



Rachel Clark,
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15th November 2018

Dear Rachel,

Switching Programme: Regulation and Governance – way forward and statutory consultation

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 is disappointed that Ofgem has only allowed a four-week period for this consultation. Whilst the four-week period may be appropriate for the statutory consultation element of this publication, there are several new policy areas that need careful consideration across the business and we feel a four-week period to reflect on these elements is not in line with Ofgem's own guidance on timescales for consultations. In our view, Ofgem should have split its current proposals between two consultations; a statutory consultation relating to RECV.1 and a separate policy consultation on elements relating to RECV2 & v3, the latter allowing a longer period for responses. As a consequence of the tight timescales we have not been able to review the schedules.

We believe that, as part of the REC development, Ofgem should review whether the current process of communication between parties by dataflow on a dedicated network developed 20 years ago is still the most appropriate solution. We encourage Ofgem to look at, and coordinate with, the work currently being undertaken by both Elexon and Electralink in this area.

Performance Assurance has a role to play, but we strongly believe it should focus on outcomes which could affect the integrity of the switching service. It should not dictate the ways parties do things, nor measure compliance with non-critical aspects of the code.

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

Q4.1. We would welcome views on whether Ofgem should have an ongoing role in ratifying RECCo Board appointments after the appointment of the first board?

UK company law stipulates that a company's Board members are accountable to their shareholders and as such we feel it would be inappropriate if Ofgem could effectively veto shareholders' choice of Directors. Ofgem should seek to ensure that the Memorandum of Association of the company sets out any class of director, such as industry or non-industry, and that Ofgem is granted the right to attend (but not vote) on any nominations committee. This would negate the need for Ofgem to have an ongoing role in ratifying appointments whilst providing comfort that it has input into the process.

Q4.2. We would also welcome views on whether the REC parties should have a role in ratifying the



first and/or subsequent boards.

According to UK company law, a company's shareholders should ratify any directors' appointment and we see no reason why this should differ for RECCo. The selection process should be carried out by the nominations committee, with the appointments ratified at the next AGM of the company.

We believe Ofgem needs to be clear that the Board of RECCo is accountable in the same way as any other company Board would be and that it is governed by Company Law. The Board should not be confused with a Code Panel in which Ofgem would have more scope to influence due to its role being set by the Code rather than Company Law. If Ofgem wishes to intercede in the role and actions of the Directors then it must make a strong case as to why it needs to do so, and what the legal implications for doing so are.

Q4.3. Do you agree that the REC should place less reliance on face to face industry meetings for modification development and instead empower the REC Manager to develop and analyse proposals, procuring expert support as and where required?

We strongly support this proposal. Whilst any proposed solution to an issue should be consulted on with the industry to ensure there are no unintended consequences, quite often the expertise sits with the code manager to find a cost-effective solution without having to go through a "design by committee" process. This is particularly pertinent where a party opposed to a change for commercial reasons can frustrate or cause a sub-optimal solution as part of a modification or change group.

We also believe the proposed approach would be more financially efficient and more democratic. Smaller parties could rely on the unbiased expertise of the code manager to find the most effective solution, taking into account their role as critical friend, whilst larger parties would see a cost saving from not having to resource as many modification groups as is currently required of them.

The test to success of this approach would be that other codes subsequently adopt this way of working.

Q4.4 Do you consider that a recommendation to the Authority should be made by the RECCo Change Panel, with reference to the REC relevant objectives, or based on a vote of REC parties?

We do not believe this is an either/or situation. The RECCo Change Panel should look at both the objectives and the support for the change from parties, and feed this into the Authority. We can envisage situations where a proposed change did not meet the objectives, but had widespread support from parties, and equally a proposal that demonstrated it met all the relevant objectives but was not supported by parties.

We also question the relevance of the Change Panel providing a recommendation. In our view, this is superfluous and outdated thinking, based on the way current panels work. The Change Panel should present to the Authority the facts relating to how the proposal meets the objectives and the level of support or otherwise of REC parties, with a view to enable the Authority to reach a conclusion based on the facts rather than having to give weight to a recommendation or otherwise.

Q4.5. Do you, in principle, support the approach to performance assurance outlined?

