




CUSC Modification Proposal Form	At what stage is this document in the process?
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CMP322









Mod Title: Updating the CUSC section 4 “Balancing Services” to ensure Ofgem have the appropriate authority to approve Terms and Conditions (T&Cs), relevant to EBGL Article 18, held within the Standard Contract Terms (SCTs)

01	Proposal Form
02	Workgroup Consultation
03	Workgroup Report
04	Code Administrator Consultation
05	Draft CUSC Modification Report
06	Final CUSC Modification Report

Purpose of Modification: To allow Ofgem to approve future changes to the terms and conditions for Balancing Service Providers (BSPs) and Balancing Responsible Parties (BRPs), as defined in Article 18 (A18) of the European Balancing Guidelines (EBGL), that have been identified as existing in National Grid ESO SCTs for certain Balancing Services, while maintaining the necessary flexibility required to the SCTs.

	<p>The Proposer recommends that this modification should</p> <ul style="list-style-type: none"> proceed to Code Administrator Consultation – the solution proposed by National Grid ESO has already been signposted by Ofgem in their A18 decision letter dated 4 June 2019 as the most appropriate way to fulfil this obligation <p>This modification was raised 11 September 2019 and will be presented by the Proposer to the Panel on 26 September 2019. The Panel will consider the Proposer’s recommendation and determine the appropriate route.</p>
	High Impact: N/A
	Medium Impact N/A

	Low Impact Ofgem and National Grid ESO contracts team to ensure SCT process is updated in line with CUSC requirements
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Timetable		 Any questions?
The Code Administrator recommends the following timetable:		Contact: Code Administrator
Code Administrator Consultation Report issued to the Industry	11 October 2019	 email address
Draft Final Modification Report presented to Panel	21 November 2019	 telephone
Modification Panel decision	29 November 2019	Proposer: Simon Sheridan
Final Modification Report issued to the Authority	13 December 2019	 s.sheridan@national grideso.com
Decision implemented in CUSC	4 April 2020	 telephone
		National Grid ESO Representative: Insert name
		 email address.
		 telephone

Proposer Details

Details of Proposer: (Organisation Name)	Simon Sheridan National Grid ESO
Capacity in which the CUSC Modification Proposal is being proposed: (i.e. CUSC Party, BSC Party or "National Consumer Council")	CUSC party
Details of Proposer's Representative: Name: Organisation: Telephone Number: Email Address:	
Details of Representative's Alternate: Name: Organisation: Telephone Number: Email Address:	
Attachments (Yes/No): Yes – legal text If Yes, Title and No. of pages of each Attachment:	

Impact on Core Industry Documentation.

Please mark the relevant boxes with an "x" and provide any supporting information

BSC	<input type="checkbox"/>
Grid Code	<input type="checkbox"/>
STC	<input type="checkbox"/>
Other	<input checked="" type="checkbox"/>

Standard Contract Terms owned by National Grid ESO for Balancing Services

1 Summary

Mandatory for the Proposer to complete Please provide a summary of the modification proposed – i.e. **what** is the identified defect/change in the existing code that needs to be rectified, **why** this change needs to be made, and **how**.

Defect

Ofgem don't currently have the authority to approve National Grid ESO SCTs for Balancing Services. To comply with EBGL any future changes to these T and Cs need to follow the processes laid out in EBGL Article 6 (A6) and Article 10 (A10). To enable Ofgem to approve future changes to the parts of EBGL A18, T and C's that are captured in National Grid ESO SCTs, they need to have a mechanism to do this whilst ensuring that the SCTs, remain flexible and support a competitive market place which is inclusive for all parties.

What

To facilitate this change Section 4 "Balancing Services" will need updating in paragraph 4.2B to state that new or amended terms and conditions in Balancing Servicing Agreements, namely those within the SCTs identified as in scope of the EBGL A18 must be subject to a 1-month consultation and must go to Ofgem for approval as laid out in EBGL A6 and A10.

