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Further review of industry code governance

EDF Energy is one of the UK's largest energy companies with activities throughout the energy chain. Our interests include nuclear, coal and gas-fired electricity generation, renewables, and energy supply to end users. We have over five million electricity and gas customer accounts in the UK, including residential and business users.

EDF Energy agrees with Ofgem that it is timely to review the industry code arrangements, and that there is scope for improvements to be made. Ofgem has built good, strong foundations for code governance arrangements via the Code Governance Review (CGR) projects and we have seen effective and efficient change in self-governance and charging methodology governance as a result. There is, however, scope for improvement in code administration arrangements and the Significant Code Review (SCR) process to ensure the arrangements operate in the best interests of consumers. Operational reform by better utilising the tools already developed by Ofgem (e.g. Code Governance Best Practice and Code Administration Code of Practice) should help achieve this without the need for any radical reform. We also suggest other practical reform in the attachment to this letter which we believe will help both new and existing operators. We recommend that the SCR process is kept under review to allow the proposed reforms set out in this letter time to work.

We believe the current approach and role of industry and administrators means that the risk of unintended consequences is minimised. This benefit should not be underestimated and we would urge Ofgem to continue with this approach.

Our detailed responses are set out in the attachment to this letter. Should you wish to discuss any of the issues raised in our response or have any queries, please contact Mark Cox on 01452 658415, or me.

I confirm that this letter and its attachment may be published on Ofgem's website.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Angela Pearce".

Angela Pearce
Corporate Policy and Regulation Director

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Attachment

Further review of industry code governance

EDF Energy's response to your questions

Q1. 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?

Yes, the governance changes introduced under Code Governance Review (CGR) and CGR2 have been effective. In particular, the introduction of the self-governance arrangements and the inclusion of charging methodologies to the industry code governance arrangements have worked well. But we think Ofgem could go further with Code Administration; we explain our reasoning below.

- The second phase of the CGR should have extended the CGR conclusions to further industry codes but, in practice, there are still some variations. For example, some of the codes still do not have an independent chair or panel. While we are aware that there is a Grid Code Open Governance proposal to introduce a number of governance attributes (e.g. abilities for parties other than NGET to raise a modification proposal) that currently exist in the CUSC and BSC, progress is slow. Further standardisation of the governance arrangements for code change across the codes is a simple and beneficial step – so that you have a single set of best practice governance arrangements across all codes; this could bring clear benefits to the accessibility of the codes via the change process.
- As part of the CGR, the Code Administration Code of Practice (CACoP) was established to facilitate convergence and transparency in code Modification processes and to help protect the interests of small market participants and consumers through various means including increased use of plain English in modification reports. We note that Version 3 (dated November 2014) has six signatories to the code but the level of compliance against the code principles is variable across Code Administrators. Moreover, under Principle 12, Code Administrators should be reporting on a series of qualitative and quantitative metrics, including views of recipients of the service. In practice, these reports are not easily accessible.
- We think Ofgem should publish these reports, along with its assessment of performance, to promote transparency and enable benchmarking of Code Administrators' performance. By assessing how effectively the Code Administrators are discharging the roles and responsibilities captured within the principles of the CACoP, the standards of service and, more generally, compliance against the code principles should improve furthering effective operation of the codes.

- We also believe that greater oversight of the performance of the Code Panels against their duties (as set out in the relevant codes) would be useful. Code Panels have a key role to play in the smooth running of the code modification process and in ensuring that this is managed in an independent, effective and timely manner. As above, we believe that Ofgem should make comparative assessment of Code Panels' performance against their duties and publish its assessment.

In terms of the Significant Code Review (SCR) process, we think that the process itself (i.e. where Ofgem leads the first half of the process by developing policy and the industry leads the second half of the process by developing the detailed technical solutions) is working but could be improved to run more efficiently. Based on our experience of the Gas SCR, TransmiT and EBSCR we found the end to end process long, but in the main, thorough and robust.

The time taken may be longer than Ofgem's initial expectation but, as acknowledged by Ofgem, this is because the level of analysis necessary for delivering the type of complex reforms that are taken forward under an SCR is significant. Looking at 'Table 1: Timings of SCRs launched since 2010' the Ofgem led process was significantly longer than the anticipated 12 months for the Gas SCR and EBSCR. In our view, the longer timescale was necessary to ensure thorough and robust analysis. Without them, parties may be inclined to appeal Ofgem's final implementation decision; an undesirable outcome which will cause uncertainty and delay.

