Smart Energy Code

SEC
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Stage 02: Working Group Consultation Responses

What stage is this document in the process?

- 01 Initial Modification Report
- 02 Refinement Process
- 03 Report Phase
- 04 Final Modification Report

SECMP0041 'Amending the Change Board decision making rules for Modification Proposals'

About this document

This document contains the collated responses to the SECMP0041 Working Group Consultation (WGC). The Working Group (WG) will review these responses and consider them as part of the solution development for this modification.

If you would like any further information, or to discuss any questions you may have, please do not hesitate to contact Ali Beard on 020 3970 1105 or email SEC.Change@gemserv.com.

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Question 1

Q1: Do you agree that the proposed solution better facilitates the SEC Objectives and should therefore be approved?			
Party Name	Party Category	Yes/No	Comments
Utilita Energy	Large Supplier	No	We believe this Modification will add to the administrative burden on SEC parties and may also act as a disincentive on SEC Parties in casting votes on Modifications. If a Modification is taken through the Refinement stage, SEC Parties can expect a minimum of 3 separate consultations to respond to regarding their views on a Modification, we believe this is inefficient and adds complexity to an already over complicated Change Process. We believe there is real value in holding meetings for voting to enable parties to actively discuss the benefits and drawbacks of a change. We often see parties changing their vote at other Change Board meetings when they understand the value of a change as a whole for industry and we believe this Modification takes away such flexibility. We also already find the SEC to requires a higher level of resource to engage with in comparison to other codes with responding to all the various Working Group and Modification Report consultations so adding a further level to this will mean we are likely to have to reduce the number of Modifications we are able to respond to.
L+G	Others	Yes	Because it better facilitates SEC Objective “g”
E.ON Energy Solutions	Large Supplier	No	The current solution proposed for this Modification adversely impacts the efficiency with which the administration of this Code is conducted because it introduces two additional stages for the Administrator to undertake within the change process.

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			In addition, the current solution appears to remove transparency around the implementation of this Code because no provisions have been made for the notification or reporting of the Modification Report Vote outcome to Parties, the Change Board or the Panel such that the transparent and visible nature of the current process is maintained (leave alone improved). In addition, the proffered solution introduces inefficiency within the change process[1] which directly contravenes SEC objective a, and it creates the potential for a single Party to monopolise a Party Category Vote[2] which permits undue influence within the change process, and may directly contravene SEC objective d. [1]The current solution introduces two additional steps within the change process: The Code Administrator must issue a Vote request following the Final Modification Report Consultation (FMRC), and they must then collate the Modification Report Votes (MRV). If we assume that for the first additional stage the Administrator takes one week to collate and publish the FMRC responses prior to or alongside the Vote request, and we assume the collation of the MRV also takes one week, two additional weeks are being introduced into the change process. Thus, where the current process requires an average of 5 weeks between FMRC closure and the end of the referral/appeal window, the proposed process would elongate this to 7 weeks. Any subsequent appeals and send-backs are in addition to this and the actual additional time being introduced here would depend upon how close to Panel and/or Change Board these outcomes are known. [2]It may exist that only one Party submits a Vote within any of the Party Categories (PCs) and this would be a valid entry for the MRV under the current solution. This has the potential to directly and negatively impact other Parties within that Party

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			Category and is we believe, entirely inappropriate for an Industry change process. If this were to be true of two PCs and one of the others had a split vote, so long as the few organisations representing two PCs were to vote in-line with the remaining PC then a Modification can be approved or rejected by one representative PC vote and the views of a few individual companies. We feel this is wholly inappropriate and may lead to uncomfortable conjecture.
EDF Energy	Large Supplier	No	We do not believe that it has been clearly demonstrated that the proposed solution better facilitates the SEC Objectives, and in particular SEC Objective (g) as referenced in the consultation. While we agree that enabling every party to have a vote on each Modification Proposal would improve the transparency of the change process and enable all SEC Parties to have a say in the outcome, we do not believe that the proposed solution can be regarded as more efficient than the current process. As noted in the consultation this solution entails the addition of a further step, of potentially a month in duration, being added to the Modification Process. It has also not been clearly demonstrated that the current process has led to undesirable or incorrect outcomes, and that the proposed changes to this process would result in different or improved decisions being made.
Npower	Large Supplier	No	Whilst we understand the intent of this modification, we do not believe this will improve the efficiency of the Change Board or the modification process. We believe further work is required to develop the change board process and this mod should be a part of the working group for SECMP 049, SECMP050, and

