



Department for
Business, Energy
& Industrial Strategy

Smart Metering Implementation
Programme
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Peter Davies
Smart Energy Code Panel Chair
SECAS
8 Fenchurch Place
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By email only: peter.davies@seccoltd.com

27 September 2018

Dear Peter,

**Authority decision to send back Smart Energy Code (SEC) Modification Proposal 0049
(Section D Review: Amendments to the Modification Process)**

On 24 August 2018, the SEC Panel submitted the Final Modification Report for SEC Modification Proposal 0049 (Section D Review: Amendments to the Modification Process) to the Secretary of State for decision as the Authority.

The legal text that was submitted as part of the Final Modification Report includes changes that would cause the removal of the definition of modification 'paths' contained in Section A of the SEC. Such changes would result in a conflict with the Electricity and Gas Appeals (Designation and Exclusion) Order 2014 (the 2014 Order), which is an order pursuant to the appeals process provided for in Section 173 of the Energy Act 2004. The proposed change to the SEC would extend the rights of SEC Parties to appeal decisions of the Authority that is not provided for in the 2014 Order made by Parliament. On the basis of the content of the Final Modification Report, it would not seem that change to the appeal process was one of the objectives of the Modification Proposal.

Having considered the Final Modification Report, accompanying documents and the Change Board vote, the Authority is not able to form an opinion on this Modification Proposal for the reasons given above and is consequently sending it back.

The Secretary of State therefore hereby directs, pursuant to Section D9.3 of the SEC (as varied by Section X2.3), that:

- The Panel shall send SEC Modification Proposal 0049 back to the relevant Working Group to consider the issue of the conflict of the legal drafting with the 2014 Order and to provide a revised Modification Report;
- The Panel shall revise the timetable applying to the Modification Proposal; and
- The Secretariat shall update the Modification Register accordingly.



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The decision of the Change Board in respect of the Modification Proposal is null and void.

The Secretariat is welcome to engage with my team with regards to the detail of the Authority's legal review of the Modification Proposal's legal drafting. I would also suggest that the Secretariat review its processes for assuring the quality of the legal drafting of Modification Proposals in light of this decision.

Yours sincerely,

Duncan Stone
Head of Delivery
Smart Metering Implementation Programme

(an official of the Department for Business, Energy & Industrial Strategy authorised to act on behalf of the Secretary of State)