

## Grid Code Administrator Consultation Response Proforma

### GC0132 – Updating the Grid Code governance process to ensure we capture EBGL change process for Article 18 Terms and Conditions (T&Cs)

Industry parties are invited to respond to this Code Administrator Consultation expressing their views and supplying the rationale for those views, particularly in respect of any specific questions detailed below.

Please send your responses by **17:00** on **07 April 2020** to [grid.code@nationalgrideso.com](mailto:grid.code@nationalgrideso.com). Please note that any responses received after the deadline or sent to a different email address may not be included within the Final Modification Report to the Authority.

Any queries on the content of the consultation should be addressed to Chrissie Brown at [Christine.Brown1@nationalgrideso.com](mailto:Christine.Brown1@nationalgrideso.com)

These responses will be included within the Draft Final Grid Code Modification Report to the Grid Code Panel and within the Final Grid Code Modification Report to the Authority.

<b>Respondent:</b>	<i>Rob Wilson</i>
<b>Company Name:</b>	<i>NGESO</i>
<b>Please express your views regarding the Code Administrator Consultation, including rationale. (Please include any issues, suggestions or queries)</b>	<p><i>For reference, the Applicable Grid Code objectives are:</i></p> <ul style="list-style-type: none"><li>(a) To permit the development, maintenance and operation of an efficient, coordinated and economical system for the transmission of electricity</li><li>(b) Facilitating effective competition in the generation and supply of electricity (and without limiting the foregoing, to facilitate the national electricity transmission system being made available to persons authorised to supply or generate electricity on terms which neither prevent nor restrict competition in the supply or generation of electricity);</li><li>(c) Subject to sub-paragraphs (i) and (ii), to promote the security and efficiency of the electricity generation, transmission and distribution systems in the national electricity transmission system operator area taken as a whole;</li><li>(d) To efficiently discharge the obligations imposed upon the licensee by this license and to comply with the Electricity Regulation and any relevant legally</li></ul>

	binding decisions of the European Commission and/or the Agency; and  (e) To promote efficiency in the implementation and administration of the Grid Code arrangements.
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**Code Administrator Consultation questions**

Q	Question	Response
1	<p><b>Do you believe GC0132 or any of its alternatives (WAGCM1, WAGCM2 or WAGCM3) better facilitate the Applicable Grid Code Objectives? Please include your reasoning.</b></p> <p><b>Please include your reasoning.</b></p>	<p>The processes set out in EBGL Article 18 represent only small changes to the GB frameworks and deliver no actual benefit to GB stakeholders. This modification is however required to ensure correct alignment with European Law, although it should be noted that as drafted by ENTSO-E the intention was only to ensure that all member states fulfilled a certain minimum requirement of engagement on changes to balancing terms &amp; conditions rather than to put in place a particularly prescriptive process.</p> <p>As such each of the original and the WAGCMs is neutral against objectives (a)-(c) and positive against objective (d) in ensuring compliance with European Law.</p> <p>The original is a minimum compliant solution. WAGCM1 attempts to reduce the likelihood of future errors by establishing a single process that is administratively easier to manage, and by providing a definition of the 'Regulated Sections' could facilitate easier future changes to the Terms &amp; Conditions. WAGCMs 2&amp;3 which require the delegation of tasks set out in EBGL from the ESO to the Panel are however unnecessary as the Panel is already responsible for determining how CAC responses are incorporated into a solution while the ESO, through their role as the Code Administrator, is responsible for setting out the justification for this in a final report - and this would already be an expectation from Ofgem in being able to come to a decision on a code modification.</p> <p>The original and WAGCM1 are therefore positive against objective (e) while WAGCMs 2&amp;3 are negative against this as they introduce an unnecessary and confusing change of roles, as well as requiring a decision from Ofgem on the delegation of ESO responsibilities.</p>
2	<p><b>Do you support the proposed implementation approach?</b></p>	<p>Yes. For the Grid Code this is straightforward as no material modifications affecting balancing T&amp;Cs were in progress after 4 August 2019.</p>

Q	Question	Response
3	<p><b>Do you have any other comments in relation to GC0132?</b></p>	<p>A great deal of effort was put in towards the end of the workgroup development to ensure a consistent solution across each of the affected GB codes, so including the CUSC and BSC. There are still minor inconsistencies between the original (and WAGCM1) and the BSC solution, but only in respect of the role of the ESO as for the BSC solution some further delegations were required to map TSO duties set out in EBGL to Elexon (on top of the delegations already in place to transfer ESO licence obligations to operate the BSC to the BSCCo).</p> <p>As noted above, and as part of the solution set out in WAGCMs 2&amp;3, this is unnecessary and confusing.</p> <p>The original is the option that we would back. Although the principle and objective of WAGCM1 in establishing a single process that can apply to all modifications has considerable merits, given that the EBGL A18 process also requires an assessment of the impact of a modification on the balancing T&amp;Cs this becomes quite complex to establish efficiently at various stages of a code modification and within a single unified process. The original is therefore better as it represents a minimum compliant solution.</p>

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These responses will be included within the Draft Final Grid Code Modification Report to the Grid Code Panel and within the Final Grid Code Modification Report to the Authority.

