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Dear Bob,

MOD0281 Introduction of an Implementation Timeframe for Modification Proposals

Thank you for the opportunity to respond to this Modification Proposal. This submission is made on behalf of ScottishPower (SP). On balance SP does not support the implementation of this Modification Proposal and would recommend that it should not be made.

We are supportive of some aspects of the proposal namely: -

- The benefits of providing flexibility and optionality within proposed implementation dates, although that should only be wherever appropriate rather than in any way being prescriptive;
- The value of requiring justification for such proposed dates including as regards any lead time involved; and
- The sensible approach to leaving implementation dates blank where that aspect is not critical or it is not practical to do so.

We believe these to be sensible statements of what should otherwise be part of the substantive case for what may after all be a significant aspect of a proposed Modification.

However, we remain primarily concerned about the implications of the proposed backstop lead time period. By convention, the issue of implementation dates or “timing out” has not been a concern in UNC Modifications to this point. However, that is not to say that this need always be the case and this Proposal will now introduce a prescriptive aspect that will remove some of the inherent flexibility within the UNC that is valuable in tailoring solutions to particular issues. As it is, the arguments concerning the validity or otherwise of preventing “timing out” of proposals have already been well aired within the equivalent proposals advanced in both the BSC and the CUSC - with the BSC Proposal now having been implemented - and we have summarised some of those arguments below.

The proposed backstop within this Modification Proposal is entirely “open ended” as far as any Ofgem decision is concerned. Consequently it does not consider the implications of the lack of certainty as regards such a decision date and the resultant difficulties that may follow, with industry members being unable to plan appropriately for the implications of, and implement the requirements of, any such Modification.

Going forward it is likely that there will be an increasing emphasis on robust assessment and analysis of proposed Modifications. Depending on the particular circumstances, the relevance of analysis and data supporting any such Modification may be significantly reduced over time. Consequently if a decision is delayed for a significant period then it may be the case that the Modification as eventually implemented may no longer correspond to that originally proposed. Intervening developments may have invalidated the original premise for the Modification Proposal, although the assessment and analysis would still have been based on that now

changed premise, with the Panel having no capacity to revise that assessment/analysis or its original recommendation to the Authority.

This lack of certainty and the potentially detrimental impacts that may follow from any prolonged or indefinite delay in reaching a decision on a Modification Proposal lead us to the view that this proposal would not better facilitate the relevant objectives. In particular we believe that Standard Special Condition A11.1 (c) “the efficient discharge of the licensee’s obligations under this licence” and Standard Special Condition A11.1 (f) “the promotion of efficiency in the implementation and administration of the network code and/or the uniform network code” would be adversely impacted by the implementation of this Modification Proposal.

Moreover it occurs to us that if one of the objectives is to align with other Industry Codes then this proposal fails to reflect the options now incorporated in the BSC via the implementation of P250 (Alternative). This now provides the option to the Authority to instruct the Panel to consult with industry on revised implementation dates if there is a risk that it will be timed out on making a decision, with the Panel then being required to come back with revised dates that would still allow the Authority to make a decision. This process would also allow the Panel to consult on whether the original analysis remained valid and if it would be impacted by any revised implementation dates. Albeit we did not support that Proposal, nonetheless we would support greater consistency of approach across codes, as well as greater alignment in other areas such as the respective Panel constitutions.

Should you have any queries on the above then please do not hesitate to contact me.

Yours sincerely,

Gerry Hoggan
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