Rachel Clark
Ofgem
10 South Colonnade
Canary Wharf
London
E14 4PU

9 September 2019

By email: 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 further to the remaining questions from the above consultation dated 17 June 2019 regarding switching governance arrangements and REC code consolidation.

1.1: 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?

The inclusion of protection of customer interests is a welcome new addition into industry code governance framework objectives. However, we believe that for the REC (and other codes) context, this will need to be translated, ideally in terms of strategic outcomes set by the appropriate body and based on Government policy. Ideally, this would be underpinned by a code-specific roadmap for change created in line with any strategic direction and guidance on outcomes, framing the scope of changes that can be accomodated taking account of ongoing implementation of policy and any system development.

We think that the framing for any objective concerning innovation, and competing requests for innovative change, also needs to be considered further. This is not per se to limit the possibility of such change but to attempt to apply a qualitative and quantitative filter to the change process.

1.2: Do you agree with our proposals on the initial and ongoing appointment of RECCo Board Members?

It would be sensible for Ofgem to consult with the transitional REC Board on the requirements of the nominations committee to recruit a suitable initial Board. We believe

Ofgem should ultimately oversee the appointment of the nominations committee which may include existing members of the transitional REC Board. The process of appointing the initial REC Board should be transparent to validate any subsequent challenges to those appointments. We agree with any proposals to stagger the appointments of the initial Board to ensure continuity of experience but remain unsure how these staggered appointments would be decided.

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

We do not see any issues with the proposals on the setup of the REC Change Panel

1.7: Do you agree with our proposals on the set-up of the PAB? Do you foresee any problems with these proposals?

We agree with the Ofgem proposals that the PAB should be fully established and operational with a fluid performance framework equipped to monitor performance of market participants prior to the new switching arrangements going live. We are however concerned with the limited time to conduct a number of key activities leading up to this point:

●   The procurement of the REC Code Manager has not yet commenced as of Q4 2019 despite the Code Manager being responsible for sourcing PAB members.
●   Will the transitional REC Board or the initial Board decide on the constitution of the PAB?
●   How many members will make up the PAB? How will the constitution be split between existing energy market experts and members from other sectors?
●   How will the recruitment process work for external PAB members from other sectors?
●   Only external PAB members will be remunerated through the RECCo operating budget but not members from the existing energy industry?
●   The timescales for development of a fully functional performance framework including effective risk management by PAB members while having full time roles with current employers seems particularly challenging before the beginning of faster switching arrangements.

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?

Please also see our response on code governance and management as part of the BEIS / Ofgem Reforming Energy Codes consultation and our specific earlier feedback on the proposals for the REC below.

Access

We are open to the removal of barriers to allow anyone to raise a change proposal in the REC. This will allow innovators the opportunity to suggest changes to benefit end consumers. We are uncertain whether this will initially flood the industry with change modifications and overwhelm the Code Manager or if the industry continues at the same pace with the status quo. However, the costs for considering such non-code participant changes must be fairly allocated with an appropriate filter applied to each proposal. It is not appropriate for existing members fully to bear the assessment and management costs.

We consider that further thinking is needed to create an appropriate framework for raising and working through such potential changes, taking into account the learnings from the various sandbox approaches taken by Ofgem and existing code bodies (as well as by bodies in other sectors). This would need to take into account trials and workability, as well as commercialisation, as well as issues around any cost limitations on other impacted parties (through code-related charges and as a result of any internal changes needed). We would be concerned if the incentives on the code manager are to progress such changes regardless (given the concern to address the perception of status quo bias) taking into account their likely remuneration and incentives, which may not lead to as efficient a process as possible.

Development

There needs to be a shift to remove the long development times to ensure REC change modifications do not have multiple parties lobbying with conflicting views. The role of the Code Manager is important to ensure that change modifications are suitably developed before being discussed at workgroup meetings. An alternative option is to have Relevant Objectives centred around customer centric values. This could remove contrasting views about solutions to change modifications. We are also not convinced independent analysis of change modifications is required if the previous steps are conducted thoroughly.

Impact Assessments

We agree that impact assessments will remain important in the change process to understand the financial and operational impacts on central systems. It is vital that large scale changes to central systems over the coming years do not inhibit the timely delivery of short term change modifications (please see comments regarding strategic direction and the roadmap above).

The inclusion of incentive payments within Performance Assurance Framework requires further information before we can provide any substantive comments.

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?

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?

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 have noted and agree with the Energy UK response to the questions from this section.

Question 3.1: Do you agree that the draft Registration Services Schedule meets the required standards set out in the Regulatory Design Principles? If not, please describe how you think it should be improved.

Section 5.3e
The process of registering related MPxN's differs for gas and electricity and we would welcome further clarification in this drafting to reflect this complexity. For electricity, does a supplier automatically register a related MPAN if they register the primary MPAN?

