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Industry Code and Licensing Team
Office of Gas and Electricity Markets
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Email: industrycodes@ofgem.gov.uk

1st February 2023

Dear Ofgem

Re: Energy Code Reform: Call for input

Thank you for the opportunity to provide representation on the above noted Call for Input (CFI). Northern Gas Networks has been actively involved in workgroups and discussions relating to the Energy Code Reform, and appreciate this opportunity to continue to feed into it. We have set out our responses to the specific questions in the consultation in Appendix 1. We also raise a number of additional key elements in this cover letter. Please note that as a large Gas Transporter, our comments below and within the attached are only provided in relation to gas.

- We ask that it is a consideration for the proposed changes to the licencing of code managers to be made in alignment with the next Revenue = Incentives + Innovation + Outputs Gas Distribution 3 (RIIO GD3) price control. This should benefit easier implementation of consequential licence changes, including any funding models, to Gas Transporters and other impacted parties.
- Whilst we note that this CFI includes proposed design principles; we would also like to see how prioritisation is considered in relation to modification/change proposals raised under the new regime.

Understanding, at what stage of the proposals journey, the materiality and priority of the proposal will be decided will be important to fostering confidence in a new regime. If it is decided by the code manager at the initial stages, assurances are needed to ensure that the code manager has the relevant subject matter experts in place to understand the direct and consequential impact of the proposal. We would again stress that different subject matters experts may be needed as to which elements of industry the proposal impacts.

- Regardless of when the priority and materiality are decided, understanding under what rights proposers or other interested parties may challenge these decisions would be welcome. Clarity around how this would work would be appreciated and aid in being able to further comment on the various options.

I hope these comments will be of assistance and please contact me should you require any further information in respect of this response.

Yours sincerely,

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the network**

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Appendix 1 - Consultation questions and responses.

Code Consolidation - Proposed design principles

Question 1: Do you agree with the design principles proposed to frame our assessment of code consolidation options? If 'no', please explain why.

Northern Gas Networks (NGN) agrees with the four design principles as laid out in the Call for Input (CFI) document and believe these will help to achieve the best outcomes. We do however note that these principles do not seem to adequately highlight the need for industry engagement with future change proposals. Whilst the current (non Retail Energy Code (REC)) code change process can at times be prolonged, it often highlights consequential impacts of what appear to be simple changes at initial assessment.

Additionally we note that the Cornwall Insight assessment uses five criteria to assess each of the considered options, most of which are replicated in some way in your CFI, with one exception. The 'Feasibility and Ease of Implementation' criterion from Cornwall Insight appears not to form part of your assessment within the CFI document. We therefore ask for information as to why this is not considered as a mitigating factor in deciding which options to carry forward.

Code Consolidation - Which codes to consolidate

Question 2: What are your views on the high-level options for code consolidation we have described ('no consolidation', 'vertical' & 'horizontal')? We welcome input on the possible benefits/disbenefits of each option. Our preferred option is 'vertical consolidation'. We believe that 'no consolidation' whilst the simplest option and least impactful to industry, will not achieve any of the design principles proposed. Within the vertical alignment, both option 1A and 1B achieve the same outcomes for gas, i.e. the merge of the IGTUNC into the UNC. Therefore as a Gas Transporter we would be supportive of either, or both, of these options

Question 3: Q3: Do you agree with our initial preference to explore vertical code consolidation options and, if so, do you have any observations on the potential models set out in Cornwall Insight's April 2022 report? We welcome specific views on the following:

- a) Whether the UNC and IGTUNC should be consolidated;
- b) If/how to consolidate the electricity codes;
- c) Whether the REC and SEC should remain separate; and/or
- d) Whether the consolidation of any codes should be prioritised, and if so, why

We agree with the overall views of the Cornwall Insights April 2022 report, especially in relation to the fact that horizontal alignment could potentially cause issues due to the lack of similarity between gas and electricity, including the added complexity of Shippers who exist only within the gas supply chain. These differences may cause a number of difficulties especially within the UNC, which in effect is already a consolidated code and would therefore need to be segregated to facilitate any move from vertical to horizontal alignment. We do however note that the options from Cornwall Insight are only a qualitative study and therefore would ask for a full detailed assessment and full business case to be carried out before any final determination.

We note that all options under option 4 within Cornwall Insights assessment (Upstream/Downstream reform options) involve the disassembly of the UNC, which reduces their feasibility and ease factor. It appears that no consideration has been given under this model to the alignment of the electricity codes; whilst gas, and therefore the UNC (merged with the IGT UNC), remains whole and is not disassembled into other codes. We are not commenting on whether or not we would support any options considered under this revised assessment, as this would have a greater impact on electricity codes, which we feel unqualified to comment on, but do want to raise the comment that these potential additional options would have scored higher overall on the final matrix and a viable alternative option has therefore not been explored.

