

P296: Introduction of a 'Fast Track' Modification Process following the outcomes of the Code Governance Review (Phase 2)

Consultation issued on 15 July 2013

We received responses from the following Parties:

What stage is this document in the process?

01 Initial Written Assessment

02 Definition Procedure

03 Assessment Procedure

04 Report Phase

Company	No BSC Parties / Non-Parties Represented	Role of Parties/non-Parties represented
British Gas	1/0	Supplier
E.ON	5/0	Supplier / Generator / Trader / Consolidator / Exemptable Generator
EDF Energy	10/0	Generator/Supplier/Party Agent/Consolidator/ Exemptable Generator/Trader
Electricity North West Limited	1/0	Distributor
National Grid Electricity Transmission plc	1/0	Transmission Company
RWE Npower PLC	8/0	Supplier / Generator / Trader / Consolidator / Exemptable Generator / Party Agents
ScottishPower	7/0	Supplier/Generator/Trader /Consolidator/Exemptable Generator/Distributor
SSEPD	2/0	Distributor
TMA Data Management Ltd	0/1	NHHDC/NHHDA/HHDC/ HHDA

Question 1: Do you agree that the draft BSC legal text in Attachment A and redlined changes to BSCP40 in Attachment B deliver the intention of P296?

Summary

Yes	No	Neutral/Other
7	1	1

Responses

Respondent	Response	Rationale
British Gas	Yes	-
E.ON	Yes	-
EDF Energy	Yes/No	<p>We have not undertaken formal legal review of the proposed text.</p> <p>We have not established definitively what discretion the Panel would have to revise a proposal before making its decision, and what influence the proposer would have over such revision. We note that BSC Section 2.7.5(c) allows the Panel to instruct changes to legal text that may have been prepared for implementation of a proposal, before making its final recommendation, and assume this would remain the case for fast-track proposals. Although we would not expect well-written proposals to require revision, experience suggests revision might be required sometimes.</p> <p>In the absence of full impact analysis and assessment of fast track proposals, we think it would be preferable to provide some flexibility in the event of rejection (non-unanimous decision to approve) by the Panel or objection to a (unanimous) decision to approve. This could avoid unnecessary additional work due to another proposal being raised (in the case of rejection), or the proposal being submitted to full assessment (in the case of an objection being raised). This flexibility could be provided by allowing:</p> <p>(a) the Panel to give the proposer opportunity to revise its submission within a certain time period (eg 15 working days) to seek to address Panel concerns that would otherwise lead to its rejection. This is similar to the process by which the Panel raises proposals itself at the instigation of BSCCo.</p> <p>(b) the Panel to be allowed (but not required) to</p>

Respondent	Response	Rationale
		<p>revise a proposal following receipt of an objection, and notify a decision on the revised proposal with a new objection period, rather than being obliged to conduct full industry assessment as currently proposed. In the event Panel unanimity is lost as a result of an objection, and a unanimous revision cannot be quickly agreed, the proposal would progress to normal assessment as currently drafted.</p> <p>(c) An objector to be allowed to withdraw an objection within the objection period. This would avoid the possibility of the Panel being forced to progress a modification by existing routes even if an objector realises its objection is unfounded, or a revision to the proposal is agreed to be preferable.</p> <p>In terms of specific drafting comments, paragraph 7.1.1. of the legal text states that:</p> <p>A Modification Proposal shall be treated as suitable for the fast track self-governance route (a "Fast Track Self-Governance Modification Proposal") where by unanimous vote of the Panel a Modification Proposal meets all of the Fast Track Self-Governance Criteria.</p> <p>We suggest that the text is changed to:</p> <p>A Modification Proposal shall be treated as suitable for the fast track self-governance route (a "Fast Track Self-Governance Modification Proposal") where the Panel has unanimously determined that by unanimous vote of the Panel a Modification Proposal meets all of the Fast Track Self-Governance Criteria</p> <p>The suggested change will make it clear that the Panel is making a determination. This would also make it consistent with paragraphs 7.2.1 and 7.3.2 of the proposed legal text.</p> <p>We note that Parties can object to either or both of the determinations by the Panel i.e. you can object to the determination to treat a mod proposal as a Fast Track Self Governance Modification and/or the determination to implement the proposal. We would like confirmation that this right is not constrained by the proposed wording of 7.3.2 which appears to only relate to whether the proposal met the fast track criteria or not. For example, it is possible that a Party may accept that a proposal meets the criteria to be fast track yet the solution to the defect is not supported. The Party may be only objecting to the determination to implement and not the determination to treat it as fast track.</p>

