Smart Energy Code

Draft Legal Text

SECMP0049:

Section D Review: Amendments to the Modification Process

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Summary

This modification proposes to amend the end-to-end SEC Modifications Process to introduce a formal 'pre-modification process' and enhance the role of the Change Board in developing and assessing modifications.

About this document

This document contains the draft SEC legal text that will deliver the intent of SECMP00049.

The legal text in this document applies equally to both the Proposed Solution and the Alternative Solution.

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SECP 58_1307_13 – Attachment A

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1. Draft Legal Text

This section sets out the draft Legal Text Changes for SECMP0049. These changes have been drafted against the Smart Energy Code (SEC) version 5.18[1].

Section A 'Definitions and Interpretations'

Add the following new definitions into Section A1.1 in alphabetical order:

Change Sub-Committee	has the meaning given to that expression in Section D2A.1 (Establishment of the Change Sub-Committee).
Draft Proposal	has the meaning given to that expression in Section D1.2 (Modifications)
Proposed Solution	means the variation under a Modification Proposal that is proposed and can be subsequently changed by the Proposer in accordance with Section D6.15 (Alternative Solutions).

Amend the following definitions in Section A1.1 as follows:

Alternative Solution	has the meaning given to that expression in Section D6.16 (Alternative Solutions).
Modification Proposal	has the meaning given to that expression in Section D3.11 (Initial Consideration by the Panel).
Authority-initiated Modification	has the meaning given to that expression in Section D2.4 (Authority-initiated Modifications).
Authority Determined Modification	has the meaning given to that expression in Section D2.6 (Authority Determined Modifications).
Self-Governance	has the meaning given to that expression in Section

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[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. Our current understanding is that the specifications that SECMP0006 is amending are not expected to change as part of any forthcoming designations.

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Modification	D2.7 (Self-Governance Modifications).
Proposer	has the meaning given to that expression in Section D1.3 (Persons Entitled to Submit Draft Proposals).
Significant Code Review Phase	means, in respect of each Significant Code Review, the period from the date on which the Authority issues the notice stating that the matter is to constitute a Significant Code Review (including where the Authority issues a direction under Section D5.7 (Significant Code Review: Backstop Direction) or proposes an Authority-Led Variation by issuing a direction under Section D9A.2 (Authority Power to Develop a Proposed Variation)), and ending on the earlier of: (a) the date on which the Authority, or DCC at the direction of the Authority, submits a Draft Proposal in respect of any variations arising out of a Significant Code Review; (b) where the Authority has proposed an Authority-Led Variation, the date on which the Authority makes a decision in accordance with Section D9A.11 (Authority Decision); (c) the date on which the Authority issues a conclusion that no modification is required to this Code as a result of the Significant Code Review; or (d) the date 28 days after the date on which the Authority issues its conclusion document in respect of the Significant Code Review.

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Section C 'Governance'

Amend Section C2.3 as follows:

D2.3 Without prejudice to any other tasks, duties or obligations imposed on the Panel in this Code, the Panel shall, subject to and in accordance with the other provisions of this Code:

[…]

(d) oversee and co-ordinate the process for assessing Draft Proposals and Modification Proposals, and implement successful Modification Proposals, each as set out in Section D (Modification Process);

[…]

(l) establish (and, where appropriate, revise from time to time) joint working arrangements with the panels, committees and administrators responsible for the governance and operation of other Energy Codes, in order to facilitate the timely:

(i) identification, co-ordination, making and implementation of changes to other Energy Codes consequent on a Draft Proposal or Modification Proposal (and vice versa); and

(ii) identification and coordinated resolution of Disputes and disputes under other Energy Codes (in circumstances where there is an interaction between the Dispute and one or more disputes under the other Energy Codes);

[…]

Amend Section C7.2 as follows:

C7.2 The Code Administrator shall perform those tasks and functions expressly ascribed to it under this Code, and any other tasks and functions as the Panel may assign to the Code Administrator from time to time. In particular, the Code Administrator shall:

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(f) facilitate a process whereby Parties can submit a Draft Proposal to the Code Administrator to have that potential variation developed, refined and discussed prior to the Party deciding whether to formally submit a Modification Proposal (whether through the Change Board or another forum);

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(i) without prejudice to the generality of Section C7.2(i), provide support and assistance to the Proposer of a Draft Proposal, including assistance in understanding this Code so as to properly frame any subsequent Modification Proposal;

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Section D 'Modification Process'

Please see the full Section D redlining provided in a separate attachment

Section F 'Smart Metering System Requirements'

Amend Section F1.4 as follows:

