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Dear Rachel,

Switching Programme: Proposed Modifications to Regulations and Governance

Thank you for the opportunity to comment on this consultation. ScottishPower supports Ofgem's programme of reforms to deliver faster more reliable switching, which we see as central to improving customer engagement and competition in the retail energy market. Our networks business, SP Energy Networks (SPEN), is responding separately to the consultation from the perspective of our networks businesses.

With regards to the proposals set out in this consultation we agree with the proposed three stage phasing of the Retail Energy code (REC) and proposed governance structures. Our responses to the consultation questions are in the annex to this letter and we would highlight the following points:

- **Licence Duty to cooperate** – We agree with Ofgem's assessment that in previous projects such as Nexus there were problems getting all parties to cooperate in a timely manner on tasks such as system testing etc. We agree that the proposed 'duty to cooperate' licence obligation could mitigate this in future, but we think such a duty should apply only in respect of Significant Code Reviews and powers enabled by legislation (such as the Smart Meters Act (2018) for half hourly settlement).
- **Governance and monitoring of the Digital communications company (DCC)** – We support the decision to give the DCC responsibility for the design, build and initial operation of the Customer Switching Service (CSS). It is important that the new REC governance arrangements allow for appropriate scrutiny of the DCC's performance in relation to the CSS. Such arrangements should give REC parties appropriate sanctions and/or approvals to ensure the performance of the CSS meets required standards at an efficient cost. We agree that there should be provisions to ensure the CSS can be transferred to other parties if it is concluded this would be in the interests of consumers in future.
- **Present and future "level playing fields"** – We support Ofgem's objective to design the governance of the REC to be fully accessible to all parties particularly new suppliers. We agree that creation of the REC is an opportunity to remove some of the code-related entry barriers highlighted by the CMA and Ofgem's Future Supply Market Arrangements call for evidence. However, as supply market arrangements evolve, it will also be necessary to ensure that a level playing field is maintained between supplier and non-supplier business models, especially if the latter are not

party to the REC. This may become increasingly relevant for REC v3 where Ofgem envisages migrating all other retail code governance outside of switching arrangements into the REC. Ofgem will therefore need to keep REC governance and content under review, including who should be party to it.

Should you wish to discuss any of these points further then please do not hesitate to contact me.

Yours sincerely,



Richard Sweet
Head of Regulatory Policy

SWITCHING PROGRAMME: PROPOSED MODIFICATIONS TO REGULATION AND GOVERNANCE - SCOTTISHPOWER RESPONSE

Chapter 2: 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?

Yes we agree licensees should have a duty to cooperate, where appropriate, in delivering the outcome of a significant Ofgem-led programme, recognising Ofgem's powers under a significant code review may not cover important implementation tasks such as system testing etc. However we have the following comments:

- The proposed licence drafting sets out the licensee's obligation to co-operate as 'not being limited to' areas including testing, provision of data and data cleansing. If the scope is to be left as open as this, we think there should be additional safeguards to ensure that any requests of licensees are proportionate and cost-effective. For example, where a cooperation request will place a material burden on licensees, there should be an obligation on Ofgem to consult (or an opportunity for licensees to make representations). It may also be desirable for Ofgem to publish transparent criteria for selecting licensees, as it did for mandatory supplier testing of measures to promote domestic consumer engagement.¹
- The proposed drafting places an absolute obligation on the licensee that it "will cooperate". Given the openness of the drafting, we consider that it would be more appropriate for this obligation to be drafted as obliging the licensee to "use reasonable endeavours to cooperate to the extent reasonably necessary, with any persons..."
- We think the duty should apply only to programmes under Ofgem's existing SCR powers or powers enabled by future legislation. We think that "Significant Code Project" can readily be defined in this way, without leaving the scope open to other projects and reform programmes. With regards to programmes that are driven by Ofgem using legislative powers, a schedule of relevant legislation could be appended to the licence definition, ie the Smart Meters Act (2018) in respect of the half hourly settlement programme, and other legislation as it is introduced.

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

Yes. We agree the REC Co should be established as soon as practicable and we agree with the proposal to use existing MRA and SPAA structures until the REC Co is established. That said, it should be recognised that not all gas suppliers are currently liable to contribute to the funding of the SPAA and this may need to be reviewed if the establishment of the REC Co is significantly delayed.

¹ <https://www.ofgem.gov.uk/ofgem-publications/110198>

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

Yes. It seems appropriate that bodies constituted under the REC to look at matters on an enduring basis (eg regulatory matters and performance assurance) could also play a formal part in efficient programme governance. To this end, it is important that the roles of such parties are clear and transparent.

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?

Ofgem is proposing to define a 'large supplier' as one with more than 250,000 Registrable Measurement Points (RMPs) (which equate to individual domestic retail customers, whether gas, electricity or dual-fuel). We agree with Ofgem's proposed definition for the purpose of REC v1, as it should ensure sufficient engagement with user entry process testing, ie capturing all suppliers with more than 250,000 customers.

There will need to be a process for bringing in suppliers crossing the 250,000 customer threshold. Such monitoring could fall under the control of the REC Panel.

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

Yes, we agree it would be appropriate to have interim governance in place, with Ofgem acting as interim REC manager in addition to utilising the existing MRA and SPAA governance structures. That said it needs to be recognised that industry resources are stretched and presently some SPAA/MRA executive committees already have unfilled positions and may have limited resources to take on responsibilities with regard to the REC.

