are set out in SEC Section D1.3(e). For example, the Panel can raise Draft Proposals to address inconsistencies between the SEC and other industry codes, or following an Authority requested review of whether the code continues to meet the SEC Objectives.

⁶ Facilitate the efficient and transparent administration and implementation of this Code.

Proposal would ensure changes are raised more quickly. The Proposer also considers that it would ensure that the owner of the modification is fully engaged in the process.

SEC Change Board⁷ recommendation

At the SEC Change Board meeting on 26 February 2020, the Change Board agreed unanimously that SECMP088 would better facilitate SEC Objective (g) and the Change Board therefore recommended its approval.

Our decision

We have considered the issues raised by SECMP088 and the Final Modification Report (FMR) 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 the Modification Proposal would not better facilitate the SEC Objectives.⁸

Reasons for our decision

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

We consider that SECMP088 would not better facilitate the seventh General SEC Objective. We do not consider that there is sufficient evidence to demonstrate either that the current governance arrangements are blocking the efficient progression of modifications, or that the Proposed Solution would result in net benefits to consumers.

The Proposed Solution would allow the SEC Panel, SECAS, the Sub-Committees and the Alt HAN Forum to raise modifications. The FMR includes examples of changes raised by SEC Parties as a result of issues being identified by these groups. However, the FMR does not include evidence of the current arrangements preventing modifications being raised thereby negatively impacting the operation of the SEC or prohibiting any of the SEC Sub-Committees or the Alt HAN Forum from discharging their roles and responsibilities in an efficient manner.

We also do not consider that the FMR provides appropriate detail on the impact of this modification on the SEC, or how or when these powers would be used. The Proposed Solution does not include any new or amended responsibilities or accountability mechanisms that could sit alongside the ability to raise modifications that may help to ensure this change would better facilitate the relevant SEC Objectives. In addition, no discussion or assessment of any such changes is included in the FMR. In the absence of this assessment or potential mitigations, there is a risk that modifications may be proposed without appropriate industry support or consideration.

The FMR also includes an implementation cost to SECAS of £1,200 for this modification. It is not clear to us if any other ongoing costs would be incurred by SECAS and the wider industry if this modification was approved. For example, it is possible that the additional

⁷ The SEC Panel and Change Board are established and constituted pursuant to and in accordance with DCC Licence 22.25(a).

⁸ The Objectives in accordance with DCC Licence 22.10-22.17.

workload associated with raising modifications could lead to new expenditure⁹, and that these costs could ultimately outweigh the perceived benefits of this proposal.

Future of Code Governance

The Code Governance landscape is currently undergoing a period of significant review and change, as highlighted by a respondent to the Refinement Consultation. In particular, the new Retail Energy Code (REC) is establishing a new framework for a Code Manager with enhanced responsibilities and accountability, while our joint Energy Codes Review¹⁰ with BEIS is proposing fundamental changes to the governance of the codes.

Our REC proposals include the creation of a new role of a REC Code Manager that will have responsibilities and accountabilities to ensure good consumer outcomes. For example, the REC Code Manager will be responsible for delivering the REC Strategy on behalf of the REC Company (RECCo) Board. In order to help fulfil this role, the REC Code Manager will be able to propose changes to the REC. Its performance will be monitored by the RECCo Board, with input from a Performance Assurance Board, giving enhanced confidence to market participants on its activities. Our REC proposals also include provisions that any person can propose a change to the code. However, this is part of a wider package of reforms, designed to ensure that a suitable framework is in place to support an efficient and effective approach to change management.

We encourage code bodies to continue to monitor changes as a result of our REC proposals and the Energy Codes Review and, where appropriate, to consider where improvements could be made to the existing governance arrangements. In making any proposal we would expect to be provided with an explanation of the defect it seeks to correct and a full assessment of the anticipated impact the proposal would have against the relevant code objectives. In addition, we would expect any proposal to fully consider the potential risks associated with the change, and include suitable arrangements to mitigate against these risks.

Further, we recognise that the SEC Panel, SECAS, SEC Sub-Committees, and the Alt HAN Forum may be in a position to highlight to SEC Parties changes they consider would have a positive impact against the SEC Objectives. We welcome their continued work in this area.

Decision notice

In accordance with standard licence condition 23 of the Smart Meter Communication licence, the Authority hereby determines that modification proposal SECMP088 'Power to raise modifications' should not be made.

David Hall

Head of Code Governance

Signed on behalf of the Authority and authorised for that purpose

⁹ We note the indicative costs of larger DCC System impacting modifications going through the SEC Change process which, in the FMR for SECMP079 'Provisions for withdrawing modifications', are quoted as approximately £300,000.

¹⁰ <https://www.gov.uk/government/consultations/reforming-the-energy-industry-codes>