<b>Respondent:</b>	<i>Garth Graham (garth.graham@sse.com)</i>
<b>Company Name:</b>	<i>SSE Generation</i>
<b>Please express your views regarding the Code Administrator Consultation, including rationale. (Please include any issues, suggestions or queries)</b>	<p><i>For reference, the Applicable Grid Code objectives are:</i></p> <ul style="list-style-type: none"> <li>(a) To permit the development, maintenance and operation of an efficient, coordinated and economical system for the transmission of electricity</li> <li>(b) Facilitating effective competition in the generation and supply of electricity (and without limiting the foregoing, to facilitate the national electricity transmission system being made available to persons authorised to supply or generate electricity on terms which neither prevent nor restrict competition in the supply or generation of electricity);</li> <li>(c) Subject to sub-paragraphs (i) and (ii), to promote the security and efficiency of the electricity generation, transmission and distribution systems in the national electricity transmission system operator area taken as a whole;</li> <li>(d) To efficiently discharge the obligations imposed upon the licensee by this license and to comply with the Electricity Regulation and any relevant legally</li> </ul>

	<p>binding decisions of the European Commission and/or the Agency; and</p> <p>(e) To promote efficiency in the implementation and administration of the Grid Code arrangements.</p>
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### Code Administrator Consultation questions

Q	Question	Response
1	<p><b>Do you believe GC0132 or any of its alternatives (WAGCM1, WAGCM2 or WAGCM3) better facilitate the Applicable Grid Code Objectives? Please include your reasoning.</b></p> <p><b>Please include your reasoning.</b></p>	<p>We believe that the Original and the three WAGCMs are all neutral in terms of Applicable Objectives (a), (b) and (c).</p> <p>In terms of Applicable Objective (d) we believe that the Original and the three WAGCMs are all better in terms of ensuring compliance with European law and in terms of the efficiency in implementation and application of the Grid Code (therefore better in terms of Applicable Objective (e)).</p> <p>The reason for this is that the GCRP cannot currently change a proposal after the Code Administrator Consultation (except for non-material items) as proposer ownership applies. WAGCM 2 and WAGCM3 would ensure a consistency in approach between the BSC (as set out in the P392 workgroup discussions) and Grid Code with the Article 10(6) powers being exercised, in both codes, by the respective Panel. Therefore, in our view, WAGCMs 2 and 3 are better than the Original. WAGCM1 has some additional advantages over the Original and thus WAGCM3 is best overall.</p>
2	<p><b>Do you support the proposed implementation approach?</b></p>	<p>Notwithstanding our other comments in this response concerning the legal status of the 8<sup>th</sup> October 2019 'decision' letter (and thus what are the terms and conditions related to balancing in GB); we support the proposed implementation approach if this modification is legally permissible.</p>

<p>3</p>	<p><b>Do you have any other comments in relation to GC0132?</b></p>	<p>We note that the 25 detailed questions of a legal nature that we raised with NGESO and Ofgem in early November (and which we shared with the GCRP in early December) in respect of the legal status of Ofgem’s 8<sup>th</sup> October 2019 ‘decision’ letter have still not been answered.</p> <p>Therefore, absent of the legal answers to those 25 questions, the legal status of that ‘decision’ remains in doubt and, accordingly, so does the legal status of any subsequent decision(s) in respect of code modifications (including, but not limited to, GC0132, CMP322 and P392) that are predicated on the Ofgem 8<sup>th</sup> October 2019 ‘decision’ letter being the NRA instrument to have approved, according to Article 6(1) of the EBGL, the Article 18 required terms and conditions related to balancing in GB.</p> <p>This legal status uncertainty will also be the case if, in due course, any future Article 6(3) amendment(s) to the Article 18 required ‘terms and conditions related to balancing’ in GB are brought forward in their own right (by the TSO or NRA) or if any GB code modifications to the Grid Code, CUSC or BSC are raised to do likewise.</p> <p>We note the Workgroup discussion set out on page 10 of the consultation document:</p> <p>“The Proposer believes that the date in-train modifications are affected from is 4th April 2020 when the GC0132 modification is implemented. A Workgroup member disagreed, noting that the TSO’s proposal (of the Article 18 terms and conditions related to balancing) to the Authority was based on the Grid Code (and other documentation) at that date (4th August 2019). The Workgroup member therefore believes that the in-train modifications that are affected are those approved (by the Authority or the GCRP) from 4th August 2019 onwards.”</p> <p>Notwithstanding the above, and for the avoidance of doubt, we believe that as the TSO’s 4<sup>th</sup> August 2019 proposal to the NRA could only have included the baseline version of the Grid Code at that time (including any code modification(s) approved by the NRA prior to that date, but due to implemented after 4<sup>th</sup> August). It could not have</p>
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Q	Question	Response
		<p>included any subsequent GB industry code changes that impact on parts of those codes listed in Annex 1 of the 4<sup>th</sup> August 2019 TSO proposal.</p> <p>Furthermore, we understand from the P392 Workgroup meeting on 24<sup>th</sup> March 2020 that the 4<sup>th</sup> August 2019 (rather than 4<sup>th</sup> April 2020 or 25<sup>th</sup> June 2020) is now accepted in terms of the BSC equivalent change (P392) to this GC0132 modification.</p>