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By email to: switchingprogramme@ofgem.gov.uk

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Dear Rachel,

Switching Programme: Proposed Modifications to Regulation and Governance

Thank you for the opportunity to respond to your consultation in relation to the above¹.

For the purposes of ease of comparison with other respondents, we have structured our response around the questions as posed in your consultation document. Where we seek to make comment on the content of the consultation document, but our observations do not apply to a particular question, we have done so in keeping with the running order of the document and included reference points where possible. We have also made some summary observations to which we refer throughout our response.

Observations:

SGN is supportive of the Switching Programme and the potential benefits through increased market engagement which it offers to consumers.

As noted in your September 2017 consultation² (*Delivering Faster and More Reliable Switching: Proposed New Switching Arrangements*) Gas Transporters (GTs) have a “limited role in the new switching arrangements, which is not related to their core roles” (p63, 8.20) and as such our technical impacts are largely consequential and relatively low. Rather, our engagement in the programme is primarily from the perspective of industry collaboration, with the majority of impacts and therefore investment residing with the retail end of the market. This principle is endorsed through the proposed steady-state funding arrangements (paragraph 3.57, 3.58, 3.59).

¹

https://www.ofgem.gov.uk/system/files/docs/2018/06/switching_programme_proposed_modifications_to_regulation_and_governance_0.pdf

²

https://www.ofgem.gov.uk/system/files/docs/2017/11/delivering_faster_and_more_reliable_switching_consultation.pdf

We note that a similar balance can be achieved in relation to Xoserve central system changes – the recent FGO arrangements have facilitated a mechanism whereby Shippers are empowered to raise, control and fund CDSP changes. Given that switching is a Shipper-facing DSC service line, we would expect that this community is responsible for the required activities.

However, it is therefore inconsistent to propose that Transporters be responsible for ensuring that Xoserve, as Gas Retail Data Agent (GRDA) comply with their obligations³. Following implementation of the above FGO arrangements, operational control of Xoserve is now shared between the relevant customer groups, namely Large Gas Transporters (referred to within this letter as “Transporters” or “GTs”), Independent Gas Transporters and Shippers. As such, the Large Gas Transporters no longer have sole influence over Xoserve and can be outvoted and/or unable to vote on restricted matters. We therefore retain no singular ability to ensure that certain activities are undertaken and have no mechanism to ensure that obligations are delivered.

Consequently, we are therefore similarly concerned at the proposal for Transporters to retain liability for any GRDA failure. In addition to the operational committee arrangements above, control of Xoserve at a Board level is now also shared amongst the relevant customer groups. Reserved matters are very limited, and therefore GT Board members also lack any mechanism by which to ensure that Xoserve delivers the relevant obligations. The proposal that Transporters should be solely liable for any GRDA failure therefore constitutes a disproportionate approach, and as such, we are unable to accept this liability.

Chapter Two: Transitional Requirements: Generic Licence Obligations and REC v1

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?

We acknowledge the challenges experienced by the industry during recent large-scale implementations, and agree that programmes which impact multiple organisations require a cooperative and coordinated approach. As such, we support the introduction of a generic and consistent licence condition as proposed, but would note the importance that such a requirement to cooperate is both clearly defined and understood.

It is beneficial to formalise this requirement now as this provides clarity of expectations and therefore stability to licensees, not only in respect of the Switching Programme but of any similar future large-scale, multi-party impacting programme.

We agree that the introduction of the term “Significant Code Project” (SCP), as distinct from Significant Code Review (SCR), enhances the flexibility of the licence to further ensure that this cooperation can be applied to any relevant future programmes. It is important however that this term is clearly defined, specifically in relation to the circumstances in which a programme becomes an SCP – for example by including a tested description of materiality, scale and impacts. This is critical to ensuring that the term, and therefore the application of the associated licence condition, is brought into effect on a proportionate basis in relation to those programmes for which the complexity and costs/benefits case clearly demonstrates the requirement for the associated governance and assurance. At present, such a definition has not been provided.

We would note that, at the time of responding, there is a query outstanding in relation to how the introduction of such a term might impact the activities of licensees when undertaking certain duties, such as developing modification proposals and acting as a UNC Modification Panel representative. SGN would welcome again further clarity as to the process and requirements of an SCP, in order to mitigate

³ Consultation document p59, 4.5 and Interpretation Schedule, p24, 2.1

any risk of fettering Panel's discretion and ensuring that all parties understand how to discharge their duties whilst acting under an SCP. It is important that committees such as UNC Panel are enabled to retain an independent perspective even in the event of an SCP, in order to preserve the valuable function they perform in terms of constructive challenge of modification proposals.

