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MP079 ‘Provisions for withdrawing modifications’

Refinement Consultation responses

About this document

This document contains the full non-confidential collated responses received to the MP079 Refinement Consultation.

Question 1: Do you agree with the solution put forward?

Question 1			
Respondent	Category	Response	Rationale
British Gas	Large Supplier	Yes	The solution proposed would resolve the problem statement and contains the necessary protections for the industry / proposer by requiring Panel to publish reasons for their decisions, allowing for parties to provide comments and a backstop appeal process.
EDF	Large Supplier	Yes	<p>We agree that it is sensible that the Panel has the power to withdraw Modification Proposals where they have no realistic prospect of being progressed.</p> <p>What needs to be carefully considered, and possibly set out in a paper from the Panel, is exactly how and when the power to withdraw a Modification Proposal would be used. For example, the consultation document refers to using this power for Modification Proposals that are “clearly shown to be unsupported by Parties”; how will such an assessment be made. It might be that this could be judged on the basis that Parties do not wish to participate in Working Groups or respond to consultations – however this is often because people do not have a specific interest in the change or the resource to be able to participate or respond. The fact that a change is not supported by many Parties is also not in itself a reason for a change not to be progressed, as we have seen under other Codes the Authority has approved Modifications which have not been supported by industry parties, on the basis that they will protect consumers or are consistent with their policies.</p> <p>Ultimately whether a change is supported by Parties or not is a decision usually taken by the Change Board – careful consideration will need to be given to how this determination is made prior to the formal voting process.</p> <p>Similarly, some explanation of how a Modification Proposal might be deemed by the Panel to be ‘unfeasible’ would also be useful.</p>

Question 1			
Respondent	Category	Response	Rationale
			While we agree with extending the powers of the Panel to enable them to withdraw Modification Proposals it needs to be ensured that such decisions are taken on an objective and not subjective basis. A policy document or similar might be useful to set expectations for Parties that raise Modification Proposals, as well as for the Panel themselves.
Western Power Distribution	Networks Party	Yes	We agree with that the Proposer is trying to achieve, however we believe that there should be expectations/guidance for the Panel and Parties so that there is an understanding of when and why the Panel might wish to withdraw a modification.
Npower	Large Supplier	Yes	We support the proposed solution including that of an appeals process should the proposer not agree with the recommendation to withdraw their change proposal/modification.
SSEN	Networks Party	Yes	SSEN support the proposal as this should assist in the reducing time, resource and cost spent on Modification Proposals that are unlikely to progress to implementation due to various reasons.
Electricity North West Limited	Networks Party	No	<p>We disagreed with the principle that SECAS, the Panel nor any Sub-Committee would have the discretion to veto a Proposers right to progress their proposal for the following reasons:</p> <ol style="list-style-type: none"> 1. We disagree with the statement “<i>MP079 implementation would not directly impact any SEC Parties</i>” as the proposal would prevent a SEC Party right to progress a proposal if the SEC Panel are able to withdraw the Proposers proposal. 2. Regarding the statement “<i>this may result in SECAS and industry time, effort and expense needing to be spent on a proposal unlikely to succeed incurring additional costs for Users for nugatory work. This time, effort and expense could otherwise be spent on other proposals that would provide benefit to Parties and the industry as a whole.</i>” There has been no evidence-based review undertaken by SECAS, the Panel of sub-committee to back up this statement. We agree with the Authorities view that this would “<i>represent a significant step-change around the provisions of</i>

