

Date
25th July 2018

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Rachel Clark
Switching Programme
Ofgem
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Consultation – Switching Programme: Proposed modifications to regulation and governance

Dear Rachel,

Thank you for the opportunity to respond to Ofgem’s consultation: ‘Switching Programme: Proposed modifications to regulation and governance’. This response is made on behalf of Cadent and can be published by Ofgem.

Cadent continues to support Ofgem’s proposed package of reforms to facilitate faster and more reliable energy supplier switching by consumers. In particular we welcome Ofgem’s consistent approach through regular industry engagement to ensuring all industry parties are fully informed and have an opportunity to influence the content of the proposed arrangements.

Save for the significant caveat outlined below, we support Ofgem’s proposals for modification of the Gas and Electricity Licences and the Smart Meter Communication (DCC) Licence including the proposed duty on all licenced parties to cooperate in the delivery of the Significant Code Review (SCR).

Similarly, we broadly support the proposed content of the Retail Energy Code (REC). However, we have identified a number of issues and omissions with the proposed Licence Conditions and REC drafting which we describe as follows:

GT licence Standard Special Condition A15A – Central Data Service Provider

Transporters are required by the proposed new GT Licence Conditions to accede to the REC. The REC contains relatively few obligations placed directly on Transporters. This is because the most significant volume of interaction and activity in the gas market lies with the Central Data Service Provider (CDSP), a role currently undertaken by Xoserve.

To aid readability and understanding, the proposed REC Schedules are drafted with this in mind and the ‘active’ party is identified as the Gas Retail Data Agent (GRDA), which we understand to be an alternative name for the CDSP. Consequently in the event, for instance, a new Meter Point Reference Number (MPRN) is sent to Central Switching Service (CSS), it’s the CDSP who would be responsible for initiating the transaction.



However, we are aware that the CDSP cannot be given any obligations as it is not proposed to become a party to the REC. Therefore the following rule has been incorporated within the Interpretation Schedule:

2 Responsibility for Persons who are not Parties

2.1 The Gas Retail Data Agent is not a Party under this Code. Where this Code places an obligation on the Gas Retail Data Agent, each Gas Transporter shall ensure that the Gas Retail Data Agent shall comply with the obligations expressed to be placed on the Gas Retail Data Agent. Each Gas Transporter shall be jointly and severally liable for any failure by the Gas Retail Data Agent to comply with the obligations expressed to be placed on the Gas Retail Data Agent under this Code.

It is specifically these terms which we consider to be unsustainable for the following reasons:

The new Xoserve Funding, Governance and Ownership (FGO) terms were introduced in June 2017 (GT Licence Condition SSC A15A). The governance regime now reflects a 50/50 Gas Shipper/Transporter representation on the Xoserve Board and that Shippers are responsible for market related arrangements.

Cadent believes that Ofgem does not intend to 'unwind' this approach and in fact expects that the FGO Uniform Network Code (UNC) terms would be replicated within the REC. However the use of 'Transporter' as described above gives rise to pre-FGO arrangements whereby Transporters are responsible for CDSP functions and have the obligation to deliver such activities regardless of their interest/benefit from such. Cadent's view is that this is contrary to the position stated by Ofgem in the February 2018 decision document which acknowledged that Transporters have little 'interest' in customer switching.

Delivery of CDSP changes would still need to go through the UNC Data Services Contract (DSC) governance and therefore be subject to the relevant voting arrangements and funding discussion. At the May 2018 DSC Contract Committee, Transporters identified that, given they have minimal interest in customer switching and by definition have no funding responsibility for the Xoserve changes, they would not require a vote and therefore such changes could be progressed as Restricted Class Changes (DSC voting arrangements confined to Shippers members only).

However, the proposed REC arrangements give rise to considerable uncertainty/doubt as to whether this position can be maintained as Cadent would be reluctant to rescind influence through voting derogation on matters which would ultimately be satisfying Transporters regulatory compliance.

