DCode

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Distribution Code Review Panel

Meeting 62 – 8 December 2016

Align the Distribution Code with changes to the SCR requirements

Paper by Code Administrator

Purpose of Modification:

On 10 May 2016 Ofgem published statutory notices consulting on licence modifications necessary to give effect to the Code Governance Review (Phase 3) (CGR3) Final Proposals. The CGR3 Final Proposals apply to holders of the relevant licences and this included the Electricity Distribution Licence and proposed changes to Standard Licence Condition 21 – Distribution Code

The Ofgem Standard Licence Condition changes propose three routes under Significant Code Review (SCR) for a Modification to be progressed, with potential allowance to move between the processes.

1. Ofgem directs licensee(s) to raise Modification Proposal(s). At the end of the SCR process Ofgem would issue a direction to the relevant licensee(s). This direction may set out high level principles (with the detail to be developed by industry) or more specific, detailed conclusions to be given effect through code change(s). The Modification(s) would follow the standard industry code Modification processes.
2. Ofgem raises Modification Proposal(s). At the end of the SCR process Ofgem would raise a Modification(s) under the relevant code(s), and the Modification(s) would follow the standard industry code Modification processes.
3. Ofgem leads an end-to-end process to develop code Modification(s). The standard industry process would not apply; Ofgem would lead consultation and engagement needed to develop the appropriate code change(s). Ofgem would expect close involvement of the industry; for example, it may establish and lead Workgroups similar to the approach under the standard code Modification processes (but led by Ofgem).

This Modification, therefore, seeks to align the Distribution Code and the Distribution Code Constitution and Rules with the amended provisions for SCR. Any modifications to the Distribution Code and/or the Distribution Code Constitution and Rules require the approval of the Authority.

The creation of this Modification was directed by Ofgem as part of the CGR3. Although it will impact the governance of the Distribution Code and the Distribution Code Constitution and Rules Distribution Code with specific changes applied to DIN 2.1 of the Code and Section 21 of the Constitution and Rules these changes will be focussed on the SCR process and have been mandated by the Authority.

Legal text is provided for the proposed Modification to the Distribution Code and Distribution Code Constitution and Rules can be found in Appendix 1 and Appendix 2 of this Modification proposal.

As the proposed changes are unlikely to have a material effect on:

- Existing or future electricity customers;
- Competition in Distribution generation or supply;
- The operation of the Distribution system;

• Security of supply; and it is unlikely to discriminate against different classes of Distribution Code Parties.

Recommendation

As set down in the Distribution Code Constitution & Rules section 21 (d) the Panel, if unanimous, can recommend that the DNOs recommend to the Authority that the changes are made without consultation. It is recommended that the Panel direct the Code Administrator to submit a report to the Authority making the changes as shown in the change tracked attachments.

The implementation date can be as soon as possible and it is suggested that 1 February should be the target.

Appendix 1 – Proposed additional text applied to DIN 2.1 of the Distribution Code – DIN 21 (iv)

DIN2.1 The **Distribution Licence** (Condition 21) requires the **DNO** in consultation with **Authorised Electricity Operators** liable to be materially affected thereby to prepare and at all times have in force and implement and comply with a **Distribution Code** which:

(a) Covers all material technical aspects relating to connections to and the operation and use of the **DNO's Distribution System** and the operation of electric lines and electrical **Plant** and **Apparatus** connected to the **DNO's Distribution System**. The **Distribution System** of any **Other Authorised Distributor** shall comply with the **Distribution Code** at the point of connection with the **DNO's Distribution System**.

(b) Is designed so as to:

(i) Permit the development, maintenance, and operation of an efficient, coordinated and economical **System** for the distribution of electricity.

(ii) Facilitate competition in the generation and supply of electricity.

(iii) Efficiently discharge the obligations imposed upon **DNOs** by the **Distribution Licence** and comply with the Regulation (where Regulation has the meaning defined in the **Distribution Licence**) and any relevant legally binding decision of the European Commission and/or Agency for the Co-operation of Energy Regulators.

(iv) Promote efficiency in the implementation and administration of the **Distribution Code.**

Appendix 2 - Proposed Changes to Distribution Code Constitution and Rules – (21. (h) – (p))

The consultation and approval arrangements of this clause shall apply for all **Distribution Code** modifications. The consultation and approval arrangements for **Qualifying Standards** are specified in Standard Procedure 1.