T&Cs within the scope of EBGL A18 in any new forms of Balancing Servicing Agreements will likewise be subject to consultation and approval as envisaged by EBGL A6 and A10. Where balancing services are being trialled they will only be considered for the purposes of A18 once they have officially been confirmed as an active service by National Grid ESO.

Why

This change is necessary to ensure compliance with EBGL. If no change is made, then the Authority has no clear way of approving the A18 T and Cs held within the SCTs.

It also ensures that barriers to entry for all parties, specifically non-Balancing Market service providers are not created as it continues to give providers a route to market without the requirement of signing up to the codes. Whilst ensuring that provisions in SCTs remain clear and consistent for all parties and remain flexible for National Grid ESO to respond to new technologies or approaches in the provision of balancing services in a changing energy market.

In addition, this proposed change has been signposted by Ofgem in their EBGL A18 decision letter dated 4 June 2019 where they state on page 3:

"The proposed updates to the code change process and the proposed solution to capturing any changes to SCT as part of the CUSC, will allow the Authority to have a clear and transparent role in approving and amending any future changes that will have an impact on the Article 18 T and Cs and ensures compliance with Article 6 of EBGL"

How

By updating Section 4.2B of the CUSC where general provisions for balancing services are held, Ofgem will, in a clear and transparent way, be able to approve the relevant SCTs that are affected by EBGL A18.

2 Governance

Justification for Normal Procedures

Requested Next Steps

This modification should:

- proceed to Code Administrator Consultation

3 Why Change?

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4 Code Specific Matters

Technical Skillsets

Understanding of EBGL requirements generally and more specifically for A6, A10 and A18

Reference Documents

https://www.entsoe.eu/network_codes/eb/

5 Solution

By updating Section 4.2B of the CUSC where general provisions for balancing services are held, Ofgem will, in a clear and transparent way, be able to approve the relevant SCTs that are affected by EBGL A18 whilst remaining flexible and support a competitive market place which is inclusive for all parties.

6 Impacts & Other Considerations

N/A

Does this modification impact a Significant Code Review (SCR) or other significant industry change projects, if so, how?

No.

Consumer Impacts

None

7 Relevant Objectives

Mandatory for the Proposer to complete. Please delete the CUSC Objectives that is not applicable.

Impact of the modification on the Applicable CUSC Objectives (Standard):

Relevant Objective	Identified impact
(a) The efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission Licence;	Positive
(b) Facilitating effective competition in the generation and supply of electricity, and (so far as consistent therewith) facilitating such competition in the sale, distribution and purchase of electricity;	None
(c) Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency *; and	Positive
(d) Promoting efficiency in the implementation and administration of the CUSC arrangements.	None

*Objective (c) refers specifically to European Regulation 2009/714/EC. Reference to the Agency is to the Agency for the Cooperation of Energy Regulators (ACER).

This modification positively impacts a and c. It specifically helps ensure compliance with EU law formed from the 3rd Energy package, in this case against the European Balancing Guidelines which came into force in November 2017.

To comply with EBGL the authority must be able to approve all the T and Cs (as set out in A18 of EBGL) that are present in the GB codes and SCTs. It currently cannot do this for the SCTs and this modification makes sure that the Authority has the necessary approval powers. Whilst the SCTs remain flexible and support a competitive market place which is inclusive for all parties

8 Implementation

This change should be implemented as soon as possible, but by 4 April 2020 (current expected implementation date for EBGL A18) at the latest to ensure we are compliant with EBGL.

If the implementation date for EBGL A18 changes then this Modification implementation date should change to reflect that.

9 Legal Text

Text Commentary

See attached document for legal text which provides a clear route for the Authority to approve the necessary SCT changes relating to A18 in the future.

10 Recommendations

Proposer's Recommendation to Panel

Panel is asked to:

Issue this modification directly to Code Administrator Consultation – for the reasons already stated above.