

Modification Proposal – BSCP40/03	MP No: P247 <i>(mandatory by BSCCo)</i>
Title of Modification Proposal Proposer ‘ownership’ of Modification Proposals	
Submission Date 01 December 2009	
Description of Proposed Modification It is proposed that the BSC Modification Procedures should allow a Proposer more control in steering their proposal through the process and allow them if they wish to refine ¹ the proposal with the assistance of the Modification Group and code administrator (acting in the role of ‘critical friend’). It is proposed that: <ol style="list-style-type: none"> 1. The Proposer of a Modification Proposal should be able to refine the Proposed Modification with the assistance of the Modification Group and the code administrator, but would not be obliged to change the original proposal in line with a Group or administrator view. It is suggested that adjustments would be allowed up until the Modification Group make their final recommendation to the Panel, so that consultation comments can be taken into account as appropriate. 2. The Proposer should have the right to withdraw a proposal on notice to the Modification Secretary, ideally at any time prior to submission of the proposal to the Authority (as applies in practice under Codes such as the UNC and CUSC)². The Group may wish to consider the appropriate cut-off point for withdrawal of Modifications but the Proposer considers withdrawal rights should at the very least be permitted up until the Panel makes a final recommendation to the Authority on whether the Modification should be implemented. 3. A Modification Proposal could be ‘adopted’ by another Party in the event of the Proposer withdrawing it, leading to the transferral of ‘owner’ rights. 4. The Proposer should have the right to address the Panel at those Panel meetings at which a recommendation to the Authority is to be made. <p>If the Proposer makes changes to the Proposed Modification as originally raised, they would be expected to update the rationale justifying how the revised solution continues to meet the Applicable BSC Objective(s). This proposal would have no impact on the Modification Group’s right to advance an Alternative solution if judged appropriate by the Group in line with Section F 2.6.4(b)).</p>	

¹ For the avoidance of doubt, ‘refinements’ being to the solution proposed, not to the Issue or Defect being addressed.

² BSC Code Section F 2.1.12: currently withdrawal of a proposal is only allowed prior to the first BSC Panel at which it is to be considered.

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(mandatory by BSCCo)**Description of Issue or Defect that Modification Proposal Seeks to Address**

Part of Ofgem’s Code Governance review constituted the Code Administrator Working Group (CAWG) to focus on improvements to Code administration with an emphasis on small participant initiatives. The CAWG concluded that Proposer ‘ownership’ of (original) Modification Proposals and managing Modification processes accordingly was one example of best practice.

Current BSC Modification procedures can frustrate the development and efficient prosecution of otherwise viable Modification Proposals. Once the BSC Panel refers a proposal to a Modification Group for consideration, the Proposer effectively loses control of their proposal and its subsequent development is largely at the behest of the relevant Modification Group.

This provides an inherent procedural advantage to Modification Group members who favour the status quo and where proposal wording is not absolutely precise (intentionally or inadvertently) it is not uncommon for such members to seek to disallow improvements to a proposal that might otherwise improve the chances of that proposal being implemented. Alternatively the development of the proposal can be taken in a direction that was never conceived by the Proposer.

Under the current arrangements the ability of the Proposer to exert a degree of control is largely dependent on the proposal description, particularly how the issue or defect is articulated; define this too tightly and Modification Group members may try to limit its scope; define it too loosely and the proposal risks being distorted even though the intent of the proposal may be clear.

Under the UNC and CUSC Modification Procedures and practices, ‘ownership’ of the original proposal effectively remains with the Proposer and the Modification Group acts largely in an advisory capacity. Thus the Proposer can refine his or her comments in the light of ideas and suggestions arising from Modification Group discussions or indeed points raised during consultations. In addition if it becomes clear that a proposal is not viable the Proposer can voluntarily withdraw the proposal thus avoiding nugatory work.

All BSC Parties, whether large or small, that have sought to progress controversial proposals will have faced these problems. However it is perhaps certain classes of users including small suppliers that are less familiar with BSC Procedures who may face the greatest difficulties.

