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9<sup>th</sup> September 2019

Dear Rachel Clark,

**Switching Programme and Retail Code Consolidation: Proposed changes to licenses and industry codes**

I am writing on behalf of ESP Utilities Group (“ESPUG”) (comprising the licensed companies ES Pipelines Ltd, ESP Connections Ltd, ESP Networks Ltd, ESP Pipelines Ltd and ESP Electricity Ltd). We welcome the opportunity to respond to Ofgem’s “Switching Programme and Retail Code Consolidation: Proposed changes to licenses and industry codes”, dated 17<sup>th</sup> June 2019 (‘the Consultation Paper’).

Overall, ESPUG supports the proposed approach outlined in the Consultation Paper. We believe continued engagement with industry will be central to the success of the Switching Programme. As stated in our response to Part 1 of the consultation, the new Code will need to effectively mediate and balance different participants’ views. On this basis, we support the principle of broadening engagement, and believe this should be underpinned by the future governance arrangements. Ofgem will need to consider how it will ensure fair representation within constituencies as well as across industry parties.

Whilst the Retail Code consolidation is likely to bring about significant benefits, the work programme should proceed in a way that will minimise costs to industry and end consumers. Additionally, we hope that there will be no delays for processing Code changes that will benefit consumers whilst the REC work is underway, given the proposed length and complexity of the overall work programme. Though the proposals put forth seek to mitigate this, care must be taken to ensure a flexible modification process that keeps the consumers interests at the forefront.

Finally, we expect lessons learnt in the consolidation of the Retail Code to provide a valuable template for future reform for the energy industry’s codes.

Our detailed comments are set out in the appendix to this letter. If you wish to discuss any of the issues raised in our response or have any queries, please feel free to contact me on 01372 587507.

I confirm that this letter and its attachment may be published on Ofgem’s website.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'BR', with a horizontal line underneath.

Brandon Rodrigues  
Regulation & Policy Support Analyst  
**ESP Utilities Group**

## Appendix

**Question 1.8: 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?**

Though we agree that current processes may at times be cumbersome to implement changes through existing code governance, additional scrutiny and consideration of code modifications prior to implementation can be beneficial. A more thorough process must not be confused for a needlessly burdened one.

With regard to access, we agree with the principle that changes to the REC can be proposed by any person. However, we believe some parts of Code will inevitably remain technical in nature and so, a level of support should be made available to any party that has identified an area for change but does not have the adequate expertise in order to progress the change. This could potentially be a body sponsored by the RECCo.

With regard to development, we would note that input of existing and new parties is invaluable, especially when interests are not aligned to the proposer as there is greater quality and quantity of debate. It must also be noted that reliance on independent parties or external support may be extensive in terms of financial resources required. However, the concept itself is valuable.

We also support the proposed approach to decision making.

**Question 2.1: Do you agree with our proposed choreography of the Retail Code Consolidation SCR, Switching Programme SCR and associated licence changes, including our proposals that the Switching Programme changes will be introduced as ‘dormant’ before being made ‘active’ following Authority direction?**

We agree with the objective of the proposed choreography but would like to note the importance, as outlined by Ofgem, of communication. This is especially important when shifting enforceable obligations from one code or license to another. Miscommunication, overlap of obligations and unenforceability of obligations are just a few challenges that are likely to arise. We welcome Ofgem’s willingness to consult on the interim governance arrangements in this regard.

**Question 2.2: Do you agree with the approach we have described for managing the delivery of the Switching Programme SCR and the Retail Code Consolidation SCR?**

Yes; we would also seek assurance from Ofgem that the long timeline for the SCRs and revised change modification process for the codes will not lead to delays in implementing change where clear benefits have been identified for industry and consumers.

**Question 2.3: Do you have any views on the draft consequential changes to industry codes and work plans described in Appendix 5 that would help deliver the Switching Programme and Retail Code Consolidation SCRs?**

We believe the draft consequential changes to industry codes have been developed to a good standard, with the appropriate level of input and scrutiny from code parties and code administrators.

**Question 3.14: Do you agree that obligations should be placed on networks and suppliers to ensure that RECCo procures gas and electricity enquiry services and that obligations in the Gas Transporter and Distribution Licences can be removed?**

While we understand the goal to centralise these obligations, adequate care must be taken. The operation of the Data Enquiry Service by Xoserve and ECOES by C&C Group has been highly integrated with existing business processes across industry. While we would, in principle, support the enquiry services being procured by RECCo, due consideration must be given to ensure minimum disruption to existing business processes and systems across industry.

**Question 3.15: Do you agree that the RECCo should be able to appoint either the Code Manager, Enquiry Service operator or a third party to act as the Enquiry Service Administrator for the purpose of monitoring compliance and managing Data Access Agreements?**

Yes, this may be required in order to facilitate a smooth transition and minimal disruption to industry.

**Question 4.1: Do you agree that Ofgem should lead an end-to-end process to develop the code modifications to deliver retail code consolidation?**

We agree that Ofgem should lead the overall process to develop code modifications to deliver retail code consolidation but we acknowledge that industry inputs for development are imperative.

**Question 4.9: Do you support our proposal for consolidating the metering CoPs into the REC?**

We broadly support the proposal as we can see the benefit that consolidating the metering CoPs into the REC would bring. However, we would caveat that each CoP would have been drafted with different objectives and therefore, some refinement of the content and scope may be required. Additionally, the transitions would also have to include other data not explicitly highlighted in the consultation such as previous Audit data.

**Question 4.16: Do you agree with our proposal for incorporating PSR provisions in the REC?**

We broadly support the proposal but would caution the nature of the data and the hurdles that will arise as a result of the migration. While a clear benefit will be realised by way of a centralised PSR provision in the REC, we would hope that the centralisation is carried out in totality and with due compliance to GDPR regulations where PSR customer data is concerned.

**Question 5.1: Do you agree that Appendix 4 accurately describes all of the changes that should be made to licences to support the effective operation of the new switching arrangements?**

Yes. We have not identified a need for any additional changes at this point in time.

**Question 5.2: Do you agree that Appendix 4 accurately describes all of the changes that should be made to licences to support Retail Code Consolidation?)**

Yes. We have not identified a need for any additional changes at this point in time.