In relation to the specific sub questions, we have noted our comments below:

- a) We support consolidation of IGTUNC into the UNC, as this should reduce duplication between codes, and provide easier navigation of the code landscape in relation to wholesale gas as well as clearer standardisation for consumers regardless of whether a customer of a Distribution Network or Independent Gas Transporter. The IGT UNC has had a number of panel meetings that have failed to meet the required quoracy, impacting governance of these codes. There have also been occasions where modification proposals have been made by Distribution Networks (DNs) within the UNC, that also require a change in the IGT UNC to ensure they are applied to all MPRNs, however as the DNs are not a party to the IGT UNC, this has meant that goodwill of a sponsor of an IGT is needed, or in instances, the change has remained a UNC only change, causing disparity between IGT and DN customers. Additionally Shipper Users are party to both these codes, and any disparity between them can result in needing to have separate processes and systems depending on whether the MPRNs are on the DN or IGT network.

We note that this however would be better facilitated once the Joint Office of Gas Transporters has changed from a code administrator to a code manager, which is has appropriate funding by the relevant parties to the code. This should allow the merger of the IGT UNC into the UNC to be managed, and funded, by the code manager.

- b) As a Gas Transporter we do not feel best placed to comment on the pros and cons of different code consolidation options in relation to the electricity codes.
- c) Whilst the consolidation of the REC and SEC, as dual fuel retail codes would appear to bring some benefits, there would be a number of challenges. The SEC is a largely technical code, and as such has a wide industry engagement from direct stakeholders, a different model to the REC, and one it would appear needs to continue. It should further be noted that the REC is still in its infancy and is still establishing what 'best practice' should look like.
- d) Consolidation of the IGTUNC into the UNC appears to be a sensible option from a consolidation perspective, and could be considered as a priority, along with how this would be funded, as it could be one of the simplest to carry out. Merger of the IGTUNC into the UNC would further consolidate the wholesale gas code, which can set the example model for electricity. With reference to the order of consolidation of the electricity codes under a vertical alignment should be agreed by the relevant electric code parties and stakeholders, once again as a Gas Transporter we do not feel qualified to comment.

Code Consolidation - How to deliver code consolidation

Question 4: Do you agree with our preferred implementation approach (Option 2)?

- **If so, do you have any additional observations on what we should consider when further developing this approach, including which code provisions should be considered within the scope of governance arrangements?**
- **If not, please provide details.**

In relation to the code consolidation under a vertical alignment, we can confirm that option 2 (common contractual framework and governance arrangements) would be the best approach within wholesale gas, i.e. consolidation of IGTUNC and UNC, and due to the fact that the IGTUNC, in large, points towards the UNC, we would suggest that this continues to be managed by the Joint Office of Gas Transporters (JO), although they may need to change from a code administrator to a code manager to best align to the new code landscape. The JO is currently funded by Gas Transporters and, as a code administrator, is extremely cost efficient; however a change from code administrator to code manager will increase their scope and remit, and as such greatly increase the running costs. Should the JO

become a code manager, our licence condition around the funding should be amended, with the JO being funded by the wider industry that it serves, potentially via pass-through arrangement.

Code Manager Licencing - Content

Question 5: Are any of the contents we have identified for the licence conditions unnecessary, or, would be more effectively covered outside of the licence (e.g. in the codes)?

As stated in our response to the CFI in 2021, making the code managers licenced bodies and including licence conditions to require them to develop, maintain and review delivery plans in line with government policy or other changes, including stakeholder driven changes across the industry, would better align the energy industry and allow them to be more reactive, whilst also encouraging, proactiveness, and innovation. These benefits should be further enhanced by the requirement to effectively liaise and consult with industry stakeholders.

Should code managers become licenced parties, Standard Special Conditions A11, A12 and A15 of the Gas Transporters Licence would need to be amended or removed to take this into account, and there may be additional consequential impacts on other licence conditions that would also need to be considered.

With reference to the 3 areas of content of the licence conditions for inclusion we have the following comments.

- **Governance and conduct.**

The requirement to comply with code should continue to be included in the licence. With reference to the UNC, the code already includes a dispute resolution section, and it may be better to enhance this area of code in relation to processes for resolving disputes, rather than this being a specific party's licence condition.

Any potential for conflict of interest should be managed by clear separation of duties, and having the relevant checks and balances in place. This should include requirements for a clear reporting, compliance and audit process within the code manager licence.

- **Funding and incentives.**

Incentives and revenue requirements should sit within the code managers licence, along with the overarching budget requirements. We suggest that code managers should be not-for-profit organisations, which should not only reduce end costs to consumers, but also help to ensure that code managers are always working toward the best interest of industry.

In relation to the charging methodology, the need for this should sit within the licence, however the actual methodology itself should sit within the respective codes.

