

Grid Code Workgroup Consultation Response Proforma

GC0101 EU Connection Codes GB Implementation – Mod 2

Industry parties are invited to respond to this consultation expressing their views and supplying the rationale for those views, particularly in respect of any specific questions detailed below.

Please send your responses by **5pm on 2 October 2017** to grid.code@nationalgrid.com.

Please note that any responses received after the deadline or sent to a different email address may not receive due consideration by the Workgroup.

Any queries on the content of the consultation should be addressed to Chrissie Brown at Christine.brown1@nationalgrid.com

Respondent:	<i>Garth Graham (garth.graham@sse.com)</i>
Company Name:	SSE
Please express your views regarding the Workgroup Consultation, including rationale. (Please include any issues, suggestions or queries)	<p><i>For reference, the Grid Code objectives are:</i></p> <ul style="list-style-type: none">i. To permit the development, maintenance and operation of an efficient, coordinated and economical system for the transmission of electricityii. To facilitate competition in the generation and supply of electricity (and without limiting the foregoing, to facilitate the national electricity transmission system being made available to persons authorised to supply or generate electricity on terms which neither prevent nor restrict competition in the supply or generation of electricity)iii. Subject to sub-paragraphs (i) and (ii), to promote the security and efficiency of the electricity generation, transmission and distribution systems in the national electricity transmission system operator area taken as a wholeiv. To efficiently discharge the obligations imposed upon the licensee by this license and to comply with the Electricity Regulation and any relevant legally binding decisions of the European Commission and/or the Agency; andv. To promote efficiency in the implementation and administration of the Grid Code arrangements

Standard Workgroup Consultation questions

Q	Question	Response
1	Do you believe that GC0101 Original proposal, or any potential alternatives for change that you wish to suggest, better	ORIGINAL We do not believe that GC0101 does better facilitate the Grid Code Objectives as it <u>fails to</u> discharge the

	<p>facilitates the Grid Code Objectives?</p>	<p>obligations imposed upon the licensee by this license and to comply with the Electricity Regulation and any relevant legally binding decisions of the European Commission and/or the Agency.</p> <p>As the National Grid presentation to EnergyUK on 23rd May 2017 noted, in respect of the three connection codes (RfG, DCC and HVDC), the aim of these Network Codes is to “<i>Set consistent technical requirements across EU for new connections of user equipment (e.g. generation / interconnectors)</i>”. This accords with the recitals of the RfG, DCC and HVDC Network Codes.</p> <p>However, as both the Proposer’s explanations to the Workgroup and the legal text makes clear there is not even to be a set of consistent technical requirements across GB (let alone with the EU) for new connections as a result of GC0101 as, for example, apparently many of these multiple technical requirements are, instead, to be determined by the network operate alone, in a non-open / non-transparent way, and applied differently to each new connection. This non-harmonised approach is inconsistent with the EU Network Codes.</p> <p>Furthermore, the imposition of additional costs (such as the twelve items listed on pages 44-45 of the Workgroup consultation document) will affect cross border trade between Member States as well as within the Member State (between GB and Northern Ireland) and as such will not be in compliance with Article 8(7) of Regulation 714/2009.</p> <p>In addition to not being better in terms of Objective (iv) the GC0101 Original does better facilitate the Grid Code Objectives (ii), (iii) and (v) as it:</p> <p>fails to facilitate competition in the generation and supply of electricity (by not complying with EU law – see above – and imposing additional costs on GB generation);</p> <p>fails to promote security and efficiency in electricity generation (by not complying with EU law – see above); and</p> <p>fails to promote efficiency in the implementation and administration of the Grid Code arrangements (by not</p>
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		<p>complying with EU law – see above).</p> <p>POTENTIAL ATLERNATIVE (a)</p> <p>We do believe that potential alternative (a) does better facilitate the Grid Code Objectives as it ensures the discharging of the obligations imposed upon the licensee by its license and to comply with the Electricity Regulation and any relevant legally binding decisions of the European Commission and/or the Agency.</p> <p>As the National Grid presentation to EnergyUK on 23rd May 2017 noted, in respect of the three connection codes (RfG, DCC and HVDC), the aim of these Network Codes is to “<i>Set consistent technical requirements across EU for new connections of user equipment (e.g. generation / interconnectors)</i>”. This accords with the recitals of the RfG, DCC and HVDC Network Codes.</p> <p>It is clear that this potential alternative (a) seeks to ensure that only those obligations applicable to newly connecting parties that fall within the scope of the EU Network Codes will be implemented into the GB national network codes (such as, but not limited to, the Grid Code and Distribution Code) as required by those EU Network Codes.</p> <p>As detailed on pages 40-47 of the Workgroup consultation document there are clear reasons as to why this is required.</p> <p>In addition to being better in terms of Objective (iv) the potential alternative (a) also better facilitate the Grid Code Objectives (ii), (iii) and (v) as it:</p> <p>as by complying with EU law – see above – and not imposing additional costs (over and above those required by law) on GB generation it facilitates competition in the generation and supply of electricity;</p> <p>as by complying with EU law – see above – and not imposing additional costs (over and above those required by law) on GB generation it promotes security and efficiency in electricity generation; and</p> <p>as by complying with EU law – see above – and not</p>
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		imposing additional costs (over and above those required by law) on GB generation it promotes efficiency in the implementation and administration of the Grid Code arrangements.
2	Do you support the proposed implementation approach?	We note the proposed implementation approach set out in Section 8 and support this.
3	Do you have any other comments?	<p>We have two further comments relating to (1) the draft legal text and (2) the affect on cross border trade.</p> <p>Firstly, we <u>do not</u> agree that the draft legal text contained in Annex 3 delivers the intent of the solution outlined in Section 3.</p> <p>This is because the intent of the GC0101 solution is to ensure that all the requisite applicable articles of the EU Network Codes (RfG, DCC and HVDC) are implemented into the national network codes (namely the Grid Code and Distribution Code).</p> <p>However, there is <u>no evidence</u> provided that clearly maps over each of the EU Network Code obligations (that GC0101 is intended to implemented into the national network codes) to the draft legal text.</p> <p>It was clear from the August Workgroup review of the draft legal text that multiple gaps and inconsistency existed (at that time) between the draft legal text and the delivery of the intent of the solution outlined in Section 3 of the Workgroup consultation. Our review of the latest draft legal text shows that many gaps and inconsistencies still exist.</p> <p>Absent a clear mapping of the EU Network Code articles to the draft legal text we cannot see how either (a) the Workgroup; or (b) stakeholders; or (c) the requite Code Panel(s); or (d) Ofgem can say that the draft legal text does deliver the solution outlined in Section 3.</p> <p>Notwithstanding the above, we also note that the draft legal text appears to be in direct contravention of the EU Network Codes.</p> <p>By way of example, the suggested use of the existing national definitions, amended in part by the EU Network Code requirements, has the unintended (or possibly intended?) consequence that it will not be clear to existing connected parties that, in fact, they</p>

