Smart Energy Code

Draft Legal Text

SECMP0051:

Section D Review: Amendments to the Fast Track Modification Process

SECAS Contact:

Name:

Harry Jones

Number:

020 7081 3345

Email:

SEC.change@gemserv.com

Summary

This modification seeks to streamline the process for progressing a Fast Track Modification Proposal through the SEC Modifications Process, by aligning the process to that used under other energy codes.

About this document

This document contains the draft SEC legal text that will deliver the intent of SECMP00051.

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SECP 58_1307_15 – Attachment A

Administered by Gemserv, 8 Fenchurch Place, London EC3M 4AJ

1. Draft Legal Text

This section sets out the draft Legal Text Changes for SECMP0051. These changes have been drafted against the Smart Energy Code (SEC) version 5.18[1].

Section D 'Modification Process'

Amend Section D1.3 as follows:

D1.3 A Modification Proposal may be submitted by any of the following persons (the **Proposer**):

(a) a Party;

(b) Citizens Advice or Citizens Advice Scotland;

(c) any person or body that may from time to time be designated in writing by the Authority for the purpose of this Section D1.3;

(d) the Authority or the DCC acting at the direction of the Authority, but in each case only in respect of variations to this Code which:

(i) the Authority reasonably considers are necessary to comply with or implement the EU Regulations, any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators; and/or

(ii) are in respect of a Significant Code Review; and

(e) the Panel (where all Panel Members at the relevant meeting vote unanimously in favour of doing so), but only in respect of variations to this Code which are intended to give effect to:

(i) recommendations contained in a report published by the Panel pursuant to Section C2.3(i) (Panel Duties);

(ii) recommendations contained in a report published by the Code

[1]Note that if a new version of the SEC is designated before the submission of the Final Modification Report to the Change Board or Authority, the drafting will be checked to make sure there are no consequential impacts.

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Administrator pursuant to Section C7.2(c) (Code Administrator);

(iii) Fast-Track Modifications (as described in Section D2.8 (Fast-Track Modifications)); and/or

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(iv) consequential changes to this Code required as a result of changes proposed or already made to one or more other Energy Codes.

Amend Section D1.7 as follows:

D1.7 A Modification Proposal must contain the following information:

(a) the name of the Proposer;

(b) the name and contact details of an employee or representative of the Proposer who will act as a principal point of contact in relation to the proposal;

(c) the date on which the proposal is submitted;

(d) a description in sufficient detail of the nature of the proposed variation to this Code and of its intended purpose and effect;

(e) a statement of whether, in the opinion of the Proposer, the Modification Proposal should be a Path 1 Modification, a Path 2 Modification or a Path 3 Modification;

(f) a statement of whether the Proposer considers, in the light of any guidance on the topic issued by the Authority from time to time, that the Modification Proposal should be treated as an Urgent Proposal (and, if so, its reasons for so considering);

(g) a statement of whether or not the Modification Proposal is intended to be a Fast-Track Modification;

Deleted: (bearing in mind that only the Panel may raise Fast-Track Modifications)

(h) a statement of the reasons why the Proposer believes that this Code would, if the proposed variation were made, better facilitate the achievement of the SEC Objectives than if that variation were not made;

(i) a statement of whether the Proposer believes that there would be a material

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impact on Greenhouse Gas Emissions as a result of the proposed variation being made;

(j) a statement as to which parts of this Code the Proposer considers would require to be amended in order to give effect to the proposed variation or as a consequence of that variation (including legal drafting if the Proposer so wishes);

(k) a statement as to which Party Categories, in the opinion of the Proposer, are likely to be affected by the proposed variation;

(l) a statement of whether changes are likely to be required to other Energy Codes as a result of the proposed variation being made;

(m) a statement of whether, in the opinion of the Proposer, the Modification Proposal will require, as part of the proposal's implementation, the DCC to undertake testing of the DCC Total System and/or provide testing services; and

(n) a statement of whether, in the opinion of the Proposer, the Modification Proposal will require changes to DCC Systems, User Systems and/or Smart Metering Systems; and

(o) the timetable in accordance with which the Proposer recommends that the proposed variation should be implemented (including the proposed implementation date).

