



Rachel Clark,
Switching Programme Director,
Ofgem,
10 South Colonnade,
London,
E14 4PU

29th July 2019

Dear Rachel,

Consultation on proposed changes to licenses and industry codes

Thank you for the invitation to respond to the above consultation. Bristol Energy is a national gas and electricity supplier that is making a positive difference by building a sustainable energy company that has social value at its heart. Bristol Energy has delivered over £12m in social value, since launch, and is committed to working with city partners to help Bristol hit ambitious social and environmental goals as set out in the Council's One City Plan.

Executive Summary

Bristol Energy is disappointed at the slow progress in appointing the RECCo Manager. Like many smaller parties, the ability to seek critical friend advice from the Code manager is an important tool in ensuring compliance with the code. Even more critical, when the code is a new code reflecting fundamental change in the market. Key to this support will be the proposed digitalisation and digitisation strategy, which as proposed here will not be started until the REC Manager has been appointed, which in our view is much too late.

If the appointment of the code manager cannot be hastened, then we believe the RECCo Board should seek to commence this work on digitisation now, so it can be implemented before RECV2.0 goes live to help parties prepare in advance for compliance with this version of the code.

Whilst it is important that industry experts are represented on the Board, Panel & PAB, we believe they should all sit as independent experts and not be beholden to represent their constituencies. For small suppliers the breadth and diversity that exists makes this an impossible task and thus, whilst an understanding of small supplier issues is important, any one elected by that constituency should be focused on meeting the task in acting in line with the relevant terms of reference. If an industry view is required, then the relevant body should consult all code signatories.

We have answered all the questions in Chapter 1 below for completeness as well as 4.3 & 4.4, expanding our response where necessary.

Q1.1 Do you agree that the mission statement and objectives encapsulate the functions of the code, can drive activity of the governance functions and assist decision-making on changes to codes?

We are supportive of the mission statement, although point out that there will invariably be trade-offs between "promoting innovation, competition and positive customer outcomes" and "facilitating an efficient and effective market".

With regards to the objectives we would like to add a specific reference to ensuring the accessibility of the code and engagement of signatories. The REC was promoted as being developed to be accessible code compared



to the current codes, but at present the code is difficult to navigate even with the assistance of plain English schedules and the lack of a REC code manager to act as a critical friend is hindering parties' abilities to prepare for compliance with code. We are concerned that this desire to be best in class is getting lost and an additional objective stating this will refocus the importance of this.

Q1.2 Do you agree with our proposals on the initial and ongoing appointment of RECCo Board Members?

We are concerned at the distinct lack of progress in appointing the ongoing RECCo Board. We are not against the process per se but believe the enduring Board should be appointed as soon as possible. Given Ofgem did not list this question as an requiring an early response, then we assume no progress will be made until late September at the earliest. This would be the appointment of a nomination committee, who would then propose a list of requirements for consultation, so we would be unlikely to see any enduring Board members appointed before April 2020. This will then delay the appointment of a REC Code Manager and thus leave mean that any administrative and critical friend support will not be available until post RECV2.0 is live. This is far too late as smaller parties will need that support before RECV2.0 goes live to understand their obligations.

We do not believe it is appropriate, for the interim RECCo Board to procure the REC Code Manager as they all have a relationship with either the MRA or SPAA code managers who are likely to be bidders for the work. Hence the need to get the new independent Board in place.

In terms of the expertise required of RECCo Board members we believe there is a need for knowledge of procurement processes and subsequent contract management in the functional expertise. We remain wary of appointing constituency representatives as they will be directors of RECCo and must act in the interest of RECCo and not the constituency, although we recognise the importance of having on the Board people with expertise in how different sizes of supplier operate.

Q1.3 Do you consider that the methodology as set out above is appropriate?

We support the propose methodology although we believe as set out in this consultation it is at too high a level to honestly state whether it is appropriate or not. For example, we believe that key to stakeholder engagement will be the early implementation of the proposed digitisation strategy. However, it would be possible to propose a digitisation strategy that results in disengaging certain stakeholders.

Q1.4 Do you have any comments on the scope of services?

At a high level we support the scope of services but would like to see specific reference to acting as a critical friend to parties to the code. We believe more detail is required as some of these are too broad to be sure whether they include key services that will be required. E.g. That digitisation and digitalisation includes making the code accessible and understandable. Hopefully this will become clearer when further details appear on the RECCo Web site as promised in this consultation document.

Q1.5 Do you agree with our outline proposals on the set-up of the REC Manager?

