Rachel Clark,
Switching Programme,
Ofgem,
10 South Colonnade,
Canary Wharf,
London,
E14 4PU

26th July 2018

Dear Rachel,

Switching Programme: Proposed modifications to regulation and governance

Thank you for the invitation to respond to the above consultation. Bristol Energy is an independent supplier of electricity and gas with a business model that has a regional focus on the South West of England, although we supply customers across Great Britain. We have a mission to fight fuel poverty and be a force for social good.

Executive Summary

Bristol Energy supports Ofgem's work to improve the speed and reliability of the switching process for customers and welcomes several aspects of the proposals.

We recognise that in a change to industry processes of this magnitude it is important to co-ordinate all parties to be ready for change in an organised manner. However, we are concerns with Ofgem's proposal around a duty to co-operate as it is too wide ranging in that it would allow Ofgem (or people authorised by Ofgem) to draw down on parties' finite resource without consideration of the cost or impact this would have on the party. In our view such powers should be limited to requiring parties to meet agreed milestones where the programme requires that level of synchronised coordination.

The key to success in our view, is the early set-up of RECCo and more importantly the REC Code Manager. The REC code manager will be incentivised to make the new arrangements work in practice as they have a vested interest in their success. In our view the RECCo Board, Panel and manager should be in place as soon as possible.

We also strongly object to increasing the role of the DCC in the switching programme. All DCC resources should be focused on delivering the SMETS2 infrastructure which is now 3 years behind schedule with no end in sight. The role Ofgem envisages for the DCC should be handed to the appointed REC Code manager and the DCC should withdraw to its role as SMETS2 data communications provider.

We have answered your specific questions below, expanding our response as necessary.

Q2.1.   Do you support our proposal to introduce a high level duty upon licensees to cooperate, where appropriate, in delivering the outcome of a significant Ofgem-led programme, such as a SCR?

Whilst we support the principle of a duty to co-operate we are concerned at the wide ranging implications on resources for smaller players, without check and balances in place. Many smaller suppliers run on a minimal level of staffing to deliver the service and in quite often struggle to resource multiple, conflicting regulatory change programmes. A prudent supplier will of course plan for their own preparation for industry wide change, usually by using temporary contractors and will not have resource to provide assist in the development of central services.

For example, Bristol Energy has voluntarily provided resource to sit on the switching programme's Regulatory Design Working Group, and the Design Working Group of the HH settlement programme. However, if Bristol Energy ran the risk of receiving an Ofgem request to provide such resource, we would have to prudently avoid voluntary work such as this, as would other suppliers outside the big6 so that resource was available if requested.

To prevent this, we believe the duty to co-operate should be constrained to ensuring all parties meet milestones set by Ofgem which require a time co-ordinated response from Industry which are set out in a Joint Industry Plan. It should not cover providing resource to the programme for the development of centralised changes other than any request for Information, which Ofgem already has powers under SLC5 for example.

Q2.2. Do you agree that the RECCo should be established earlier than RECv2 in order to assist with the successful delivery of the switching programme?

We support the establishment of RECCo as early as possible in the programme as it will provide a focus for the programme, and by appointing a REC manager ensure input into the development process by the persons who will have to practically manage the REC on a day to day basis.

We also support the view that the management of the CSS should be novated from the DCC to the REC at the earliest opportunity.

Q2.3. Do you agree that the bodies constituted under the REC could suitably play a formal part in the programme governance?

As mentioned above, we believe it is important that the bodies who will own and operate the switching arrangements once the programme is delivered are involved in its development. This will ensure that what is developed is held up to the harsh light of reality, in particular the cost of ongoing operation of the service.

Q2.4. Do you agree that our definition of "large supplier" In REC v1 is suitable for ensuring an adequate level of engagement with User Entry Process Testing?

Unlike several of the current thresholds, this definition does not distinguish between domestic and non-domestic registration points. There are currently around fifteen suppliers who are classed as large on domestic metering points only, and we suspect covering all metering points this definition would capture 20 suppliers probably more by the time to UEPT is required. We do not believe that UEPT will require 20+ suppliers to successfully carry out UEPT and would propose that the threshold is increased to 500,000 RMPs.