F1.4 The Technical Architecture and Business Architecture Sub-Committee shall undertake the following duties on behalf of the Panel:

(a) to provide the Panel, the Change Sub-Committee, the Change Board and Working Groups with technical and business architecture support and advice in respect of Draft Proposals and Modification Proposals that provide for variations to the Technical Code Specifications (or variations to other parts of this Code that affect the End-to-End Technical Architecture and/or the Business Architecture);

(b) to provide the Panel, the Change Sub-Committee, the Change Board and Working Groups with technical and business architecture support and advice in respect of Draft Proposals and Modification Proposals that are identified as likely (if approved) to require changes to the End-to-End Technical Architecture and/or to the Business Architecture;

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[…]

Amend Section F1.6 as follows:

F1.6 The Technical Architecture and Business Architecture Sub-Committee shall establish a process whereby the Code Administrator monitors Draft Proposals and Modification Proposals with a view to identifying (and bringing to the Technical Architecture and Business Architecture Sub-Committee's attention) those proposals that are likely to affect the End-to-End Technical Architecture and/or the Business Architecture. The Code Administrator shall comply with such process.

Section G 'Security'

Amend Sections G7.18 to G7.22 as follows:

Monitoring and Advice

G7.18 The Security Sub-Committee shall:

(a) provide such reasonable assistance to the DCC and Users as may be requested by them in relation to the causes of security incidents and the management of vulnerabilities on their Systems;

(b) monitor the (actual and proposed) Anomaly Detection Thresholds of which it is notified by the DCC, consider the extent to which they act as an effective means of detecting any Compromise to any relevant part of the DCC Total System or of any User Systems, and provide its opinion on such matters to the DCC;

(c) provide the Panel with support and advice in respect of Disputes for which the Panel is required to make a determination, insofar as such Disputes relate to the Security Obligations and Assurance Arrangements;

(d) provide the Panel, the Change Sub-Committee, the Change Board and any relevant Working Group with support and advice in relation to any Draft Proposal or Modification Proposal which may affect the security of the End-to-End Smart Metering System or the effective implementation of the security controls that are identified in the Security Requirements;

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(e) advise the Authority of any modifications to the conditions of Energy Licences which it considers may be appropriate having regard to the residual security risks identified from time to time in the Risk Treatment Plan;

(f) respond to any consultations on matters which may affect the security of the End-to-End Smart Metering System or the effective implementation of the security controls that are identified in the Security Requirements;

(g) act in cooperation with, and send a representative to, the SMKI PMA, the Technical Architecture and Business Architecture Sub-Committee and any other Sub-Committee or Working Group which requests the support or attendance of the Security Sub-Committee;

(h) (to the extent to which it reasonably considers that it is necessary to do so) liaise and exchange information with, provide advice to, and seek the advice of the Alt HAN Forum on matters relating to the Alt HAN Arrangements which may affect the security of the End-to-End Smart Metering System or the effective implementation of the security controls that are identified in the Security Requirements; and

(i) provide such further support and advice to the Panel as it may request.

Modifications

G7.19 The Security Sub-Committee shall establish a process under which the Code Administrator monitors Draft Proposals and Modification Proposals with a view to identifying (and bringing to the attention of the Security Sub-Committee) those proposals that:

(a) are likely to affect the Security Obligations and Assurance Arrangements; or

(b) are likely to relate to other parts of the Code but may have a material effect on the security of the End-to-End Smart Metering System,

and the Code Administrator shall comply with such process.

G7.20 Notwithstanding Section D1.3 (Persons Entitled to Submit Draft Proposals):

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(a) the Security Sub-Committee shall be entitled to submit Draft Proposals in respect of the Security Obligations and Assurance Arrangements where the Security Sub-Committee considers it appropriate to do so; and

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(b) any Security Sub-Committee Member shall be entitled to submit Draft Proposals in respect of the Security Obligations and Assurance Arrangements where he or she considers it appropriate to do so (where the Security Sub-Committee has voted not to do so).

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G7.21 Notwithstanding Section D6.3 (Establishment of a Working Group), and subject to the provisions of Sections D6.5 and D6.6, the Security Sub-Committee shall be entitled to nominate a representative to be a member of any Working Group.

G7.22 For the purposes of Section D7.1 (Modification Report):

(a) written representations in relation to the purpose and effect of a Draft Proposal or a Modification Proposal may be made by:

(i) the Security Sub-Committee; and/or

(ii) any Security Sub-Committee Member (either alone or in addition to any representations made by other Security Sub-Committee Members and/or the Security Sub-Committee collectively); and

(b) notwithstanding Section D7.3 (Content of the Modification Report), the Code Administrator shall ensure that all such representations, and a summary of any evidence provided in support of them, are set out in the Modification Report prepared in respect of the relevant Modification Proposal.