We do not support the proposals outlined as we believe they are too restrictive and focus on how parties do things rather than on the outcomes. In our view, performance assurance should only exist where a party's actions have the ability to bring the process into disrepute or to financially affect other parties. For example, performance assurance in the BSC is primarily focused on ensuring the integrity of settlements by minimising



estimated data and ensuring metering data is correct, as bad data impacts all parties. Similarly, we believe any performance assurance function should be focused on encouraging parties to minimise erroneous transfers and areas which could bring the switching regime into disrepute. It should not be concerned with areas that refer to the internal processes of suppliers nor should they link to compliance with a licence condition (such as the proportion of switches completed within the required time frame).

We do not disagree with the proposal that a body should monitor inefficiencies in processes but believe this function would sit better with the REC Manager who should have a contractual obligation to do this. They would be in a far better position to do this than a Performance Assurance Board who would only see things that impact performance of parties.

Q5.1 Would you support the development of a REC digitalisation strategy?

We are supportive of such a development. This should be wider than how the code is presented and should include proposals on how to make the modification process more accessible and the consequential impact of proposed changes easier to understand. One area of challenge is the concept of “fuzzy searching”. This is where a party is aware that some rules exist about a particular process but is unsure where in the Code they sit and cannot think of a precise enough phrase to do a traditional search without returning far too many entries.

Any digitalisation strategy must include a cost/benefit analysis to ensure that the proposals deliver actual benefit and do not just look impressive to demonstrate a best in class code.

Q5.2 Do you agree that the draft Registration Service Schedule meets the required standards set out in the Regulatory Design Principles? If not, please describe how you think it should be improved?

Q5.3 Do you agree that the draft Address Management Schedule meets the required standards set out in the Regulatory Design Principles? If not, please describe how you think it should be improved?

Q5.4 Do you agree that the draft Data Management Schedule meets the required standards set out in the Regulatory Design Principles? If not, please describe how you think it should be improved?

Q5.5 Do you agree that the draft Interpretations Schedule meets the required standards set out in the Regulatory Design Principles? If not, please describe how you think it should be improved?

Q5.6 Do you agree that the draft Entry Assessment and Qualification Schedule meets the required standards set out in the Regulatory Design Principles? If not, please describe how you think it should be improved?

Given the limited time available to respond to this consultation we are not able to consider whether the Schedules meet Principles 2 or 3. Given the importance of ensuring these schedules are correct, to seek such views, which require a detailed assessment, in a four-week consultation period is unreasonable and Ofgem should consider extending the period for responses on these.

Regarding Principle 4, we do not believe it meets the needs of users due to the reliance on defined phrases or acronyms which require continuous reference to Interpretations schedule and other parts of the REC to understand. This may be resolvable under the digitalisation strategy but, as it currently stands, we are unable to assess whether or not the schedules are complete and fit for purpose.

Q5.7 Do you agree with our proposals that:

- **PAB, as part of its role in mitigating risk to consumers and the market should provide information to the REC Manager on the specific risks that it wants to be mitigated and assured against through Entry Assessment and Re-Qualification**
- **The Code Manager should have clear obligations to support the Applicant and coordinate with other code managers; and**
- **Suppliers that undertake a material change to their systems, processes or people should undertake Re-Qualification?**

We support the view that there should be a clear understanding of what the risks are that Entry Assessment is seeking to mitigate, and these should be made clear in the Schedule. We believe the PAB should be focussed on the risk to the market and provide the REC Manager with feedback where it believes systematic performance issues are occurring which could be mitigated by being covered in Entry Assessment. However, it is important that Entry Assessment does not grow into testing every nut and bolt of a party's system, processes and people to mitigate problems which do not occur for most parties and have limited impact on the overall process.

In our view, The Code Manager should be required to support parties to prepare and participate in Entry Assessment and Re-Qualification. They should also co-ordinate with other code managers, and Ofgem should seek to ensure that there is also a clear obligation on these other code managers to engage with this co-ordination work.

With regards to Re-Qualification, we support the view that parties should requalify when a material change is made to their systems, processes or people. It is important that the REC Manager assists parties in understanding if any change is material, otherwise parties will push to the upper end of materiality. We also feel that the Re-Qualification process should, as far as possible, be compartmentalised so that only the processes affected need to requalify and a complete re-qualification is not required every time unless the change is fundamental.