We are very concerned at the delay in appointing the REC Manager. The REC is a live code to which we are signatories and yet it has no administrator, only a basic web site and does not have anyone to act as critical friend to parties trying to navigate what needs to be in place to meet the obligations in the REC. Holding back the digitisation and digitalisation strategy until the REC Manager is appointed is in our view far too late. The proposed RECV2.0 is difficult to navigate for even seasoned interpreters of industry codes, although the plain



English schedules help, they do not mitigate for the lack of a critical friend or the digitisation of the code.

At the very minimum, we believe the RECCo Board, if it cannot procure the REC Manager sooner should commission the digitisation and digitalisation strategy separately, so it can be put scoped out for implementation as soon as the REC manager is in place. Otherwise it may be that “best in Class” proposal for the REC risks not be in place until RECV3.0 or beyond.

Q1.6 Do you agree with our proposals on the set-up of the REC Change Panel? Do you foresee any problems with these proposals?

We believe all members of the Change Panel should sit as Independent members who will assess any change on the basis of the impact on the objectives of the REC. It would be prudent to ensure that there are members with expertise on the impact of proposals on various size of REC parties, but they should sit not as representatives, but as experts. Additionally, feedback from REC members on any change should be considered by all Panel members as experts not as representatives of their constituencies.

We do have a concern that engaging Independent members with no or little industry knowledge could actually harm the process, as they would lack the knowledge to challenge any change proposer about the claimed benefits their proposed change would bring to customers or the efficiency of the REC processes.

Q1.7 Do you agree with our proposals on the set-up of the PAB? Do you foresee any problems with these proposals?

Whilst we recognise the need for a Performance Assurance function, we strongly believe this should be based on risk assessments and not, as was recently the case under the BSC a fixed set of PARMS metrics which became targets to achieve rather than a holistic view of a well-functioning market. Monitoring should be based on where non-compliance has the ability to either disrupt the switching process, impacting either other parties (e.g. The other supplier in the switch) or customers. It should not be monitoring compliance of rules for rules sake.

The RECCo Board should when assessing any request for resource from the PAB satisfy itself that the financial risk of non-compliance identified by a risk assessment, outweighs the additional resource required to address the risk.

Regarding the make-up of the PAB, we agree that seeking expertise from members not associated with REC signatories could be beneficial. However, as all members must sit independently of their employer as experts, then all members should be equally remunerated. This would have the additional benefit of recruiting membership from smaller parties, or from trade associations or other representatives from whom releasing resource for this important work is a significant cost.

Q1.8 Do you agree that the inclusion of the principles outlined (as included in the draft Change Management Schedule) should address some or all of the problems associated with existing code governance?

We recognise many of the issues that exist with existing code governance, we feel it is important that all REC parties are given the chance to input into proposed changes. One of the problems with the existing code change processes is that the same small core of people are persistently on working groups and are often from similar companies. This then results numerous disagreements once these working groups put their proposals out to consultations.



For this reason, we support the proposed approach, although we believe the REC Manager should be required, (rather than be allowed) to convene an industry meeting for every change proposal and this should be a virtual meeting, although it may be prudent for particularly controversial proposals to convene a Face to Face meeting. It may be that on minor changes that no-one joins the virtual meeting, but it is important that the opportunity is given.

In terms of Subject Matter Experts, we support this approach, but care should be taken not to exclude the best SMEs, purely because they are employed by a code signatory. Rather all SMEs should be required to declare any allegiances and sign a declaration to act as an independent expert not a representative. If all SME's are remunerated, and this is paid to their employer, then that employer should be required to declare they are releasing the person to provide expert advice and not act to represent their business.

Q4.3 Which option outlined above do you think is best suited to govern MPAS (as defined above) once the MRA has closed, and why?

We believe the best solution is to move MPAS governance into DCUSA. At its heart, MPAS is an obligation on DNO's to keep a register of every metering point within their area and whom is supplying it. However, as key users of the service, suppliers also need some element of influence on its development. This sits best with DCUSA as it governs connections to the DNO network.

Looking forward at the Governments wider work on code Governance reform, we feel that move to DCUSA is most likely to fit with any proposed reform, and they would be most likely to end up being moved as part of DCUSA to any new structure, than being required to be unpicked again and moved separately.

Q4.4 Do you have any concerns about the suitability of any of the options for future governance of MPAS, outlined above?

We have no serious concerns about any of the options, other than some of the options would require additional thought into mitigating some of the concerns raised (e.g. DNO influence on the BSC). However, it may be prudent before making a final decision to consider the direction of travel of the Government's wider code reform to ensure any decision is not diametrically opposed to that direction of travel.

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

Kind regards,

A handwritten signature in black ink that reads "Chris Welby".

Chris Welby
Head of Regulation