

Lisa Charlesworth
Code Governance Reform
Ofgem
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Dear Lisa

CONSULTATION ON THE IMPLEMENTATION OF ENERGY CODE REFORM

We are pleased to have the opportunity to respond to this consultation which includes Ofgem's proposals to consolidate:

- the Connection and Use of System Code (CUSC) and Distribution Connection and Use of System Agreement (DCUSA) to create a unified electricity commercial code;
- the Security and Quality of Supply Standard (SQSS), the System Operator–Transmission Owner Code (STC), the Grid Code and the Distribution Code to create a unified electricity technical code;
- the Uniform Network Code (UNC) and the Independent Gas Transporters Uniform Network Code (IGT UNC) to create a unified gas network code.

This response reflects the views of our Renewables and Customer businesses. Our Networks business is responding separately from its perspective as a networks licensee.

Our answers to the consultation questions are in Annex 1. Our main concern is that we believe the vertical consolidation proposals in respect of the electricity codes will do well to do more than “bolt” the respective codes together under a common contractual framework, which will result in combined codes that are challenging for the appointed code managers to govern.

Many of Ofgem's stated benefits are reliant on anticipated longer term rationalisation of the codes and achieving agile and efficient oversight across transmission and distribution, which we believe are difficult to realise in practice – and risk loss of functionality as demonstrated by the recent creation of the Retail Energy Code (REC). In this context, we think these codes should be left as standalone or that consolidation

should not advance beyond establishing manageable common contractual frameworks for combined codes.

Yours sincerely,

A handwritten signature in blue ink that reads "Richard Sweet". The signature is written in a cursive, flowing style.

Richard Sweet
Director of Regulatory Policy

**CONSULTATION ON THE IMPLEMENTATION OF ENERGY CODE REFORM –
SCOTTISHPOWER RESPONSE**

Q1. Do you agree that we should recommend to the Secretary of State that the eleven industry codes listed (including the SQSS) should be designated as “qualifying documents” for the purposes of using our transitional powers in the Energy Act 2023 to deliver energy code reform?

We acknowledge the eleven listed industry codes¹ including the SQSS have been identified in previous consultations by government and Ofgem, as being in scope for energy code reform. We therefore do not object to these listed codes being designated as Qualifying Documents for the purpose of Ofgem utilising its transitional powers under the Energy Act 2023 (EA23). As explained in our response to question 6, we believe that, following designation, the System Operator Transmission Owner Code (STC) should not be subject to consolidation with other codes. Accordingly, it should be designated as a stand-alone Qualifying Document for the purpose of Ofgem utilising its enduring powers under the EA23 after the transition period.

Q2. Do you agree that we should recommend to the Secretary of State that the five central systems listed (including the Central Switching Service) should be designated as “Qualifying central systems” for the purposes of using our transitional powers in the Energy Act 2023 to deliver energy code reform?

Yes, the four listed delivery systems² in addition to the CSS are integral to the operation and functioning of some of the eleven listed energy codes referenced in question 1. It therefore is sensible to designate these systems to ensure their associated codes and relevant contracts can be modified where required to properly implement intended energy code reforms.

Q3. Do you agree with the monetised costs and benefits set out in the accompanying draft impact assessment (i.e., the quantitative analysis)? Please specify if you think there is any further evidence that we should consider.

We are sceptical of the stated size of benefits identified in relation to the electricity commercial codes (CUSC and DCUSA) and the electricity codes (G&D Codes, SQSS and STC). In particular, as described by the impact assessment and consultation, much of the quantified benefit relies on the appointed code managers realising significant code rationalisation and efficiencies arising from greater oversight over transmission and distribution over a twelve-year horizon. As the consultation notes, these consolidations will result in substantial codes covering complex specialist areas and we believe it is much more uncertain that benefits can be achieved beyond establishing common contractual frameworks during the transition period. As noted in our response to question 8, the experience of the creation of the Retail Energy Code (REC) was that implemented code rationalisation and simplification caused detriment due to a loss of code functionality, which had to be reversed.