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			SECMP051. This modification will add complexities to the process. Voting on a modification should happen at change board, however it is pragmatic to solicit views on whether SEC parties are supportive of a modification prior to or at DMR stage, this would assist in the development of the process and reduce work. The change board was designed to provide an overarching view and to take on board SEC parties comments put forward at consultation, limiting the change board powers especially with the development of SECMP 049 will be a backwards step
SSE	Large Supplier	No	Whilst we agree that the proposed solution provides greater inclusivity for those parties in Party Categories with constituency representation, we note the greater administrative burden and costs for the Code Administrator and SEC Parties to manage the new voting approach. Therefore, we consider this to be neutral against SEC Objective (g) and potentially disadvantageous.
Scottish Power Energy Retail Ltd.	Large Supplier	No	The Change Board was originally constituted to provide a level of independent operational expertise that might otherwise be missing if such decisions were left solely to the discretion of the SEC Panel. We note that the Change Board is obliged to consider the consultation responses it receives when making its decisions. Moreover, we further note that the number of Modification Consultation responses received tends to be very low compared to the numbers of SEC Parties. This would tend to suggest that those Parties with fewer resources (typically the smaller SEC Parties) are less likely to engage in the consultation process. Whether or not they respond to consultations, it is a crucial role of the Change Board to ensure that the interests of such Parties are given due regard

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			in any decisions; something that would be lost if these proposals were implemented. In our view, SECMP0041 would not only fundamentally undermine the role of this body of experts, it would also reduce the transparency surrounding the decision making process by removing the element of open debate; debate that is a matter of record.

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Question 2

Q2: Will your organisation be impacted due the implementation of this modification?			
Party Name	Party Category	Yes/No	Comments
Utilita Energy	Large Supplier	Yes	Rather than dialling into a monthly Change Board meeting which we currently do, we will be forced to complete a further consultation on each Modification in order to cast our vote. This will require greater resource from our organisation and rather we would recommend parties who have issues in attending a monthly Change Board meeting are able to vote by Proxy ahead of a meeting. This will achieve similar results to what this Modification is introducing however without the drawbacks of introducing further administrative burden on all parties by having to respond to a further consultation.
L+G	Others	No	-
E.ON Energy Solutions	Large Supplier	Yes	Every SEC Party within each PC has the potential to be impacted by this Modification and it is our view that this impact will be negative. Not only does the proposed modification introduce the negative consequences noted in our response to question one, but it further creates the risk that any individual or entity so inclined may become a SEC Party and influence the Industry's change process. There are currently no restrictions, limitations, or criteria relevant to becoming a SEC Party and we do not believe it is acceptable to have the change process open to the influence of literally anyone. We further note that instances in which one Party monopolises the Vote for the 'Other Party' PC may have competition implications.

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			We additionally believe that the potential for this Modification to introduce competitive financial disadvantage to us a member of the Large Supplier Party Category contravenes the SEC objectives. 'User Pays' voting arrangements is a fundamental standard acknowledged by and embedded in, the vast majority of change processes within this Industry on the premise that this is the only fair and equitable way to manage change. This same understanding is contributing to the requirement for each SEC Modification to have a valid business-case going forward, and losing the impartiality of the current SEC change process such that this standard is undermined, and certain consumers are detrimentally impacted financially for the gain of others is not an outcome that we are happy to accept
EDF Energy	Large Supplier	Yes	As a Large Supplier we already have our own vote within our Party Category so proposed solution would not have an impact on how we vote on changes. As noted previously we are concerned that the proposed solution would add an additional step into the Modifications process that would further delay the progression of Modification Proposals on a timely, which is recognised as an existing problem. We have also found that some of the discussions that have taken place at the Change Board have been very useful in informing our views on change, and on at least one occasion this has led to us agreeing to send back a change that we would have voted to approve on the basis of the Modification Resort Consultation. We are concerned that we might lose this useful discussion if voting becomes a remote process, and that we might not be able to vote in the most informed way possible
Npower	Large Supplier	Yes	This will add complexities to the process and therefore increase administrative burdens