As an extreme position, in the event that the Shipping community were unable or unwilling to prioritise and fund the necessary Xoserve changes to deliver switching, Transporters would become the 'backstop' provider and would be required to facilitate (and fund) relevant changes in order to satisfy our obligations, despite having no interest or benefit as described above. In this respect we would highlight that in the full knowledge of the forthcoming faster switching proposals Ofgem made no allowance within the rebased FGO price control arrangements to fund this liability or indeed the attendant risks arising from the new proposals outlined above. Obligations, risks and funding would need to be assessed by Ofgem prior to finalising any licence or code modifications.

Following the logic that explicit obligations imply an interest in switching activities, the use of 'Transporter' in the REC gives rise to significant risk that, given that Ofgem does not intend to separate the DCC price control into separate Smart Metering and Faster Switching controls, upon review of the proposed funding arrangements following go-live, the Transporters current zero unit rate as set out in the DCC Charging Statement could be increased. It is also worth remembering that the REC Panel is likely to have reduced Transporter representation thereby diluting the Transporters' voting influence at this level of governance despite the potential significant regulatory exposure.

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Cadent believes that it is essential that the above anomalous situation is addressed as a prerequisite to implementation of the REC.

Industry Funding

We note that the primary purpose of this consultation is to identify and seek industry opinion on the proposed new Licence Conditions and REC. However, noting the above issues concerning apparent misalignment of obligation, funding and control, we remain concerned that issues concerning responsibility for funding of the new arrangements do not appear to have been addressed.

For Transporters, given the above, we believe it to be vital that absolute clarity is forthcoming on funding obligation.

GT Licence Condition 31 – Supply Point Information Service

We note that the present terms concerned with the Supply Point Information Service and incumbent on Transporters appear not to have been visited or addressed within the consultation.

This is somewhat surprising in our opinion and we view the omission as a potential 'lost' opportunity given the relevance of the subject matter to the SCR.

GT Licence Condition 31 identifies fundamental requirements concerned with provision of relevant data to facilitate changes of Gas Supplier and Shipper. Presently all obligations to support this pertain to Transporters.

Cadent's view is that the advent of the new Licence Conditions and REC provides an ideal opportunity to realign some of the relevant conditions to the Licences of parties having most interest and influence.

For example, Paragraph 2 states

2. The licensee shall ensure that the Supply Point Information Service fulfils, for all premises connected to the licensee's pipe-line system, including secondary sub-deduct premises, the following functions:

(b) the amendment of relevant data to reflect changes of supplier in respect of any such premises;

Our observation is that this condition would be suitable to sit, in an amended form in the Supplier or possibly the DCC Licence. Similar conditions pertain to Gas Shippers.

However, we believe that other provisions of Condition 31 clearly align to Transporters such as:

(a) such technical and other data as is necessary to facilitate supply by any gas supplier to any premises connected to the licensee's pipe-line system, including secondary sub-deduct premises, and to meet the reasonable requirements of gas shippers in respect of such premises for information for balancing.....

Cadent representatives would be available to participate in any relevant industry discussion on this topic and we believe a review resulting in identification of appropriate change could be accomplished relatively quickly to the benefit of all parties.

Summary

Cadent believes that all of the issues and anomalies described above should be addressed and if at all possible, rectified before any formal Licence consultation. We would welcome an opportunity

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to engage and participate in an industry discussion to seek a solution to these important regulatory issues.

Our responses to the individual questions within the consultation are set out below.

Please contact me should you wish to discuss any aspect of this consultation response.

Yours sincerely

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Industry Codes Manager

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Continuation sheet

Questions:

Chapter Two: Transitional requirements

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?

Cadent is fully supportive of the proposed Licence obligation on relevant industry parties.

Q2.2: Do you agree that the RECCo should be established earlier than REC v2 in order to assist with the successful delivery of the Switching Programme?

Yes, subject to appropriate funding and governance requirements being met.

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

We are broadly supportive albeit we would challenge the effectiveness of the SPAA Executive Committee in fulfilling REC related responsibilities. This relates to the need for additional resource commitment and the relevant knowledge and skillset of members.

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?

We have chosen not to respond to this question other than we recognise the importance of all relevant parties engaging in systems testing.

Q2.5: Do you agree that it would be appropriate to have in place interim governance arrangements prior to REC v2 coming into effect?