This proposal essentially ensures a Proposer’s undistorted Modification Proposal will always be presented to Ofgem for a decision if that is their wish. The proposal is about ensuring that viable proposals can be developed in an open, supportive but rigorous environment with the Proposer being able to draw on the expertise of the Modification Group and relevant BSCCo. analysts as appropriate. Ultimately ensuring that Proposers retain ‘ownership’ of their proposal provides greater confidence to both existing and potential Proposers that the Modification process is fair. This proposal should remove procedural bias in the BSC Modification Procedures that might otherwise dissuade innovative ideas being brought forward.

The option for a proposal to be withdrawn if wished by the Proposer would avoid further time and effort being wasted processing a proposal that might have transpired to be ill-conceived, unviable, etc. If there was still some appetite from others to explore it further, the safeguard of adoption rights (within a certain timeframe)³ ensures that any such proposal could still be taken forward and related work already undertaken utilised, under the ‘ownership’ of another Party.

³ (e.g. The CUSC 8.15.8 stipulates a window of 5 business days for adoption of a withdrawn Proposal by another Party).

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<p>Impact on Code <i>(optional by originator)</i> Section F (Modification Procedures) shall be impacted.</p>	
<p>Impact on Core Industry Documents or System Operator-Transmission Owner Code <i>(optional by originator)</i> None expected.</p>	
<p>Impact on BSC Systems and Other Relevant Systems and Processes Used by Parties <i>(optional by originator)</i> None expected.</p>	
<p>Impact on other Configurable Items <i>(optional by originator)</i> None expected.</p>	
<p>Justification for Proposed Modification with Reference to Applicable BSC Objectives <i>(mandatory by originator)</i></p> <p>The proposal will better facilitate Objective C. It is important that the Code Modification procedures are as clear and user-friendly as possible to encourage maximum engagement and participation by Parties, including classes of user who may hold a minority view or may otherwise not be well represented. Parties may be deterred by the current arrangements under which the Proposer has no further control once a proposal is submitted and ‘owned’ by the Group. This could be a particular problem where limited resources make full participation in Groups challenging and development and voting is undertaken by whichever Group members attend the relevant meeting(s). Even when a Proposer fully participates, having no more rights than any other Group member, imprecise drafting of the original proposal may lead to it being advanced in a way the Proposer did not intend. Innovative and creative ideas may thus not be brought to the table in the first place, or distorted by Group development, hindering Code evolution that could better enhance competition.</p> <p>The proposed Modification will also better facilitate Objective D, promoting efficiency in the implementation and administration of the balancing and settlement arrangements. The ability for a Proposer to further develop and refine their initial proposal with the assistance of the Modification Group and BSCCo. gives the possibility to correct any minor errors or oversights in the original wording removing the possibility that another proposal be needed for this. Refinements should result in more thorough proposals being advanced and more effective consultations.</p> <p>Competition and Efficiency would also be enhanced through the BSC processes aligning with those of the UNC and CUSC, making it easier for industry representatives to work across Codes.</p>	

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Urgency Recommended: No <i>(optional by originator)</i>	
Justification for Urgency Recommendation <i>(mandatory by originator if recommending progression as an Urgent Modification Proposal)</i> n/a	
Details of Proposer: <i>Name...Peter Bolitho.....</i> <i>Organisation...E.ON UK plc.....</i> <i>Telephone Number...024 7618 3384.....</i> <i>Email Address...peter.bolitho@eon-uk.com.....</i>	
Details of Proposer’s Representative: <i>Name...Esther Sutton.....</i> <i>Organisation...E.ON UK plc.....</i> <i>Telephone Number...024 7618 3440.....</i> <i>Email address...esther.sutton@eon-uk.com.....</i>	
Details of Representative’s Alternate: <i>Name...Peter Bolitho.....</i> <i>Organisation...E.ON UK plc.....</i> <i>Telephone Number...024 7618 3384.....</i> <i>Email address... peter.bolitho@eon-uk.com</i>	
Attachments: No <i>(mandatory by originator)</i>	