(h) A proposal for a modification that falls within the scope of a **Significant Code Review** shall not be made during the **Significant Code Review Phase**, except where the **Authority** determines that the modification proposal may be made or otherwise at the direction of the **Authority**. If a modification proposal is made during a **Significant Code Review Phase**, the **DNOs** shall (unless exempted by the **Authority**) notify the **Authority** as soon as practicable of any representations received in relation to the relevance of **the Significant Code Review** and the **DNOs**' assessment of whether the proposal falls within the scope of the **Significant Code Review** and its reasons for that assessment. If the **Authority** so directs, the **DNOs** shall not proceed with the modification proposal until the **Significant Code Review Phase** has ended. The **Authority** may make a proposal for modification of the **Distribution Code** where that modification proposal is in respect of a **Significant Code Review**;

(i) Where the **Authority** makes a modification proposal in accordance with paragraph (h), the **DNOs** shall:

(1) evaluate whether the modification to the Distribution Code would better facilitate the achievement of the objectives set out in DIN2.1(b) of the Distribution Code and, where the impact is likely to be material, this must include an assessment of the quantifiable impact of any such modification on greenhouse gas emissions, to be conducted in accordance with any such guidance (on the treatment of carbon costs and evaluation of greenhouse gas emissions) as may be issued by the Authority from time to time;

(2) send to the **Authority** a report on the outcome of the evaluation conducted in accordance with sub-paragraph (1) above;

(3) send to the Authority any written representations or objections from Authorised Electricity Operators that were received during the consultation process and have not been withdrawn; and

(4) proceed in accordance with any timetable(s) directed by the Authority in relation to the procedural steps outlined in this paragraph and/or in relation to implementation of such modification to the Distribution Code.

(j) If, within 28 days after the **Authority** has published its **Significant Code Review** conclusions:

(1) the Authority issues Directions to the DNOs, the DNOs must comply with those Directions and must treat the Significant Code Review Phase as ended;

(2) the **Authority** issues to the **DNOs** a statement that no **Directions** under sub-paragraph (1) will be issued in relation to the **Distribution Code**, the **DNOs** must treat the **Significant Code Review Phase** as ended;

(3) the **Authority** makes a modification proposal in accordance with paragraph (h), the **DNOs** must treat the **Significant Code Review Phase** as ended;

(4) the Authority issues a statement that it will continue work on the **Significant Code Review**, **DNOs** must treat the **Significant Code Review Phase** as continuing until it is brought to an end in accordance with paragraph (l) below;

(5) neither **Directions** under sub-paragraph (1) nor a statement under sub-paragraphs (2) or (4) have been issued, nor a modification proposal under sub-paragraph (3) has been made, the **Significant Code Review Phase** will be deemed to have ended.

(k) The **Authority's** published conclusions and **Directions** to the **DNOs** will not fetter any voting rights of the **Members** or the procedures informing the report described at paragraph (f).

(l) If the **Authority** issues a statement under paragraph (j)(4) and/or a direction in accordance with paragraph (p), the **Significant Code Review Phase** will be deemed to have ended when:

(1) the **Authority** issues a statement that the **Significant Code Review Phase** has ended;

(2) one of the circumstances in sub-paragraphs (j)(1) or (3) occurs (irrespective of whether such circumstance occurs within 28 days after the **Authority** has published its **Significant Code Review** conclusions); or

(3) the **Authority** makes a decision consenting or otherwise to the modification of the **Distribution Code** following the submission of the report under paragraph (n)(2).

(m) Where the **Authority** has issued a statement in accordance with paragraph (j)(4) and/or a direction in accordance with paragraph (p), the **Authority** may submit to the **DNOs** a modification proposal for a modification in respect of a **Significant Code Review**.

(n) Where the Authority submits a **Significant Code Review** modification proposal in accordance with paragraph (m) the **DNOs** shall:

(1) evaluate whether the proposed modification would better facilitate the achievement of the objectives set out in DIN2.1(b) of the **Distribution Code** and, where the impact is likely to be material, this must include an assessment of the quantifiable impact of any such modification on greenhouse gas emissions, to be conducted in accordance with any such guidance (on the treatment of carbon costs and evaluation of greenhouse gas emissions) as may be issued by the **Authority** from time to time;

(2) for the **DNOs** to send to the **Authority** a report on the outcome of the evaluation conducted in accordance with sub-paragraph (1); and

(3) for the **DNOs** to proceed in accordance with any timetable(s) directed by the Authority in relation to the procedural steps outlined in this paragraph and/or in relation to implementation of such modification to the **Distribution Code**.

(o) The **Authority's** published conclusions and **Significant Code Review** modification proposal will not fetter any voting rights of the **Members** or the procedures informing the report described at sub-paragraph (n)(2).

(p) Where a proposal has been made in accordance with paragraph (j)(1) or by the **Authority** under paragraph (j)(3), the **Authority** may issue a direction (a "backstop direction"), which requires such proposal(s) and any alternatives to be withdrawn and which causes the **Significant Code Review Phase** to recommence.

(i) Following approval by the Authority the **Distribution Code** modification will be published on the **Distribution Code** website as a modification to the **Distribution Code**.