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SSE	Large Supplier	Yes	We would be impacted by the additional step in submitting the Modification Report Vote, and our proportion of the costs for the implementation of this Modification and any subsequent costs/activities to manage this process by the Code Administrator
Scottish Power Energy Retail Ltd.	Large Supplier	Yes	All SEC Parties would be impacted by the implementation of SECMP0041

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Question 3

Q3: Will your organisation incur any costs due to the implementation of this modification?			
Party Name	Party Category	Yes/No	Comments
Utilita Energy	Large Supplier	Positive	We will have to find additional resource to ensure we respond to a greater number of SEC Modification consultations rather than dialling into a short Change Board meeting per month which will incur us costs overall.
L+G	Others	No	-
E.ON Energy Solutions	Large Supplier	Yes	As above
EDF Energy	Large Supplier	Yes	We would incur a very small additional cost as a result of the need to engage with the additional step in the process- however we would regard this cost as not being material
Npower	Large Supplier	Neutral	-
SSE	Large Supplier	Yes	As per our response to Q3, the internal implementation of this process and the proportion of any external costs
Scottish Power Energy Retail Ltd.	Large Supplier	Neutral	Not immediately

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Question 4

Q4: Having considered the potential impacts and costs to your organisation, as well as the cost to deliver the modification, do you agreed that SECMP0041 should be approved?

Party Name	Party Category	Yes/No	Comments
Utilita Energy	Large Supplier	No	As our comments have already stated we believe this Modification will add to the administrative burden on SEC parties and may also act as a disincentive on SEC Parties in casting votes on Modifications
L+G	Others	Yes	As it better reflects the views of the industry and makes the voting scheme much fairer
E.ON Energy Solutions	Large Supplier	No	In addition to the points noted above we would highlight that the current Change Process accords with best practice in Industry whereas the proposed solution does not. Indeed the only other Code with a similar process has attempted to amend it because it was felt that it was not 'fit-for-purpose' at times. It is our view that lessons should be learned from this and that best practice ought to be adhered to. We would also note that the proposed solution will likely result in the majority of Modifications being referred to the Change Board because of the requirement for each Party Category to provide a Vote (which is optional). Numerous Change Board meetings can demonstrate the level of abstention and if this results in one PC not submitting a Vote then the Modification will be referred to Change Board. It will however have taken a minimum of four weeks (assuming SECAS will use one week to compile and publish the FMRC responses and request to Vote) to understand that the referral to Change Board is necessary,

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			and where this transpires within less than five Working Days of the next Change Board meeting this will be elongated by another month. Thus there is the potential that Modifications will take two months following FMRC closure to get to Change Board, rather than the current average of three weeks. This lends us to consider that where the current arrangements are believed suitable for such instances, the proposed solution creates inefficiency without achieving the intent of the Modification. There are alternative voting arrangements that would achieve the intent of this Modification without introducing the risk, cost, inefficiency and potential disadvantages inherent in the proposed solution, and it is our view that the Working Group and/or Proposer ought to consider such alternatives. Such alternatives would also permit the change process to retain the impartiality of the current process.
EDF Energy	Large Supplier	No	While we support changes to improve the direct engagement of SEC Parties, and especially smaller SEC Parties, in the change process, we do not believe that the proposed solution will clearly result in better outcomes. Instead we are concerned that diluting the role of the Change Board removes a valuable part of the process where changes are discussed and debated. We note that the key issue here seems to be that SEC Parties (other than Large Suppliers who each have their own vote) do not feel that their views are being taken into account by their Change Board representatives, and these people are not accurately representing the views of their constituents. One would hope that there might be other ways that this disconnect between the representatives and those they are supposed to represent could be resolved without making more fundamental changes to the role of the Change Board.