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Question 1			
Respondent	Category	Response	Rationale
			<p><i>the Proposer ownership</i>". A such they have also identified a lack of evidence-based review and requested "<i>information on the number of modifications that could be affected by this change, to help inform its decision.</i>" In addition, we would like to as part of the refinement process for MP079 for the costs associated with the proposals identified by the Change Sub-Committee deemed as '<i>unlikely to succeed</i>' to date to be shared. We would like a better understanding why the Working Group deem it not being appropriate to discuss specific proposals with the Authority or as part of this MP079 consultation as this information is in the public domain.</p> <p>3. The term '<i>unlikely to succeed</i>' is subjective and at what stage and based on what criteria does SECAS, the Panel or any Sub-Committee determine that a proposal is '<i>unlikely to succeed</i>'. Until the proposal undergoes the various refinement and development stages how is it possible to predetermine if a proposal is unlikely to succeed or not. In any case, the test should not be if the proposal is likely to succeed or not. Rather if a test is needed this should be based on if the proposal meets the code objectives and benefits consumers.</p> <p>4. We are surprised with the statement that there are no drawbacks identified by SECAS, the Sub-Committees of SEC Parties for MP079. The significant drawback to a SEC party is the removal of their right to progress a proposal.</p>
Northern Gas Networks	Networks Party	Yes	We are generally supportive of the proposal to grant the SEC Panel authority to withdraw modifications as long as sufficient justification and an opportunity for comments and appeal are provided and Ofgem consent to being the Appeal body.
DCC	N/A	Yes	The proposal extends the powers to withdraw a proposal to the Panel. At the same time, it introduces clear principles that the Panel must abide by and creates the right to appeal the Panel's decision to withdraw a proposal to the Authority. In our view, the proposal provides

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Question 1			
Respondent	Category	Response	Rationale
			the necessary checks and balances to ensure that proposals that have little support are withdrawn in an equitable and timely manner.

Question 2: Will there be any impact on your organisation to implement MP079?

Question 2			
Respondent	Category	Response	Rationale
British Gas	Large Supplier	Yes	Implementation will help to reduce the administration burden on all parties from managing modification proposals that are not progressing (and are unlikely ever to do so).
EDF	Large Supplier	No	There should be no direct impact to us as a result of implementing MP079. Should any Modifications be withdrawn by the Panel as a result of this change, we should benefit from reduced effort in engaging with a change process for a change that is not being progressed on a timely basis.
Western Power Distribution	Networks Party	Yes	As a Party that can Propose Modifications and are members of Working Groups this modification will potential impact us, albeit in a minor and presumably positive way.
Npower	Large Supplier	No	No comment.
SSEN	Networks Party	No	No comment.
Electricity North West Limited	Networks Party	Yes	It would remove a SEC Parties right to progress a modification without threat of the SECAS, the Panel nor any Sub-Committee being able to withdraw it without the Proposers consent. We recognise MCP079 is proposing there will be an appeal route to Ofgem and should an appeal be upheld, the decision to withdraw would be overturned. However, the role of Ofgem is yet to be determined under the Reforming the Energy Industry Codes Significant Code Review. It is too early to presume the outcome prior to BEIS/Ofgem setting out their decision based on consultation feedback following a proposed 5 year review of all of the codes. Especially, as BEIS/Ofgem are still at the stage of reviewing options for a proposed new institutional framework and what role Ofgem may take in that framework.

Question 2			
Respondent	Category	Response	Rationale
Northern Gas Networks	Networks Party	No	No impacts to NGN have been identified as a result of this proposal.
DCC	N/A	No	This is a document only change so there is no direct impact to the DCC. Once implemented, we would be able to reduce cost and effort in having to assess and develop proposals that have been shown to be unsupported by the Parties.

Question 3: Will your organisation incur any costs in implementing MP079?

Question 3			
Respondent	Category	Response	Rationale
British Gas	Large Supplier	No	There are no implementation costs for suppliers.
EDF	Large Supplier	No	We will not incur any costs as a result of MP079 being implemented.
Western Power Distribution	Networks Party	No	No comment.
Npower	Large Supplier	No	No comment.
SSEN	Networks Party	No	No comment.
Electricity North West Limited	Networks Party	Yes	If MP079 is implemented and where we to raise and proposal which SECAS, the SEC Panel and any Sub-Committee deemed to be ' <i>unlikely to succeed</i> ' and we wanted to appeal this decisions to the Authority. This would incur costs for our time to appeal a decision. We are unable to provide costs incurred in absence of a defined process for this.
Northern Gas Networks	Networks Party	No	No costs to NGN have been identified as a result of this proposal.
DCC	N/A	No	This is a document only change.

Question 4: Do you believe that MP079 would better facilitate the General SEC Objectives?

