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SEC Modification Proposal Form – SECMP0070

Mod Title

Permission to give Alt HAN Forum vires for enduring management and maintenance of the Exempt Premises List (EPL)

Submission Date

[01 February 2019]

Details of Proposer

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SECMP0070
Modification
Proposal Form

01 February 2019

Version 1.0

Page 1 of 7

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1. What issue are you looking to address?

Background

Under Supply Licence Conditions (SLC) 55.2/49.2, the relevant suppliers must, in conjunction with one another, ensure that the Alt HAN Activities are carried out and the Alt HAN Services are made available.

Under SLC 55.5/49.5, each relevant supplier must take all reasonable steps to ensure that the Alt HAN Activities are carried out and the Alt HAN Services are provided by means of the arrangements set out in Section Z of the SEC, and ensure that the costs of the Alt HAN Activities and Alt HAN Services are recovered as provided for in Section Z of the SEC.

Three relevant licence obligations apply in relation to the Exempt Premises List:

- a) SLC 55.11/49.11 obliges the relevant suppliers to, in conjunction with one another, establish and maintain the Exempt Premises List.
- b) SLC 55.14/49.14 obliges the relevant suppliers, in conjunction with one another, to produce an initial draft and obtain the SoS's approval of the Exempt Premises List.
- c) SLC 55.16/49.16 obliges the relevant suppliers, in conjunction with one another by means of participation in the arrangements set out at Section Z of the SEC, to review and propose amendments to the Exempt Premises List.

The Issue

Under Section Z of the SEC, the Alt HAN Forum's functions (and therefore its powers) are broadly drafted but generally constrained by reference to the Alt HAN Activities/ Services. The SEC does not currently provide for the enduring management, maintenance, and update of the Exempt Premises List to fall within the scope of Alt HAN arrangements. Consequently, this is an area which needs clarification.

In practice, the management of the Exempt Premises List and associated Exempt premises is clearly linked to the Alt HAN Activities and Services.

- a) The Alt HAN Forum are responsible for ensuring that Alt HAN is delivered economically and efficiency. The Alt HAN Forum will be undertaking economic assessment activities to understand the economic feasibility of Alt HAN delivery. These activities are essential in informing the disproportionate costs assumptions.
- b) The Alt HAN Co operational service provider will maintain the operational database of premises-level data identifying the Alt HAN candidate buildings (as part of At HAN Activities). This database will then be used for operational purposes and could be utilised for identifying Exempt Premises. For example, as a result of building surveying activities, or due to failed Alt HAN equipment installs.
- c) The Alt HAN Co operational service provider will establish and manage the Alt HAN Inventory (in line with requirements set out in section Z4.30 of Smart Energy Code). This database will also contain premises-level data.

Although the Exempt Premises List and Alt HAN Activities/ Services are dealt with in the same licence condition, the Exempt Premises List is not included in the list of Alt HAN Activities.

As the development and maintenance of the Exempt Premises List is not an Alt HAN Activity/ Service, the development and maintenance of the Exempt Premises List is not within the power of the Alt HAN Forum.

2. Why does this issue need to be addressed? (i.e. Why is doing nothing not an option?)

If the separation of the Exempt Premises List from the Alt HAN Activities/ Services was to be interpreted as deliberate, then the development and maintenance of the Exempt Premises List is not an Alt HAN Activity/ Service. However, BEIS have indicated that the policy intent was to undertake the Exempt Premises List activities as part of Alt HAN arrangements.

As the Exempt Premises List is closely linked to the Alt HAN Activities, the Alt HAN Forum should be the vehicle for delivering and managing the Exempt Premises List.

If the acts of Alt HAN Co in contracting for Exempt Premises List services are ultra vires, they could be challenged and set aside. The key practical risk is probably that someone challenges the funding of these activities via the Alt HAN Costs, which are properly only recoverable in respect of the Alt HAN Forum's functions and powers.

The Exempt Premises List management/ revision is an enduring activity, and this Modification seeks to mitigate future risk exposure.

3. What is your Proposed Solution?

The proposed approach is to amend the Smart Energy Code as follows:

- Section Z of the SEC is modified to include, within the list of Forum activities, the task of reviewing and proposing amendments to the Exempt Premises List. This is the task which will take time and expense, and its inclusion within Section Z is justified by the express reference to Section Z of the SEC in SLC 55.16/49.16.

One possible way to regularise the position would be to amend the energy supply licences to include a direct link between the Exempt Premises List and the Alt HAN Activities. However, SEC modification is considered the simpler option delivering a sufficient level of risk mitigation.

The proposed approach is to add the activities at SLC55.16/49.16 and a provision for managing premise level data to the list of the Forum's Functions, and amend Z1.3(a) to refer to the EPL licence conditions (55.16/49.1).

