

26<sup>th</sup> June 2015

**By email only to** [industrycodes@ofgem.gov.uk](mailto:industrycodes@ofgem.gov.uk)

Maxine Frerk  
Ofgem  
9 Millbank  
London  
SW1P 3GE

Dear Maxine

**Re: Further review of industry code governance**

Brookfield Utilities UK ("BUUK") welcomes the opportunity to respond to the consultation on industry code governance. BUUK is the parent company of the gas distribution licensees of GTC Pipelines Limited ("GPL"), Independent Pipelines Limited ("IPL") and Quadrant Pipelines Limited ("QPL"), all Independent Gas Transporters ("IGTs"). BUUK is also the parent company of the electricity distribution licensees of the Electricity Network Company ("ENC") and Independent Power Networks Limited ("IPNL") both Independent Distribution Network Operators ("IDNOs").

In summary BUUK believes that:

- The CGR and CGR 2 have largely been successful.
- Codes and agreements could be amalgamated where there are overlaps or common themes.
- Smaller parties have an important role to play in terms of industry engagement and development and may wish to consider the use of an appointed representative where appropriate.
- The moving of the electricity charging methodologies to open governance has largely been positive though the process can be slow and can delay the consequential benefits to the raising party.
- That change windows for charging methodologies should not be introduced.

Our full response can be found in appendix 1.

Should you wish to discuss any of the comments raised in this response, we would be happy to discuss these further.

Yours sincerely

**Michael Harding**  
Head of Regulation

## Appendix 1

***Question 1: Do you consider the governance changes introduced under CGR and CGR2 have been effective in improving the code governance arrangements. In particular considering the efficiency and effectiveness of code change, the ability for large scale reform to be implemented, and the accessibility of the arrangements for smaller/newer industry participants and consumer representatives?***

From our experience, we believe that self governance has been a useful addition to the industry governance framework. This has allowed changes considered to be housekeeping changes and those of a less contentious nature to progress on swifter timeframes, consequently reducing the overhead of parties involved in the process. We believe that the current criteria are fit for purpose and do not propose that these require further change.

In particular we believe there has been great success under the IGT UNC with the Code Secretariat following the CACoP guidelines. The critical friend requirement has been a useful addition to the code administrator role and one which we believe adds value to stakeholders involved in the change process. We have also recently seen a move to development groups being chaired by the code administrator which not only has made resource available for IGTs to actively participate in such groups (as previously acted as chair themselves) but ensures that all chairman roles are conducted impartially but with the added benefit of the critical friend role.

We have however seen little engagement from consumer representatives though the code administrator has actively encouraged participation and flagged particular areas of interest.

***Question 2: Do you agree that there is a need to consider further reforms to the industry code governance arrangements? If so, what issues do you consider should be addressed, and what possible solutions do you identify?***

We continue to see low participation from smaller market participants in regulatory change processes. Though change implementation is a core part of compliance (in terms of Code and Licence), we believe this is of particular relevance to industry wide change such as smart metering or Project NEXUS. Should not all parties engage or monitor such change, there is a risk that the market will not function efficiently or correctly post change implementation. This has the potential for significant market failure to occur and would not be in the interests of consumers.

Notwithstanding the above, we believe that smaller industry participation is vital not only from a compliance perspective but in ensuring that such parties can contribute towards the development of change solutions and provide potentially unique and innovative views. In some parts of the industry, smaller participants engage the industry via a nominated association representative. This is an approach we have used in numerous change projects under the

Association of Independent Gas Transporters and Competitive Networks Association representing IGTs and IDNOs respectively. We view this as a useful way to engage with the industry when a limited resource pool is available to participate in various fora. We note that ICOSS also make use of similar arrangements and would encourage other parts of the industry to use such approach where possible.

***Question 3: In addition to a post implementation review of our CGR reforms and potential changes discussed in this letter, are there any other areas of industry code governance that should be considered in this review?***

We have split our response into the following sections:

*Charging Methodology governance*

Our comments on charging methodologies are restricted to the governance of electricity charging governance arrangements. Whilst we view moving the governance of the electricity charging methodologies to DCUSA as a step in the right direction, we believe the governance/administration process for change proposals is in need of improvement.

The charging methodologies (particularly those relating to use of system charges) are complex and detailed with only a very limited number of people having sufficient depth of understanding of the relevant methodology and the underlying assumptions. Also, there is still a significant asymmetry of information between DNO parties and to non- DNO parties with a lack of transparency in respect of some of how input data is derived; or in respect of some of the assumptions underpinning the charging methodology. This means that in progressing change proposals participation on DCUSA work groups is often limited with members on the working group having limited experience and expertise of the methodology (notwithstanding that Clause 7.28 of DCUSA requires that “*Each Working Group shall be composed of such persons with experience and expertise suitable to the Working Group’s remit... ʹ*). Also, members’ participation on work groups will often conflict with their other work priorities. As a consequence work group members may be unable or unwilling to undertake which may require a significant time commitment. As a consequence, and in line with our experience, progressing change proposals can be painfully slow, often with progress being driven by one or maybe two work group members.

We have found that some changes can take over 2 years from raising to development to determination. Coupled to the issue that the changes to the electricity use of system charging methodologies now take a further two years to take effect, IDNOs may be subject to scenarios where it could take up to 4 years from an issue being identified in a charging methodology to the IDNO seeing the benefit.

We do not believe this promotes competition and unnecessarily withholds revenues from IDNOs, the values of which cannot be recovered retrospectively. We therefore do not support the concept as outlined in the open letter of introducing change windows for charging governance as this will potentially further add to the delay of potentially receiving the benefits

of the change by restricting when such change can be raised. The other unintended impact of such a change would be to increase the resource required where change activity may find itself condensed into a shortened period which may require a higher resource level to manage when compared to raising changes throughout the year. This is particularly important for smaller market participants who may not have the resource to manage condensed packets of high change proposal activity so to restrict change windows may further disenfranchise such market participants.

We think further consideration should be given to the use of independent expertise on working groups to develop change proposals and thereby speed up the process. Whilst the DCUSA Panel may appoint an independent expert to undertake modelling work, there is little participation on work groups to assist in the development of thinking. Whilst the above comments are specific to electricity charging governance, we think the experience is common with other codes in electricity and gas.

### *Project Implementation Timeframes*

We have seen in numerous parts of the industry that where Ofgem have left the industry to develop and implement a solution, that this often runs on a much longer timeline than the Authority originally anticipated. We have seen the use of time ended licence conditions and the appointment of independent project managers to ensure changes are progressed in a structured and timely way. This is not necessarily the fault of those tasked with delivering the project as at times the delay has been caused by a lack of participation by the wider industry. We find this to be a concerning trend and believe this is an area that requires further review.

### *Number and Volume of Codes*

The gas and electricity industry is made up of a large number complex and lengthy codes and agreements. Whilst we would welcome simplification of codes and processes, we think the current governance arrangements are reflective of the complex nature and structure of both the gas and electricity industry. However, we believe that some code administrators have successfully made the codes and agreements more accessible to wide parts of the industry by running overview days and training seminars. We have found these valuable and would encourage other code administrators to run such days where appropriate.

### *Cross Code Review*

We believe that the proposal to add principle 13 to the CACoP to ensure changes are considered across codes a worthy addition. The volume of widespread change in the industry will continue to build over the coming years. We view this as an important addition to ensure change is considered holistically to ensure that change can be coordinated efficiently between codes and agreements.