

Modification proposal:	Grid Code GC0131: 'Quick wins' Improvements to Grid Code open governance arrangements (GC0131)		
Decision:	The Authority ¹ directs ² that GC0131 Original modification to the Grid Code be made		
Target audience:	National Grid Electricity System Operator (NGESO), the Grid Code Review Panel, Grid Code users and other interested parties		
Date of publication:	11 November 2020	Implementation date:	Ten working days after the decision date

Background

The Grid Code Review Panel (GCRP) adopted open governance arrangements in February 2017.³ Since then, some areas have been highlighted by stakeholders that if addressed may better ensure the timely progress of code modifications and best use of industry time.

In advance of any outcome of the Energy Codes Review⁴, this modification seeks to make changes to the Grid Code's governance rules.

The modification proposal

NGESO (the Proposer) raised this modification on 19 September 2019 with the aim of ensuring that the Grid Code and industry are able to respond to drivers of change in a more resource efficient way.

GC0131 seeks to make the following Grid Code governance changes:

- Reducing the quorum of members required at Workgroup meetings. Current quorum arrangements stipulate that a Workgroup and any Workgroup meeting will only be considered quorate with five members. GC0131 proposes to reduce the quorum number of Workgroup members to three, defined as a "limited membership workgroup". When a limited membership workgroup is established, the following conditions will apply:
 - one of the minimum three members is NGESO and the remaining two members cannot be from affiliated companies or concerns
 - a workgroup consultation must be held in addition to the code administrator consultation
 - NGESO will request workgroup nominations on a continuing basis and seek the Grid Code Panel's advice if quoracy is still not reached
 - following the workgroup vote, the limited membership workgroup must share the draft final workgroup report with all stakeholders

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.

³ Please see GC0086: Open Governance <https://www.nationalgrideso.com/industry-information/codes/grid-code/modifications/gc0086-open-governance>

⁴ This is the joint review being undertaken by BEIS and Ofgem to develop options for improving the energy codes and their governance. Please see <https://www.ofgem.gov.uk/publications-and-updates/energy-codes-review>

- Ofgem can instruct the limited workgroup membership to stop work and/or provide a progress report to GCRP. It can also instruct the Code Administrator at any point to seek further nominations for workgroup membership.
- Clarifying that the code administrator is responsible for drafting legal text.
- Amending the alternative modification criteria so that the test for raising an alternative is that any alternative proposal may better facilitate achieving the applicable Grid Code objective(s) than the modification proposal itself, rather than by reference to the Grid Code baseline.
- With the agreement of the Proposer NGESO could make clearer the title or the summary of a modification. If a Proposer disagrees, GCRP can agree changes.
- The ability of the GCRP to establish a Workgroup where none existed before to address substantive issues arising from industry consultation.
- Allowing the GCRP to invite a Proposer to either clarify their proposal or withdraw it.

If approved, GC0131 will apply to existing modifications not already submitted to the Authority for decision.

The proposer considers GC0131 better facilitates Grid Code objectives (iv) and (v) with a positive impact on the remaining objectives.

GC0131 alternative proposal

During the assessment stage, a panel member considered that industry should have the option to retain the existing criteria for assessing workgroup alternative Grid Code modifications (WAGCMs). The existing criteria allow a Workgroup to raise an alternative proposal as long as it better facilitates the Grid Code objectives than the baseline. The Workgroup raised GC0131 alternative which is the same as the Original proposal but does not seek to change the existing criteria for raising alternative modifications.

Grid Code Review Panel recommendation

The Grid Code Review Panel (GCRP) on 24 September 2020 voted by majority to recommend the alternative proposal. The GCRP agreed by majority that both the original and alternative better facilitated the Grid Code objectives than the baseline. In their voting statements, the majority of panel members explained that their preference for the alternative rested on the view that it affords a broader opportunity of alternatives compared to the original. They consider this is in line with the principles of open governance and gives Ofgem a wider choice of options to increase the chances of the modification being accepted.

Our decision

We have considered the issues raised by the modification proposal and in the Final Modification Report dated 7 October 2020. We have considered and taken into account the responses to the industry consultation on the modification proposal which are included in the Final Report⁵. We have concluded that:

⁵ Grid Code proposals, final reports and representations can be viewed on NGESO's website at: <https://www.nationalgrideso.com/industry-information/codes/grid-code/modifications>

- implementation of GC0131 Original proposal will better facilitate the achievement of the objectives of the Grid Code;⁶ and
- approving the Original proposal is consistent with our principal objective and statutory duties.⁷

Reasons for our decision

We consider GC0131 Original will better facilitate Grid Code objectives (iv) and (v) with a neutral impact on the other Grid Code objectives.

