



Rachel Clark, Deputy Director Retail
Ofgem
HalfHourlySettlement@ofgem.gov.uk

25th June 2021

ICoSS Response to Market Wide Half Hourly Settlement (MHHS) – Consultation on Implementation and Governance Arrangements

The Industrial & Commercial Shippers & Suppliers (ICoSS) is the trade body representing the majority of the GB non-domestic energy market. Our members¹, who are all independent Suppliers, in total supply in excess of three quarters of the gas and half the electricity provided in the highly competitive non-domestic market.

Executive Summary

Overall, we are supportive of the industry-led approach proposed with Elexon as Programme managers but with Ofgem retaining the overall decision-making authority. We are also supportive of Ofgem appointing an independent assurance provider, who reports directly to the authority. The regulator should also maintain a role in overseeing the project ensuing co-operation across all stakeholders, acting as a point of escalation for any serious issues and ensuring any conflicts of interest are managed fairly.

We do have concerns over the lack of representation of non-domestic Suppliers in the governance regime. We would note the Switching Programme as a current successful model of constituency engagement and so we believe there should be a non-domestic supplier representative on the Programme Steering group. ICoSS is happy to support this constituency (for both ICoSS and non-ICoSS members) as it has done so for the Switching Programme and Project Nexus previously.

Ofgem must ensure adequate engagement of Supplier agents with the programme and not simply rely on Suppliers to manage these parties. The need for this has been proven by the Switching Programme where Supplier agents have been central to the delivery of the programme. Accordingly, we believe that Ofgem should seek to place formal obligations on all such parties.





A key concern for members which we wish to highlight to Ofgem is the clash of resources with the proposed overlap with the Switching Programme. We believe running the two programs in parallel introduces an unnecessary level of risk to both Programs. ICoSS members do not have the capability, internal and external, to operate both programmes in parallel. We would therefore recommend that to ensure the success of both, Supplier engagement with the MHHS programme should not commence until Mid-2022, after the successful delivery of the Switching Programme.

Response to Consultation Questions

- 1. Do you agree that the balance of the duty to cooperate in licences and the more detailed obligations set out here will be sufficient to ensure that all parties are subject to the right obligations to secure timely and effective implementation of MHHS?**

It is important that any regulatory and licence ensure encompasses all parties that will be involved in the implementation of MHHS. This includes networks and party agents. Where appropriate therefore the current obligations on Suppliers should be extended to all parties via licence changes and more detailed obligations in the BSC.

- 2. Do you agree that the proposed obligations on all programme parties in respect of MHHS implementation, and the proposed obligations on Elexon in its roles as the BSC code administrator, are sufficiently well defined to ensure that ownership and accountability for implementation of MHHS is clear? If not, how could the proposed obligations be changed to allow this to happen?**

Overall, we are supportive of the industry-led approach with Elexon as Programme manager but with Ofgem retaining overall decision-making authority. To ensure suitable oversight and cost control of the regime we are also supportive of Ofgem appointing an independent assurance provider, who reports directly to the authority. Ofgem as Programme Sponsor will need to keep a high level of oversight over Elexon to ensure it continues to deliver the program effectively and within budget.

We are supportive of Elexon as SRO on the proviso that there is complete functional separation between centralised programme functions and the operation of central settlement systems to avoid any perception of conflict.

Similarly, we agree with the obligations on programme parties. With respect to the obligations of Programme Participants, in particular Suppliers, we acknowledge that members will be required to update system and processes to align with the new central regime. As has been demonstrated by the Switching Programme, for this to



be effective, party agents (such as third-party service providers) must also be required to fully co-operative with the programme.

3. **Do you have any comments on the scope or drafting of the draft obligations themselves? We would appreciate all comments, but suggestions for changes in wording where you think what is proposed does not work would be particularly helpful.**

We have not reviewed in detail the proposed drafting. We believe that robust cost reporting should be transparent to those parties paying for the rollout.

4. **Do you support the governance structure as described in the Market-Wide Half-Hourly Settlement Governance Framework? We welcome all comments, but if you have proposals for changes to the governance structure it would be particularly helpful if you could clearly set out your preferred alternative in any specific area of the governance structure.**

The Switching Programme governance model has operated successfully and provides a current robust model for the MHHS Programme. The Switching Programme operates a clear governance regime where there is clarity on what is expected of parties, how they make help shape the solution and most importantly that they can escalate potential concerns and problems for consideration. As the proposed governance model seems to be largely based on the Switching Programme we broadly agree with the proposed framework, with one important caveat.

We have **significant concerns** that the number of Supplier representatives on the Programme Governance group has been halved compared to the Switching Programme. The requirements of the non-domestic and small domestic Suppliers and consumers are very different (metering, customer's needs, etc) and cannot be adequately represented by a single constituent. A key part of the success of the Switching Programme has been the ability for all major industry groups to have clear representation at the Delivery and Implementation groups. **This must be replicated in the MHHS governance** and so we urge Ofgem to expand the number of representatives to include a specific non-domestic supplier representative.

As we have done so for the Switching Programme ICoSS is happy to co-ordinate such a role and engage with all non-domestic suppliers, both members and non-members, as part of representing the non-domestic supplier constituency.

5. **Do you agree with the approach of Ofgem designating the governance structure as set out in the Governance Framework as a baselined document**



in the BSC, that Elexon and all programme parties will have to comply with? If not, can you suggest an alternative method of embedding the governance structure, contained in the Governance Framework, in the programme and providing confidence to all programme parties?

We agree with the proposal to baseline the Governance Framework as a subsidiary document under the BSC as that will provide a clear governance regime for its management.

6. Do you have any comments on the proposed Assurance Principles?

We support the assurance principles set out in the consultation, but also suggest that there should be a clear focus on any costs included by the programme in any assurance process.

7. Do you agree that specific thresholds should be set for Ofgem intervention to avoid the risk of Ofgem being drawn into day-to-day management of MHHS implementation?

We agree in principle that there needs to be a threshold for any intervention by Ofgem to provide certainty to all parties on how and when the regulator will be expected to intervene.

8. Do you agree that Ofgem intervention should be based on the five key criteria of: adherence to the TOM, delivery of benefits and costs, timeliness of delivery, impact on competition and consumer impact? Do you agree with the specific TOM, cost and timeliness thresholds? If not, what others would you propose?

We agree with the proposals in general but think that the threshold for cost of an individual decision is too high at £5m, which should be reduced to £2.5m. The £20m cumulative threshold should also be halved to £10m initially, but reviewed if felt to be unrepresentative.

9. Are there any other criteria that you consider may warrant Ofgem intervention? Please give reasons why.

We suggest Ofgem should be able to intervene if there is unfair or disproportionate impact of any decision on a certain market sector, where a market sector believes it has not had its concerns taken account of, or where a licence holder could be put in breach of its regulatory obligations. We would anticipate that Ofgem would be



contacted by any concerned party in any event, so allowing for such a process formally will improve transparency.

10. Do you also agree that Ofgem should have a role in ensuring that conflicts of interest are properly managed within MHHS implementation?

We agree that the regulator should have a formal role in ensuring that there are no conflicts of interest between Elexon being the Programme Manager and delivering central system changes. To provide clarity to the market, a written set of undertakings should be developed to that end.

Gareth Evans
ICoSS

gareth@icoss.org