Whilst we support the intention of the amended licence drafting, as per our introductory observations, licensees must retain the ability to appropriately deliver and discharge their obligations. As discussed, the Switching Programme is retail-driven and therefore the expectation to facilitate the programme should rest primarily with this area of the market. As such, with regard paragraph 2.9 within the consultation document, we would expect that Shippers, rather than GTs, would take the lead on raising the relevant changes to facilitate CDSP switching-readiness.

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?

We support this approach and note it reflects the early shadow arrangements which were introduced in anticipation of the Xoserve FGO Programme go-live.

We agree with the comments in paragraph 2.26 that "early procurement of the REC Manager would help facilitate the SCR phase of the programme" and also that the early provision of a supporting REC website will increase awareness and accessibility – both especially important in relation to new and/or less engaged market participants.

Similarly, we agree with the principle articulated in paragraph 2.27 that the constitution of any governance groups should reflect the intentions of the enduring arrangements, as this will maintain continuity and therefore reduce the inherent risk profile of programme go-live.

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

As above, we support the early creation of certain REC governance bodies and do consider that these should feed into the programme governance.

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 agree with this definition but note that all parties should be engaged in 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 per questions 2.2 and 2.3, we support the adoption of interim governance arrangements as we consider these will offer a degree of stability and will smooth the transition to enduring arrangements.

Whilst we welcome the advance work proposed under paragraph 2.35, we do not consider that the interim REC Panel should be comprised exclusively of the prevailing SPAA and MRA Executive Committees (ECs). As discussed in Chapter Three of the consultation document, the enduring REC Panel will require a wide range of members, and as such there is the risk that restricting the interim Panel to existing SPAA and MRA EC members may disenfranchise organisations whom are not party to, or not engaged with, these particular codes. As the interim Panel is likely to be highly influential during a formative governance stage (paragraph 3.45), we consider that a wide and varied constitution would be more beneficial to the programme. A more open membership of the interim REC Panel would also be more consistent with the principle articulated in paragraph 2.27 and referenced in our response to

Q2.2, in that any interim arrangements should reflect the intended enduring arrangements as much as possible.

Chapter Three: Retail Energy Code: 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 agree with the three key functions articulated in paragraphs 3.8 and 3.9 and provide the following comments on each of the proposed bodies:

RECCo Board

We support the establishment of a REC Company and note this mirrors the existing arrangements in the Smart Energy Code.

As per paragraph 3.11, we agree that the RECCo Board should provide strategic direction, prioritisation and independence to the REC, and as per paragraph 3.12, should hold the REC Panel and Manager to account.

However, to ensure that the Board can be sufficiently focussed on the above, there are certain elements of their proposed activities which we would not expect to be within their responsibilities, for example paragraph 3.13(g). We consider such an activity to be largely operational and as such do not consider that it should be within the Board's focus.

REC Panel

We agree with the proposed functions of the REC Panel under paragraph 3.14, in addition to that discussed above.

REC Manager

We support the creation of a REC Manager.

The setting of clear objectives will empower the REC Manager and will also assist the Panel and Board in monitoring and measuring performance – although we would encourage such performances reviews to be undertaken on a regular, rather than periodic, basis (paragraph 3.15).

We consider that the relative autonomy of the REC Manager will further enhance the customer focus of the REC.

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 agree.

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

Whilst we note that there is precedent for the Board and Panel to be comprised of the same members (Model A) - for example under SPAA and the Smart Energy Code – given that each committee has a different remit and focus (as per Q3.1) it is important to have the appropriate availability and mix of skills on each group. As such we do not support Model A.

Within the consultation document, a desire is expressed for “the REC to make any relevant operational decisions by self-governance, without any reference to the Authority” (paragraph 3.49). This requires

the Panel to have sufficiently developed and balanced industry expertise, and therefore necessitates a model whereby it is comprised of party elected members. As per other existing Panels – again such as the Smart Energy Code and also the Uniform Network Code – this does not preclude the inclusion of members from customer associations (both trade bodies and consumer interest groups) in order to ensure that an impartial customer-focus is maintained.

However, as per Q3.1, the objectives of the Panel are different to that of the Board, and therefore different expertise is required at Board level. We consider that this distinction of responsibilities necessitates the Board composition to be, at least in part, different to the Panel, and to include a further layer of independence through the presence of NEDs (as per Q3.2).

In support of Model B, we agree with the Regulatory Design Team that this model would provide a robust governance arrangement (3.35). The differentiation of membership would ensure that both committees could be comprised of parties with the required specialist skills – for example with the Panel being focussed on more technical code knowledge provided by party-elected members, freeing up the Board to be comprised of independent members with a more strategic and financial skill set.