- **Deliverables and Reporting.**

Production of a delivery plan aligned with the strategic direction should be part of the code manager licence as this needs to be a core principle for the code manager, as this will drive the code development priorities for the coming periods, and therefore could be counterproductive to sit within the code itself. As stated in our 2021 response, there will need to be consideration around as to how the strategic body's ability to overrule a decision works: Whether this can only be triggered should a party raise an appeal, and if so under what grounds can this be raised. Triggers currently within the Electricity and Gas Appeals (Designations and Exclusion) Order will need to be revised to reflect changes to governance and removal of Panels making recommendations.

With relation to the appeals process relating to Material and Strategic changes, we believe it is appropriate for both Competition and Markets Authority (CMA) and Judicial Review to be open avenues of appeal. These are existing appeal routes based on different criteria and evidence, and therefore have differing levels of transparency around how the final decision is made. Maintenance of these existing rights should be core to any changes.

Question 6: Are there any additional areas that should be subject to licence rules?

Please see our comment in relation to Q5 around appeals process. Furthermore we believe that there should be a 'reasonable endeavours' licence conditions in regard to engagement with industry in relation to changes, and that some form accountability/incentive could be linked to reporting of, and demonstration of, engagement.

Question 7 Do you agree with our indicative prioritisation for policy development, and do you identify any specific dependencies that you think we should factor into our policy considerations?

We note the high-level content as per your document in relation to the 3 grouping areas regarding the code managers role, and broadly agree with these groupings and the priorities highlighted within each area.

Code Manager Licencing - Code owners

Question 8: Are there any issues that we should take into account when considering moving the current 'code owner' licence provisions to the new code manager licence (such as unintended consequences)?

The timing of the move of ownership of code from current licensee to the new code manager will need to be carefully managed in line with the development of the relevant code consolidation. Changes to, or removal of, the standard special conditions A11, A12 & A15 Gas Transporter licences will also need to be made. Consideration should also be given to other consequential changes within the Gas Transporter, and other, licences in relation to compliance with other codes. As a Gas Transporter, our primary code is the Uniform Network Code (UNC) which, under vertical alignment, will remain mainly untouched (apart from the consolidation of the IGTUNC into it), therefore amendments to funding models and transfer of ownership, could be relatively simple for this code.

Stakeholder Advisory Forum

Question 9: What do you think the stakeholder advisory forums' key roles and/or functions should be, and what areas (other than code change) should the forum(s) potentially have a role in?

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Question 10: What options/issues should be considered in terms of constituting the stakeholder advisory forum(s), in terms of membership and securing appropriate representation?

We have chosen to respond to these two questions together as there are several overlapping elements. Additionally, there needs to be additional clarity around how the forum attendance would work. Is it intended that these would be open for anyone to attend, but subject to a minimum quoracy requirement, or would these be closed meetings with set attendees? If the latter, understanding how these are nominated and selected will help determine our views on the effectiveness of the forums. We would also be interested in understanding what the constituency make up would be in these forums, and whether the intention is for this to differ dependent on code, e.g. gas and electricity having different constituency ratios.

Overall our preference would be for stakeholder advisory forums to be open to any attendees, rather than just a specific selection of representatives, as impacts of change may affect different members of the same constituency in different ways. Broad industry engagement is needed to ensure that impacted, and or interested, parties have a voice, this approach is critical to developing change and minimising adverse unintended consequences. We believe

that an open forum would encourage this better engagement, and without it smaller party engagement may be lost. Currently a number of codes use an open attendance workshop approach, to help develop modifications and system changes. This allows impacted parties to discuss the proposal, pose questions and identify consequential input. A lot of value is gained from these open discussions and often brings to light issues that may not be identified by parties in isolation. This allows the most efficient and effective solution to be implemented. Open forums should encourage engagement from a wider range of industry constituencies and parties, something that is especially vital in relation to the more technical aspects of codes.

We would encourage that all proposals have a formal consultation period that is open to wider industry, to ensure engagement with parties, especially smaller parties who may struggle to attend scheduled meeting, by allowing them to continue to have a voice in the absence of representations at panels. There needs to be transparency to wider industry of any documentation relating to the change as well as discussions that have taken place in meetings. Stakeholder engagement and their views need to be clearly presented as such, especially within the final modification/change reports. This is crucial to ensuring that the relevant course of appeal remains open to parties.

Question 11: Are there any lessons learnt (either good or bad) from the current code arrangements that should be considered?

As previously stated, we believe that open forums to discuss proposed and develop changes, whilst considering the views of a wide range of interested parties is key to good code governance. Whilst this approach may cost more overall in relation to time spent per head on the change, this wide engagement has been proven to be required, and effective within, at a minimum, both the UNC and SEC.

Consolidation of codes on the scale proposed should be best managed via an SCR. This is how the code consolidation of SPAA and MRA into REC was managed and seemed to work well.

Changes to systems should always be aligned with the code change they facilitate. With reference to system changes, scheduled release programmes (with the ability for adhoc urgent changes to be implemented outside of this) has proven to be a successful approach.

Consultations are a key element of code & system change development, and allow parties that have been unable to attend, or feed into, key meetings to ensure that their views are heard.