In addition, we believe that the definitions need to capture the total RMPs of a supplier with multiple licences across its licences.

Q2.5. Do you agree that it would be appropriate to have in place interim governance arrangements prior to RECv2 coming into effect?

Given that the code managers of both the MRA & SPAA are likely to wish to bid to be the REC code manager, we have reservations of using the MRA & SPAA panels to act as a de-facto REC Panel. In our view the establishment of RECCo and its subsequent board & panel should be capable of being done within a time-frame that does not require interim arrangements, and see no reason why that could not be facilitated with a RECv1.1 introduce for that specific purpose and no more.

We have concerns that the current MRA & SPAA panels are too biased towards the largest suppliers, who have a traditional view of how code governance should operate and may unintentionally bring this bias into the REC. We note that a combined MRA/SPAA board would consist of at least 5 large suppliers and just one small supplier. This would run counter to the stated intent of having the REC as a forward looking, customer focussed code.

If a decision is required before a REC Panel can be convened, then Ofgem should act as decision maker using the programme governance structure.

Q3.1.   Do you agree with the proposed powers and functions of the RECCO Board, REC Panel and REC Manager, and how these are distributed amongst them?

In principle we agree with the general powers and functions of the three governing bodies with the exception of the following:

When the objectives of the Board are set out it should have a primary purpose of managing and meeting the legal obligations of RECCo. We believe this is important as it what distinguishes a Board of Directors from a membership of a Panel. In our experience, particularly when the Panel and Board are constituted by the same members this distinction has been lost.

We would support the Board having an objective to approve an annual business plan, rather than just a budget, submitted by the Panel, and the Panel having an obligation to develop and submit one. This would be wider than the budget. The Panel should also develop the business plan in conjunction with the Code manager, who should have an objective to support the process. The Board should also approve any deviation from the business plan by the Panel or Manager.

The accession or expulsion of a party affects the finances of RECCo, and as such we feel the Panel should make recommendations to the Board on these, but the Board make the formal decision.

The Panel should also have the right to delegate some decisions to the code manager where appropriate, thus negating in some cases ad-hoc panel meetings.

Finally, in terms of clarity, the Panel will probably meet monthly and as such cannot be described as managing the "Day to Day" operation of the code. That handle probably rests better with the code manager.

Q3.2   Do you agree with the proposal that Independent Non-Executive Directors, potentially from outside the energy industry, should sit on the RECCo Board and that the composition of the RECCo Board should be subject to thorough review, both periodically and/or whenever the scope of the REC/RECCo Board responsibilities changes substantially?

We are in full agreement that the skill sets for being a Board member and a Panel member are distinctly different. However, we do not believe that excluding industry experience from the Board will improve decision making and may in fact be detrimental. As with all companies, the Directors should be accountable, and elected by its shareholders and we believe this should be the case for RECCo.

That said, there is no reason why non-industry non-executives should be excluded from the Board. The way forward, we believe is for Ofgem with the support of Industry to draw up a job description for the role of a RECCo Non-Executive director and then advertise the role, perhaps using an external resource to develop a short list of candidates for an initial recruitment panel to consider. The likely outcome of this approach is that the Board will then be a mix of Industry knowledgeable people (who may or may not be affiliated to a

shareholder), and people external to the industry who can ensure the Board does not sit wearing industry "beer goggles".

Although, Ofgem fail to mention financial recompense for being a RECCo Board member, we assume, in order to attract suitable candidates, the posts will be remunerated.

We agree that the Board should be reviewed periodically, but in our view a small Board of five members, including the chair would be sufficient at least in the immediate term with the Panel Chair and code manager in attendance where appropriate.

Q3.3   Do you agree with the principles for the REC Panel composition as set out in paragraph 3.43?

We are in agreement with the principles, although we would go further and proposed that panel members are remunerated. This would have two benefits. Firstly, it would encourage more parties to consider applying, as well as independent consultants who could represent their electing constituency. Secondly, it would help clarify that those members drawn from a REC party, that whilst on the Panel they are there to oversee the operation of the REC for the benefit of the industry and not to act as their employer's representative.