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Npower	Large Supplier	No	This modification requires further development and should take into consideration the work being done for SECMP049
SSE	Large Supplier	Neutral	We have considered the proposals and WG discussions and at this stage we are neutral. We understand the issues set out in the DMR however, given it's proposed that there only needs to be one vote within a Party Category to be a valid vote and the voting being optional, we question whether this will address the concerns raised of voting for Party Categories not being reflective of responses to the Modification Report Consultations. The proposed Modification Report Vote being a subsequent stage to the MRC stage. As noted in the DMR, there is still the potential that Parties will not have the resources to submit their optional vote for each Modification, although we recognise this would be incumbent on each Party to risk assess and respond as they required. We also believe that for a vote to be valid there should be the same quoracy for the Party Categories applied as if it were the SEC Change Board meeting, to ensure that there is no disadvantage or risk
Scottish Power Energy Retail Ltd.	Large Supplier	No	See response to Q1

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Question 5

Q5: Do you believe that the draft legal text changes deliver the intention of the modification?			
Party Name	Party Category	Yes/No	Comments
Utilita Energy	Large Supplier	Yes	We have no comments on the draft legal text following review
L+G	Others	Yes	-
E.ON Energy Solutions	Large Supplier	Neutral	We have no comments to make on the legal text at present
EDF Energy	Large Supplier	Yes	We have not identified any issues with the draft legal text
Npower	Large Supplier	Neutral	-
SSE	Large Supplier	Yes	The draft legal text seems to reflect the detailed solution requirements set out in the DMR, noting our comments in response to Q4) where we have a different view on aspects of the proposal
Scottish Power Energy Retail Ltd.	Large Supplier	Neutral	-

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Question 6

Q6: Do you agree with the recommended implementation date?			
Party Name	Party Category	Yes/No	Comments
Utilita Energy	Large Supplier	Neutral	We are refraining on commenting on the implementation date as we do not support the Modification overall.
L+G	Others	Yes	-
E.ON Energy Solutions	Large Supplier	Neutral	It is not appropriate for Parties to be asked whether or not they agree with flouting the Release Management Policy (RMP); it is for the Panel to determine changes to a Release.
EDF Energy	Large Supplier	Yes	We agree with the proposed implementation date, and that (should they be approved) the implementation of this change should be co-ordinated with the other Modification Proposals relating to Section D of the Code.
Npower	Large Supplier	No	Further development is required and therefore the proposed date of Nov 18 implementation will not be achieved
SSE	Large Supplier	Yes	We agree that if this Modification were to be approved it would be efficient to align with any other approved changes that impacted Section D, and thereby using the same implementation date
Scottish Power Energy Retail Ltd.	Large Supplier	Neutral	-

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Question 7

Q7: Do you agree that the voting options be 'Accept', 'Reject' and 'Send the Modification back to Panel'?			
Party Name	Party Category	Yes/No	Comments
Utilita Energy	Large Supplier	No	We believe the voting options need to be considered in light of the expanded role of the Change Board which is being proposed under SECMP000049
L+G	Others	Yes	-
E.ON Energy Solutions	Large Supplier	Yes	We note however that we do not agree that the send-back option is only invoked where this is a simple majority, nor do we believe this is reflective of the discussions undertaken at the last Working Group meeting. Where there is a valid reason that has been raised for the Modification to be sent-back, we do not believe that a simple majority (of either individual or PC Votes) is required. Historically, all send-backs have followed impartial discussion at Change Board, of points raised by Parties within their FMRC responses. The current solution does not permit this, thus there is a risk that this requirement allows changes to be made to the Code that were not fit-for-purpose (e.g. legal text not reflecting the intent of the Modification, reassessment of solution required due to an external change etc.) and thus perpetuates the requirement for additional Modifications. Again, introducing additional inefficiency within the change process. This concern is exacerbated by the fact that the current solution permits uninformed Votes to be made because it

