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Stage 04: Modification Report Consultation Responses

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

What stage is this document in the process?

01	Initial Assessment
02	Refinement Process
03	Modification Report
► 04	Decision

About this document

This document contains the collated responses to the SECMP0041 Modification Report Consultation (MRC). The Change Board will consider these responses at its meeting on 19th September 2018, where it will determine whether SECMP0041 should be approved or rejected by the Authority.

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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About this Document

This document contains the collated responses to the Modification Report Consultation (MRC) for SECMP0041.

The Change Board will consider these responses at its meeting on 19th September 2018, where it will determine whether SECMP0041 should be approved or rejected by the Authority.

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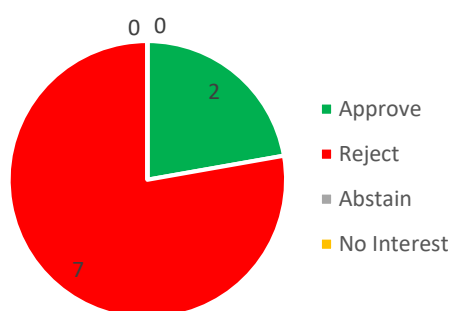
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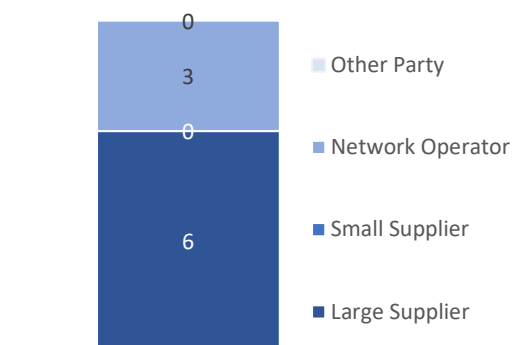
Summary of Responses

This section summarises the responses received to the SECMP0041 MRC.

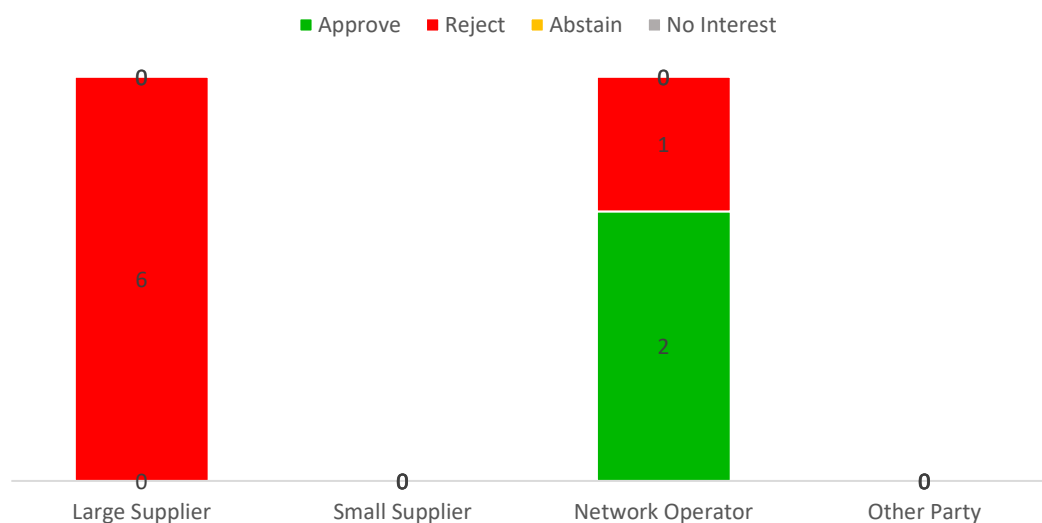
Respondents Views



Number of Respondents
(by Party Type)



Views by Party Type



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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/ Neutral	Comments
Electricity North West Limited	Electricity Network Operator	Yes	The proposed solution will better facilitate SEC objective (g) to facilitate the efficient and transparent administration and implementation of this Code. As it will improve the rules and processes to allow for inclusive, accessible and effective consultation, and allow all SEC Parties to vote on SEC Modification proposals, giving them the same rights as selective few (albeit elected) SEC Change Board members.
Scottish and Southern Electricity Networks	Network Operator	Yes	<p>SSEN believe that this modification proposal better facilitates SEC Objectives (g) and should be approved.</p> <p>SEC Parties involvement in the voting process is a necessary step to ensure the best outcome for the Industry is possible over the long term.</p>
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. 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).