The proposed modification within section Z1.3(a) of the SEC (Forum Objectives) is as follows:

- (a) *by virtue of the operation of this Section Z, Relevant Supplier Parties are able to comply with their obligations under Standard Conditions 55.2 and 55.16 of the Electricity Supply Licence and Standard Conditions 49.2 and 49.16 of the Gas Supply Licence;*

The proposed modification within section Z1.4 of the SEC (Forum Functions) is as follows:

SECMP0070
Modification
Proposal Form

01 February 2019

Version 1.0

Page 3 of 7

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Z1.4 The Forum shall, in accordance with the provisions of this Section Z:

a) make all decisions required for the purpose of:

(i) carrying out the Alt HAN Activities and the making available and provision of the Alt HAN Services; and

(ii) managing, maintaining, reviewing and updating the Exempt Premises List and any separate database of Exempt Premises, including reviewing and proposing to the Secretary of State revisions to the Exempt Premises List as required by Standard Condition 55.16 of the Electricity Supply Licence and Standard Condition 49.16 of the Gas Supply Licence,

except for any decisions which may from time to time be delegated by it to Alt HAN Co or any Forum Sub-Group;

b) determine which (if any) decisions are to be delegated to Alt HAN Co or any Forum Sub-Group;

c) give such directions to Alt HAN Co or any Forum Sub-Group as the Forum may consider appropriate (which may include directions in relation to any decisions otherwise delegated by the Forum);

d) approve the annual budget of Alt HAN Co;

e) determine any appeals made to it from decisions made by Alt HAN Co or a Forum Sub-Group; and

f) make such other decisions as may from time to time be required in accordance with the provisions of this Section Z.

A new definition of the Exempt Premises List will also need to be added to Section Z6.1 of the SEC. We propose that this definition reads as follows:

<i>Exempt Premises</i>	<i>has the meaning given to that expression in Standard Condition 55.10 of the Electricity Supply Licence and Standard Condition 49.10 of the Gas Supply Licence.</i>
<i>Exempt Premises List</i>	<i>has the meaning given to that expression in Standard Condition 55.12 of the Electricity Supply Licence and Standard Condition 49.12 of the Gas Supply Licence.</i>

4. What SEC objectives does this Modification better facilitate?

This Modification better facilitates SEC Objective (h), which is to is to facilitate the establishment and operation of the Alt HAN Arrangements. This is because it provides a more clear regulatory framework for the management of Exempt Premises List by Alt HAN Forum consistent with licence obligations.

5. What is the requested Path type?

Path 3

SECMPO070
Modification
Proposal Form

01 February 2019

Version 1.0

Page 4 of 7

This document is
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The SEC Modification does not require Authority consent and does not meet the criteria for a Fast Track Modification.

It is recommended that this Modification should be progressed as a Path 3 'Self-Governance' Modification.

The Modification is not proposed by the Authority or by DCC at the direction of the Authority, therefore does not have the status of a Path 1 Modification.

We also believe the Modification does not meet the criteria set out in SEC Section D2.6, in terms of any significant or material impact on energy consumers, competition in energy supply, environment, data privacy, security of supply of security of systems, or SEC Sections C or D, and is not likely to discriminate one Party or class of Parties. Therefore, it does not hold the status of a Path 2 Modification.

In addition, we note that this matter has already been discussed at the Alt HAN Forum and the Alt HAN Supplier Contract Governance and Regulatory sub-group, and, as such, all Relevant Supplier Parties have been given an opportunity to consider the proposed solution.

It is suggested therefore that this Modification does not require the Refinement Process as it has already been assessed by Industry and should be able to progress directly to Modification Report stage.

6. Are you requesting that the Modification Proposal be treated as Urgent?

No

This Modification does not meet the criteria for an Urgent Proposal.

7. What is your desired implementation date?

Before end of March 2019. The initial submission of Exempt Premises List is expected in March 2019. From thereon, the enduring management of Exempt Premises List commences and at this point the clarification in the SEC is required to enable Forum to manage the processes and data associated with the revisions to the Exempt Premise List.

It is therefore suggested that this modification is included in the first available ad-hoc release between the scheduled February release and the scheduled June release.

8. Which SEC Parties are expected to be impacted? (Please mark with an X)

Large Supplier Parties	X	Small Supplier Parties	X
Electricity Network Parties		Gas Network Parties	
Other SEC Parties			

This Modification will facilitate compliance with Supply Licence conditions and SEC which affects all Large and Small Supplier Parties.

9. Which parts of the SEC will be impacted?

The part of the SEC which will be impacted is SEC section Z.

10. Will there be an impact on Central Systems? (Please mark with an X)

DCC Systems	<input type="checkbox"/>	Party interfacing systems	<input type="checkbox"/>
Smart Metering Systems	<input type="checkbox"/>	Communication Hubs	<input type="checkbox"/>
Other systems	<input type="checkbox"/>		

There will be no impact on Central Systems.

11. Will there be any testing required?

There will be no testing required.

12. Will this Modification impact other Energy Codes?

No

13. Will this Modification impact Greenhouse Gas Emissions?

No