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			places an administrative burden on Parties such that they are expected to familiarise themselves with all aspects of the Modification and legal text ahead voting, and not all Parties have the time or resource required for this (particularly given that anyone may become a SEC Party). It is currently unclear how long Parties will be given to review the FMRC responses ahead of being requested to Vote, but as given above we have assumed these responses will be issued concurrently with the request to Vote to avoid additional elongation of the SEC change process.
EDF Energy	Large Supplier	Yes	We agree that Parties should be able to recommend that a Modification Proposal be sent back to the Panel where they do not feel that they are able to Accept or Reject it. In the case of things like queries about the legal text this will enable changes to be made, rather than changes being either unnecessarily rejected, or accepted while not fully fit for purpose. In line with our response to question 2 we would note that on recent occasions in the Change Board the recommendation to send a Modification back has only arisen as a result of the Change Board discussion where issues have raised that were not fully captured in the Modification Report Consultation responses
Npower	Large Supplier	No	Voting options should be Accept, Reject, and Abstain. The 'send back' option needs to go back to working group for further development rather than panel, as panel will instruct this anyway
SSE	Large Supplier,	No	We agree with those listed. We were expecting this to mirror the voting options used by the SEC Change Board members and thus include abstentions, therefore understanding what may be differing viewpoints on impact within a Party Category. This relates to the points in the DMR about the overarching impartial decision-making. This would aid and inform the SEC

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			Change Board for voting where the vote is not valid, and the Authority when provided with a recommendation to understand the breakdown of votes from the Modification Report Vote stage
Scottish Power Energy Retail Ltd.	Large Supplier	Yes	If the proposals are implemented, then we would agree with these option

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Appendix A: Additional Responses

SECAS received an additional consultation response from Northern Gas Networks (a Network Party) who responded in the form of a letter, stating:

> *"The Department of Energy and Climate Change (DECC), now known as the Department for Business, Energy and Industrial Strategy (BEIS), stated in their November 2012 Smart Metering Implementation Programme consultation response that the best tiered governance model for the Smart Energy Code (SEC) is a balance between the responsibilities of an independent panel and a representative change board. They considered how existing codes defined membership for modification decision groups (defined or open) and concluded "…that on balance the model utilised by the Development Board (MDB), which has a defined membership, is appropriate for the SEC. The Government believes this model best provides a forum for the debating of issues and for the consensus building required in a code with so many different market participants. This approach hinges on providing Change Board members with some powers to discuss and adjust their positions. The legal drafting of the SEC attempts to provide this while also providing for members to be guided by the majority view within their Party category."*[1]
>
> *This modification is seeking to introduce a Modification Report Vote (MRV) which aims to give all SEC parties an opportunity to accept, reject or request further development for all modification proposals, a decision which is currently determined by the representative SEC Change Board. The proposer has requested that the Change Board's ability to determine a proposal's outcome is limited to only making decisions where the industry cannot via the Modification Report Vote. We believe this proposal goes against the DECC recommendation regarding the optimal governance model for the SEC, and that there has been no evidence provided to support the requirement for this change such as analysis showing how many Change Board votes went against the majority preference of a representative's constituency.*

[1] DECC Smart Metering Implementation Programme Government Response, Nov 2012 – Sec 141, p.41

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Implementation of this proposal would require significant changes to SEC Section D regarding the Change Board arrangements as well as additional administrative effort for the secretariat, SECAS. SEC D8.9 encourages inner-constituency communication and states that Change Board Members, who are appointed by their constituents, are required to act in the best interest of the majority while also representing the minority view and that they shall be guided, but not bound, by the Party consultation responses.[2] We are concerned that this modification may result in less inner-constituency communication, which goes against the original vision for the SEC modification process.

We also have a concern regarding the requirement for at least one vote from every party category (Small Suppliers, Large Suppliers, Networks and Other) to be received for the Modification Report Vote to be considered valid. Gas Networks have chosen to abstain from around 30% of the voting for 26 proposals since 2016, and there have also been two instances where all network parties abstained. If the proposed requirement were to be implemented, it would require Network parties to vote on every modification, regardless of whether there is an impact to their organisation type.

A solution to this concern could be to add the option of "Abstain" to the modification text and proposed MRV voting form. This would allow any party to abstain should they decide to, but still ensure that the minimum number of votes is received for the Modification Report Vote to be valid."

[2] Smart Energy Code v5.20 – Section D8.9, p.205

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