

PowerCon (UK) Ltd

Power Connection Consultants

Ofgem
9, Millbank
London
SW1p 3GE

27th June 2015

For Attn : Ms M Frerk
Senior Partner – Smarter Grids & Governance

Dear Sirs,

Powercon (UK) Ltd response to Ofgem's review of Industry Codes Governance

Thank you for the opportunity to respond to the above consultation.

Powercon (UK) Ltd

As a member of the Common Charging Methodology Forum, DG Steering Group and Electricity Connections Steering Group we believe that PowerCon (UK) Ltd can be considered to be an active industry participant.

We would also point out that we have in the past actively participated in a number of Distribution Change Proposal Modifications under the existing DCUSA arrangements.

Powercon (UK) Ltd also acts in a capacity as agent and grid consultant to individual developers and customers and also the REA and other TA's.

At the outset we would confirm that we consider that the code governance arrangements through the previous reviews has provided a certain level of consistency and transparency to the codes. However, we would also suggest that understanding the codes can be 'challenging' particularly for developers, the smaller customers, consumers and their representatives.

Significant Code Review

We would suggest that there may be a case for Ofgem to specify certain code modifications since, ultimately, it will be Ofgem that requires and directs those modifications. Active and early participation from Ofgem may also streamline the process, reduce frustrations and reduce timelines.

Role of Code Administrators

In general we have confidence in the role of the code administrators as defined under the Code Administrators Code of Practice.

We would suggest however that a review needs to be undertaken to ensure that the composition of any panel and working group is fair, equitable and balanced - in order to support the decision making process. Additionally -

- Having been party to a number of working groups we would suggest that there is a definite requirement for independent chairs to support some of the working groups, particularly where the work content could be considered to be in any way contentious.
- We would suggest that Ofgem needs to give consideration to providing their own observers with a basic level of knowledge supporting working groups where there is any technical consideration required.
- We would suggest that the role of the critical friend should be more 'visible', particularly where there are new entrants or participants that are not familiar with the vagaries of particular codes or their working arrangements.
- With regard to Charging Methodology governance we would suggest that the role of the critical friend should extend as far as providing technical support to the drafting of potential change modification - rather than accepting the current arrangements whereby the charging forums and COG (who may not be supportive of the DCP) are responsible for formatting and progressing potential DCP's that they ultimately will not support.

Self Governance & Charging Methodology Governance

Having been engaged on a number of working groups relating to Charging methodology work we would suggest that self-governance should now be considered to be totally inappropriate. To suggest that DNO's and Suppliers are the only participants with the knowledge and experience to be involved in any decision making process and thereby to exclude customers and developers – is both untrue and unacceptable.

Whilst Ofgem have suggested that there should be greater active participation on working groups from non-DNO and/or Suppliers it must also be acknowledged that their input will be of little value if ultimately the voting arrangements exclude all other than DNO's and Suppliers.

Currently it would appear that we have a requirement for industry participation from independent panel members – but only on the basis that their input can ultimately be totally disregarded as part of the actual decision making process.

Therefore, to deny customers, TA's and developers the right to actively participate in any working group voting procedure cannot now be considered to be in any way acceptable.

Clearly where we are in the position that only 'one side' is entitled to vote there is ever likely to be a 'biased outcome'.

For the avoidance of doubt we believe that the current DCUSA arrangements, from a user's and small market participant's perspective, is far from satisfactory to the point of being unacceptable.

With regard to the right of appeal to Ofgem decisions we would suggest that the current arrangements also require examination.

To clarify and for ease we attach a copy of the letter from Maxine Frerke and dated 4th July 2014 and would bring to your attention the following section :

Such decisions can only be overturned by a successful formal challenge before the Competition and Markets Authority, where our decision goes against the recommendation of the DCUSA parties or their procedures. Alternatively, you may make an application for a judicial review to challenge the

PowerCon (UK) Ltd. Trading address: 22, Barass Ave, Worcester WR4 0QD.

PowerCon (UK) Ltd. Registered office address: 93, High Street, Evesham, Worcestershire WR11 4DU

Company Reg No 07590423 in England and Wales

process followed by Ofgem to reach a decision, despite our decision being in line with the Panel's recommendation.

We would suggest that unless Ofgem are considered to be infallible then there should be an independent (and cheaper) means of redress for customers and their agents other than via the CMA or a JR?

Other Considerations

- Independent Chairs – please see our comments above.
- Consumer Impacts – we would support the inclusion within modifications (where applicable) to clarify the positive and negative impacts of any proposed modification on the various classes and types of customer.

Conclusion

Powercon previously responded to the Call for comments on the Code Administration: Code of Practice Review. We attach a copy of our response to this document dated 22nd August 2014. As mentioned above, we also attach a copy of the letter from Ofgem and dated 4th July 2014.

I trust that the above is of service and would welcome the opportunity to further discuss the points raised in this response.

Yours faithfully,

Bob Weaver
Director
PowerCon(UK) Ltd

Mobile : 07557345243
E-Mail : bw@powercon-c.com