Finally, there should be a process where parties using the same 3rd party systems or outsourced service providers can requalify together rather than taking the same change to the same system through requalification individually.

Q5.8 Do you think that PAB and the REC Manager should work with service providers to identify and mitigate risks associated with material changes to their systems, processes or people?

In our opinion, the risks of material changes to service providers are greater than those of a single party as they have the capability of disrupting the entire market. It is therefore even more important that the PAB and REC Manager focus on these rather than on material changes made by individual parties. There is also a case to be considered as to whether the PAB should have the right to a Go/No Go decision on material changes at key system providers.

Q5.9 Do you agree that the draft Service Management Schedule meets the required standards set out in the Regulatory Design Principles including whether we have set out clear and workable roles and responsibilities for Market Participants, service providers and the switching operator that will support the effective operation of the new switching arrangements? If not, please describe how you think it should be improved?



Q5.10 We would also welcome views on the draft service levels set out in appendix B of the draft Service Management Schedule?

Q5.11 Do you agree that the draft Switch Meter Reading Schedule meets the required standards set out in the Regulatory Design Principles? If not, please describe how you think it should be improved?

Given the limited time available to respond to this consultation we are not able to consider whether the Schedules meet Principles 2 or 3. Given the importance of ensuring these schedules are correct (including the appropriateness of the proposed service levels), to seek such views, which require a detailed assessment, in a four-week consultation period is unreasonable and Ofgem should consider extending the period for responses on these.

Regarding Principle 4, we do not believe it meets the needs of users due to the reliance on defined phrases or acronyms which require continuous reference to Interpretations schedule and other parts of the REC to understand. This may be resolvable under the digitalisation strategy but, as it currently stands, we are unable to assess whether or not the schedules are complete and fit for purpose.

Q5.12 We welcome views on whether we should retain or amend the remit of the proposed Switch Meter Reading Schedule beyond domestic consumers and electricity NHH consumers?

We believe this schedule will need reviewing in light of the final decisions on HH data access for electricity. The Switch Meter Read not only provides an agreement for what the customer's opening and closing readings with each supplier are, but also the suppliers' liability in settlement. To this end we believe the schedule should apply to all sites which do not have smart or AMR meters.

Q5.13 Do you agree that we should move any requirements to obtain and process meter reads for settlement purposes into the BSC and UNC?

Dependant on Ofgem's work on mandatory HH settlement it is likely that most customers will be settled on HH period data but billed on register reads. Hence, we would support this move, but it will need to reflect the intent of the HH settlement programme rather than a straight cut and paste. It would then seem logical to do a parallel process for gas.

Q5.14 We welcome views on whether the Switching Meter Reading Exception Schedule should make specific provisions for consumers with smart gas meters.

We cannot see why any specific provisions for smart gas meters would be required. Although the battery failure rate currently being experienced suggests a small but not insignificant number of smart gas meters are not recording on change of supplier. This may require further investigation.

Q5.15 Do you agree that the draft Debt Assignment Protocol Schedule meets the required standards set out in the Regulatory Design Principles? If not, please describe how you think it should be improved?

Given the limited time available to respond to this consultation we are not able to consider whether the Schedules meet Principles 2 or 3. Given the importance of ensuring these schedules are correct, to seek such views, which require a detailed assessment, in a four-week consultation period is unreasonable and Ofgem



should consider extending the period for responses on these.

Regarding Principle 4, we do not believe it meets the needs of users due to the reliance on defined phrases or acronyms which require continuous reference to Interpretations schedule and other parts of the REC to understand. This may be resolvable under the digitalisation strategy but, as it currently stands, we are unable to assess whether or not the schedules are complete and fit for purpose.

Q5.16 Do you have views on the management of security requirements in the REC? Please give reasons.

As stated, most parties are already subject to security requirements under the SEC and this is one reason why we believe the SEC should, in the longer term, become part of the REC. In the meantime, we support the view that the REC should reference the SEC and lay out any specific requirements which are not sufficiently covered by the SEC requirements.

Q5.17 Do you agree that a consolidated PPM schedule should be developed and given effect as part of REC v2.0?