Section L 'Smart Metering Key Infrastructure and DCC Key Infrastructure'

Amend Sections L1.17 to L1.19 as follows:

Duties of the SMKI PMA

L1.17 The SMKI PMA shall undertake the following duties:

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(a) to approve the Device CPS, Organisation CPS and the IKI CPS, and any changes to those documents, in accordance with Sections L9;

(b) to propose variations to the SMKI SEC Documents, as further described in Section L1.19;

(c) to periodically review (including where directed to do so by the Panel) the effectiveness of the SMKI Document Set (including so as to evaluate whether the SMKI Document Set remains consistent with the SEC Objectives), and report to the Panel on the outcome of such review (such report to include any recommendations for action that the SMKI PMA considers appropriate);

(d) as soon as reasonably practicable following the incorporation of each of the following documents into this Code, its re-incorporation, or its modification in accordance with section 88 of the Energy Act 2008, to review that document in accordance with paragraph (c) above:

(i) the SMKI Compliance Policy;

(ii) the SMKI RAPP;

(iii) the Device Certificate Policy;

(iv) the Organisation Certificate Policy;

(v) the IKI Certificate Policy;

(vi) the SMKI Recovery Procedure,

and (where the SMKI PMA considers it appropriate to do so) submit one or more Draft Proposals in respect of those documents (which Draft Proposals shall, notwithstanding Section X2.3(a), (b) and (c), be subject to Section D (Modification Process) as varied by Section X2.3(d));

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(e) to periodically review the effectiveness of the DCCKI Document Set and to:

(i) notify DCC where it considers that changes should be made to the DCCKI Document Set in order to ensure that DCC meets its obligations

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under Section G (Security) (such notification to include any recommendation for action that the SMKI PMA considers appropriate); and

(ii) copy any such notification to the Security Sub-Committee and, except to the extent that it is appropriate to redact information for security purposes, to other SEC Parties;

(f) as soon as reasonably practicable following the incorporation of each of the following documents into this Code, its re-incorporation, or its modification in accordance with section 88 of the Energy Act 2008, to review that document in accordance with paragraph (e) above:

(i) the DCCKI RAPP;

(ii) the DCCKI Certificate Policy;

(g) to review the DCCKI CPS, and any amendments proposed to be made to it by the DCC, in accordance with Section L13 (DCC Key Infrastructure);

(h) as part of its review of the SMKI Compliance Policy pursuant to paragraph (d) above, to consider whether SMKI Participants which are subject to assurance assessments pursuant to the SMKI Compliance Policy should be liable to meet the costs (or a proportion of the costs) of undertaking such assessments, and (where the SMKI PMA considers it appropriate to do so) submit one or more Draft Proposals as referred to in paragraph (d) above;

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(i) in relation to any incident in which a Relevant Private Key is (or is suspected of being) Compromised, to decide, in accordance with the SMKI Recovery Key Guidance, whether or not to require the use of the Recovery Private Key or Contingency Private Key (including the Symmetric Key);

(j) to exercise the functions allocated to it under the SMKI Recovery Procedure, and in particular to exercise any power to nominate Parties for such purposes (and in accordance with such procedures) as may be set out in the SMKI Recovery Procedure;

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(k) to provide the Panel, the Change Sub-Committee, the Change Board and Working Groups with support and advice in respect of Draft Proposals and Modification Proposals that provide for variations to the SMKI SEC Documents or the DCCKI SEC Documents;

(l) to provide assurance in accordance with Section L2 (SMKI Assurance);

(m) to provide the Panel with support and advice in respect of Disputes for which the Panel is required to make a determination, insofar as such Disputes relate to the SMKI Document Set or the DCCKI Document Set;

(n) to provide the Panel and Sub-Committees with general advice and support with respect to the SMKI Services, the SMKI Repository Service, the DCCKI Services and the DCCKI Repository Service;

(o) to exercise such functions as are allocated to it under, and to comply with all the applicable requirements of, the SMKI Document Set in accordance with Section L9.1; and

(p) to perform any other duties expressly ascribed to the SMKI PMA elsewhere in this Code.

L1.18 The SMKI PMA shall establish a process whereby the Code Administrator monitors Draft Proposals and Modification Proposals with a view to identifying (and bringing to the SMKI PMA's attention) those proposals that are likely to affect the SMKI SEC Documents. The Code Administrator shall comply with such process.