Chapter 3: REC Governance

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

Yes, in principle we agree with the proposals. We would like to see more information on the make-up of the board and panel, particularly if they are to be independent members, and the potential costs associated with independent members.

At present, any change proposal has an industry sponsor, and we do not see why it would be necessary for the REC manager to be able to raise a change proposal. In our experience, if it's a reasonable change, a sponsor can be found from among the industry parties.

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 Board and that the composition of the Board should be subject to thorough review, both periodically and/or whenever the scope of the REC/Board responsibilities changes substantively?

Yes, but we would like to see more information on the proposed make-up of the board and attributes of board members, particularly if they are to be independent, and the potential costs associated with independent members.

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

Yes, we agree with Ofgem's initial thoughts on the proposed composition, powers and functions of the REC Panel, noting that industry participants would need to agree on the final composition. In relation to the introduction of independent panel members, we are not opposed to the suggestion, but would note that any independent member must be able to demonstrate that he/she has the relevant expertise and can make a contribution to the panel and the industry in general.

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?

Yes – we would expect all parties to meet the required standards so all customers can have confidence in the switching arrangements.

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.

Yes we agree with the proposed minimum content for the REC v2 as set out in the consultation. We would expect the content of REC v2 to be subject to continuous review and assessment, with content being added to REC v2 as and when appropriate.

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?

On balance, we believe the existing Data Master for each element of switching Domain data should continue to make it available to market participants. There may be an increased scope for error if the REC code manager collates data from other data masters, and leaving it to existing Data Masters should maximise data integrity.

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)?

In the absence of any current licence obligations on the DCC regarding maintenance of accurate address data, we agree the DCC should be subject to a data quality objective and performance standards.

We are unable at present to suggest any specific quality measures that could be used, but will be better able to do so when there is more visibility as to the nature of address data defects.

Monitoring of the DCC's performance might best be achieved through the REC Panel, or a sub-committee acting in a performance assurance role: ie setting milestones for data

improvement etc where deemed necessary. Ultimately, some means of escalation might be required to provide greater substance to this role.

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.

Yes, we believe there would be value in making the Address Quality Indicator for each REL Address available to suppliers, TPIs and other relevant parties when they are obtaining address details from the CSS. This will allow them to judge whether they need to probe the customer further for address data at time of the call.

All suppliers should have access with the ability to contact CSS with any required updates to make the REL addresses more accurate. TPIs should have access but not the ability to request an update to the address data as they should do this through the relevant supplier.

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?

Yes, transparency is important for industry participants. Knowing how REL addresses were derived will put them in a better position to identify and report real address data defects. A generic methodology statement should be sufficient for this purpose without the need to disclose actual real address data.

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 believe that option 3 is the appropriate option for data access governance.

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.

Yes, we agree with the proposal to create a REC Exceptions Schedule to be contained in REC v2. The Industry already understands this process and it keeps a level of consistency with regards to updating and managing data records.

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.

Yes, the greyed out areas shown are not relevant to REC at the moment.

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 are comfortable with the Technical Documents at this time and that they should be continued to be reviewed as the REC develops.

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.

Yes, we believe table 1 is a fairly comprehensive list of the items that should become REC subsidiary documents.

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

Yes.

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?

Yes, we agree with the role set out in Table 3 for the DCC during the DBT phase and steady state operations. This will help to ensure that the DCC ultimately remains accountable for the progress of the CRS and CSS during the DBT phase.

However, it is equally important that Ofgem's programme board maintains its close scrutiny as the programme moves into DBT and beyond. It is further important that such scrutiny continues to be informed through operational level involvement of the wider industry, perhaps through REC Panel technical, operational and/or performance assurance sub-committees. The role of any such committees could be reinforced through suitable reporting requirements of the DCC, and escalation paths for the resolution of any issues.

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?

The amendments appear to meet with the requirements set out in the consultation document.

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?

Yes, we broadly agree with the introduction of the terms proposed. However, we would like to see these subject to REC Panel approval. For example, the use of CRS External Contract Gain Share would typically follow where the DCC believed it could, through collaborative effort with a service provider, achieve contract savings that would be rewarded through the price control mechanism. In such event, we think any proposals of this type should be subject to REC Panel ratification/approval. This will help to ensure that savings in any given area are genuine and satisfactory to the industry. It may also help to identify where further savings might be realised. For the avoidance of doubt, we believe an approval process could readily be established which adequately protected the confidentiality of such proposals.

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?

The high-level programme outcomes proposed seem to be reasonably comprehensive, though we would suggest that they might also include a feedback loop, whereby stakeholder

satisfaction is surveyed. This might include a consumer feedback loop, taking into account how many times the consumer has used the service in a specified period.

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?

Yes we broadly agree with the changes to the Switching SCR scope as set out in paragraph 6.7, reflecting the decision to implement a more narrowly scoped CSS instead of the previous Central Registration Service (CRS), and the intention that operation and governance around the CSS will now reside with the newly created REC and not the Smart Energy Code. Naturally we would expect Ofgem to consult on the specific details of the changes with stakeholders.

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?

No.

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?

Yes, we agree with Ofgem's proposed publication approach. This should allow for the definitive set of proposals to be submitted for modification and allow time to ensure the drafting is fit for purpose.

ScottishPower
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