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			<p>In addition, the proffered solution introduces inefficiency within the change process¹ which directly contravenes SEC objective a, and it creates the potential for a single Party to monopolise a Party Category Vote² which permits undue influence within the change process, and may directly contravene SEC objective d.</p> <p>¹The 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.</p> <p>²It 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 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.</p>
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Utilita Energy	Large Supplier	No	<p>We continue to 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.</p> <p>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.</p>
Western Power Distribution	Network Operator	No	<p>Although we understand the concerns of the Proposer, we feel that this modification does not better facilitate the SEC Objectives. It will introduce additional burden on both SEC Parties the Code Administrator and we feel that the majority of Modifications (9/13 in the example provided) will still result in being presented to the Change Board due to insufficient responses and therefore will result in delays and inefficiency within the change process.</p>
EdF Energy Ltd	Large Supplier	No	<p>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).</p> <p>While we agree that enabling every party to have a vote on each Modification Proposal would enable greater inclusivity for</p>

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			those parties in Party Categories with constituency representation, we do not believe that this change would improve the efficiency of overall process. In fact, this solution entails the addition of a further step, of potentially a month in duration, being added to the Modification Process.
SSE Retail	Large Supplier	No	<p>We do not believe this proposed solution better facilitates SEC Objective (g) in being efficient or transparent, as has been set out in the report.</p> <p>The proposed solution introduces new stages into the Modification Process in addition to those that exist currently. Following the Modification Report Consultation stage, there would be a Modification Report Vote issued, SEC Parties having to assess and respond with their vote and a review of the votes by the Code Administrator to determine if valid or not. Where the vote was not valid, the Change Board would still be required to meet and these new steps would impact the process and implementation timescales.</p> <p>We believe this solution will result in additional administrative burden on SEC Parties and the Code Administrator. There will be additional ongoing costs to be able to effectively manage this, and it extends what is already an involved and lengthy process. In our view, this leads to inefficiencies being introduced to the process where we are endeavouring to enhance and remove these via the Section D Review Modifications.</p> <p>In terms of transparency, the report sets out that SEC Parties will be advised of the outcome of the vote however, unlike with that specified for the Authority, it is unclear if this will include the Final Modification Report with breakdown of the voting and rationale by Party Category. Currently, SEC Parties can view the Change Board minutes regarding discussions and the breakdown of the voting as set out in the Final Modification Report post-Change Board.</p>

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			Furthermore, we do not believe that it has been clearly demonstrated in the report that there is evidence that the current process has led to this requirement. For example, we would have expected to see analysis of where the voting outcome went against the majority view of those responding to the Modification Report Consultations.
First Utility	Large Supplier	No	The proposal does not make the change modification process more efficient and is detrimental to SEC Objective g. It introduces additional resource requirements for SECAS administration by having to arrange a Final Modification Report Consultation (FMRC) and announce the results of such voting. The modification also places additional resource requirements on SEC parties engaging in the change process.
npower	Large Supplier	No	<p>We do not believe this will improve the efficiency of the Change Board or the modification process. this modification will add complexities to the existing process.</p> <p>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.</p> <p>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 will be a backwards step</p>

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Question 2

Q2: Having considered the potential impacts and costs to your organisation, as well as the cost to deliver the modification, do you agree that SECMP0041 should be approved?