We do not agree that Ofgem should delay consideration of the Panel's constitution and use a combined MRA/SPAA Panel as a proxy. We feel this will be prejudicial to the process as these two Panels are constituted to favour larger suppliers and therefore runs counter to Ofgem's stated objective.

Q3.4   Do you agree that there should be entry and systems testing requirements placed on new entrants, comparable to those that we expect incumbent suppliers to undergo as part of the transition to the new switching arrangements?

Whilst entry and system testing is important to ensure that new entrants do not disrupt the market, it also provides new entrants with support to ensure their own internal processes are robust. We therefore support this, but would propose that the process should be about supporting, rather than testing new entrants, and this also applies to incumbents as they switch over to the new arrangements.

Q4.1   Do you agree with the proposed minimum content for REC v2 (as listed in appendix 3)? Is there any other content we should consider for inclusion in REC v2?

We do not have the resource to answer this question. The only obvious missing schedule is the list of code signatories.

Q4.2   Do you agree with our proposal that the REC Code Manager should collate Switching Domain Data and make it available to Market Participants? Or do you consider that the Data Master for each element of the Switching Domain Data should make it available to Market Participants?

Critical to the success of the switching service will be the concept of a single "version of the truth" so where a discrepancy occurs there is agreement as to which version of the truth is agreed between parties. We believe that this single version should reside within the CSS, and parties should be obligated to ensure their data items are correct within the CSS. All parties then have access on a read basis to this single version, except where they have the right to amend/update, or the information should not be public

As we have stated before, we believe the use of multiple central databases and attempting to synchronising them creates a significant risk to the integrity of the switching regime, and this approach should be reviewed. It would be much better if the industry could all see the CSS database and use it in real time rather than creating

copies that need to be continually synchronised.

This also applies to Domain data, and Data Masters should ensure that the REC Code manager has the version of the truth and that this is shared by them with other parties in the form of a live database which parties have access to rather than distributing domain data to parties on a periodic basis.

Q4.3   Paragraphs 4.20 to 4.24 suggest that the DCC should be subject to a data quality objective and performance standards around the quality of REL Addresses. Do you have suggestions on the quality measure areas and levels of quality measures will take? Do you believe that the REC Panel should have a role in setting these targets (initially and/or on a periodic basis)?

Whilst a majority of addresses are straight forward, there are a significant number of addresses where there is not agreement on the correct address. It is not uncommon for energy suppliers to supply an address, where the customer is adamant that the site address held by MPAS/Xoserve is incorrect even if it tallies with the one held by the Royal mail. Customers are also known to change House names and even house numbering systems can be amended.

There is a particular problem with new properties as the original property address can be a unique plot reference on a new development which over time will become a House number on a named street, and then renamed with a house name by the occupier.

To this end, we believe that in setting the quality criteria, should place an obligation on maintaining exiting address data to a high level (99.9% correct), with a separate measure for new RMP or properties where the emphasis is on the speed of clarifying a unique address.

Given that the address quality will be subject to contract negotiation we see little point in giving the REC panel discretion to review and reset these measures as this could potentially re-open the contract with the CSS provider.

Q4.4   Paragraph 4.24 outlines the REL address data quality indicator is currently intended to be an internal measure for the CSS. Do you believe there is value in making this available to other market participants? If so, please provide your rationale for this and outline which market participants should have access.

As mentioned above, customers do not always concur with industry about the accuracy of address data held by the industry. If the quality indicator was available to other market participants then it would allow those parties to make judgement calls when the address provided by the customer differs from that held by the CCS. It would also help the CSS if when identifying poor quality reference data, parties such as suppliers and network operators could aid the CSS in improving the quality of the address.

Rather than identifying which parties should have access to the quality indicator, we would prefer to turn the question round and ask if there is any reason why any class of party should be prevented from seeing this data item? Currently we cannot think of any reason why this measure should be restricted.