		<p>are not actually bound by the EU Network Code amended definitions within the Grid Code (or Distribution Code) as this would be applying those EU Network Codes definitions (and associated obligations) to existing connected parties without either (1) a CBA being undertaken or (2) those parties having substantially modified their respective connection agreement(s) which would be in direct contravention of the RfG, DCC and HVDC Network Codes.</p> <p>Secondly, we note the Workgroup deliberations in respect of the <i>affect on cross border trade</i>.</p> <p>The Workgroup may wish to take due notice of the Commission's guidance in this regard – available at: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=URISERV%3A126113</p> <p>It sets out the following:</p> <p>"the concept of "trade between EU countries": <i>the concept of "trade" is not limited to traditional exchanges of goods and services across borders. It is a wider concept, covering all cross-border economic activity including establishment. This interpretation is consistent with the fundamental objective of the Treaty to promote free movement of goods, services, persons and capital. The requirement that there must be an effect on trade "between EU countries" implies that there must be an impact on cross-border economic activity involving at least two EU countries;</i></p> <p>the notion "may affect": <i>the function of the notion "may affect" is to define the nature of the required impact on trade between EU countries. According to the standard test developed by the Court of Justice, the notion "may affect" implies that it must be possible to foresee with a sufficient degree of probability on the basis of a set of objective factors of law or fact that the agreement or practice may have an influence, direct or indirect, actual or potential, on the pattern of trade between EU countries. In cases where the agreement or practice is liable to affect the competitive structure inside the EU, EU law jurisdiction is established; "</i></p>
4	Do you wish to raise a WG Consultation Alternative Request for the Workgroup to consider?	No.