We would welcome a rewrite of PPM schedules. When the RECV2.0 goes live it is likely most PPM meters will be smart with legacy PPM meters declining rapidly. We therefore think a review of PPM schedules is required and it should be based on whether meters are operated in Smart or dumb mode on Change of Supplier. Legacy specific issues should be captured as an exception with a view that they will become redundant in due course.

Q6.1 What do you think are the pros and cons of Model A and Model B and which do you think we should use to develop an exceptions schedule in the REC?

We believe model A is better for the customer. One of the problems with current exceptions is that suppliers process the exception according to the rules without regard to the impact on the customer. Model A, will, to a greater extent than model B, require suppliers to focus on the outcome. The risk of model A is that where two parties need to co-operate to resolve an exception, then there is a risk of incompatibility of process. For example, one party may feel email is the best way to resolve such issues, but another party may wish to stick with dataflows. To this end the PAB would not just need to monitor a party's performance, but also look for issues between specific parties.

Model B, whilst not without merit, will inevitably have parties focussing on the prescriptive standards that PAB will be monitoring. So, for example, speed of response may take precedence over quality of response.

Q6.2 Do you agree that the theft of gas and electricity provisions should be moved to the REC?

Given that the theft arrangements are largely duplicated in both SPAA and DCUSA, even to the extent that code contract managers receive duplicate emails from Electralink, one for each code, we are firmly in favour of moving the theft of energy into the REC and thus streamlining of the process.

Q6.3 Do you agree that the REC Manager should undertake the (re)procurement of any services due to commence at or after REC v2.0 implementation?

We welcome the proposal to review the TRAS service to determine whether it provides an effective solution in a



cost-effective manner. We believe that as we increase the number of smart meters the opportunity for theft should reduce and the use of anti-tamper alerts from smart meters are likely to become more pertinent in detecting properties where theft could be occurring.

We feel it is appropriate that once RECV2.0 is live then the procurement of any service that will eventually sit in the REC should be managed by the REC Manager.

Q6.4 Do you support the establishment of an industry-wide data catalogue that all code bodies incorporate by reference into their own codes and collaborate on the maintenance of?

The data transfer catalogues were developed when competition opened, to allow the transfer of data between parties in a secure and reliable process based on the available technology at the time. Whilst we support the consolidation of the various data transfer catalogues under a single code, we do question whether this would also be an opportune time to consider whether the current practice of transferring vast amounts of data back and forth between parties via inflexible data flows is the optimum solution.

Work by both Electralink and Elexon has suggested solutions that are more effective than a process developed 20 years ago exist and should be explored.

Q6.5 Do you think that the REC should have responsibility of hosting the industry-wide data catalogue?

If we maintain the current arrangements for communications between parties then it would seem sensible that the REC has responsibility for the catalogue on the grounds that a vast majority of the flows will be for processes under the REC.

Should a review of how parties communicate with each other take place, then it may (or may not) be a case for an industry data manager, independent from all codes, but referenced within them all. The REC Manager function could lead the procurement of the service, assuming the appointed REC Manager is not bidding for the role.

Q6.6 Do you think that an industry-wide data catalogue should be developed for RECV2.0 (to enable REC CSS messages to be incorporated from day 1) or should consolidation be undertaken as part of RECV3.0?

As stated above, we believe this would be an opportune time to review the way industry parties communicate with each other and whether new technologies could improve this process. If this can be done in time for RECV2.0 then that would be good. However, it is likely such a review and implementing any subsequent findings is realistically more appropriate for RECV3.0.

Q6.7 Subject to further development, assessment and consultation, would you in principle support aligning the gas and electricity metering codes of practice under common governance?

Given that smart has delivered the concept of a dual fuel metering system by designing the comms hub to be used by both meters, then it would seem sensible to align metering codes of practice for both fuels under common governance. This would remove duplication and would recognise that most meter operators work in both fuels even if individual technicians may only work on one fuel for which they have received appropriate training.

Q6.8 If yes, do you consider that the REC would be a suitable vehicle for such common governance?