Question 4			
Respondent	Category	Response	Rationale
British Gas	Large Supplier	Yes	As per the modification report, we believe that MP079 will better facilitate SEC Objective (g) as by allowing the Panel to be able to step in and close a clearly unsupported or unfeasible proposal early once it has had a fair hearing will improve efficiency in the Modifications Process. The industry time, cost and effort that would otherwise have been spent in progressing such a proposal to a final decision would be saved and could be invested in other proposals that have a greater chance of success.
EDF	Large Supplier	Yes	We agree that MP079 will better facilitate SEC Objective (g) as it will ensure that changes that changes that are not being progressed are removed from the change process, making that process more efficient.
Western Power Distribution	Networks Party	Yes	We believe that this Modification would better facilitate SEC Objective (g) by aiding efficient administration of the Code and avoiding unnecessary work, time and resource being wasted.
Npower	Large Supplier	Yes	We see this change as supporting the efficiency of the Modifications Process.
SSEN	Networks Party	Yes	As stated on the Modification Report, SSEN agree that this SEC mod will better facilitate SEC Objective (g).
Electricity North West Limited	Networks Party	No	In the absence of an evidence-based review of the impact we are unable to agree MP079 better facilities the efficient and transparent administration and implementation of the SEC.
Northern Gas Networks	Networks Party	Yes	This proposal should further SEC Objective g) <i>to facilitate the efficient and transparent administration and implementation of the SEC</i> as the ability of Panel to withdraw modifications should improve the efficiency of the Modification Process by ensuring that

Question 4			
Respondent	Category	Response	Rationale
			parties' time and budget are not spent on modifications which are clearly unlikely to be implemented as have stagnated for a long period of time.
DCC	N/A	Yes	The proposal supports objective (g) 'Facilitate the efficient and transparent administration and implementation of the SEC'.

Question 5: Noting the costs and benefits of this modification, do you believe MP079 should be approved?

Question 5			
Respondent	Category	Response	Rationale
British Gas	Large Supplier	Yes	We have not identified any drawbacks with this modification proposal and there are no costly system changes. We are therefore supportive of implementation and delivery of the benefit identified.
EDF	Large Supplier	Yes	We agree that MP079 should be approved.
Western Power Distribution	Networks Party	Yes	We believe that this a straightforward change that would have a positive impact on the Code and the Modification Process, although we would seek some clarity around the reasons for the SEC Panel to withdraw a modification.
Npower	Large Supplier	Yes	No comment.
SSEN	Networks Party	Yes	SSEN support this mod as we agree that time, cost and effort that would have been spent in progressing a proposal that is not likely to succeed, could be saved and invested in other proposals that have a greater chance of success.
Electricity North West Limited	Networks Party	No	For the reasons detailed in our responses to Q1 - 4 and in the absence of an evidence-based review of the impact.
Northern Gas Networks	Networks Party	Yes	Subject to our previous comments, we agree that this proposal should be approved as the benefits of an improved Modification Process should outweigh the administration costs required to implement the change.
DCC	N/A	Yes	Benefits outweigh the costs.

Question 6: How long from the point of approval would your organisation need to implement MP079?

Question 6			
Respondent	Category	Response	Rationale
British Gas	Large Supplier	We believe this modification proposal could be implemented immediately after a decision has been made (or as soon as reasonably possible afterwards to accommodate SECAS activities and any necessary release schedules).	There are no implementation activities for suppliers associated with implementation of this proposal.
EDF	Large Supplier	0	We do not require any lead time for the implementation of MP079.
Western Power Distribution	Networks Party	No.	Due to nature of this change we do not require a minimum lead time.
Npower	Large Supplier	N/A	We would not need to implement anything for this change to go live.
SSEN	Networks Party	N/A	No comment.
Electricity North West Limited	Networks Party	No comment.	No comment.
Northern Gas Networks	Networks Party	N/A	There is no direct implementation impact for our organisation, so we believe it could be implemented as soon as possible after Authority approval is received, subject to any appeal window.

Question 6			
Respondent	Category	Response	Rationale
DCC	N/A	None.	No action is necessary.

Question 7: Do you agree with the proposed implementation approach?