In contrast to the electricity codes above, we believe the quantified benefits of consolidating the UNC and IGT UNC are realistic, as explained in our response to question 7.

¹ BSC, REC, SEC, CUSC, DCUSA, UNC, IGT UNC, Grid Code, Distribution Code and STC

² Central delivery systems currently managed by Xoserve, Elexon, DCC and Electralink

Q4. Do you agree with the hard-to-monetise costs and benefits set out in the draft impact assessment (i.e., the qualitative analysis)? Please specify if you think there is any further evidence that we should consider.

There is insufficient detail to enable us to meaningfully comment on the qualitative benefits.

Q5. Do you agree with our preferred option to consolidate the CUSC and DCUSA to form a unified electricity commercial code?

While we can understand the stated rationale for bringing these two codes together, we think the benefits of such consolidation may in practice be limited at best. The combined code will be a significant challenge for a single code manager to govern efficiently given the breadth of commercial activities in scope across electricity transmission and distribution and the substantial number of code users involved. Beyond bringing provisions on similar activities, eg connections in transmission and distribution, together under a common heading we are unsure about further opportunities for consolidation and rationalisation.

Q6. Do you agree with our preferred option to consolidate the Grid Code, STC, SQSS and Distribution Code to form a unified electricity technical code?

For similar reasons to those discussed in our responses to questions 3 and 5, we think there are limited benefits beyond establishing a common contractual framework during the transition. As with the consolidated electricity commercial code, we believe the electricity technical code will be extremely challenging for a single code manager and not necessarily any more accessible for smaller parties. Should Ofgem proceed with this proposed consolidation it is critical that the associated stakeholder advisory forum (SAF) and sub-groups has sufficient industry expertise regarding technical and engineering standards, security of supply etc. It will also be important to ensure the same expertise in representation is mirrored for the proposed consolidated electricity commercial code (Question 5).

We are not convinced by Ofgem's rationale for including the System Operator/Transmission Owner Code (STC) as it only applies to the ESO and the TOs covering commercial as well as technical arrangements and therefore is very distinct in subject area and user base from the other three codes. In practice we believe the STC will remain unconsolidated within the technical code, potentially making its governance less efficient. Ofgem states that, given its small size and low frequency of modification, the STC would impose higher costs if left separate. However we would suggest that Ofgem's rationale means the cost and benefits of whether or not to consolidate the STC are marginal so it should be left as a standalone code.

Q7. Do you agree with our preferred option to consolidate the UNC and IGTUNC to form a new unified gas network code?

Yes, we think the benefits of this consolidation are more obvious. The current UNC has already vertically consolidated commercial and technical arrangements across gas transmission and distribution and therefore merging in the IGT UNC which is a subset of gas distribution should be straightforward with expected material cost savings arising from the reduced duplicated governance.

Q8. Do you agree with our proposals to rationalise the identified code provisions as part of any consolidation exercise?

As noted in our responses to questions 5 and 6, we are not convinced the proposed electricity commercial and technical code consolidations will necessarily realise material benefits including from rationalisation. In contrast to the proposed gas code consolidation, the proposed electricity code consolidations bring together substantial codes covering specialised

discrete technical and commercial arrangements. In this context there is a genuine risk that rationalisation in the proposed electricity code consolidations could inadvertently cause a loss of key code functionality. Indeed, this was the experience of creating the Retail Energy Code (REC) where Ofgem's implemented code rationalisation and simplification had to be reversed in subsequent code versions to restore lost functionality.

Q9. Do you agree with our proposal to publish the first SDS for all codes next year (before code managers are in place)?

We agree it is desirable to aim to publish the first SDS for 2025. Adopting this approach should help develop and refine Ofgem's processes for consulting on and producing the SDS, recognising it will take longer than the first year of the SDS to develop a satisfactory output.

Q10. Do you have views on the proposed SDS process?

