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| Modification proposal: | System Operator (“SO”) – Transmission Owner (“TO”) Code (“STC”) CM052: Code Governance Review (Phase 2) – Code Administrator and Code Administration Code of Practice | | |
| Decision: | The Authority ¹ directs that this modification be made ² | | |
| Target audience: | National Grid Electricity Transmission PLC (NGET), Parties to the STC and other interested parties | | |
| Date of publication: | 06 November 2013 | Implementation Date: | 20 November 2013 |

Background to the modification proposal

Ofgem’s Code Governance Review³ (CGR) sought to update and improve the industry code governance arrangements to ensure that they could effectively meet the challenges facing the industry, and to reduce complexity to ensure transparency and accessibility for all industry participants.

The CGR concluded in March 2010 with final proposals focusing primarily on the Balancing and Settlement Code (BSC), the Connection and Use of System Code (CUSC) and the Uniform Network Code (UNC). In April 2012, we initiated a second phase CGR (CGR Phase 2) with the aim of extending governance arrangements introduced through the CGR to other industry codes, including the System Operator-Transmission Owner Code (STC).

Following a consultation on initial proposals in September 2012,⁴ we published final proposals for CGR Phase 2 in March 2013.⁵ Licence modifications giving effect to these final proposals came into force on 5 August 2013.⁶

The CGR Phase 2 final proposals included a requirement for the introduction of the concept of an administrative body (the “Code Administrator”) and the Code Administration Code of Practice (“CACoP”)⁷ into the STC governance arrangements. The CACoP establishes certain principles that are considered to capture the key elements of best practice in the administration of code modification procedures. It also provides a template for the ongoing convergence and simplification of existing code rules.

¹ The terms ‘the Authority’, ‘Ofgem’ and ‘we’ are used interchangeably in this document. Ofgem is the Office of the Gas and Electricity Markets Authority.

² This document is notice of the reasons for this decision as required by section 49A of the Electricity Act 1989.

³ CGR Phase 1 final proposals: <https://www.ofgem.gov.uk/publications-and-updates/code-governance-review-final-proposals-4310>

⁴ CGR Phase 2 initial proposals: <https://www.ofgem.gov.uk/publications-and-updates/code-governance-review-phase-2-consultation>

⁵ CGR Phase 2 final proposals: <https://www.ofgem.gov.uk/publications-and-updates/code-governance-review-phase-2-final-proposals>

⁶ CGR Phase 2 licence modifications: <https://www.ofgem.gov.uk/publications-and-updates/modification-gas-and-electricity-licences-implement-code-governance-review-phase-2-final-proposals>

⁷ The CACoP is for energy code administrators and users of those codes. It was developed by industry as part of the CGR: <https://www.ofgem.gov.uk/licences-codes-and-standards/codes/industry-codes-work/code-administration-code-practice-cacop>

The licence also sets out a role for the Code Administrator to facilitate the code modification processes and, where reasonably requested, assist code users wishing to engage with the STC modification procedures.

The proposed modification

National Grid Electricity Transmission (NGET) ("the proposer") raised modification CM052 in June 2013. The proposal seeks to make changes to the STC to incorporate a Code Administrator role and the CACoP in line with the CGR Phase 2 licence changes. The proposed modifications to the STC governance arrangements recognise that the STC Code Administrator (NGET) should comply with the CACoP principles.

Responses to the STC Modification Panel⁸ consultation

The STC Modification Panel issued a consultation on CM052 on 30 July 2013. No responses were received.

STC Modification Panel recommendation

The STC Modification Panel voted unanimously to recommend approval of the modification at its meeting on 25 September 2013.

The Authority's decision

We have considered the Final Modification Report (FMR)⁹ for CM052, including the proposed legal text, submitted on 2 October 2013. We have considered and taken into account the assessment of STC parties which are included in the FMR. We note there were no consultation responses.

We have concluded that implementation of the modification proposal would better facilitate the achievement of the STC Applicable Objectives.¹⁰

Reasons for the Authority's decision

We consider that this modification better meets the requirements of SLC B12 (6) and facilitates the STC objectives below. We consider that the modification has no impact on the other STC objectives.

(a) 'efficient discharge of the obligations imposed upon transmission licensees by transmission licences and the Act'

The recent licence modifications made to introduce a Code Administrator role and the CACoP into the STC governance arrangements are now in force. The relevant transmission licensees therefore must ensure that these licence provisions can be efficiently discharged by reflecting them in the STC. The changes proposed by CM052 will ensure that the transmission licensees can discharge their obligations relating to code administration both efficiently and effectively. We therefore consider that this modification better facilitates this objective.

⁸ The STC Modification Panel is established and constituted from time to time pursuant to and in accordance with section B6 of the STC.

⁹ STC modifications appear here: <http://www.nationalgrid.com/uk/Electricity/Codes/sotocode/Modifications/>

¹⁰ The STC Applicable Objectives are set out in Standard Licence Condition B12 of the Transmission Licence.

(e) 'promotion of good industry practice and efficiency in the implementation and administration of the arrangements described in the STC'

We consider that NGET adhering to the CACoP as the STC Code Administrator and performing its role in accordance with CACoP principles should lead to improved efficiency in STC administration and the promotion of good industry practice. We therefore agree with the Panel that CM052 better facilitates this objective.

Legal drafting

The CGR Phase 2 introduced a licence requirement for the STC Code Administrator to provide assistance to STC users insofar as is practicable, and on reasonable request, in relation to their engagement with the STC modification processes (as the minimum requirement of the 'critical friend' role). We note the proposed legal text for CM052 does not provide for this specific requirement of the CACoP as part of this modification. We consider that it would be beneficial for NGET to, at a minimum, include reference to this obligation on the appropriate webpage to ensure visibility of this requirement to code users.

Decision notice

In accordance with Standard Condition B12 of the Electricity Transmission Licence, the Authority has decided to direct that proposed Modification STC CM052 '*Code Governance Review (Phase 2) - Code Administrator and Code Administration Code of Practice*' should be made.

Lesley Nugent
Head of Industry Codes and Licensing

Signed on behalf of the Authority and authorised for that purpose