(iv) to efficiently discharge the obligations imposed upon the licensee by this license and to comply with the Electricity Regulation and any relevant legally binding decisions of the European Commission and/or the Agency.

The Proposer considers that the Original proposal meets objective (iv) because it is based on the correct legal interpretation of the relevant licence provision⁸ that sets out how alternatives should be assessed in the Grid Code. Currently the Grid Code allows a Workgroup by majority to raise a WAGCM as long as it better facilitates the Grid Code objectives than the baseline⁹. The Original proposal seeks to amend the Grid Code so that it mirrors the relevant licence provision by requiring the WAGCM to better meet the objectives than the proposed modification itself, rather than the baseline. The alternative proposal retains this criteria and makes all the other GC131 changes.

We agree that the provisions in the Grid Code should align with the relevant licence provision thereby allowing NGENSO to efficiently discharge its licence obligation. Therefore, we believe that the Original proposal better aligns with this objective.

(v) to promote efficiency in the implementation and administration of the Grid Code arrangements

We note that the GCRP, the Workgroup and Code Administrator Consultation respondents agreed, in the main, that both the Original proposal and the alternative better facilitate this objective with the majority of the GCRP and Workgroup favouring the alternative. We agree with this assessment that both GC0131 proposals meet objective (v).

We recognise that requirements around quoracy can delay the progression of modifications through the change process. Flexibility to reduce workgroup membership to three parties with the accompanying safeguards, including our ability to request that further Workgroup members are requested and that the final workgroup report is shared with all stakeholders, should allow modifications to progress in a timely and efficient way. However we expect the limited workgroup membership to be used infrequently and encourage industry to fully participate in the change process.

We consider that the other changes proposed in GC0131 such as i) clarifying that the NGENSO is responsible for drafting legal text; ii) NGENSO suggesting improvements to

⁶ As set out in Standard Condition C14(1)(b) of the Electricity Transmission Licence, available at: <https://epr.ofgem.gov.uk/>

⁷ The Authority's statutory duties are wider than matters which the Grid Code Panel Review must take into consideration and are detailed mainly in the Electricity Act 1989 as amended.

⁸ Electricity Transmission Condition 14 2A (g)(v) states: "...for the development and consideration of any alternative modification which may, as compared with the proposed modification, better facilitate achieving the applicable Grid Code objective(s)..."

⁹ GR20.15 of the Grid Code <https://www.nationalgrideso.com/industry-information/codes/grid-code>

modification titles and summaries; iii) clarity on a way forward when objections and/or substantive responses to the Code Administrator Consultation are received where no Workgroup exists; and iv) enabling the Panel to seek clarity of a new modification before accepting it, all lend themselves to positively impacting this objective because they should all improve the administration and efficiency of the code change process.

We note that the majority view of the GCRP is preference for the alternative proposal as it does not amend the test within the Grid Code to raise an alternative. As noted, the test under GC0131 better reflects the requirements under the licence. We do not consider that this change should negatively impact the ability of a Workgroup to raise WAGCM proposals and may instead encourage additional assessment and consideration of WAGCMs before they enter the change process thereby better facilitating this objective by promoting efficiency.

Our preference for the Original proposal is in line with our thinking that the codes should follow the licence provisions where possible. We do not consider the Original proposal to narrow the potential for alternative modifications. The test under GC0131 is that an alternative proposal may better facilitate the Grid Code objectives than the original solution proposed. This test should not act as a barrier for potentially beneficial alternatives. In this respect we consider the Original proposal is in keeping with the intent and spirit of open governance.

For these reasons we consider that the original proposal best facilitates this Grid Code objective because the changes proposed should improve the efficiency and administration of the Grid Code.

Decision notice

In accordance with Standard Condition C14 of the Transmission Licence, the Authority hereby directs that the Original proposal for GC0131: 'Quick wins- Improvements to Grid Code open governance arrangements' be made.

David Hall
Head of Code Governance

Signed on behalf of the Authority and authorised for that purpose