Nevertheless, we believe there is scope for reducing the timescale by stronger chairing of meetings, better focussed work groups and more proactive participation from Ofgem (i.e. the sort of reforms that should be implemented by making best practice mandatory, as per our first recommendation above). This, combined with the outcome of our suggestions, should lead to more efficient and timely implementation of change. We do not believe giving Ofgem the ability to specify timetables and in particular draft code modifications themselves will necessarily improve the timescale. This is because to implement Ofgem's decision(s) following an SCR, industry must develop the detailed solutions including the technical specifications for the solutions. This takes time. A half-baked solution that meets a specified timescale but does not provide the intended signal or deliver the anticipated results will not benefit anybody. That said, more accountability to Ofgem on timescales for this process may well be appropriate either through the code panel or administrator.

In terms of accessibility of the arrangements for smaller/newer industry participants, we have seen smaller/newer industry players and their consultants at Ofgem's stakeholder workshops and industry work groups. However, we are not certain whether they have been able to consistently provide dedicated resource over the 2-3 year period, potentially resulting in knowledge gaps. To address this, it would be useful if Ofgem could provide a summary of findings after major analysis or technical workshops and make them readily available to all interested parties. Similarly, it may be useful to host a "re-cap" session from time to time to enable interested parties to catch up on long-running issues. Consumer representatives may also find re-cap sessions of interest.

Q2. 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?

Yes, we agree that there is a need to consider further reforms to the industry code governance arrangements but we think the solution lies in practical, operational reform rather than radical, structural reform. There is a lot of good work that Ofgem has done through CGR and CGR2 and the next stage of the reform should focus on building on that foundation.

Ofgem mentions four potential areas for reform. We comment on those specific points before we explain our proposals for reform.

- More strategic panel / proactive industry management of the modification process: We think this is a good idea and it already happens, e.g. TCMF for CUSC, to some extent. Other codes should be encouraged to do the same and there should be some cross-codes coordination conducted by code administrators. This combined with the proposed CACoP Principle 13 should help. Parties should not, however, be prohibited from raising modifications at any time.
- Independent panels: We have also identified the benefits of having independent panel members and agree with Ofgem that this requirement should be extended to other codes.
- Improvements to work group processes: Ofgem identifies that there may be merit in requiring that all work groups have an independent chair or requiring impartial expertise is appointed to work groups in certain circumstances; we support this proposal. We think it would also be useful if parties could vote by telephone.
- Consumer impacts: At EDF Energy, we have the 'Trust Test' meaning that impacts to customers are considered in everything we do, including when we respond to consultation documents. We support including a section on consumer impacts to modification reports.

EDF Energy's suggested reform:

Some of the possible solutions have been mentioned above but we re-iterate them to provide a complete picture. We have packaged our solutions in such a way that code reform can take place in stages i.e. over the short, medium and long term. An evolutionary approach will also allow smaller parties to engage more effectively in reforms which affect them. We consider that these reforms will address Ofgem's concerns around timescales to deliver innovative change.

Immediate reforms (e.g. within 12 months)

1. **Further standardisation of the governance arrangements** for code changes across the codes would be a simple and beneficial step. As an immediate step, we recommend that the Code Governance Best Practice (e.g. having an Independent

Chair), should become mandatory across all codes. This would help new entrants along with all existing parties.

2. We also suggest **enhancing Ofgem's website** which currently contains limited information on Codes. In addition to the names of the various Codes and links to the relevant administrators' websites, it would be useful if Ofgem could provide an easy to follow introductory guide providing an overview of Codes including, for example, which codes parties need to sign up to, the code modification process, appeals process, collateral and compliance requirements, and the relevant objective(s). This would be particularly useful for new entrants.
3. From an end-user's perspective, it is much easier to have **a single website that hosts all the relevant industry code information** in one place, rather than having several sites hosted by different Code Administrators and with completely different layouts. Navigating through complex sites, especially when the required information is sometimes unavailable, is a frustrating and unproductive experience shared by users, both large and small. We believe that Code Administrators should be required to develop a single hosting website that is easy to navigate. This will reduce the complexity to market participants and would be particularly useful for new entrants.
4. The CACoP was established to facilitate convergence and transparency in code modification processes and to help protect the interests of small market participants and consumers through various means including increased use of plain English in modification reports. While we note that all of the Code Administrators have signed up to the CACoP, the level of compliance appears variable. Under Principle 12, Code Administrators should be reporting on a series of qualitative and quantitative metrics, including views of recipients of the service. In practice these reports are not easily accessible. We think **Ofgem should publish these reports, along with its assessment of performance**, to promote transparency and enable benchmarking of Code Administrators' performance. By assessing how effectively the Code Administrators are discharging the roles and responsibilities captured within the principles of the CACoP, the standards of service and, more generally, compliance against the code principles should improve.