Respondent	Response	Rationale
Electricity North West Limited	Yes	The legal text in Attachment A and redlined changes in BSCP40 deliver the intention of P296 because it provides the process and criteria for Fast Track Self-Governance Modifications
National Grid Electricity Transmission plc	Yes	The legal text and changes to BSCP40 appear to deliver the intention of P296. In addition, they are also broadly consistent with the corresponding legal text proposed for the CUSC.
RWE Npower PLC	Yes	The changes to BSCP40 are a sensible and will deliver the intentions of P296.
ScottishPower	No	The redlined text in BSCP40 under the section "Justification for Fast Track Self-Governance Recommendation" references "Fast Track Self-Governance Modification Proposals must meet the Fast Track Self Governance Criteria as set out in BSC Section X- Annex X-1". Said reference does not exist in BSC Section X- Annex X-1. Should the text in BSCP40 refer to BSC Section F instead? Once this inconsistency has been corrected, all other proposed changes will deliver the intention of P296
SSEPD	Yes	The redline changes are concise and clear.
TMA Data Management Ltd	Yes	-

Question 2: Do you agree with the Panel's recommended Implementation Date?

Summary

Yes	No	Neutral/Other
8	1	0

Responses

Respondent	Response	Rationale
British Gas	Yes	-
E.ON	Yes	Prompt implementation is desirable but not important.
EDF Energy	Yes	31 December 2013 is achievable and consistent with Transmission Licence changes due to take effect in

Respondent	Response	Rationale
		August. An earlier date would be acceptable.
Electricity North West Limited	Yes	We agree with the implementation date as this is line with the requirement in Standard Condition C3 of the Electricity Transmission Licence.
National Grid Electricity Transmission plc	No	<p>We note that the relevant section in the Transmission Licence (paragraph 13E of Condition C3) states that any necessary modifications of industry documents should be made "no later than 31 December 2013". Use of the words "no later" implies that the modification could be implemented before this date and therefore we see no reason why implementation should not take place as soon as the Modification Report is approved by the Authority. This is because it would allow any Modifications proposed after approval of P296 but before 31 December 2013 to benefit from the 'Fast Track' process.</p> <p>Perhaps, for consistency reasons, it may be worth considering a similar approach to that employed for the STC and CUSC (i.e. an Implementation Date proposed for 10 days after the Authority decision albeit with a back-stop of 31 December 2013)?</p>
RWE Npower PLC	Yes	This date ties in with the implementation of the Licence Condition.
ScottishPower	Yes	-
SSEPD	Yes	The implementation date is feasible as P296 is a minor impact change.
TMA Data Management Ltd	Yes	-

Question 3: Do you agree with the Panel's initial recommendation that P296 should be approved?

Summary

Yes	No	Neutral/Other
9	0	0

Responses

Respondent	Response	Rationale
British Gas	Yes	-
E.ON	Yes	We agree that it would be an efficient solution to such minor changes thus supports BSC Objectives a) and d).
EDF Energy	Yes	<p>Delegation of decisions on housekeeping code changes to the BSC Panel would reduce the administrative workload of BSCCo and BSC Parties in assessing such changes, thus better meeting BSC Objective (d) concerning efficiency in the implementation and administration of the BSC.</p> <p>We hope that approval of this proposal will not result in lowering of the standard of assessment and drafting of other proposals in the knowledge that corrections can be made more easily later. More thorough assessment in the first place would eliminate the requirement for most housekeeping changes. A reduction in the quality of assessment might not better meet BSC Objective (d).</p>
Electricity North West Limited	Yes	We agree with the Panel's initial recommendation as the Fast Track Self-Governance and this covers minor housekeeping changes and should not impact any parties. In the Panel discussions it was noted that the Panel should be mindful when accepting such proposals.
National Grid Electricity Transmission plc	Yes	We agree that P296 better meets both Applicable BSC Objectives (a) and (d).
RWE Npower PLC	Yes	The implementation of a 'Fast Track' modification process will allow for speedy rectification of errors that are highlighted within the code and subsidiary documents.
ScottishPower	Yes	ScottishPower agrees with the Panel's conclusion that this Modification Proposal better facilitates Applicable BSC Objectives (a) and (d); that this Modification Proposal will enable the quick progression and implementation of minor housekeeping changes; and that an objection process exists to address the interpretation and progression of a Fast Track change.
SSEPD	Yes	<p>SSEPD agree with the fact that P296 better facilitates BSC objectives (a) and (d)</p> <p>(a) The efficient discharge by Transmission Company</p>

Respondent	Response	Rationale
		of the obligations imposed on it by the Transmission licence. (d) Promoting efficiency in the implementation of the balancing and settlement acts.
TMA Data Management Ltd	Yes	-

Question 4: Do you have any further comments on P296?

Summary

Yes	No	Neutral/Other
1	8	0

Responses

Respondent	Response	Rationale
British Gas	No	-
E.ON	No	-
EDF Energy	No	-
Electricity North West Limited	No	-
National Grid Electricity Transmission plc	No	N/A
RWE Npower PLC	No	-
ScottishPower	No	-
SSEPD	No	-
TMA Data Management Ltd	Yes	As expressed by Panel Members, the Panel should be mindful that a housekeeping change should in no way have a material impact, as such changes to equations would not come under a fast track self-governance modification, unless to correct typos.