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By email: [switchingprogramme@ofgem.gov.uk](mailto:switchingprogramme@ofgem.gov.uk)

Dear Rachel

**Switching Programme and Retail Code Consolidation: Proposed Changes to Licences and Industry Codes**

We welcome the chance to respond to the initial questions from the above consultation dated 17 June 2019 regarding governance arrangements and code consolidation, specifically the role of the Code Manager and the future governance of Meter Point Administration Service (**MPAS**).

**Board functions:** we are grateful for the longer lead time to consider and comment on the RECCo Board. As its relevant to REC Manager functions however, we think that the RECCo Board will need to carry out substantial contract management functions (paragraph 1.5(e) refers). In addition to this, we can also add the novation of the CSS contracts at some point.

Contract management has commonly been effectively delegated to code administrators in combination with specific committees. However, this model does not work for the Code Manager itself, which, based on the proposed list of functions, is likely to be a substantial procurement, a complex contract and performance management framework, and a material ongoing task or set of tasks.

One option could be to procure for the company and its Board professional company secretarial support *and* contract management support or build in-house (as noted in paragraph 1.20). This support could be scaled to cover management of CSS at the relevant time as we would be concerned to assume now that REC Manager would take on this key contract management function. However, this may be due to the procurement (and likely actual structure) not having yet emerged. Some form of change management within the REC Manager arrangements would of course be needed, which needs to be sufficiently robust that it can contemplate backing off relevant parts of the CSS

arrangements contractually should this be the right means to protect participants and consumers.

It is also worth considering what may be needed to ensure appropriate separation of review functions, e.g. reviewing with the REC Manager the operations of the code and code committees, where participants on code committees will look also to have a role in commenting on the performance of the REC Manager.

**Outcome overall:** the principles and services of the REC Manager (or if a “make” decision is taken for some functions, RECCo) should differ considerably to that of code administrators, although we appreciate that there are limits absent a change in the overall legislative framework.

**1.3: Do you consider that the methodology as set out above is appropriate? (relating to Code Manager)**

**1.4: Do you have any comments on the scope of services? (relating to Code Manager)**

A key part of the procurement process will be to consider and determine if all the potential functions can best be delivered by one entity or a range of specialist entities. For example, query whether the best form of digitalisation and digitisation for the industry would be obtained from a REC Manager in parallel with setting up its other functions. Once these are set up, the temptation would be to recommend a digitisation approach that works with the grain rather than to set up functions capable of performance, review and assurance digitally.

This could lead to sequential procurements, e.g. as a strategy could be procured from an expert(s) and then incorporated into the REC Manager’s functions once determined separately. Or a strategy that changes over time in terms of external procurement for some functions as noted at paragraph 1.20.

Another area that could be handled separately would be consumer representation. Could this be funded by REC parties and obtained through an appropriate form of competition but could include e.g. a funded Board member, a specific committee (with attendance and other support being funded) to input into and challenge relevant aspects (strategy, customer interests and outcomes, consumer views on change prioritisation, etc). This more direct approach could potentially yield a greater consumer focus than indirectly via a professional service body procured to provide a range of functions. Thus, “ensuring a consumer-centric approach to code development” could be interpreted as support provided to the consumer Board representative and committee. There would be issues of director duties for any representative which could be addressed through changes to the Memorandum and Articles if needed.



We have noted above whether RECCo support should be separate from REC Manager's other functions to keep these entities arms-length for accountability purposes.

We think that it may be difficult to have the REC Manager exercise a role in compliance and assist parties to navigate through the code and its requirements and assess the code for barriers to change and market development. This is not just that the skill sets are different but that the functions need a degree of separation in order to be trusted and its not clear this could be credibly established within one (commercial or RECCo-based) body. Significant protections would need to be built in to provide such assurance. This is not to say that it isn't important to secure changes to performance management and increased monitoring of process compliance in the interests of consumers.

Subject to these general points for consideration on the services of REC Manager, overall, we agree that making available a detailed description of the REC Manager services for comment as well as the associated procurement plan is appropriate.

It is also important for any procurement plan(s) fully to work up exit arrangements and a plan for re-procurement. This is always raised as an issue - the risk of locking in a key service provider through scope of role and incumbent advantage - and difficult to mitigate but essential. Digitisation, whether upfront or ongoing - should sweep up REC Manager functions as well, and knowledge and process management and access should be considered for participants in the energy market and other markets, to reflect the market-making approach being considered by e.g. DNOs and others. Here, the aim is both sleeker delivery by the REC Manager, and a more straightforward hand-over and minimisation of actual and perceived incumbent advantage on re-procurement. It should be a key performance indicator of the REC Board that contracts are only rolled over in exceptional circumstances.

### **1.5: Do you agree with our outline proposals on the set-up of the REC Manager?**

At the scale set out in the relevant paragraphs, this is a material procurement of a new set of functions in an uncertain environment (assuming RECCo decide to procure REC Manager functions). The lead time from August to November 2019 is very short to have in place tender documentation, again, assuming the make-or-buy decisions can be worked through.

Conversely, the decision to make rather than buy any functions would need to be consulted on and considered, not least given impact on structure and accountability, but also around risks, set-up, capabilities and requirements, etc.



We would have some concerns as to the PAB overseeing REC Manager functions and delivery, which could be alleviated should the PAB be appointed with the relevant skill set to manage a complex contract and noting the lines of accountability needed to be in place.

We believe the MPAS provisions should fall into the most relevant code available once MRASCo is closed down. Also, governance should not be fragmented between existing industry codes. This would go against the principles discussed in the Energy Codes Review led by Ofgem and BEIS in February 2019 to make industry codes more transparent, easier to understand and less cumbersome for new entry participants and encouraging innovation in the industry. Our preference for future governance of MPAS would be to include within the REC. The ongoing maintenance of MPAS is vital to support the facilitation of accurate address and meter asset information and contributes to more reliable switching.

We would also suggest the arrangements of the enquiry service be encapsulated within the REC.

Distribution Network Operators will have ample opportunity to engage in any change proposals to MPAS as a result of being a REC party. We do not believe there is enough evidence to substantiate the adoption of MPAS in any other existing industry code following closure of MRA.

Please do not hesitate to contact me if you have any questions on any of the issues covered in this response. We look forward to engaging on the remaining questions within the consultation by 9 September and more generally with Ofgem on this programme.

Yours sincerely

[not signed]

**Carl Whitehouse**  
**Senior Codes Manager**