Party Name	Party Category	Yes/No	Comments
Electricity North West Limited	Electricity Network Operator	Yes	SECMP0041 should be approved to introduce a mechanism for SEC Parties to vote on the outcome of Modification Proposals and limit the decision-making activities of the Change Board to ensure it is only used when the industry cannot come to a majority decision.
Scottish and Southern Electricity Networks	Network Operator	Yes	-
E.ON Energy Solutions	Large Supplier	No	<p>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.</p> <p>We further 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</p>

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			<p>of change processes within this Industry on the premise that this is the only fair 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.</p> <p>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.</p> <p>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, 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.</p> <p>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.</p>
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			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.
Utilita Energy	Large Supplier	No	<p>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.</p> <p>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.</p>
Western Power Distribution	Network Operator	No	If this Modification was to be approved it would result in an additional drain on resource to be able to review, understand and vote on all Modifications that are raised. It would also involve a response being required in addition to the consultations that are already issues and we question whether SEC Parties would be engaged enough to respond to this additional task, especially when so few currently respond to the consultations issued. This would result in unnecessary delays with the Modifications still ending up at the Change Board for a vote.
EdF Energy Ltd	Large Supplier	No	<p>We do not believe that SECMP0041 should be approved.</p> <p>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. The Change Board currently forms an important part of the change process, and</p>

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			the discussions there add significant value to the decision-making process. We would not want to see this removed.
SSE Retail	Large Supplier	No	<p>We are supportive of the intent for inclusivity for Party Categories that have representation for their constituency, however we do not believe this modification will result in an effective outcome. There does not seem to have been full consideration of alternative approaches that could meet this intent without introducing additional burden on Parties that may not have the resource to support the Modification Report Vote stage. For example, we note that at the August Change Board, a Network Party representative referenced how a consensus view was sought via the ENA.</p> <p>We remain of the view that the Change Board model continues to provide a valuable forum to support debates amongst different market participants and the ability to adjust positions based on this. The proposed solution does not facilitate this nor does it provide assurance of making an overarching and impartial decision that takes into consideration the majority view, given that one vote for a Party Category will be considered sufficient to be valid.</p>
First Utility	Large Supplier	No	The change proposal will not bring significant costs to our business however it will bring further administration costs to engage in the SEC change process overall.
npower	Large Supplier	No	This will add complexities to the process and therefore increase administrative burdens

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Question 3

Q3: Do you agree that draft legal text changes deliver the intention of the modification?

Party Name	Party Category	Yes/No	Comments
Electricity North West Limited	Electricity Network Operator	Yes	SECMP0041 should be approved to introduce a mechanism for SEC Parties to vote on the outcome of Modification Proposals and limit the decision-making activities of the Change Board to ensure it is only used when the industry cannot come to a majority decision.
Scottish and Southern Electricity Networks	Network Operator	Yes	-
E.ON Energy Solutions	Large Supplier	Neutral	<p>We have the following queries/comments on the legal text:</p> <p>We would ask whether D7.12 permits Parties to vote on both the Proposed and Alternative solution for a modification?</p> <p>D7.11(a) is the invitation for votes and D7.11(b) is the collation of said votes so we would seek some clarity on the intent/purpose of clauses D7.14 and D7.15 with regard to the consequent impact on associated clauses e.g. D7.16, D7.17 etcetera.</p> <p>We believe D8.2 would be better written with the additional statement “where the modification Report Vote has been referred to the Change Board” following the original, such that it does not read “The function of the Change Board shall be to where”.</p>

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Utilita Energy	Large Supplier	Neutral	We have no comments on the draft legal text following review.
Western Power Distribution	Network Operator	Yes	The legal text delivers the intent of the modification.
EdF Energy Ltd	Large Supplier	Yes	We have not identified any issues with the draft legal text.
SSE Retail	Large Supplier	Neutral	<p>We are not supportive of this modification as set out in this consultation, given that it is 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. Noting that the proposed Modification Report Vote is a subsequent and separate stage to the MRC.</p> <p>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.</p>
First Utility	Large Supplier	No interest	We have not studied the legal text in great detail.
npower	Large Supplier	Neutral	-

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Question 4

Q4: Do you agree with the recommended implementation date?

