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MP079 ‘Provisions for withdrawing modifications’

Legal text – version 0.1

About this document

This document contains the redlined changes to the SEC that would be required to deliver this Modification Proposal.

These changes have been drafted against SEC Version 6.17.

This document contains the changes required to deliver the Proposed Solution.

Section D 'Modification Process'

Amend Section D5 as follows:

D5 WITHDRAWAL OF A PROPOSAL

Right to Withdraw

D5.1 Subject to Section D5.23, the Proposer for a Draft Proposal or a Modification Proposal may withdraw the Draft Proposal or Modification Proposal on notice to the Secretariat at any time prior to the decision of the Change Board under Section D8.14(b) in respect of that Draft Proposal or Modification Proposal.

D5.2 Subject to Section D5.3, the Panel may direct that a Draft Proposal or a Modification Proposal be withdrawn at any time prior to the decision of the Change Board under Section D8.14(b) in respect of that Draft Proposal or Modification Proposal. Prior to issuing such a direction, the Panel shall set out its rationale for why the Draft Proposal or Modification Proposal should be withdrawn, and the Proposer and Parties shall be allowed a period of at least 10 working days to provide their views on this to the Panel.

D5.32 In the case of Authority-initiated Modifications, the Proposer or the Panel may only withdraw the Draft Proposal or the Modification Proposal where the Proposer or the Panel provides evidence that the Authority has given its consent to such withdrawal. The Proposer or the Panel may not withdraw a Modification Proposal following any direction by the Authority to the Panel pursuant to Section D9.3 (Send-Back Process).

D5.34 As soon as is reasonably practicable after receiving any notice in accordance with Section D5.1, the Secretariat shall notify ~~the~~ Parties that the Proposer has withdrawn its support and shall update the Modification Register accordingly.

D5.5 As soon as is reasonably practicable after the Panel's determination in accordance with Section D5.2, the Secretariat shall notify Parties that the Panel has determined that the Draft Proposal or Modification Proposal should be withdrawn and shall update the Modification Register accordingly.

Adoption of Withdrawn Proposals

D5.~~64~~ Where, within 10 Working Days of the Secretariat sending notice under Section D5.~~43~~, the Secretariat receives notice from a Party that it is prepared to adopt the Draft Proposal or the Modification Proposal, such Party shall (for all purposes in respect of this Code) be deemed thereafter to be the Proposer for the Draft Proposal or the Modification Proposal (and, where the Secretariat receives more than one such notice, the first such notice shall have priority over the others).

D5.~~75~~ Where Section D5.~~64~~ applies, the Draft Proposal or the Modification Proposal shall not be withdrawn, and the Secretariat shall notify ~~the~~ Parties and update the Modification Register.

Right of appeal of Panel's decision to Withdraw

D5.8 The Proposer may appeal the Panel's decision to withdraw their Draft Proposal or Modification Proposal to the Authority within 10 Working Days of the Panel's determination under Section D5.2. Any appeal referred to the Authority must specify the reasons for the appeal. The Authority shall determine what action to take with the appeal (which determination shall, without prejudice to section 173 of the Energy Act 2004, be final and binding for the purposes of this Code).

D5.9 Should the Authority overturn the Panel's determination, the Draft Proposal or the Modification Proposal shall not be withdrawn, and the Secretariat shall notify Parties and update the Modification Register.

Withdrawn Proposals

D5.~~106~~ Subject to Sections D5.57 and D5.9, a Draft Proposal or a Modification Proposal that has been withdrawn in accordance with Sections D5.1 or D5.2 shall cease to be subject to the process set out in this Section D.

Significant Code Review: Backstop Direction

D5.117 Where one or more Draft Proposal or Modification Proposals that are Authority initiated Modifications have been raised, the Authority may issue a direction under this Section D5.711 that requires the withdrawal of those Draft Proposal or Modification Proposals, including any connected Alternative Solutions. Where the Authority so directs:

- (a) the Significant Code Review Phase shall re-commence; and
- (b) the Proposer for each such Modification Proposal shall be deemed to have withdrawn the Draft Proposal(s) or Modification Proposal(s), and Sections D5.36 and D5.74 shall not apply to the withdrawn Draft Proposal(s) or Modification Proposal(s).