

Modification proposal:	Master Registration Agreement (MRA) Change Proposal (CP) 0226 – Removing the existence of clauses requiring Dual Consent		
Decision:	The Authority ¹ has decided ² to reject this modification ³		
Target audience:	MRA Executive Committee, Parties to the MRA and other interested parties		
Date of publication:	29 January 2015	Implementation date:	n/a

Background

The MRA contains provisions that relate to 'Green Deal matters' (as defined in the MRA) which can't be modified without the consent of the Secretary of State (SoS). There are also provisions within the MRA that require Authority consent to change. The rules for Authority consent were recently modified by MRA CP 214,⁴ following Ofgem's Code Governance Review Phase 2.⁵ Authority consent is required where a material change is proposed to certain clauses in the MRA or any other MRA clause where the change is likely to have a significant impact on consumers or competition, or if it would have a discriminatory effect between parties.

The current arrangements mean that it is possible a particular modification to the MRA would require both SoS and Authority consent before it could be made.

The modification proposal

MRA CP 226 was raised by Gemserv (the MRA code administrator) and sponsored by Electricity North West. The proposal seeks to remove any instances within the MRA where 'dual consent', from both SoS and the Authority, may be required. The proposal aims to remove the existence of dual consent by separating out those clauses subject to dual consent and allocating them to the most appropriate decision making body. The rationale given for the proposed modification is that changes could be subject to delay should there be disagreement on a decision by either body.

The proposal sets out that five sets of current dual consent clauses⁶ should require the consent of the SoS before modification, and one section of current dual consent clauses (Section 55: Central Charge Database) should require prior consent of the Authority. The proposed legal drafting further provides that where an MRA change would have a significant impact on consumers or competition, or is likely to discriminate in its effects between parties, Authority consent would not be sought if the rules otherwise require SoS consent.

The Change Report states that the proposer believes that the proposal will better facilitate standard licence condition (SLC) 23.3(f) of the Electricity Distribution Licence:

¹ References to the "Authority", "Ofgem", "we" and "our" are used interchangeably in this document. The Authority refers to GEMA, the Gas and Electricity Markets Authority. The Office of Gas and Electricity Markets (Ofgem) supports GEMA in its day to day work. This decision is made by or on behalf of GEMA.

² This document is notice of the reasons for this decision as required by section 49A of the Electricity Act 1989.

³ 'Change' and 'modification' are used interchangeably in this document.

⁴ [Master Registration Agreement \(MRA\) Change Proposal \(CP\): 0214 – Introduction of Materiality Testing to MRA](#)

⁵ <https://www.ofgem.gov.uk/ofgem-publications/61155/code-governance-review-phase-2.pdf>

⁶ 9.18A – 9.18D (details the governance arrangements for changes relating to Green Deal matters), Clause 15.5.4 (details the governance arrangements for Green Deal Metering Points), Clause 18.14 –18.15 (details the governance arrangements for Erroneous Registrations in respect to Green Deal charges) and Clause 21.1A (details the governance arrangements in respect to a De-Registration Notice for a Green Deal Metering Point)

f) Such other matters as are or may be appropriate for the development, maintenance, and operation of an efficient, co-ordinated, and economical system for the supply of electricity and for the purpose of facilitating competition in electricity supply

MRA Development Board (MDB)⁷ and MRA Forum

At the MDB meeting on 27 November 2014, the Supplier and Distributer votes accepted the proposed change and the Settlement vote declared no interest.⁸ MDB therefore recommended that MRA CP 0226 is approved. No appeals to the MRA Forum were made.

Our decision

We have considered the issues raised by the modification proposal and the Change Report received by us on 23 December 2014.⁹ We have concluded that:

- implementation of the modification proposal will not better facilitate the requirements of Electricity Distribution SLC 23.¹⁰

Reasons for our decision

The changes proposed by MRA CP 226 seek to remove the requirement for dual consent within the MRA.¹¹ We note the proposer considers that MRA changes could be subject to delay as a result of the dual consent requirement. We recognise that the requirement for dual consent requires additional steps in the change process. However, we also note that there have been no examples to date of an MRA change requiring both SoS and Authority consent. It is therefore not clear to us that the existence of dual consent would necessarily cause delays. We note that any difference in decision from SoS and Authority should not in itself cause a delay, as is suggested in the Change Report. Where both consents are required and one was not given, the Change Proposal would not be implemented (rather than be delayed).

Furthermore, MRA CP 214 recently modified the MRA such that any change proposed to the MRA that would be likely to have a significant impact on consumers or competition must be referred to the Authority for consent. The present proposal would unwind this provision where such changes also impacted Green Deal matters. It is conceivable that a Green Deal-related change could encompass matters that would have a significant impact on either consumers or competition. As set out under Ofgem's Code Governance Review, we consider that where an MRA modification is likely to have material consumer or competition impacts, it is more appropriate and more efficient to require Authority consent for that change, rather than relying on subsequent appeal processes.

MRA CP 214 aligned the MRA's self-governance process more closely with those of other industry codes. Following Ofgem's Code Governance Review, we set out our general policy that our decision-making in industry codes should be focused on matters likely to be material to consumers or against our other statutory duties. As such, we do not consider that MRA CP 226 would improve efficiency in the MRA procedures, or that the removal of Authority oversight in areas that are likely to have significant impacts on consumers or the promotion of competition in the electricity market would improve the

⁷ The MRA Executive Committee (MEC), established pursuant to Electricity Distribution standard condition 23.7(a), delegates its decision making power in respect of proposed code modifications to MDB, a sub-committee of MEC.

⁸ Representative from the category BSC Member appointed by the BSC Agent (Elexon Ltd)

⁹ MRA modification proposals and change reports can be viewed at www.mrasco.com

¹⁰ Standard licence conditions available at: <https://epr.ofgem.gov.uk/>

¹¹ Except where appeals on Green Deal-related decisions may be made to the Authority, in accordance with the MRA appeal provisions.

current Authority consent arrangements required to be in place under the provisions of the distribution licence.¹²

Decision notice

In accordance with SLC 23 of the Electricity Distribution Licence, the Authority has decided not to approve modification MRA CP 0226.

Lesley Nugent

Head of Industry Codes and Licensing

Signed on behalf of the Authority and authorised for that purpose

¹² SLC 23.3(e)