Q4.5   Paragraph 4.25 suggests that the DCC should set out the methodology it will apply to meet the REL Address data performance standards on an annual basis. Do you agree that it would be beneficial to make this methodology publicly available?

We not only support the view that it should be publicly available, at least to the REC parties, but the DCC should consult on its chosen methodology. It would be very difficult for the Panel to set a KPI on a methodology

it did not understand.

Q4.6   Do you support the creation of an Enquiry Service Schedule in RECv2? If so, which of the options around the requirements IIn paragraph 4.32) do you prefer? Please provide details to explain your answer.

We do not understand the logic of maintaining ECOES and DES, as separate entities from the CSS. This will increase costs, increase the risk of failed switches and the make it impossible to move forward to real time switching in the future. Despite repeated requests, Ofgem has failed to explain why and where it was decided to maintain ECOES and DES as separate databases rather than allow enquiries directly onto the database held by the CSS. The outline business case correctly identified the issues relating in making either ECOES or DES to be dual fuel, but does not identify why it was decided to maintain ECOES and DES as the enquiry service rather than build an enquiry service onto the CSS database. We strongly believe this solution will be detrimental to customers and lead to poor switching experiences for some customers, and higher ongoing costs to suppliers (and thus customers).

If Ofgem proposes to continue with this suboptimal approach to the enquiry service we believe it should choose option 1, as this will allow the parties to amend the current design to one where the enquiry service uses the CSS database directly via a modification should it fail to deliver effectively. If the other options were progressed then the REC Panel would find it harder to fix the problem as it would require multi-code amends.

Q4.7   Do you agree with our proposal to create a REC Exceptions Schedule to be contained in REC v2, with the scope outlined in Figure 3? If not, please provide details.

We support the proposal to create an exception schedule within the REC. We also support the proposal to redefine these exceptions from a customer perspective. We are also aware that the current exception processes are built around traditional meters and are not fit for purpose for smart metering. For example, rectifying an erroneous transfer under the SMETS2 infrastructure should be fundamentally different to the current process, especially if the meter was being settled Half-Hourly.

Given the current timelines, we believe the exception schedules must reflect the market as will be, not as is, and take account of the fact that, hopefully a majority of meters will be smart and settled Half-Hourly.

Q4.8   Do you agree that the grey areas highlighted in figure 3 should be out of scope of an Exceptions Schedule for REC v2? If not, please provide further details.

We believe that the Smart Prepayment Switch exceptions will need to be amended due to the reduction in switching times, although not the formation of the REC per se. We therefore believe these should be in REC v2.

Q4.9   A list of suggested content for a set of REC Technical Documents can be found in section 4.44. Do you believe that any of the content listed is unnecessary or is there any content that you would expect to be included?

Assuming the REC covers the operation of the enquiry service we would expect there to be a Service Description and management document, unless these are incorporated into the CCS service documents listed.

Q4.10 Do you believe that table 1 captures all of the items that should become a REC subsidiary document? If not, please provide details of the additional items that should be included and why.

Whilst it may be better placed as a Technical Document, we would expect there to be a Business Continuity plan somewhere should the CSS be unavailable. There should also be a REC Code Manager procurement document which the Programme would need to produce.

Q4.11 Do you believe we have assigned the correct responsibility for producing each REC subsidiary document? If not, please provide details.

We believe the responsibilities have been correctly assigned, although believe in time most of the subsidiary documents should novate to the REC Panel as responsible party.

Q5.1 Do you agree with role we have set out for DCC during the DBT phase and steady state operation? If not, why not?

Whilst we agree with the role description as set out and can see the advantages to Ofgem of using a licenced entity, we strongly object to furthering the DCC's role in the switching programme. The DCC has failed to deliver comprehensively in its role in bringing smart metering to customers. The original date for delivery of the SMETS2 infrastructure was 2015. It is now 3 years overdue and over budget, which customers are having to pay for. Its role in the switching programme seems to many in the industry as a reward for failure. We believe there are many organisations who would be more capable for this role. Including an enhance REC code manager. We also note that the Government currently considers the DCC's parent company Capita as high-risk counterparty.

