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Industry Code Governance Review – second phase

Dear Declan,

I write in response to the Ofgem document “Industry Code Governance Review – second phase.”

As you may know, SmartestEnergy is a BSC Party and CUSC and DCUSA signatory and has raised several modifications since NETA, most recently P269 (the first self governance “flipping mod”) and P272 (Mandatory Half Hourly Settlement for Profile Classes 5-8). We have also raised DCP078 (Bilateral Payment Obligations) to the DCUSA.

Overview on scope not covered by Ofgem’s specific questions

We have always been an advocate of combining MRA and BSC. With the creation of the SEC we believe that this whole issue should be revisited at some point. There are quite clearly savings to be made and a more co-ordinated change process to metering and settlement should be achieved.

However, as has been suggested by other commentators in the industry a major code review would not be particularly welcome on top of all the other developments in the industry at the moment such as EMR, RMR etc. Another one of those developments is Smart Metering and we are aware that it is important to review the arrangements of all the codes in relation to this significant work area because the sooner the codes are working together the sooner we will have sensible and consistent metering and settlement arrangements. However, with all the implications of the DCC yet to be fully realised, we also think there is a strong case for allowing some time for arrangements to be established and stabilised first. If the review does not venture into consolidation of SEC and other codes, and it would be inappropriate for it to do so at this stage, we believe there is little value in carrying one out now.

Ofgem's specific questions

We answer Ofgem's specific questions below in the order in which they appear in the letter.

Has the requirement on code panels to provide rationale for their recommendations been effective in improving analysis to support code changes?

We have not detected an improvement in the standard of analysis but this is more a question for Ofgem.

Has the concept of 'critical friend' been effectively embraced by the Code Administrators (i.e. an obligation to assist interested parties, particularly smaller participants/new entrants and consumer groups)?

Elexon has always been good at supporting smaller participants in the process of raising change proposals/modifications and it is our perception that National Grid is now more engaged with industry generally. The way in which the DCUSA works is in need of some improvement. For instance, we have found that the progression of change proposals has been slow because of a failure by the DCUSA panel to set deadlines (a process which works well under the BSC) to report back at defined stages of a project. DCP078 was a case in point. However, this should be achievable without a code governance review.

Do you support the Code Administration Code of Practice being implemented under all industry codes, to aid convergence and transparency in code governance processes?

No. We are concerned about applying a generic code of practice to all codes as this might diminish the obligations set out in each code. There is a serious danger of all code administrators reverting to the lowest common denominator, losing value-added attitudes and services which cannot be captured in a Code of Practice.

Is the self governance criteria introduced by the CGR appropriate and has the implementation of self governance been effectively achieved in BSC, CUSC and UNC?

SmartestEnergy raised P269 as a self governance modification as we believed it met the criteria. It is interesting to note that Elexon were uncomfortable with this but the BSC Panel were keen to progress a self governance modification, safe in the knowledge that Ofgem could change their minds later in the day. This leads us to conclude that the guidelines are not clear enough, but the nature of Ofgem's role means this is rather academic.

Do you consider that introducing or increasing self governance in the codes would be beneficial?

We are concerned at the possibility of self governance in codes where decisions are made by market share rather than independent panels. Indeed, we are rather concerned about the trend towards self governance generally. We believe that it is not satisfactory to allow Ofgem to step back from changes to the code arrangements purely on the grounds that they have minimal consumer impact; protecting the interests of smaller suppliers who provide much needed competition is also very important.

Has the SCR process met with your expectations thus far, in terms of frequency of SCRs, timings and process?

We were originally concerned that Ofgem would get into the habit of having an SCR on the go just because they could rather than where an issue really required it. Our experience to date is that the potential scope for SCRs is very wide indeed, but then this is narrowed down to the areas of real concern. This is a time consuming but very essential process. This was the correct thing to do in term so TransmiT and will be the correct thing to do in terms of cash-out. It is worth spending the time to come to the right scope and conclusions.

Do you consider that Ofgem's guidance in respect of SCRs has been sufficiently clear and detailed?

We do not believe that Ofgem's guidance has been sufficiently clear or detailed. There is consideration of the process, and about what *might* prompt Ofgem to complete a review but there is no definition of a trigger point which would justify exactly when an SCR should be initiated or of factors which might make it difficult for industry. In the current situation we think it is better for the industry to apply resource to deliver government policies, and gearing up in readiness for them. It is important not to risk losing focus on some of the big ticket items that require further consultation right now.

Should you wish to discuss any aspect of this matter, please do not hesitate to contact me.

Yours sincerely,

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