



31 July 2018

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Dear Rachel,

I am writing on behalf of ESP Utilities Group (“ESPUG”) (comprising the licenced companies ES Pipelines Ltd, ESP Connections Ltd, ESP Networks Ltd, ESP Pipelines Ltd and ESP Electricity Ltd) in response to Ofgem’s “Switching Programme: Proposed modifications to regulation and governance” consultation paper (‘the ‘Consultation Paper’), dated 5 June 2018.

In summary, ESPUG supports Ofgem’s proposed governance for the switching arrangements. We are pleased to see that the lessons learnt from other significant industry change processes have been taken onboard, and best practice applied within the Switching Programme. The engagement with industry has been constructive to date.

REC Governance

ESPUG agrees it is important to put the right governance framework in place as early as possible to ensure the Retail Energy Code (‘REC’) is able to keep up with the pace of change in the energy industry. The framework must balance industry’s need for certainty with the right level of flexibility to future proof the code and accommodate new business models. Whilst we note that Ofgem has not published its view on the REC Panel (the ‘Panel’) composition, we would like to take this opportunity to highlight the importance of representation of smaller constituencies.

Given the proposed powers and functions of the Panel, we believe it will be critical that all Network Operators are adequately represented on the Panel. Limiting this to GDN/DNO representation carries significant risk. The Panel will be tasked with ensuring the REC facilitates operational objectives, and also with ensuring effective working arrangements are in place with other codes and panels. As GDN/DNO business models often differ from their IGT/IDNO counterparts, we are concerned that views expressed by network operator representatives may, unintentionally, have a negative impact on the competitive market.

The difference between the IGT/IDNO and GDN/DNO constituencies must be acknowledged by Ofgem, and we encourage Ofgem to consider a separate Panel position for independent network operators. Competition in connections is ever increasing, and as such, a

constructive operational relationship between IGTs, IDNOs and suppliers is fundamental. IDNO and IGT representation on the proposed REC Panel will future proof the REC, and reduce the likelihood of implementation issues, particularly in regards to REC v3.

Duty to Cooperate

Whilst we support the intent of the Duty to Co-operate clause, we believe the clause, as currently drafted, introduces too much ambiguity. 'Significant Code Review' is clearly defined in the Gas Transporter & Gas Supply Licences. We agree that there should be consistency across Licences, and that the SCR process should be set out in Generation & Shipper Licences. However, we do not agree with the addition of 'or any other such project the Authority may designate'; the SCR process provides industry with a mechanism to provide feedback to Ofgem, which in turn, improves the likelihood of identifying and taking the optimal solution forward. We would suggest the sentence be amended to 'where the project is strictly related to or originates from a statutory or SCR requirement'.

Please see the attached appendix which outlines our views on the questions posed in your consultation document.

Yours sincerely

Victoria Parker
ESP Utilities Group

Appendix: Answers to Ofgem's Consultation Questions

Chapter 2: Transitional requirements

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?

Agree.

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?

Agree. Definitions should remain consistent across existing licenses and codes where possible.

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

Agree.

Chapter 3: 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?

Agree. However, we believe the types of changes, or the way in which the REC Manager is able to raise changes should, be given further thought. Although we appreciate the intent, 'Change proposals to deliver strategic change for industry' is a very broad remit, and may result in the REC Manager making inefficient use of its time at industry's expense.

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?

Agree.

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

We agree with the proposed powers and functions of the REC Panel. As noted in our letter above, we agree with Ofgem's view that all constituencies should be represented on the Panel, and that it should not be dominated by incumbent market participants. As such, we believe competitive network operators should have positions on the REC Panel to facilitate the operational objectives of the Code and realisation of REC v3.

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?

Agree. To ensure the integrity of the system and its transactional behaviour, new entrants should be required to prove operational competency within the system. The system would have been proven by industry participants as a trusted and robust solution prior to go live; therefore any testing by new entrants should be to test their own system functionality only.

Chapter 4: 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.

No 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?

Agree with the proposal. The REC Code manager should collate and make the switching data available. However, the CM should not have permissions to amend the data, only accept/reject. If validation was to take place, then this should be agreed with industry and clearly documented so that the Data Masters can ensure the standard is met at source.

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)?

No comment.

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.

There will only be benefit in sharing the indicator when industry has confidence that the methodology used is reliable and produces an accurate address. Once the methodology has been proven, either pre or post implementation, then we would support the indicator being populated and held on all industry systems.

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?

Agree. Linked to our response to Q4.4, until industry has confidence in the methodology used, then the indicator will not provide assurance to users that the address data is accurate.

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.

Support. It would be of benefit for industry parties to have one user interface to interact with both systems. Option 2 is preferred, as it promotes consistency between gas and electric for switching related DES items, and UNC/iGT UNC to cover remaining items and any new ones to be raised within the DSC forums.

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.

No comment.

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.

No comment.

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.

No comment.

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.

No comment.

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

No comment.

Chapter 5: 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?

Agree.

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?

No comment.

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?

No comment.

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?

No comment.

Chapter 6: The SCR Process

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

ESPUG agrees with the proposed changes to update the scope of the Switching SCR. In regards to the following amendment:

*‘We recognise that this is an opportune time to rationalise some of the industry code **governances** where significant aspects of particular codes would, going forward, be covered within the Retail Energy Code. Where this cannot appropriately be achieved under the auspices of the Switching Programme-SCR, this work would be undertaken as a separate project, but wherever possible following complementary and coordinated timelines. We will work with stakeholders to produce a co-ordinated industry work plan to this effect.*

If this work cannot be undertaken under the Switching SCR, it should be made clear that a subsequent SCR may be launched by Ofgem to accommodate such rationalisation work due to the extension of scope (from ‘Governance arrangements’ to ‘Codes’).

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?

As above, we believe complementary project/s to bring all retail arrangements into the REC may have significant consequential impacts on codes, and must be led by industry where possible. Where this cannot be accommodated, a formal SCR should be launched by Ofgem.

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?

ESPUG support the creation and maintenance of living documents which we anticipate will reduce the risk of challenge when mods are raised. However, contingency must be considered should the systems testing overrun, with the potential for a backstop to be introduced for the latest date(s) that the mods should be raised.

Additional comments

Interpretation Schedule:

“Market sanction” – the IGT UNC should also be referenced here.

“Initial Registration Request” – should be noted to not preclude the initial shipper registration on the IGT system (bulk registration)

Change Management Schedule:

Cross-code modifications and impacts have not been covered in the draft schedule. Suggest addition of 'a statement as to which other industry codes the proposer considers will or may be impacted by the Change proposal' under 4.4.