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16<sup>th</sup> November 2018

**WWU response to Ofgem consultation Switching Programme: Regulation and Governance - way forward and statutory consultation on licence modifications**

Dear Rachel,

Thank you for the opportunity to respond to the consultation. Wales & West Utilities is a gas transporter serving 2.5 million supply points in Wales and south west England.

Many of the questions in this consultation relate to Supplier issues and we do not wish to comment on those; therefore we have limited our response to nine questions. We will provide a separate response to the statutory consultation to the Gas Transporter license.

**Question 4.3. 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 an when required?**

Making the REC manager responsible for modification analysis and development will require a well informed and skillful REC manager who is appropriately resourced. It is vital that the REC Manager has sufficient knowledge and expertise, or access to it at reasonable cost, to independently assess the change and to establish the real issues. There is a small risk that the REC Manager will itself have vested interests but since they will be separate from the systems provider this risk is reduced.

We agree that placing industry parties at the centre of the modification process could lead to vested interests stifling change. The advantage of having industry members involved in modification development is that they can bring knowledge of their business practices and systems to the discussion and potentially avoid costly impacts from inappropriate design. It is important that if the proposed model is implemented then the REC manager has the skills to adequately assess the impacts of any changes on users' systems or processes.

We do not agree that the REC manager should have the ability to both raise modifications, other than housekeeping modifications and to analyse and develop them. If the REC can raise a proposal it is not clear how they can objectively analyse and develop it.

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The greater role for the REC manager in analysing and developing modifications means that the REC Change Panel needs to have the skills to challenge the REC manager should they believe that the REC manager has not done the analysis in a neutral way or it has not fulfilled the Terms of Reference.

**Question 4.4: 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.**

This question relates to Authority direction decisions but since there is increasing emphasis on self-governance modifications it is important to ensure that the process works for these as well. Our view is that the decision making process for self-governance modifications should be the same as the recommendation process for Authority decision modifications. To do otherwise would be unnecessarily complex and may present problems were a modification to change between self-governance and Authority decision.

The proposal is that the RECCo panel is appointed by the REC Board. We assume that the members will be drawn from a cross section of parties and they will be appointed to be industry representatives rather than representing their own interests but this is not clear. The stronger the obligation on the panel to act in the best interests of the industry or customers or consumers the greater the difference between a model where the panel makes a recommendation and a recommendation decided by a vote by REC parties who presumably will vote based on their own interests. If the recommendation is decided by a vote by REC parties then the REC Manager needs to ensure that all REC parties are properly informed of the change and the vote. The REC Manager would also need to ensure that any proxy votes were sent in by an authorised person. These challenges may increase in a model where the change is developed by the REC Manager as there will have been no industry wide discussions about it.

Our view is that have the recommendation made by a RECCo Change Panel comprised of members that have to consider the interests of the industry or customers or consumers provides a suitable balance. The REC Board would be able to appoint consumer representatives and independent members to the RECCo panel should they wish. Voting by REC parties will restrict the voting to the industry incumbents. In the case of self-governance decisions our view is that an identifiable body should be responsible for implementation decisions, not least to ensure some consistency between changes, and a panel vote will provide this.

**Question 5.1: Would you support the development of a REC digitization strategy?**

Yes, we agree that having documents easily accessible by embedded links to related documents or notes identifying the change that implemented a section would be very helpful. We use [www.legislation.gov.uk](http://www.legislation.gov.uk) reasonably regularly and the links and references on that site are very helpful.

We would also like to comment on how information on modifications are shown on the web site. The Joint Office website lists all the documents relating to a change under the change, whereas the SPAA website tends to list the documents relating to a change under the agenda for the change boards at which it was discussed. We find the SPAA approach is less transparent and makes finding documents less easy although it might be easier for those who are closely involved with SPAA change proposals.

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**Question 6.2: Do you agree that theft of gas and electricity provisions should be moved to the REC**

Yes we agree. Given that the intention is to close down SPAA then the REC is the obvious place for the theft of gas provisions. Although we have no direct involvement in electricity having the gas and electricity theft arrangements in the same place is sensible.

**Question 6.5: Do you think that the REC should have the responsibility of hosting the industry-wide data catalogue.**

No, we do not believe that the industry wide data catalogue should be hosted by the REC. Our view is that data should be mastered by the code which governs its use. We realise that in some cases more than one code will use a data item and in this case a decision needs to be made as to where it will be governed. In our view this should be the code where the data item is most used or where its use is critical to an important process.

In the gas industry, unlike electricity, Shippers (wholesale suppliers) exist as separate entities and will not be signatories to REC. This means that if the data catalogue is governed by the REC then Shippers would have no influence on changes relating to data items in which they had an interest.

We realise that having different data items governed by different codes is less transparent but it is important that changes to data items are made by parties that are most affected by them, otherwise there is a risk that a data item is changed by REC governance that has an unforeseen impact in another code. One way around this problem might be for each code to publish a list of data items used in that code with links to the definition if it is governed by that code and a note referring users to the relevant code if it is not. In some cases the definition of the data item will be in the code itself but the permitted values will be in related documents managed by the systems provider, whereas in other cases both may be in documents managed by the systems provider.

**Question 6.7: Subject to further development, assessment and consultation, would you in principle support aligning the gas and electricity metering codes of practice under common governance?**

Yes, we would support aligning the gas and electricity metering codes under common governance, although we do not underestimate the challenges in getting there. Once common governance is achieved then the obvious next step is to move towards having common provisions where this is possible and appropriate; however we acknowledge the further challenges that this would pose as the contents of these codes are quite technical.

**Question 6.8: If yes, do you consider that REC would be a suitable vehicle for such common governance?**

Yes.

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**Question 8.1: Do you agree with the proposed collaborative approach to consultation and modification report production?**

We are pleased that Ofgem's SCR powers have been used in a spirit of co-operation with code bodies. Nevertheless the approach relies on the parties to each code having confidence in the legal text providers getting the legal text correct first time. We note that Gowlings have a very large workload as they have to do the legal text for six codes including REC.

**Question 8.2: Would you in principle support REC 3.0 code consolidation being progressed as a SCR separate, but in parallel with the switching programme SCR.**

Yes, we would strongly support a SCR to support REC 3.0 code consolidation. An orderly close down of SPAA to agreed timescales and migration of the remaining provisions into REC or other existing codes is vital to avoid an increase in the number of codes. While industry could sponsor the necessary changes, there is the risk that this would not be coordinated and other industry changes might take priority meaning that the transition was delayed. We accept that REC 3.0 is not part of the faster switching programme and hence a separate process is required. We welcome Ofgem's recognition that raising a second SCR will help achieve efficient change and that it has not taken the view that they will just do the minimum change required to deliver faster switching and leave industry to sort out the remaining issues.

Yours sincerely,



Steve Edwards  
Director of Regulation and Commercial  
Wales & West Utilities

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