Question 7			
Respondent	Category	Response	Rationale
British Gas	Large Supplier	Yes	The approach seems sensible. However, as there are no system or processes changes for parties we would also support an earlier implementation timescale.
EDF	Large Supplier	Yes	We agree with the proposed implementation approach, and would hope that this change could be included in the February 2020 SEC Release.
Western Power Distribution	Networks Party	Yes	The proposed implementation approach seems reasonable due to the low impact of this change.
Npower	Large Supplier	Yes	No comment.
SSEN	Networks Party	Yes	SSEN agree with the dates and releases recommended within this Modification.
Electricity North West Limited	Networks Party	No	For the reasons detailed in our responses to Q1 – 4 and whilst the Reforming the Energy Industry Codes review June consultation debated change management it is too early to presume the outcome prior to BEIS/Ofgem setting out their decision based on consultation feedback. Especially as BEIS/Ofgem are still at the stage of reviewing options for a proposed new institutional framework.
Northern Gas Networks	Networks Party	Yes	We agree that this proposal could be included within the February 2020 Release, with a secondary release date of June 2020 should a decision from the Authority not be received within sufficient time for the first.
DCC	N/A	Yes	It makes sense to align the implementation date with the SEC Release dates.

Question 8: Do you agree that the legal text will deliver MP079?

Question 8			
Respondent	Category	Response	Rationale
British Gas	Large Supplier	Yes	The legal text looks to deliver the intent of the proposal (subject to comments in our response to Q9).
EDF	Large Supplier	Yes	We have no comments on the legal text.
Western Power Distribution	Networks Party	Yes	Although we agree that the legal text delivers the intent of this modification, as mentioned previously we would seek further clarity on the reasons the SEC Panel can withdraw a modification.
Npower	Large Supplier	Yes	No comment.
SSEN	Networks Party	Yes	SSEN support the proposed changes to the legal text.
Electricity North West Limited	Networks Party	No	For the reasons detailed in our responses to Q1 – 4.
Northern Gas Networks	Networks Party	Yes	We believe the legal text provided should deliver the solution set out in the proposal.
DCC	N/A	Yes	The legal text appears to deliver the essence of the proposal. However, we have a couple of questions for your consideration: <ul style="list-style-type: none"> • D5.2: The proposed solution states that the Panel will need to consider the views raised when making the decision. Shouldn't this requirement be included in this paragraph? • D5.5, D5.8 and D5.9: Given that the Proposer has the right to appeal, there is an argument to suggest that the proposal should only be withdrawn after the appeal window has been closed.

Question 9: Please provide any further comments you may have

Question 9		
Respondent	Category	Comments
British Gas	Large Supplier	<p>It is not entirely clear from the legal text whether the proposed 10 days within D5.2 and D5.8 are different time periods. Our understanding of the proposal is the following will happen:</p> <ol style="list-style-type: none"> 1) Panel determine they wish to withdraw a proposal and set out their reasoning (D5.2); 2) Parties then have at least 10 days to provide comments (D5.2); 3) Panel then review any comments and then determine whether or not to issue a direction for the modification to be withdrawn (<i>this bit isn't clear in the legal text, it may not need to be but it is our interpretation of what will happen</i>) 4) If the Panel determine to withdraw a modification proposal then SECAS will inform parties and update the register (D5.5) 5) The Proposer then has 10 days to appeal the decision to Ofgem (D5.8) 6) If Ofgem uphold the appeal, then the modification will not be withdrawn (D5.9). <p>As above, it appears there is a procedural step for SECAS / Panel in assessing any comments that are submitted prior to making a determination under D5.2.</p>
EDF	Large Supplier	We have no further comments.
Electricity North West Limited	Networks Party	In addition to seeking the Authority views. The Working Group should also seek the views of BEIS as the co-lead with the Ofgem on the Reforming the Energy Industry Codes Significant Code Review.
Northern Gas Networks	Networks Party	Further to our previous comments, as we believe that the proposed solution is not currently part of any energy code, we feel it would be beneficial to obtain Ofgem's agreement to act as the appeal body prior to the proposal being sent for Authority Direction.

Question 9		
Respondent	Category	Comments
DCC	N/A	No further comments.