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| Modification proposal: | System Operator (“SO”) – Transmission Owner (“TO”) Code (“STC”) CM053: Code Governance Review (Phase 2) – Send Back Process | | |
| 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 ‘send back’ process into the STC governance arrangements. The send back process allows the Authority to send a final report on a modification proposal back to the Panel where we consider that we cannot make a decision based on the original report submitted to us. A send back direction would allow deficiencies (for example, relating to proposed legal text or incomplete analysis) in the original report to be addressed.

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>

The proposed modification

National Grid Electricity Transmission (NGET) (“the proposer”) raised modification CM053 in June 2013. The proposal seeks to incorporate the send back process into the STC in line with the CGR Phase 2 licence changes. The modifications to the STC governance arrangements proposed by CM053 recognise that the Authority may direct that additional steps are undertaken to address deficiencies in a report to the Authority where the Authority cannot properly form an opinion on a modification proposal. The direction may determine what additional steps are required to address the deficiencies, with a revised report to be re-submitted to the Authority.

Responses to the STC Modification Panel⁷ consultation

The STC Modification Panel consulted on CM053 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)⁸ for CM053, 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 that there were no consultation responses.

We have concluded that implementation of the modification proposal would better facilitate the achievement of the STC Applicable Objectives.⁹

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 the send back process to the STC governance arrangements are now in force. The relevant transmission licensees therefore must ensure that these licence provisions can be efficiently discharged. The changes proposed to the STC by CM053 will ensure that the licensees can discharge their obligations relating to the send back process through the STC governance procedures both efficiently and effectively. We therefore consider that this modification better facilitates this objective.

⁷ The STC Modification Panel is established and constituted from time to time pursuant to and in accordance with section B6 of the STC.

⁸ STC modifications appear here: <http://www.nationalgrid.com/uk/Electricity/Codes/sotocode/Modifications/>

⁹ 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 CM053 will contribute to the efficient administration of the STC governance arrangements. This can be achieved by ensuring that the Authority can send back a FMR where we cannot make a decision on the proposed modification, e.g. due to defective legal text. This approach is more efficient when compared to the alternative of the Authority either rejecting an otherwise beneficial modification or accepting a flawed modification which requires later correction. We consider that CM053 would therefore promote good industry practice in the administration of the STC.

Legal drafting

We note that the legal drafting makes reference to a new STC Procedure (STCP) 25-2. We would encourage the STC Panel to ensure that this STCP is in place in time for the implementation of this modification.

Decision notice

In accordance with Standard Condition B12 of the Electricity Transmission Licence, the Authority has decided to direct that proposed Modification STC CM053 '*Code Governance Review (Phase 2) - Send Back Process*' should be made.

Lesley Nugent

Head of Industry Codes and Licensing

Signed on behalf of the Authority and authorised for that purpose