However, whilst we agree that the Board should be sufficiently independent in order to protect the consumer interest, there is a risk that a Board comprised solely of members appointed from outside of the industry may lack the requisite knowledge and experience to take appropriate and informed decisions in the context of the REC.

Furthermore, it is important that Panel and the Board are able to communicate clearly, with the former providing reporting information and receiving guidance and direction from the latter. As such, it is important that the focus and composition of each committee is not so diverse as to create a lack of mutual understanding.

We therefore also support Model C, as the inclusion of certain Panel representatives on the Board as NEDs would enhance the link between the two groups. In order for the Panel to be sufficiently devolved and empowered, the Board must be confident that the strategic aims are clearly understood, and that there is a robust feed of information from the Panel back to the Board. The presence of Panel members on the Board could assist in this relationship and provide a translation between the more strategic and operational focusses held by the Board and Panel respectively, thus mitigating the above risk. We note that such a composition would be especially important if the respective responsibilities of the Board and Panel are to be maintained as currently proposed – as per our response to Q3.1, the current Board responsibilities include certain elements which we would consider to be largely operational, and therefore in order to effectively discharge these, a level of technical code understanding would be required. This reinforces the need for a close relationship with the Panel and also the requirement for technical code knowledge to be included within the Board.

To summarise, we consider that Models B and C would both result in a Panel with sufficient capability to deliver the principles set out in paragraph 3.46.

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.

Chapter Four: Retail Energy Code: 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 agree.

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?

The Data Master should retain responsibility for the relevant Switching Domain Data.

The Centralised Switching Service will gather and harmonise a significant amount of existing data items, from a variety of different sources. The activity of switching itself only requires the creation of very few new data items. As such, we consider that the governance of any existing data should remain within the code under which it is primarily utilised.

For example – the data provided by UK Link to the CSS will be data which is of critical importance to settlement activities. It's inclusion in the CSS is beneficial, but not critical, to switching. It is therefore important that governance of this data is retained by the code under which the primary activity is managed – in this example this would be the Uniform Network Code. This would also ensure that the Shippers are able to retain oversight and governance of the data for which they are Data Masters – noting that they are not party to the REC and would therefore otherwise lose governance of their own data items.

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 support the proposals for a Performance Assurance framework, and agree that this should include a data quality objective in relation to REL addresses.

Given that Gas Transporters are not responsible for the REL address, at this stage we would not comment on the specific measures which should be in place. We anticipate however that we may require access to the REL address in the event of an emergency, and as such we agree that accuracy of the address is critical. With this in mind, we consider that the quality objective measures should be determined at an industry level, informed by the parties using the address and the function it performs, in order to ensure that any quality objective is driving the correct outcomes. This determination should guide Panel in their setting and reviewing of the targets (paragraph 4.23).

With reference to the Address Management Schedule, we note that Gas Transporters are expected to “co-operate with any investigation by the CSS Provider into the accuracy of the corresponding REL Addresses” (paragraph 4.1). Whilst we are comfortable that accuracy of the MPL Address is a GT responsibility, we do not consider that we are able to contribute the same in relation to the REL, as the REL address is the responsibility of the CSS. As such we consider that this requirement should be removed.

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.

At a high level, this proposal sounds similar in nature to the existing use of a ‘PAF Indicator’ on UK Link – i.e. a flag to highlight that the relevant address is considered to be accurate and of good quality. This is shared between market participants.

On the assumption that the proposal is to undertake similar on the CSS, from a principled perspective we would support such an approach.

We note that such an activity would primarily be of value in relation to the REL, especially in the circumstance where it varies from the MPL. In this situation, a flag could be useful in identifying that such variation in addresses has been investigated and is considered legitimate, which would therefore prevent repeated investigations.

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 agree.

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 favour Option 3.

As per Q4.2, data ownership should remain with the Data Masters and the governance thereof within the code under which the data is primarily used. Given that the data in question is primarily used for settlement purposes, the appropriate access governance is held, and should remain, within UNC. Similarly, we would expect that the relevant dispute process is applied in accordance with the particular data item in question – for example, a dispute in relation to a data item governed under UNC would follow the UNC disputes process, rather than an equivalent REC process.

Such an approach would mitigate the risk of dual 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.

We agree.

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 agree.

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.

The existing content seems appropriate.

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.

We agree.

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

We agree.

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 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?

We agree.

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?

We agree.

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 agree.

Chapter Six: Significant Code Review

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

We agree that the amendments to the SCR will ensure a coordinated approach across the programme.

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, we agree with the scope at present.

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?

We agree.

Should you require any further information with regards to our response then please do not hesitate to contact me at Hilary.Chapman@SGN.co.uk

Yours sincerely,

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Regulation & Codes Manager
SGN