

Modification proposal:	System Operator (“SO”) – Transmission Owner (“TO”) Code (“STC”) CM054: Code Governance Review (Phase 2) – Fast Track Self-Governance and Objections		
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 final proposals in March 2010 included the introduction of a self-governance process into three of the industry codes, 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

As part of CGR Phase 2, we considered whether any improvements could be made to the self-governance process introduced to the BSC, CUSC and UNC by the CGR, and extended to the STC under CGR Phase 2.⁷ The self-governance process allows the STC Modification Panel to decide on STC modifications that meet the self-governance criteria.⁸

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 As a result of our CGR Phase 2 licence changes, STC modification CM050 was raised to introduce the self-governance process into STC governance arrangements and allow the STC Modification Panel to make decisions on modification proposals that meet the self-governance criteria. We are also issuing our decision on CM050 today.

⁸ The self-governance criteria are set out in B12 (16) of the Electricity Transmission Licence.

An appeal route to the Authority would be available to eligible parties that disagree with the Panel's decision provided that the grounds for an appeal are met.

Our CGR Phase 2 final proposals introduced the requirement for a 'fast track' self-governance process to be included within the STC. This process is aimed at ensuring further efficiencies in order that very minor 'housekeeping' changes can be made by the STC Panel without the requirement to follow the full code modification process.⁹

The proposed modification

National Grid Electricity Transmission (NGET) ("the proposer") raised modification CM054 in June 2013. The proposal seeks to incorporate the 'fast track' self-governance process into the STC in line with the CGR Phase 2 licence changes. The proposed modifications to the STC governance arrangements would allow the STC Modification Panel, where it unanimously agrees that a modification proposal meets the 'fast track' self-governance criteria, to make a decision on that proposal subject to any objections by STC parties or by the Authority.

The 'fast track' self-governance criteria would apply where a modification deals with, for example, minor housekeeping or factual errors that require correction or the updating of outdated references. The objections window for a 'fast track' self-governance modification would be open for 15 working days following notification of the Panel's decision. Where an objection was made, the modification could be re-routed to the self-governance or standard modification process.

Responses to the STC Modification Panel¹⁰ consultation

The STC Modification Panel consulted on CM054 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)¹¹ for CM054, 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.¹²

⁹ Electricity Transmission standard licence condition (SLC) B12(6D) provides that unanimous STC Panel support is required and that STC parties and the Authority can object to a 'fast track' modification as an appropriate safeguard.

¹⁰ The STC Modification Panel is established and constituted from time to time pursuant to and in accordance with section B6 of the STC.

¹¹ STC modifications appear here: <http://www.nationalgrid.com/uk/Electricity/Codes/sotocode/Modifications/>

¹² The STC Applicable Objectives are set out in Standard Licence Condition B12 of the Transmission Licence.

Reasons for the Authority's decision

We consider that this modification better meets the requirements of SLC B12 (6) and facilitates STC objectives (a) and (e), as set out 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 'fast track' self-governance 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 CM054 will ensure that these licensees can discharge their obligations relating to 'fast track' self governance through the STC governance procedures both efficiently and effectively. We therefore consider that this modification better facilitates this objective.

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

The aim of our licence changes and CM054 is to improve the efficiency of the STC governance arrangements. In this instance, allowing the STC Panel to make decisions on 'fast track' self-governance modifications ensures that, where appropriate, minor housekeeping changes can be implemented more efficiently in the STC with minimum administrative burden. The Panel must be unanimous in its approval of such modifications, which provides an appropriate safeguard. The provision of an objections window following notification of the Panel's decision also provides a further proportionate and effective safeguard. We consider that CM054 should promote good industry practice and efficiency in the administration of the STC and therefore better facilitates this objective.

Legal drafting

We have identified an error in the legal drafting at new clause 7.2.6C.3 whereby it does not state, in accordance with the licence, that the Authority may object to a fast track modification being made. It is the licensee's responsibility to ensure that the requirements of the licence are correctly reflected in the code. We consider that this should be corrected by way of a housekeeping modification as soon as is reasonably practicable.

We also note that the legal drafting makes reference to a new STC Procedure (STCP) 25-3. 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 CM054 '*Code Governance Review (Phase 2) - Fast Track Self-Governance and Objections*' should be made.

Lesley Nugent

Head of Industry Codes and Licensing

Signed on behalf of the Authority and authorised for that purpose