Medium-term reforms (e.g. 12 months – 3 years)

5. Greater oversight of the performance of the Code Panels against their duties (as set out in the relevant codes) would be useful. Code Panels have a key role to play in the smooth running of the code modification process and in ensuring that this is managed in an independent and effective manner. As above, we believe **that Ofgem should make comparative assessment of Code Panels' performance against their duties and publish its assessment**.
6. As mentioned in our answer to the first question, we believe that the SCR process is working well and the process itself is not broken. We recognise that the process may be longer than Ofgem's initial expectations but this is often because the level of analysis and resource necessary for delivering these types of complex reforms, and the

detailed technical specifications ultimately needed to codify them into the industry codes, are significant for SCRs.

There is scope for reducing the timescale but we think this can be achieved by stronger chairing of meetings, better focussed work groups and more proactive participation from Ofgem (i.e. the sort of reforms that should be implemented by making best practice mandatory, as per our first recommendation above). This, combined with the outcome of our recommendations 4 and 5 above, should lead to more efficient and timely implementation of change.

We believe the current approach and role of industry and administrators mean that the risk of unintended consequences is minimised. This approach should be continued. **We recommend that the SCR process is kept under review to allow our proposed reforms time to work.**

7. We also believe that the number of codes could be reduced by rationalising their content by identifying synergies. The Next-Day Switching initiative, part of Ofgem's Smarter Markets Programme, is already looking at centralised registration for electricity and gas. This means that **the registration elements of the MRA, SPAA, UNC and IGT UNC can be rationalised into the SEC by 2017/2018 to align with the Smart programme.** Consideration should also be given to moving the supplier metering aspects of the BSC into SEC by this date.

In tandem with the rationalisation of the above Codes, the number of Code Administrators may also reduce as part of the natural evolution. The continued monitoring of the performance of Code Administrators would therefore be useful.

Longer-term reforms (e.g. 3 years+)

8. Ideally, it would be better to have fewer codes – and, where possible, to rationalise their content and identify synergies. However, the challenge with this is that it would require a lot of work and resource to rationalise the codes. We therefore suggested that it would be more likely to be cost and resource-efficient if delivered alongside other change programmes that affect codes.

We believe that **the implementation of the EU Network Codes (ENCs) will provide an opportunity for change and this should be considered a longer term initiative.** The introduction of ENCs means that 12 new electricity codes and 9 gas codes need to be transposed into GB law. Whether this means transposing the requirements into GB codes or another code has yet to be determined. Although implementation of ENCs will commence within the next 18 months to three years, we suspect refinement will be necessary on an ongoing basis and it may take several years for the requirements to fully bed in. ENCs are a material change to the GB industry codes and therefore create a timely opportunity to reconsider the best structure, scope and number of industry codes.

We consider this an opportunity to rationalise the electricity codes in an efficient manner. We recommend that as the ENC's become law, industry, DECC and Ofgem should consider, as part of ENC implementation, the opportunity to rationalise the GB industry codes and this should form part of the industry working groups' terms of reference.

As an example, the Requirement for Generators Network Code (RfG) is being considered jointly by a Grid Code Review Panel and Distribution Code Review Panel as its scope covers both codes. It is currently anticipated that the RfG will be transposed into the Grid Code and the Distribution Code. However, there may be a case to argue that the Grid Code and the Distribution Code are merged together and align more directly with the RfG. This is something for the industry workgroups to consider.

Q3. 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?

Yes, the Statements produced under Transmission Licence Condition C16: Procurement and Use of Balancing Services are also relevant to the review. The Statements are lengthy, complex documents which are not always written in the simplest of manner. Given that these Statements are legally binding documents that set out in detail how the transmission licensee procure and use balancing services, transmission licensees should be required to draft these peripheral but key documents in simple, plain English. While we recognise that National Grid conducts an annual review of these Statements, we believe the governance arrangements could be much improved.

EDF Energy
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