The consultation is very light on detail on the SDS process especially in terms of stakeholder engagement and consultation. We note the reference to consultation alongside Ofgem's forward work programme, but we would expect the consultation on the SDS to be more substantive, ideally with opportunities for formalised direct stakeholder engagement. An important input for the SDS will be the government's Strategic Policy Statement (SPS) so it is important that the proposed two processes are aligned.

Q11. Do you agree with our proposal that a principles-based standard condition for gas and electricity licensees would support the development and delivery of code modifications related to the SDS?

We understand the rationale for a new licence obligation to support SDS-related code modifications in the transitional period, but we would suggest that these obligations have "sunset" clauses linked to the appointment of code managers. In a reformed governance landscape where code managers have unilateral powers to raise and develop modification proposals and are no longer bound by the views of users and code panels, there is no reason to continue with such licence obligations.

We also recommend that Ofgem considers how compliance from non-licensed code users is ensured in the transition phase.

Q12. Do you agree with our preferred option for how a Stakeholder Advisory Forum should be constituted?

We remain opposed to the replacement of code panels with stakeholder advisory forums (SAFs) which do not have the ability to take binding votes in relation to code modification proposals. Notwithstanding, we agree with Ofgem's preferred Option 3 to base SAF membership on independent fixed constituency representatives, reflecting the diversity of code users. We think Option 3 best ensures the continuation of the strengths of current code panels in terms of expertise, impartiality and being representative of code users.

As noted in our response to question 6 we believe it is important to ensure the SAFs for the consolidated electricity technical and commercial codes respectively, have sufficient technical expertise and this representation is mirrored on both codes.

Q13. What are your views on i) a requirement to assess the greenhouse gas impact of code modifications with updated guidance, or, ii) introducing a 'net zero' code objective?

Whilst we consider it is more practicable and less disruptive to retain and enhance the existing code objective in relation to greenhouse gas impact in the immediate term, we do believe there is merit in the introduction of a 'net zero' code objective developed in consultation with stakeholders. The greenhouse gas impact objective is long established in most of the industry codes and charging methodologies and we think in practice this will have considerable overlap with a Net Zero code objective. However, given Ofgem's new statutory objective under the EA23 to have regard to the achievement of Net Zero targets, we would expect the development of an aligned net zero code objective to be implemented to ensure robust code governance and policy development. In addition, we would expect the Net Zero objective to be reflected in the annual Strategic Direction Statements. We believe it is important that Ofgem keeps this area under development to ensure consistency across industry codes.

We also believe a review of code and charging (relevant) objectives should also ensure impacts on security of supply and network security is given sufficiently high priority across commercial as well as technical codes.

Q14. Do you agree with our proposal to extend and harmonise the ability of code panels to prioritise the assessment of code modification proposals?

We agree with the proposal to harmonise the basis for modification prioritisation across current code panels ahead the appointment of code managers.

Q15. Do you agree with our proposal to adopt a phased approach to transitioning codes to the new governance model?

Yes, collectively the proposed code reforms will require substantial work for Ofgem and industry to implement and therefore adopting a phased approach would appear to be sensible.

Q16. Do you identify any strategic or operational considerations that might inform the transition sequence?

We would expect Ofgem to have fully assessed the interactions between the various codes especially when they are at differing stages of reform implementation during the transition. For example, as noted in paragraph 3.54, the Grid and Distribution Codes do not have contractual frameworks and are instead given contractual effect by the CUSC and DCUSA respectively, so it would be prudent to ensure there are no unintended consequences by sequencing the electricity commercial codes ahead of the technical codes. There could be risks whereby the electricity technical codes can be impacted by fully reformed electricity commercial codes (CUSC and DCUSA), potentially without appropriate safeguards on factors such as security of supply, which require appropriate mitigation by Ofgem.

Q17. What are your views on our proposed transition sequencing?

Given the challenges we have identified regarding the electricity commercial and technical proposals, in our responses to questions 5 and 6, we think Ofgem could consider bringing work on these codes forward to ensure sufficient time is allowed to consolidate these codes.

Q18. Do you have any other comments on how Ofgem should approach the implementation and transition process?

No.

ScottishPower
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