Section 11.4a
This process suggests a gaining supplier should appoint their agents once an RMP has been confirmed. This presents a contractual issue whereby in the current world, a supplier should not be appointing any agents until a supply point is live with that supplier. Further detail is required to ensure both gaining and losing suppliers do not have agents appointed for a single RMP at any one time.

Question 3.2: 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.

We are still encountering plot addresses for live supply points despite the ongoing work of the Data Working Group and we are prepared to accept that address cleansing will still be required in a post faster switching environment.

Question 3.3: 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.

The lack of a Technical Specification means we have struggled to fully validate the Data Management Schedule. We would also welcome the release of the Data Catalogue to view the definitive data items.

Question 3.4: Do you agree that the draft Service Management Schedule meets the required standards set out in the Regulatory Design Principles? If not, please describe how you think it should be improved.

No further comments

Question 3.5: 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.

No further comments

Question 3.6: Do you agree that the draft Resolution of Consumer Facing Switching and Billing Problems Schedule meets the Regulatory Design Principles? If not, please explain how the Schedule could be improved?

We support code consolidation in principle where it is appropriate and welcome the plain english approach used within this schedule. We are a little concerned at having six fundamental processes encapsulated within a single schedule and are anxious about how the long term development of the schedule would progress as a result, e.g. as this could add to the complexity of the processes and any change.

The timescales for resolution of issues remain from the legacy SPAA and MRA industry codes. We would expect these timescales to become more stringent for faster switching to ensure consumers are not waiting for an unreasonable length of time for issues to be resolved.

Question 3.7: Do you agree that we have adequately captured the requirements of the ETCC within the draft Resolution of Consumer Facing Switching and Billing Problems Schedule, taking account of the existence of Guaranteed Standards of Performance that cover engagement with the consumer and resolution of erroneous transfers?

There are elements of the ETCC captured within the Guaranteed Standards of Performance so we believe a reference to the Guaranteed Standards could be included within the REC Schedule.

Question 3.8: Do you believe there is merit in extending obligations relating to the resolution of Erroneous Switches, Crossed Meters, Switch Meter Read Problems and Duplicate Meter Points to micro-business consumers or should these requirements more generally apply to all Non-Domestic Energy Suppliers? For Switch Meter Read Problems, should the scope be extended to cover domestic and micro-business consumers who are settled on a Half-Hourly basis?

There is merit in including micro business customers within the various schedules. We would expect the Half Hourly Settlement Reform Project to be informed of the intention to include micro business consumers who are settled on a half hourly basis tin the Switch Meter Reads section.

Question 3.9: Do you agree with our proposal to introduce a harmonise procedure for escalating delayed and disputed problem resolutions for all problem areas covered by the draft Resolution of Consumer Facing Switching and Billing Problems Schedule? If not, please explain how the approach for escalations could be improved.

The swift resolution of escalated issues is vital to the success of faster switching. Getting impacted consumers back to their supplier or suppliers agreeing an actual opening read quickly will ensure consumers do not lose faith in switching. The timescales for resolving escalated issues are particularly lenient and we would expect them to become more stringent in a post smart meter rollout.

Question 3.10 Do you agree that the draft Prepayment Arrangements Schedule meets the required standards set out in the Regulatory Design Principles? If not, please describe how you think it should be improved.

No further comments

Question 3.11: Do you agree that the draft Related Metering Point Schedule meets the required standards set out in the Regulatory Design Principles? If not, please describe how you think it should be improved.

No further comments

Question 3.12: Do you agree that the draft Data Access Schedule meets the required standards set out in the Regulatory Design Principles? If not, please describe how you think it should be improved.

No further comments

Question 3.13: What changes would you make to best align the draft Data Access Schedule to the Energy Data Task Force recommendations?

The draft Data Access Schedule is very brief and only provides a general overview of data provision and permissions for users. This requires further development if it is intended to align with the implementation of the five recommendations of the Energy Data Taskforce and the various work streams going on to this end.

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?

We are concerned that it is too early in the overall data review process to agree to the removal of obligations from Transporter and Distribution Licences. The Energy Data Taskforce recommendations include proposals on maximising the value of data. The removal of obligations from Licences to a single industry code could present challenges to this, as well as to longer term governance issues. We would welcome further consideration and consultation focused on the data landscape to follow through with the recommendations of the Energy Data Taskforce, among other things.

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?

No further comments

Question 3.16: 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.

No further comments

Question 3.17: Are there any other areas that you think should be covered in the REC to support the Switching Programme, other than those that will be included in the Technical Specification?

No further comments

Question 3.18: Do you have any additional comments on the drafting of any of the schedules, in particular in relation to whether they effectively achieve the outcomes described her and articulated in Design Baseline 4 or other programme documents?

The drafting of the current REC Schedules are similar to the legacy SPAA and MRA industry codes. We would expect to see further development of the REC to ensure the terminology is refined and future proof for faster switching arrangements.

It has proved very difficult to evaluate the REC Schedules without an updated Technical Specification and a further review may be required once the final Technical Specification has been released.

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?

