LEGAL TEXT FOR ALTERNATIVE MODIFICATION P370

SECTION F: MODIFICATION PROCEDURES (28.0)

2. CODE MODIFICATION PROCEDURES

2.1 Modification Proposals

Amend paragraph 2.1.1 as follows:

2.1.1 A proposal to modify the Code may be made by any of the following:

(a) a Party (other than BSCCo or the BSC Clearer);

(b) Citizens Advice and Citizens Advice Scotland;

(c) such other ~~bodies representative of interested t~~Third ~~p~~Party Proposer~~ies~~ as may be designated in writing for this purpose by the ~~Authority~~ Panel from time to time in accordance with paragraph 2.1A;

(d) the Panel:

(i) on the recommendation of BSCCo in accordance with Section C3.8.8 or Section H9.8;

(ii) on the recommendation of BSCCo following receipt by BSCCo of a change request proposing a change to a Core Industry Document and/or the System Operator-Transmission Owner Code which would, if made, have an impact on the Code;

(iii) on the recommendation of BSCCo where BSCCo becomes aware of a change in circumstances, since approval of a Proposed Modification, which would make the implementation of that Approved Modification impossible or significantly more costly than anticipated at the time such Modification was approved or no longer relevant;

(iv) on the recommendation of BSCCo to rectify manifest errors in or to correct minor inconsistencies (or make other minor consequential changes) to the Code;

(v) on the recommendation of the Trading Disputes Committee in consequence of a Trading Dispute;

(vi) on the recommendation of the Performance Assurance Board in accordance with Section Z8.2;

(vii) on the recommendation of a report in relation to a VoLL Review in accordance with Section T1.12; ~~or~~

(viii) on the recommendation of a report in accordance with paragraph 3.1.7 of Annex C-2~~,~~; or

(ix) in order to address the findings of a review conducted by the Panel in accordance with Section F2A.1.8,

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provided that, where the Panel decides to make a proposal in any of the circumstances set out in paragraphs (i) to (viii), such proposal shall be without prejudice to the Panel's decision, pursuant to paragraph 2.7, as to whether or not to recommend to the Authority that such modification should be made;

(e) a CfD Counterparty to reflect a proposed change to the CFD Arrangements which would, if made, have an impact on the Code;

(f) the CM Settlement Body to reflect a proposed change to the CM Arrangements which would, if made, have an impact on the Code;

(g) the Authority in relation to modifications which it reasonably considers are necessary to comply with or implement the Electricity Regulation and/or any relevant legally binding decisions of the European Commission and/or the Agency; and

(h) the Authority in relation to a Modification Proposal that is in respect of a Significant Code Review.

Amend paragraph 2.1.10 to read as follows:

2.1.10 The Modification Secretary shall as soon as reasonably practicable:

(a) send a copy of the Modification Proposal, ~~and~~ (if available) the initial assessment prepared by BSCCo pursuant to paragraph 2.1.8 and (if applicable) notice that such Modification Proposal has been submitted by a Third Party Proposer to:

(i) each Party;

(ii) each BSC Agent;

(iii) the Authority;

(iv) each Panel Member;

(v) Citizens Advice and Citizens Advice Scotland;

(vi) ~~any other body designated by the Authority pursuant to paragraph 2.1.1(c); and~~not used;

(vii) each Core Industry Document Owner and the STC Committee; and

(viii) each person referred to in paragraph 1.9.3;

(b) post a copy of the Modification Proposal on the BSC Website or, failing that, publish the Modification Proposal in such other manner as may be appropriate to bring it to the attention of interested third parties~~.~~;

Insert new paragraph 2.1A directly after 2.1 to read as follows:

2.1A Modification Proposals Submitted by Third Party Proposers

2.1A.1 An application by a person to be designated as a Third Party Proposer (such person being a "**Third Party Applicant**") shall be submitted in writing in accordance with BSCP40, and shall contain the following in relation to such request:

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(a) a modification proposal that complies with paragraph 2.1.2;

(b) the rationale of the Third Party Applicant for requesting designation as an Third Party Proposer (including information on what other steps, if any, have been taken by the Third Party Applicant to have the Code issue or defect addressed);

(c) the reasons why the Third Party Applicant believes that they have an interest in the Code; and

(d) a letter agreement substantially in the form set out in BSCP40.

2.1A.2 If an application under 2.1A.1 fails in any material respect to comply with the requirements of that paragraph then the Modification Secretary may refuse to accept such application and the provisions of paragraph 2.1.3 shall apply mutatis mutandis in respect of such refused application.

2.1A.3 The Panel:

(a) subject to paragraphs 2.1A.3(b) and (c), shall consider a proposal made by a Third Party Applicant in accordance with this Section F;

(b) before designating a person as an Third Party Proposer, may conduct such consultation with Parties and interested third parties as it considers necessary; and

(c) may refuse to accept an application for designation as a Third Party Proposer in which case the Modification Secretary shall furnish the Third Party Applicant with the Panel's reasons for such refusal.

2.1A.4 Subject to paragraphs 2.1A.5 and 2.1A.6, an application by a Third Party Applicant to be designated as a Third Party Proposer made pursuant to paragraph 2.1A.1 and not refused pursuant to paragraph to 2.1.A.2 or 2.1A.3 shall be processed as a Modification Proposal as further provided in this paragraph 2 and:

(a) for the purposes of this Section F, the Third Party Proposer shall be the Proposer; and

(b) the Modification Secretary shall promptly notify the persons referred to in paragraph 2.1.10(a) that such application has been accepted by the Panel.