Modification of the SMKI SEC Documents by the SMKI PMA

1.19 Notwithstanding Section D1.3 (Persons Entitled to Submit Draft Proposals):

(a) the SMKI PMA shall be entitled to submit Draft Proposals in respect of the SMKI SEC Documents where the SMKI PMA considers it appropriate to do so; and

(b) any SMKI PMA Member shall be entitled to submit Draft Proposals in respect of the SMKI SEC Documents where he or she considers it appropriate to do so

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(where the SMKI PMA has voted not to do so).

Amend Section L8.11 as follows:

L8.11 The DCC shall, as soon as is reasonably practicable, submit a Draft Proposal containing rules that it considers appropriate to enable the prioritisation by the DCC of Certificate Signing Requests in respect of Device Certificates sent over the SMKI Service Interface in circumstances in which the aggregate demand for the Issue of Device Certificates cannot be satisfied within the applicable Target Response Times.

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Amend Section L10.24 as follows:

L10.24 Where the amount of the Recovery Costs requested by any Party is (whether alone or taken together with amounts requested by any other Parties in relation to the same Recovery Event) for a sum exceeding that which is determined from time to time by the Panel, following consultation with the Parties and the Authority, for the purposes of this Section L10.24:

(a) the DCC may refer to the Panel, for its determination, the question of the dates on which the payments of the amounts requested shall be made;

(b) the Panel shall determine the dates on which those payments shall be made, and may in particular determine that:

(i) different Parties shall be paid at different times; and

(ii) any amount which is to be paid to a Party shall be paid in instalments at different times; and

(c) the Panel shall consider whether to submit any Draft Proposal in relation to the Charging Methodology (taking into account whether it is proposed by the Authority to make any adjustment to the allowable revenues of the DCC, or by the DCC to amend the Charging Statement).

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Amend Section L13.55 as follows:

L13.55 Where the individual(s) carrying out the DCCKI PMA Functions notifies the DCC of any matter, or makes any recommendation with regard to the compliance by the DCC with its obligations under Section G (Security) (including in particular any recommendation for the modification of the DCCKI Document Set for the purpose of ensuring such compliance), the DCC shall:

(a) consider and take into account the matter notified, or recommendation made, to it; and

(b) where, having done so, it considers that it would be appropriate to make a change to the:

(i) DCCKI SEC Documents, submit a Draft Proposal for that purpose; and

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(ii) DCCKI CPS, propose amendments to it in accordance with Section L13.42.

Section M 'General'

Amend Section M5.1 as follows:

M5.1 Section M5.2 applies in respect of this Code and any and all documents, materials, reports, charts and tables, diagrams and specifications, and any and all other works, inventions, ideas, designs or proposals (in whatever form, and including Draft Proposals and Modification Proposals) arising out of or in connection with the central administration, operation and development of this Code, including any and all associated drafts and working papers (collectively, the "**SEC Materials**"); provided that the SEC Materials shall not include the Consumer Data or the Services IPR.

Amend Section M8.5 as follows:

M8.5 The rights referred to in Section M8.4(e) are:

(a) the right of the Defaulting Party (and each other member of its Voting Group) to vote in Panel Member elections under Section C4 (Panel Elections);

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(b) the right of the Defaulting Party to raise new Draft Proposals under Section D (Modifications); and

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(c) the right of the Defaulting Party to influence the appointment of a Change Board Member, so that:

(i) in the case of a Supplier Party, the Change Board Member appointed by the Voting Group of which that Supplier Party forms part shall be suspended; or

(ii) in the case of any Party other than a Supplier Party, the Secretariat shall ignore the views of that Party when considering any request to appoint or remove a Change Board Member appointed by the Party Category of which that Party forms part.

Section Z 'Alt HAN Arrangements'

Amend Section Z1.6 as follows:

Z1.6 Without prejudice to any other rights or powers granted to the Forum in this Section Z, the Forum shall, in accordance with the provisions of this Section Z, have the power to:

(a) make written representations in relation to the purpose or effect of any Draft Proposal or Modification Proposal which:

(i) is likely to affect this Section Z;

(ii) is likely to affect the provisions relating to the Alt HAN Charges at Section K (Charging Methodology);

(iii) relates to other parts of the Code, but may have a material effect on the Alt HAN Arrangements;

(b) appoint and remove professional advisers;

(c) consider, approve and authorise the entering into by AltHANCo of contracts; and

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(d) do anything else necessary for, or reasonably incidental to, the fulfilment of its functions under this Section Z.

Appendix AG 'Incident Management Policy'

Amend Section 3.2.4 as follows:

3.2.4 If a Problem investigation or resolution requires a change to the Code a Draft Proposal shall be submitted by the DCC.

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