There are consequential changes to all existing industry codes as a result of the new switching arrangements. We agree with Option 3 and Ofgem should lead on the required code modifications to deliver code consolidation. This will ensure consistency across the entire programme with no fragmentation if other parties were expected to progress the remaining change modifications.

Question 4.2: Do you agree with the proposed scope of the Retail Code Consolidation SCR? Do you think any additional areas should be in scope?

See above

Question 4.5: Do you agree that the GDAA and Green Deal related provisions in the MRA should transfer to the REC?

We do not see how the provisions of the GDAA should mandate non-supplier parties to accede to the REC. We would expect the provisions of the GDAA be governed through an alternative mechanism.

Question 4.6: Do you think GDAA parties should accede to the REC, or be engaged in governance through some other means?

See above

Question 4.7: Do you agree that the requirements currently held in SPAA Schedule 22 and the RGMA Baseline related to gas meter agent appointments and MDD should be mandatory for domestic and non-domestic suppliers? If not, why not?

We agree with domestic and non domestic suppliers being mandated to the requirements of SPAA Schedule 22 to ensure consistency across the industry.

Question 4.8: Do you agree with our preferred option for governance of agent appointments and MDD, outlined as option 3 above?

We agree with the Ofgem preferred option as it utilises governance of dual fuel gas and electricity processes.

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

We would like to see appropriate code consolidation but not for its own sake. e would not support an endless number of agreements and codes of practice being bolted onto the REC with no attempt to condense material thematically or where specific additional governance is retained - it may be the case that specialisation and per-subject matter governance is the most efficient means, notwithstanding it keeps an additional set of governance arrangements in play.

Our initial view is that code consolidation should also include an exercise of code of practice consolidation on MAMCoP, AMICoP, MOCoPA and ASPCoP before they could eventually migrate into the REC.

Question 4.10: Do you think MEMs should be parties to the REC?

It would be more beneficial for MEM's to be acceding to the REC from an operational perspective. They could be more included in code governance with representation on the Change Panel, PAB and REC Board. The PAB would also have an understanding on MEM performance with options for sanctions and incentives on poor performance. This could however be a costly exercise to MEM's and Suppliers. We are open to further

analysis being conducted on these financial impacts to understand if benefits could be realised.

Question 4.11: Do you think changes to the metering Schedule(s) of the REC should be progressed through the Change Panel only, or should there be an additional MEM Panel?

We have not considered the governance issues related to change focused panels. Our initial view would be the creation of a separate Panel for MEM's may be appropriate.

Question 4.12: Which of the requirements within SMICoP, if any, should extend beyond the initial installation of the smart metering system?

This code of practice was introduced to protect consumer interests for the initial installation of a smart meter. Any subsequent meter installations would not be considered under SMICoP and fall into a business as usual process under existing industry codes. We would expect to see SMICoP have less influence over time as more consumers have smart metering systems installed. Thus, it may be appropriate to retain SMICoP separately and provide for any post-transition arrangements tailored to any specific processes still required at that time.

Question 4.13: Which of the requirements within SMICoP, if any, should apply to installation of non-smart metering systems and other site visits required to carry out metering related work?

We do not believe any aspects of SMICoP should apply to a non smart metering system.

Question 4.15: What are your views on our proposals for the governance and assurance of the SMICoP provisions once migrated to the REC?

See above.

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

We agree that those PSR-related provisions in existing codes can be incorporated in the REC. We think it is too early to say whether the REC is the most appropriate mechanism for managing wider data sharing.

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?

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?

Question 5.3: Are there any changes to licences that, if not made prior to the switching arrangements going live, would inhibit the delivery of the Switching Programme?

We have not been able to focus on these questions and therefore are not in a position to comment here. We would hope that this question 5.3 in particular remains on the agenda, as it were, as impacted parties work through the detailed programme requirements.

Question 5.4: Do you think that we should remove licence obligations on GTs described in SLC 31 and DNOs in SLC 18 to provide one or more of the following services:

- **Enquiry services;**
- **Maintenance of a register of data associated with a metering point/supply point; and**
- **Customer enquiry service?**

We note that Energy UK on behalf of its members consider that "Ofgem should take the action they feel to be most appropriate when considering removing license obligations on GTs to provide various services." We would be inclined to go further and suggest Ofgem carry out a detailed mapping exercise from all relevant licence obligations, through to contractual delivery mechanisms for these key areas, aiming to track through and into the proposed REC arrangements to enable Ofgem and stakeholders to consider any gaps, the optimal means of transition (including in relation to contracts, transfer of rights/novation and a procurement roadmap). This would build on the work already done by Ofgem and industry workgroups around data generation and use/access and transition. Further, it could form usefully part of a wider data-specific workstream to consider the Energy Data Task Force recommendations in this context.

Overall, we do have some concerns around removing top-down obligations in licence conditions upon which contractual and delivery chains are based, and locating entirely within an industry code but recognise that it is appropriate to consider this.

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 more generally with Ofgem on this programme.

Yours sincerely

[not signed]

Carl Whitehouse
Senior Codes Manager