Amend Sections D2.7 and D2.8 as follows:

Path 3 Modification: Self-Governance

D2.7 A Modification Proposal that is not a Path 1 Modification, a Path 2 Modification or a Fast-Track Modification shall have the status of a Path 3 Modification.

Fast-Track Modifications

D2.8 A Modification Proposal submitted to correct typographical errors or other minor factual inaccuracies or inconsistencies in this Code that do not constitute material text

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changes shall have the status of a **Fast-Track Modification**.

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Amend Sections D3.5 and D3.6 as follows:

D3.5 The Panel shall consider each Modification Proposal and the accompanying documents referred to in section D3.4:

(a) in the case of Modification Proposals expressed by the Proposer to be urgent, within 5 Working Days after the proposal's submission; and

(b) in respect of all other Modification Proposals, at the next Panel meeting occurring more than 6 Working Days after the Modification Proposal's submission.

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D3.6 In considering each Modification Proposal pursuant to Section D3.6, the Panel shall determine:

(a) whether to refuse the Modification Proposal in accordance with Section D3.8;

(b) whether the Modification Proposal is a Path 1 Modification, a Path 2 Modification or a Path 3 Modification (taking into account the view expressed by the Proposer in the Modification Proposal and as described in Section D2);

(c) whether the Authority should be asked to consider whether the Modification Proposal should be treated as an Urgent Proposal (and, where the Proposer has expressed the Modification Proposal to be urgent, the Panel shall so ask the Authority);

(d) in the case of Fast-Track Modifications, whether the Modification Proposal should be progressed and approved as a Fast-Track Modification (and such approval shall require the unanimous approval of all the Panel Members present at the relevant meeting, otherwise the Modification Proposal shall be progressed as though it is not a Fast-Track Modification);

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(e) whether, in accordance with Section D3.9, it is necessary for the Modification Proposal to go through the Refinement Process, or whether it can progress

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straight to the Report Process;

(f) the timetable to apply in respect of the Modification Proposal, in accordance with the criteria set out in Section D3.10; and

(g) whether the Modification Proposal should be considered together with any other current Modification Proposal(s) (whether because they complement or contradict one another or for any other reason), in which case the Modification Proposals in question shall be considered by the same Working Group.

Amend Section D9.5 as follows:

D9.5 In the case of a Fast-Track Modification, any decision of the Panel under Section D3.6 to approve the Modification Proposal shall be final, subject to the following:

(a) any Party that disagrees with the Modification Proposal being approved as a Fast-Track Modification, may (within 15 Working Days following the publication of that decision) object to the decision; and

(b) where an objection is received, the Panel's decision on the Modification Proposal shall be cancelled and the Modification Proposal shall be returned to the Panel at its next meeting. The Panel shall then revise its determination under Section D3.6 as though the Modification Proposal is not a Fast-Track Modification.

Deleted: where the Panel has raised a Fast-Track Modification, any Party may notify the Panel that the Party believes that the procedure for Fast-Track Modifications is inappropriate given the nature of the variation in question (and the Party should give reasons to substantiate this belief)

Deleted: when the Panel considers the status of the Fast-Track Modification in accordance with Section D3.6 (Initial Consideration of Modification Proposals), it shall consider any notifications received pursuant to Section D9.5(a);

Deleted: <#>where the Panel nevertheless determines under Section D3.6 (Initial Consideration of Modification Proposals) that the Modification Proposal should be approved, the Panel shall notify the Party that raised the issue under Section D9.5(a);¶
<#>such Party may, within 10 Working Days thereafter, refer the matter to the Authority for final determination; and¶
<#>following a referral to the Authority in accordance with Section D9.5(d), where the Authority determines that the Panel's decision to follow the Fast-Track Procedure was inappropriate given the nature of the variation in question, the Modification Proposal shall be cancelled and not implemented (or, if already implemented, shall be reversed)¶

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