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Dear Lucy,

Wales & West Utilities (WWU) response to Ofgem Consultation on Proposed Code Manager Standard Licence Modifications relating to Data Best Practice

Thank you for the opportunity to respond to this consultation. WWU is a gas transporter and a regional gas distribution network ("GDN"), serving 2.6 million supply points in Wales and south-west England.

Question 1

Do you agree with the structure of our proposed amendments to the Code Manager Standard Licence Conditions, to introduce the requirement to follow Data Best Practice (DBP) Guidance for licensed Code Managers?

Our view is that it is reasonable the Code Managers should produce a Data Strategy Action Plan (DSAP). We realise that arrangements differ between sectors and codes; however, for the proposed gas code the Code Manager is likely to be Xoserve, who is the current Central Data Service Provider (CDSP) and therefore is well positioned to assess and deliver Data Best Practice (DBP) benefits for the industry. This is largely due to their experience in managing significant amounts of gas industry data supported by their understanding of the differences between Gas Transporter (GT) and Shipper data owners.

However, we are concerned that introducing DBP obligations in the Code Manager licence will create conflicts between code and network parties in their ability to deliver against their DSAPs using the same data. Our view is that maintaining DBP obligations within network and Supplier licences in addition to the code manager licence in its current form will create overlapping duties, unnecessary duplication of effort and inefficiencies. Clarity is needed to ensure that licenced parties understand who is expected to discharge the obligation where shared data sets are present.

To note, GT and Shipper industry parties are the data owners and Xoserve are the data processor. Permission from the data owner will continue to be required in order for the data processor to perform their processing role. This is an enabler to meet their DBP obligations.

Reflecting on the obligation itself, we have consistently given the view that the use of best endeavours to act in accordance with Data Best Practice Guidance is disproportionate and unnecessary. Our comments are relevant to GT DBP licence obligations and the proposed Code Manager licence obligations. In GD3 Ofgem introduced best endeavours obligations into many of the new licence conditions, we do not understand the reason for this. If Ofgem wants a party to act in accordance with a document, it should make it an absolute obligation in the licence. The endeavours clause describes how much effort the party is required to put in to avoid a breach of the obligation. No party deliberately sets out to breach their licence.

As drafted the clause requires the panel to act in accordance with the DSAP and to use its best endeavours to ensure that it does. A best endeavours obligation requires the party to do everything it can, without regard to cost, to do what it is required to do. It is not proportionate to require a code body to use best endeavours to act in accordance with DSAP when there is no endeavours obligation to administer the code and conduct meetings and consultations efficiently which is its core activity and which the Joint Office has successfully discharged for many years without the need for an endeavour's obligation.

Yours sincerely

T.Stuart

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Security Classification: Public