Party Name	Party Category	Yes/No	Comments
Electricity North West Limited	Electricity Network Operator	Yes	This modification is proposing changes to SEC Sections A and D and these changes should be implemented at the same time as the Modification Proposals 51, 50 and 49 and Modification Proposal 34 which impact the modifications process. The Panel has already agreed an implementation date for the other modifications of 1st November 2018, if a decision to approve is made by 18th October 2018. The Working Group recommends that this modification is also targeted for the November 2018 Release to ensure all approved changes to the modification process can be made at the same time. At the meeting Panel on 13 July they also recommended an implementation date of November 2018.
Scottish and Southern Electricity Networks	Network Operator	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.
Utilita Energy	Large Supplier	No	We are refraining on commenting on the implementation date as we do not support the Modification overall.
Western Power Distribution	Network Operator	Yes	If approved it would be beneficial for this Modification to be implemented alongside the other Section D Modifications.

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EdF Energy Ltd	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.
SSE Retail	Large Supplier	Neutral	The implementation date is set by the SEC Panel, however we are supportive of Modifications being grouped for implementation where the same legal text of a SEC section will require changing.
First Utility	Large Supplier	Yes	The implementation date is achievable if approved
npower	Large Supplier	No	We are not supportive of this modification and therefore would not support an implementation date

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Question 5

Q5: Do you have any further comments on SECMP0041?

Party Name	Party Category	Yes/No	Comments
Electricity North West Limited	Electricity Network Operator	Yes	<p>On page 21 of the Final Modification Report in the section of text about the drawbacks of this modification the report states 'The Change Board was put in place to vote impartially on Modification Proposals'. As SECAS have since clarified that the Change Board is allowed to vote as per SEC Section D8.8 '... to act in the interests of their Voting Group, Party Category or Party Categories by which the Change Board Member was appointed.' this argument is no longer valid. As such any responses from SEC parties to this consultation regarding this argument should not be considered by the Change Board members when voting on this modification proposal.</p> <p>We also note in the Panel headlines from the meeting on the 13 July that a Panel member raised what they believe to be a conflict in the SEC as "Page 223 says that "Each [---] Change Board Member will act in the interests of the Voting Group, Party Category or Party Categories (as applicable) by which the Change Board Member was appointed." Whereas, Page 183 says that" Each person serving on a Sub-Committee shall, when acting in that capacity: (a) act independently, not as a delegate". And SECAS will be obtaining legal clarification on this conflict. The Change Board is defined elsewhere as a Panel Sub-committee. We do not believe this conflict or resulting legal clarification should prevent or stall implementation of this Modification Proposal. The Modification Report already sets out that as part of this modification changes will also be made to the Change Board's terms of reference.</p>

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Scottish and Southern Electricity Networks	Network Operator	No	-
E.ON Energy Solutions	Large Supplier	No	-
Utilita Energy	Large Supplier	No	-
Western Power Distribution	Network Operator	No	-
EdF Energy Ltd	Large Supplier	Yes	<p>We recognise and appreciate the concerns that have led to this Modification being raised and agree that all Parties should feel that their voice is being heard in the decision-making process. However, while we are broadly supportive of the intent, we do not believe that effectively taking the Change Board out of that decision-making process is the right approach.</p> <p>The discussions that have taken place at the Change Board (especially more recently) have been very valuable and the debates have led to ourselves and other Parties changing the way we were planning to vote based on those deliberations.</p> <p>We would be supportive of changes in this area, but do not believe that this change is appropriate at this time.</p>
SSE Retail	Large Supplier	Yes	(no comments were attached)
First Utility	Large Supplier	No	-

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npower	Large Supplier	No	-
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