



## **Competition in Connections Code of Practice Modification Report**

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**0005 – Transfer of Control Modification**

**27 March 2017**

## 1. Purpose and Objective

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- 1.1** The purpose of this modification is to correct drafting inconsistencies to sections 5.2.16 and 5.2.17 under 'Option 3 Transfer of Control' in order to avoid the Code of Practice coming into conflict with Standard Licence Condition 26 (SLC26).

## 2. Background

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- 2.1** Northern Powergrid (NPG) has been unable to develop a compelling case that there is no inconsistency between SLC26 and the Code, as presently drafted, because the scope of the restriction in SLC26 is so broadly drawn. NPG have proposed that the most promising solution is a modification to the Code that attempts to define "Option 3 Transfer of Control" in such a way that no breach of SLC26 is implicit.

## 3. Original Modification Proposal and Rationale

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- 3.1** The modification proposal was raised by Northern Powergrid and was submitted to the Code of Practice secretariat on 13 December 2016. The modification is intended to only make administrative changes to the Code of Practice.
- 3.2** The modification proposal was considered by the Panel on 20 December 2016 and it was agreed that a working group be established to consider the proposal and develop a solution.

## 4. Original Modification Considerations

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- 4.1** The working group held its only meeting by teleconference on 22 February 2017.
- 4.2** Names of members and their organisations who sat on the COP "Transfer of Control" working group:

Geoff Earl (Chair)	Northern Powergrid
Andy Barker	SSEN
Martyn Crocker	UKPN
Neil Fitzsimons	Power On Connections

Colin Fletcher	G2 Energy
Patrick Daly	P.N Daly
David Overman	GTC
John France*	Northern Powergrid
Tom France*	Northern Powergrid

\*John France and Tom France assisted the working group with advice on the legal and regulatory definitions contained within SLC26.

**4.3** The working group looked at the text changes proposed by Northern Powergrid and agreed modifications which included minor amendments and the removal of some wording which was not considered necessary. The proposed changes were:

- Removing the comma after “control over”;
- Removing the words “and electrically isolated”;
- Replacing the word “will” with “may” in the second sentence;
- Removing the final sentence starting “For the avoidance of doubt...”

**4.4** Therefore, it was agreed that the “Proposed Solution and Draft Legal Text” be amended to:

“Under this option, without relinquishing operational control over its network, a DNO may temporarily assign to an ICP authority to conduct the necessary specified field operations within a pre-defined part of its network. Under these arrangements the ICP may be permitted to undertake certain limited duties to enable it to connect extension assets without reference to the DNO’s control centre. It will perform these duties in accordance with its own SMS, including its Safety Rules.”

**4.5** The group agreed that they believed that the modification was non-consequential under the terms of the governance arrangement 5.35 and that it would not need to go out for consultation. They agreed that this would be recommended to the Panel.

## **5. Legal Text Change**

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**5.1** Please see the proposed changes to the legal text in Appendix One.

## **6. Implementation**

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**6.1** The proposed changes to the Code of Practice will be implemented two days following any approval decision from Ofgem.

## 7. Evaluation against Code Objectives

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- 7.1** This modification helps provide additional clarity which will help to better achieve the objectives not to distort, prevent or restrict competition in the market for new electricity distribution connections by offering DNOs reassurance that “Transfer of Control” practice and procedure is not at odds with their SLC26.

## 8. Panel Recommendation

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- 8.1** On 21 March 2017, the Panel considered the report submitted by the working group. The Panel voted as followed:

Name	Decision
Brian Hoy - ENWL	Approve
Catherine Falconer – SSEN	Approve
David Overman - CNA	Approve
Gareth Pritchard – UCCG	Approve
Geoff Earl – NPg	Approve (submitted vote via email)
Glyn Jones – MCCG	Approve
Graham Smith – UCCG	Approve
Paul McGimpsey – SPEN	Approve
Neil Fitzsimons – MCCG	Approve (submitted vote via email)
Neil Magrath – UKPN	Approve
Stephen Morris - CNA	Approve (submitted vote via email)
Tim Hughes – WPD	Approve

- 8.2** The Panel voted to send the modification to the Authority with a recommendation to approve.

## 9. Appendix Attachments

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- 9.1** Appendix One: 0005 – Transfer of Control Modification– Legal Text Change Proposal
- 9.2** Appendix Two: 0005 – Transfer of Control Modification - Modification Proposal Form