In our view Ofgem should put this role out to tender and ensure value for money for both customers and industry.

Q5.2 Do you believe our proposed drafting to amend LC 15 of the DCC's licence would if implemented, accurately reflect our expressed intention? If not, why not?

In general, we support Ofgem's proposed amends although we would want to review the legal drafting to confirm it meets Ofgem's intention. However, we also believe that Part B: Requirement in respect of Authority Direction should include a requirement to provide all reasonable support for the transfer of any obligations to a new party.

We also feel that an additional clause should be added to ensure it is transparent and accountable to the REC Panel and the code manager, and to ensure it properly consults REC parties where appropriate.

Q5.3 Do you agree with our proposal to add new specific price control terms. Do you think any of these terms are unnecessary or are there other terms we should consider adding?

For the benefit of transparency, we support Ofgem having specific price controls relating to delivery of the CSS. In particular there should be an element of ring-fencing of resources used for the CSS from that of the smart metering programme. We would also welcome an element within the cost control of the level of satisfaction stakeholders have with the DCC's delivery and engagement.

Although difficult to be absolute there are elements of the existing DCC price control where it achieves economic efficiency by developing processes that are costlier for parties to operate, and thus more expensive for customers in the long run. We would support a wider view of economic efficiency so the DCC is incentivised to find the most economic outcome for customers, not just its own operation.

Q5.4   Do you agree with the high-level programme outcomes we believe the programme should look to incentivise? Can you suggest further areas we should look to include and are there aspects you believe should be prioritised?

We agree with the proposed incentivised outcomes although we would amend point 3 so that it is "…economic and efficient for the end consumer". As mentioned above, one way for the DCC to deliver an economic system in terms of their costs is to make using the system costlier for users of the system, which ultimately increase costs to the consumers, whereas a more expensive central CSS solution might be cheaper for consumers overall.

In addition, we would add a facilitating a better switching experience for consumers. If this condition is not met then the whole programme is a failure, even if it meets the others.

Q6.1   Do you agree with the changes that we propose to make to the scope of the Switching SCR?

We agree in general, but have the following comments:

In bullet point two, we believe it should provide "an enquiry service", nor "enquiry services".   Parties need to see what is on the CSS database in real time, and should not have to access more than one enquiry service to see how a dual fuel switch is progressing.

In bullet point four, this should be changed from "deliver reliable next day switching" to "facilitate reliable next day switching". In our view the customer should be allowed to choose the date of their switch, which may be next day, but it should not be forced upon customers. Equally it has already been agreed that the new service will start at 5 working days, and non-domestic switches will only move to two working days ahead.

Q6.2   Are there any further changes that you consider we should make, either to bring something into scope, or explicitly rule it out of scope?

Ofgem has stated its intention that the REC should be a more accessible and user-friendly code compared to existing codes and we would welcome that fact being captured in the scope of the SCR. We also assume that Ofgem's work on code governance remedies is out of scope, but this is not listed.

At the moment, we are not sure whether Ofgem's plans for automatic switching compensation under GSOS will impact the switching programme. However, this may be something that could impact the programme, or the programmes reforms could be tweaked to make any switching compensation outcome more efficient and believe the programme should have a weather eye to this development.

Q6.3   Do you agree with our proposed approach of publishing the drafting of all SCR changes circa Q1 2019, but waiting until systems have been proven through testing before submitting the proposals into the modification process?

In principle we agree with this approach although there may be some modifications that need to be pushed through sooner so that system testing can happen.   Ofgem should also be aware that it the proposed modification requires changes to existing industry systems, and supplier systems then this approach may delay implementation.

Appendix 5

With the exception of the duty to co-operate, we do not see any need to insert this level of detail into licences.

Licence holders should have a duty to be a signatory to the REC (v1), and as such a duty to comply with it. Therefore, anything necessary in the proposed licence conditions should be placed in RECv1. Any other issue would be picked up under the duty to co-operate SLC.

I hope you find this response useful. If you have any queries, please do not hesitate to contact me.

Kind regards,

Chris Welby
Head of Regulation