2.1A.5 Where a Third Party Applicant disagrees with a decision of the Panel not to designate them as a Third Party Proposer then such person may appeal the decision of the Panel to the Authority and the Panel shall give effect to any direction of the Authority arising from such appeal.

2.1A.6 Where a Party disagrees with the decision of the Panel to designate a person as a Third Party Proposer then such Party may appeal the decision of the Panel to the Authority.

2.1A.7 In respect of an appeal made under paragraph 2.1A.6:

(a) such appeal must be commenced by submitting to the Authority an outline of the objections to the designation by no later than 15 Business Days after the date of the notice pursuant to paragraph 2.1A.4(b);

(b) the Party making such appeal shall promptly notify the Modification Secretary and the Modification Secretary shall, as soon as reasonably practical after it

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becomes aware of an appeal, notify each of the persons referred to in paragraph 2.1.1;

(c) the proposal shall continue to be processed as a Modification Proposal in accordance with this paragraph 2 pending the outcome of the appeal; and

(d) if such appeal is successful then the Modification Proposal shall be nullified provided that:

(i) if any subsequent modification proposal is accepted by the Panel that has, in the opinion of the Panel, substantially the same effect as a nullified Modification Proposal then the Panel shall have due regard to any assessment, analysis and consultations already undertaken in respect of the nullified Modification Proposal when determining which procedure or phase the proposal should be submitted to and the timetable to be followed in progressing such proposal; and

(ii) for the avoidance of doubt, a nullified Modification proposal shall not be a withdrawn Modification Proposal or a Rejected Modification Proposal.

2.1A.8 The Panel shall keep under review the volume of Modification Proposals being proposed by Third Party Proposers, the costs incurred by BSCCo in the administration of such Modification Procedures and the costs incurred by BSCCo in supporting Workgroups involved in the consideration of issues pursuant to paragraph F2.4.23 which have been raised by interested third parties pursuant to BSCP40 and:

(a) shall publish its findings on the BSC Website where it determines that there has been a material increase in volume and cost;

(b) may decide to propose a modification to the Code in order to address the findings of a review published by it pursuant to this paragraph.

Amend paragraph 2.4.23 to read as follows:

2.4.23 With a view to facilitating consideration~~, by persons and bodies entitled to do so,~~ of whether to propose modifications of the Code and how to frame such proposals, ~~the Panel may, in the terms of reference for a standing Workgroup, authorise~~ BSCCo may convene, in accordance with BSCP40, ~~the~~ a group to consider generally issues relating to the Code, its application or implementation, or any manner in which the Code might be modified, ~~falling within the area(s) specified by the Panel in such terms of reference; and where the Panel has so authorised a standing Workgroup:~~

~~(a) the group may consider any such issue put to it by any person or body entitled to propose a modification of the Code;~~

~~(b) the chairman of the relevant meeting of the group shall decide in his absolute discretion whether to consider any such issue so put to the group;~~

~~(c) the group shall keep its consideration of any such issue separate from the transaction of its business in relation to any Modification Proposal;~~

~~(d) the group shall publish its views and deliberations on the issue in such manner as the Panel shall direct;~~

provided that, save as specified in BSCP40, neither the views of the group nor anything done by it in relation to such an issue shall have any consequence or significance in relation to the Code

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or its implementation or operation or interpretation~~, and the Panel shall not be required to have regard thereto or act in any way in consequence thereof~~.

SECTION H: GENERAL (v23.0)

9. GENERAL

Amend paragraph 9.4 to read as follows:

9.4 Rights of Third Parties

9.4.1 Subject to paragraphs 6.4.1 and 9.4.4, the Parties do not intend that any third party shall have any rights, benefits, entitlements or privileges under the Code, the Framework Agreement and the Code Subsidiary Documents, and nothing in the Code, the Framework Agreement or any Code Subsidiary Document shall be construed as conferring or purporting to confer any such right, benefit, entitlement or privilege on any such person.

9.4.2 The Parties do not intend that any term of the Code, the Framework Agreement or any Code Subsidiary Document shall be enforceable solely by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person who is not a Party.

9.4.3 Save for the Authority and the Panel as provided in Section F and, in respect of the Secretary of State, to the extent provided in Section C, no third party consent shall be required to rescind, vary or modify the Code or any Code Subsidiary Document (but without prejudice to the rights of BSC Agents under their respective BSC Agent Contracts in respect of any change to such BSC Agent Contract).

9.4.4 Any person who is not a Party but who is permitted to propose a Modification Proposal pursuant to Section F shall have the rights, benefits, entitlements and privileges of a Proposer under Section F from the date when that Modification Proposal is accepted until the earlier of that Modification Proposal being nullified, withdrawn, rejected or approved and the provisions of paragraph 9.4.2 shall be interpreted accordingly.

ANNEX X-1: GENERAL GLOSSARY (V83.0)

Insert the following new definitions in alphabetical order:

"Third Party Applicant":	has the meaning given to that term in Section F2.1A.1;
"Third Party Proposer":	means any interested third party or any body representative of interested third parties in each case designated by the Panel as being permitted to make a proposal to modify the Code pursuant to Section F2.1.1(c);

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