

Modification proposal:	<b>System Operator ("SO") – Transmission Owner ("TO") Code ("STC") CM055: Consequential changes following implementation of the Third Package and other miscellaneous changes</b>		
Decision:	The Authority <sup>1</sup> directs that this modification be made <sup>2</sup>		
Target audience:	National Grid Electricity Transmission PLC (NGET), Parties to the STC and other interested parties		
Date of publication:	26 June 2014	Implementation Date:	3 July 2014

## Background to the modification proposal

The EU Third Energy Package<sup>3</sup> (the Third Package) was implemented in Great Britain on 10 November 2011 by making amendments to relevant domestic legislation. The Electricity and Gas (Internal Markets) Regulations 2011 (the Regulations) gave effect to these changes. The Regulations made numerous changes to gas and electricity licences once they came into force.<sup>4</sup>

The licence changes included changes to Standard Licence Condition B12 'System Operator – Transmission Owner Code' of the electricity transmission licence. These changes enable us to raise an STC modification proposal which we reasonably consider is necessary to comply with or implement the Electricity Regulation and/or any relevant legally binding decisions of the European Commission and/or the Agency for the Cooperation of Energy Regulators (ACER). They also enable us to direct or amend the timetable for relevant modifications, and that such modifications cannot be withdrawn without our consent. The STC does not currently reflect these provisions.

## The modification proposal

NGET raised modification CM055 in January 2014. CM055 seeks to align the STC governance rules (in Section B of the STC) with the licence changes made to implement the Third Package. The modification:

<sup>1</sup> The terms 'the Authority', 'Ofgem' and 'we' are used interchangeably in this document. Ofgem is the Office of the Gas and Electricity Markets Authority.

<sup>2</sup> This document is notice of the reasons for this decision as required by section 49A of the Electricity Act 1989.

<sup>3</sup> The term 'Third Package' refers to Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC (Electricity Directive); Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003 (Electricity Regulation); Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC (Gas Directive); Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005 (Gas Regulation); and Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators.

<sup>4</sup> SI 2011/2704 which can be found here: <http://www.legislation.gov.uk/ukSI/2011/2704/part/1/made>. We made further consequential licence changes relevant to implementation of the Third Package (see our licence modification decision here: <https://www.ofgem.gov.uk/publications-and-updates/decision-modify-gas-and-electricity-licence-conditions-following-implementation-third-package-and-other-house-keeping-changes>).

- reflects that the Authority may raise, or direct an STC Party to raise, an STC modification which the Authority reasonably considers is necessary to comply with or implement the Electricity Regulation and/or any relevant legally binding decisions of the European Commission and/or ACER
- sets out that the STC Party, the STC Modification Panel and the STC Panel Secretary is to comply with any Authority directed timetable in respect of a modification which the Authority reasonably considers is necessary to comply with or implement the Electricity Regulation and/or any relevant legally binding decisions of the European Commission and/or the ACER. Compliance includes completion of the relevant modification process steps and implementation of the modification in accordance with the Authority's directed timetable, if any
- reflects that where the STC Party raises a modification which the Authority reasonably considers is necessary to comply with or implement the Electricity Regulation and/or any relevant legally binding decisions of the European Commission and/or the ACER, it cannot be withdrawn or amalgamated with another STC modification without prior Authority consent, and
- provides definitions for 'ACER', 'Electricity Regulation' and 'European Commission' in Section J of the STC.

### **STC Modification Panel recommendation**

The STC Panel considered the draft Final Modification Report (FMR) at its meeting on 30 April 2014. The Panel recommended that the modification does better facilitate Applicable STC Objectives (a), (e) and (g). The Panel's views appear in the FMR.<sup>5</sup>

### **Our decision**

We have considered the FMR for CM055 submitted on 5 June 2014. We note there were no responses to the industry consultation.

We have concluded that implementing the modification proposal would better facilitate the achievement of the Applicable STC Objectives<sup>6</sup> and that directing that the modification is made is consistent with our principal objective and statutory duties.<sup>7</sup>

### **Reasons for our decision**

We consider that the modification proposal better facilitates Applicable STC Objectives (a), (e) and (g) for the reasons set out below. We consider the modification has no impact on the other Applicable STC Objectives.

*Applicable Objective (a) 'efficient discharge of the obligations imposed upon transmission licensees by transmission licences and the Act'*

The electricity transmission licence was modified as a result of introducing the Third Package into domestic legislation. The aim of the changes proposed by CM055 is to align

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<sup>5</sup> Papers relating to CM055, including the FMR, can be found on the NGET website:

<http://www2.nationalgrid.com/UK/Industry-information/Electricity-codes/STC/Modifications/CM055/>

<sup>6</sup> The Applicable STC Objectives are set out in Standard Licence Condition B12(3) of the Transmission Licence.

<sup>7</sup> The Authority's statutory duties are wider than matters which the Panel must take into consideration and are detailed in the Electricity Act 1989 as amended and in other relevant legislation.

the STC governance rules with the licence requirements set out in Condition B12 of the licence. This ensures that relevant transmission licensees can efficiently discharge their licence obligations. For this reason, we consider that the modification does better facilitate this objective.

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

We consider that the proposed changes promote efficiency in the implementation and administration of the STC. The modification aligns the code provisions with the relevant licence changes and establishes greater transparency around the processes for STC Parties as a result. For this reason, we consider that the modification does better facilitate this objective.

*Applicable Objective (g) 'compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency'*

Changes introduced by this modification will help ensure that the STC governance rules reflect the appropriate governance processes that allow future compliance to take place. For this reason, we consider that the modification does better facilitate this objective.

### **Decision notice**

In accordance with Standard Condition B12 of the Electricity Transmission Licence, the Authority has decided to direct that proposed Modification STC CM055 '*Consequential changes following implementation of the Third Package and other miscellaneous changes*' be made.

**Lesley Nugent**

**Head of Industry Codes and Licensing**

Signed on behalf of the Authority and authorised for that purpose