As referred to above, we have some concern regarding SPAA/MRA governance entities acting as an interim REC Panel. However, we acknowledge that this may need to occur for practical purposes. It should be noted that Industrial & Commercial Supplier organisations are not presently party to SPAA so there is a risk that they may be disenfranchised from the process.

Chapter Three: REC Governance

Q3.1: Do you agree with the proposed powers and functions of the RECCo Board, REC Panel and REC Manager, and how they would be distributed amongst them?

We believe there is a lack of clarity with respect to the roles and responsibilities of the REC Board and REC Panel. We anticipate more work will be necessary to clarify this.

Q3.2: Do you agree with our proposal that independent Non-Executive Directors (NEDs), potentially from outside of the energy industry, should be present 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 substantively?

We would observe that if NEDs are to be appointed, they would require remunerating which would substantially add to industry costs for possibly limited benefit. However we agree there would be merit in inclusion of an independent Chair. RECCO has limited risks which also

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questions the need for NEDs although we would note that it is important that the Board has the requisite business skills within its constitution.

Q3.3: Do you agree with the proposed composition, powers and functions of the REC Panel?

We note that the Regulatory Design Team and Ofgem appear to disagree on the preferred business model. There is also an argument that the REC Panel and REC Board should have completely separate members given the different skill sets required.

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?

We agree that this would be a prudent measure and note that this occurs in the electricity industry.

Chapter Four: REC Content

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? If yes, please provide further details.

We have no specific views although we expect the CDSP, Xoserve to provide relevant comment.

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 Switching Domain Data should make it available to Market Participants?

We believe the relevant Industry Code party should be responsible for managing relevant data as opposed to the REC manager. This is because REC requires a minimal data set for switching purposes as opposed to the significant quantity of data types and quantity necessary for UNC purposes. Typically this includes energy settlement and transportation invoicing.

Q4.3: Paragraphs 4.20-4.24 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 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)?

We note that REL addresses do not relate specifically to the 'end' of the GT network so GTs have limited interest in this data. However we note the address management schedule obliges us to assist in address management of REL. This needs careful consideration as, for example, GTs would not expect to be required to conduct site visits to validate REL address data. However, we believe there would be merit in including the Meter Point Reference Number (MPRN) in industry address data.

Q4.4: Paragraph 4.25 outlines that 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.

We have no specific view.

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?

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We have no specific view.

Q4.6: Do you support the creation of an Enquiry Services Schedule in REC v2? If so, which of the options around the requirements (in paragraph 4.32) do you prefer? Please provide details to explain your answer.

We would prefer Option 3. We note Shippers are not proposed to be party to the REC and that UNC has its own arrangements. We would also draw attention to our earlier comments regarding opportunities for realignment of obligation under GT Licence Standard Condition 31 for which this is an example.

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 further details.

We have chosen not to comment on this question as it is essentially a Supplier matter.

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 have chosen not to comment on this question as it is essentially a Supplier matter.

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? If so, please provide details.

We have chosen not to comment on this question.

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.

An omission appears to be Credit Policy. We would reasonably expect this to be included.

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

We have not identified any concerns or issues.

Chapter Five: The DCC Licence

Question 5.1: Do you agree with the role we have set out for DCC during the DBT phase and steady state operations? If not, why not?

We believe it would be helpful to ensure such an arrangement is able to be 'future proofed' – for example moving to a separation of 'switching' and 'smart' arrangements.

Question 5.2: Do you believe that our proposed drafting to amend LC 15 of DCC's licence would, if implemented, accurately reflect our expressed intentions? If not, why not?

We have chosen not to comment on this question.

Question 5.3: Do you agree with our proposal to add new CRS specific price control terms. Do you think any of these terms are unnecessary or are there other terms we should consider adding?

It is clear to us that separate price controls for 'switching' and 'smart' activities should be established.

Question 5.4: 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 have chosen not to comment on this question.

Chapter Six: The SCR process

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

Yes.

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

We believe programme funding arrangements and responsibilities including those for 'consequential change' in particular should be specifically included within scope.

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

This approach appears to run counter to an established industry principle that the establishment of agreed commercial arrangements including creation of clear business rules should form a pre-requisite for any systems and process development.