Modification Proposal – BSCP40/03	MP No: P263

Title of Modification Proposal:
Code Governance Review: Send Back Process and Environmental Assessment

Submission Date: 2 August 2010

Description of Proposed Modification

Background

The industry codes contain the contractual arrangements for participating in the Electricity and Gas markets. In November 2007 Ofgem launched the Code Governance Review. The aim of the review was to reduce the complexity and fragmentation, and to increase the transparency and accessibility, of these arrangements. In July 2010 Ofgem directed that the licence modifications be made to implement the Code Governance Review Final Proposals. In order to comply with the modified Transmission Licence the BSC will need to be amended to reflect the new processes and policies coming into effect.

We have split the relevant Transmission Licence changes into 2 Modification Proposals. This Modification Proposal covers:

- Send Back Process
- Environmental Assessment

Send Back Process

Solution

A new Send Back process would be introduced into the BSC.

Pre-requisites of the Send Back Process

1. The Send Back process only applies to Modification Proposals where the Final Modification Report has been submitted to the Authority.
2. The Send Back process must be completed before the last 'decision by' date in the Final Modification Report, otherwise the Modification Proposal will 'timeout'. In practice this means the Authority must direct the Send Back process with enough time for the Panel, BSCCo and industry to complete the process before the last 'decision by' date in the Final Modification Report. The Authority can request additional Implementation Dates as part of the Send Back process (as with the Approved P250 Alternative solution) to extend its decision time.

Send Back Process

1. If the Authority cannot make a decision based on a Final Modification Report then it can initiate the Send Back Process by sending a direction to the BSC Panel specifying:
   a. the additional steps (including drafting or amending existing drafting of the modification to the BSC), revision (including revision to the timetable), analysis and/or information that it requires in order to form such an opinion; and

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   b. the report to be revised and be re-submitted at an appropriate time.

2. BSCCo shall prepare a Send Back procedure and timetable. This shall take into account the additional steps required by the Authority. The Send Back procedure and timetable will be a bespoke and flexible process. The BSC panel shall approve the procedure and timetable..
3. Each Send Back Process procedure and timetable must include provision for the following:
   a. Panel reconsidering its recommendations
   b. Send Back Process completed before the last 'decision by' date in the Final Modification Report otherwise the Modification Proposal would 'time out'
4. Each Send Back Process may include the following:
   a. Industry consultation(s)
   b. Additional analysis or information required in Final Modification Report (this may require the convening of a Workgroup)
   c. Redrafting of legal text
   d. Revising Implementation Dates
   e. Any other stages as agreed by the Panel which are required in order to complete the additional steps outlined by the Authority;
5. The Panel shall consider and approve the Send Back procedure and timetable. At this stage the Authority, in the form of the Ofgem Panel Representative, is able to request changes to the recommended procedure and timetable.
6. Once the timetable is approved BSCCo shall ensure that all Authority directed additional steps are completed.
7. Once all additional steps are completed BSCCo shall present the updated Final Modification Report to the Panel. The Panel shall revisit its recommendations based on the updated Final Modification Report.
8. BSCCo then issues the updated Final Modification Report to the Authority for decision. The updated Final Modification Report replaces the previously issued Final Modification Report.
9. The Authority can repeat the Send Back process as they see fit (although pre-requisite 2 still applies).

Environmental Assessment

Solution

The BSC would be amended to include a specific requirement for Modification Groups and the Panel to assess, where the impact is likely to be material, the quantifiable impact of a Modification Proposal on greenhouse gas emissions. This would be conducted in accordance with guidance issued by the Authority. This assessment would be included in the Assessment Report and Final Modification Report.

The Modification Proposal form would be updated to allow the Proposer to comment as to whether they believe their Modification Proposal was likely to have a quantifiable impact on greenhouse gas emissions.

Ofgem has noted that they are interested in carbon volumes rather than prices. Therefore, as a working practice, Modification Groups and the Panel would conduct an environmental assessment on the basis of carbon volumes.

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Description of Issue or Defect that Modification Proposal Seeks to Address *(mandatory by originator)*

The Code Governance Review has introduced additional provisions into the Transmission Licence Condition C3 in the following areas:

- Send Back Process
- Environmental Assessment

The BSC must be consistent with the additional provisions detailed in the Transmission Licence, by 31st December 2010 at the latest. Currently, the BSC does not contain any process or provisions to support the additional provisions and will therefore be non-compliant with the Transmission License (as of 31st December 2010) unless it is updated to reflect the amended licence drafting.

Impact on Code *(optional by originator)*

Section F 'Modifications Procedures'
Section X Annex X-1 'General Glossary'

Impact on Core Industry Documents or System Operator-Transmission Owner Code:

None

Impact on BSC Systems and Other Relevant Systems and Processes Used by Parties:

None

Impact on other Configurable Items:

BSCP40 'Change Management'

Justification for Proposed Modification with Reference to Applicable BSC Objectives *(mandatory by originator)*

Ofgem Code Governance Review will introduce changes into the Transmission Licence. In order to efficiently discharge the Transmission Licence the licensee must ensure that the BSC is consistent with the Licence. Hence this Modification Proposal would better facilitate Applicable BSC Objective (a) 'The efficient discharge by the licensee [i.e. the Transmission Company] of the obligations imposed upon it by this licence [i.e. the Transmission Licence];'

Urgency Recommended: No

Justification for Urgency Recommendation*:*

N/A

Details of Proposer:

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Attachments: Yes **Attachment A – draft legal text (4 pages)**

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