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Specific GC0101 questions

Q	Question	Response
1	As set out under 'Potential Alternatives - (a) Removing More Stringent Requirements' concerns have been expressed by some Workgroup Members that applying more stringent requirement on newly connecting parties (that fall within this scope of the EU Network Codes for generation, demand and HVDC systems) maybe incompatible with EU law. Do you have any views on this topic that could assist the Workgroup when they are considering the topic in due course?	<p>We fully support the concerns set out on pages 40-47 of the Workgroup Consultation as regards the need to remove (from the proposed Original) the more stringent requirements when implementing the EU Network Codes into the GB national codes (namely the Grid Code and Distribution Code). We note that to date the deliberations within the Workgroup have tended to be focused by those who hold a contrary view on the 'policy' position; namely that those who hold this contrary view (which is primarily network operators) seek to retain the existing status quo obligations set out in both the Grid Code and Distribution Code on new connecting parties who in the future will be encompassed within the scope of the EU Network Codes.</p> <p>However, this is at odds with both the position of BEIS and Ofgem who have both acknowledges that it may be necessary to remove or amend existing GB national network code obligations that conflict with the EU Network Code obligations. This position was most recently reaffirmed by Ofgem in their 30th August 2017 letter (in respect of GC0103):</p> <p><i>"To ensure the full and timely implementation of the EU Connection Codes, we are therefore encouraging the Grid Code Panel to focus on:</i></p> <p><i>a) bringing forward any new Grid Code provisions made necessary by virtue of the EU Connection Codes; <u>and</u></i></p> <p><i>b) <u>removing or amending any existing Grid Code provisions which may conflict with the EU Connection Codes.</u>"</i> [emphasis added]</p> <p>Whilst we can appreciate that some Workgroup members may hold a contrary view from a 'policy' perspective, we note that, in our view, this is a matter of 'law' (not 'policy') and that no counter legal arguments have been forthcoming.</p> <p>Furthermore, even if such arguments were to come forward we would strongly argue that the Workgroup should put forward this potential alternative as a formal Alternative so that Ofgem (who are the correct</p>

		<p>body to consider this matter) are able to determine on this matter of law by choosing between the two (the Original and this potential alternative).</p> <p>Failure to put forward this as a formal Alternative runs the serious risk that Ofgem will either:</p> <p>(a) be unable to determine on GC0100 (and have to send it back); or</p> <p>(b) (depending on the CMP261 deliberations around the legality or otherwise of post send back changes to WACMs) reject the Original proposal, and any other Alternative(s) related to it, as it does not address the 'more stringent' matter which is in contravention of EU law.</p> <p>Either of these necessary additional aspects will, if applicable, delay the implementation of the GC0101 solution which is not in the wider interest of all concerned.</p> <p>Notwithstanding any Ofgem decision on GC0101 it should also be noted that all TSOs, DSO and relevant network operators are bound to comply with the applicable EU law even if this is in contravention of any national law provisions (such as, but not limited to, their respective licences or national network codes including, but not limited to, the Grid Code or Distribution Code). They cannot, for example, rely on any national provisions that place them in contravention of their EU law duties.</p> <p>Newly connecting parties which fall within the scope of the EU Network Codes could, in those circumstances where EU law has been contravened, seek full legal redress against the contravening party or parties in the national and / or EU courts.</p>
2	Do you agree that the comments raised from the GC0048 voltage/reactive consultation have been addressed, in particular those relating to the Offshore reactive range. If not please advise why these issues have not been addressed?	Yes – we agree these points have been adequately addressed.
3	Do you agree that the comments raised from the GC0087 frequency response consultation have been addressed; if not	Yes – we agree the comments from GC0087 have been adequately addressed.

	please advise why these issues have not been addressed?	
4	Do you agree with the proposed voltage/ reactive and frequency requirements (including associated diagrams and parameters) captured under the HVDC Code are reasonable? If not please advise why.	Yes – we agree the proposed voltage / reactive and frequency requirements under the HVDC code are reasonable.
5	Do you have any views on the time durations proposed for the frequency ranges defined in the Annex I of the HVDC Code? The time durations must be longer than those stipulated for RfG, however is there any materiality for an HVDC System in setting a value longer than that required under the RfG Code.	No.
6	Do you believe it is reasonable to require HVDC Systems, DC Connected Power Park Modules and Remote End HVDC Converter Stations to meet similar requirements to Type D Power Park Modules defined under RfG? If not please state so.	<p>In our view it is only reasonable for HVDC Systems, DC Connected Power Park Modules and Remote End HVDC Converter Stations to meet the requirements of the applicable EU Network Code for connection which, in this case, is the HVDC Network Code.</p> <p>Noting that the approval of the RfG preceded the approval of the HVDC Network Code it is clear that if the drafters (of the HVDC Network Code) had intended for HVDC Systems, DC Connected Power Park Modules and Remote End HVDC Converter Stations to meet similar requirements to Type D Power Park Modules defined under RfG that they would have simply (and easily) drafted it accordingly.</p> <p>If they have not done so then there must have been a reason for this and it is not for the national implementation to undermine the intent of the EU law in this regard.</p>
7	Do you agree that the Offshore Transmission Arrangements (OTSDUW) should be included as part of the drafting?	<p>In our view it is only reasonable for HVDC Systems, DC Connected Power Park Modules and Remote End HVDC Converter Stations to meet the requirements of the applicable EU Network Code for connection which, in this case, is the HVDC Network Code.</p> <p>The application to Offshore Transmission Arrangements (OTSDUW) which has the effect of applying the HVDC Network Code and / or other EU</p>

		Network Codes to new Offshore Transmission connections (that are not HVDC Systems, DC Connected Power Park Modules and Remote End HVDC Converter Stations) would be both inappropriate and incompatible with EU law.
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