This would depend on whether it is appropriate for metering parties, both MAP & MAM to become parties to the REC. Currently, the metering codes of practice apply to suppliers who are then obligated to ensure their metering agents conform. This arrangement was put in place when large suppliers had their own metering businesses, but is more problematic today, when a majority of suppliers use 3rd party meter operators.

If there are other reasons for meter operators to become parties to the REC then it would seem a sensible solution. However, if the only reason for them to become signatories was for the purposes of the metering codes of practice, it may make more sense to keep it free-standing.

Q6.9 Do you consider that the SMICoP should be incorporated into an industry code, and if so, do you agree that should be the REC?

The SMICoP is another code which would sit better with metering agents rather than suppliers as most suppliers pass the obligations in full over to their metering agents, co-ordinating reporting where necessary. Given the finite life of SMICoP, we feel it should remain outside the REC, although some enduring elements could be subsumed into the new consolidated metering code of practice and sit where they finally sit, as set out in the answer to 6.8.

Q7.1 Do you agree with the five incentivised milestones identified? Do you think any milestone should be given greater importance and therefore a larger proportion of margin placed at risk?

We agree with the five milestones but are concerned that they are over simplistic and need greater clarification on the deliverables. The milestones must be completed in full and the DCC should not receive 100% margin if they meet the milestone by de-scoping part of the work agreed. Nor should the milestones be pushed back because of changes to the baseline that the DCC should have reasonably foreseen and included in the original work plan. Ofgem will also need to stress test any extension to the T date proposed by the DCC for changes to the baseline agreed.

We agree milestone one is the most important as until that is completed, parties will not have the confidence to commence their own DBT, in case changes are required.

Q7.2 Do you agree with our proposals for the shape of the margin loss curves. Do you have any suggestions for other margin loss curves which may better incentivise DCC to achieve its milestones in a timely manner whilst encouraging quality?

We are supportive of the proposed curve so that the DCC is not unduly penalised for missing a milestone by a few days, whilst allowing this to become steeper as time goes on. If we had a suggested amendment, it would be for there to be a shallow negative margin post TD date so that the DCC, having lost all margin, is still incentivised to deliver as soon as it practically can.

Q7.3 Do you agree with our proposal for a potential recovery mechanism? Please give reasons.

We do not support the inclusion of any margin recovery mechanism, as we would be concerned that the DCC, having lost a significant part of its margin, would put a higher priority on meeting the recovery mechanism than on meeting the milestone.

If Ofgem did agree to a recovery mechanism, then we feel it should only apply where the DCC stayed within the

T to TD window. If the TD window was exceeded, then no recovery mechanism should be allowed.

Q7.4 What types of criteria could be considered for demonstrating clear, transparent communication?

In our view, clear and transparent communication with other parties should be part of the project whether delivered on time or not. To suggest that such clarity of communications should only kick in when the DCC is failing to meet its milestones, and then it should only be doing so to gain a reward, sends the wrong message to the DCC about how it should interact with parties. We strongly oppose such a measure being a criterion for a margin recovery mechanism.

We would be more sympathetic to a recovery mechanism if the DCC can demonstrate that a delay in meeting a milestone led to later milestones being met earlier or delivered a better solution. However, we still maintain that no such mechanism should be implemented.

Q8.1 Do you agree with the proposed collaborative approach to consultation and modification report production?

We agree with the proposed approach, but where Ofgem proposes material changes to the code (such as a cross code catalogue) rather than a cut and paste approach, then the details of these should be consulted on separately and before the main modification reports to move parts of the SPAA & MRA to the REC.

Ofgem must also allow the full 12-week consultation period for these changes as it will be a significant drain on parties' resources to check and cross reference whether the proposed modifications are fit for purpose. We would also encourage Ofgem to consider dealing with distinct issues with short and precise consultations rather than burying them in one "super-consultation" where they could easily be missed.

Q8.2 Would you in principle support REC v3.0 code consolidation being progressed as a SCR separate to, but running in parallel with the switching programme SCR?

In principle we would support this but encourage Ofgem to better co-ordinate its output and requests for input across all the SCRs currently ongoing. In particular, Ofgem should ensure that different SCRs do not issue RFIs or consultations concurrently thus putting parties in a position where they need to decide which RFI or consultation to prioritise and which to ignore due to resource constraints.

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

Kind regards,



Chris Welby
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