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Dear Rachel,

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

Thank you for the opportunity to provide our comments on Ofgem's consultation on the proposed changes to licences and industry codes as part of the Switching Programme and Retail Code Consolidation. This letter and the attached Appendix A together form Utilita's response to Stage 2 of this consultation.

Utilita has been operating successfully in the market since 2008. We have a predominantly prepay client base, most of which have smart meters installed. We provide a high-quality service to a sector of customers who are traditionally poorly served and the continuation of excellent supply services to our prepayment customers is paramount.

We continue to support the introduction of the Retail Energy Code (REC) and Ofgem's more recent proposals around Retail Code Consolidation (RCC) by April 2021.

We strongly encourage Ofgem to seize the opportunities presented in consolidating retail market arrangements. Ofgem should challenge the existence of current, overly complex, industry rules and governance to ensure the REC only contains relevant obligations on REC parties that have a known purpose and benefit to end consumers and essential market arrangements expressed in their simplest form.

This simple and transparent approach will enable market participants to focus on compliance with critical provisions to industry standards, enabling innovation within the market while reducing barriers to entry for new market participants. At present, we feel the REC drafting (as presented) could usefully be developed further if it is to achieve Ofgem's stated aim of the REC challenging the status quo of code governance while harmonising gas and electricity arrangements.

Overall, we consider the level of drafting of most of the REC Schedules to be clear and of good quality. However, some of the Schedules contain an unhelpful level of prescription at this stage. These Schedules would be better developed once the Code Manager Services are procured and mobilised. For example, the Change Management and Performance Assurance Schedules would be better completed once processes are

further developed. We suggest these Schedules should be reviewed and adjusted to focus on outcomes-based principles. This would prevent the drafting of the REC Schedules unduly influencing the approaches and solutions being provided by potential bidders, which are currently mirrored on today's industry arrangements. We support the broader use of outcomes-based drafting by Ofgem in the supply licences and believe that carrying this approach through into the new market arrangements would bring real benefit to the consumer and greater clarity to users.

Finally, we note a significant amount of technical language and definitions has been introduced into the REC as part of this drafting stage. We do not support this inclusion which impacts the readability of some of the Schedules and lacks the clear and transparent approach that is needed. Again, we recommend that the Schedules are reviewed in mind of the type of readers of the documents and whether the Schedules are written in a way to prevent avoidable complexities under the new arrangements.

We hope these comments have been helpful and would be happy to discuss any points in more detail.

Kind regards,

*By email*

Alison Russell  
Director of Policy and Regulatory Affairs

## Appendix A – Utilita’s consultation response

### Section 1 – REC Governance Arrangements

**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?**

Utilita mostly supports the modified REC mission statement and the set of code objectives which came into effect on the 1<sup>st</sup> February 2019.

Following our review of the REC objectives, we are unclear whether they would adequately ensure that code and system changes, however complex, would be tested and evaluated against value provided to the industry as a whole. History has shown evidence of a tendency of some code party organisations to oppose complex system changes based on a more parochial approach to avoid making changes internally. We strongly believe the REC must challenge this tendency, and to improve the quality of change process decision-making to the benefit of consumers and industry rather than narrower business interests.

A clear example of innovation to the benefit of consumers being blocked by incumbent Suppliers was the development and progression of the Balance Assignment and Transfer (BATS) process under the MRA and SPAA change processes. Despite strong support from a number of smaller suppliers to implement a simple and convenient method for a customer’s balance to remain on a smart meter during a change of supplier event, the solutions proposed received little support from larger suppliers throughout development, leading to the solutions being rejected at vote. The REC must enable the market to innovate, without allowing those who are slower moving or more resistant to change preventing such beneficial change.

Finally, we are unclear why Objective c) does not also specifically make reference to REC processes. We believe this best sits alongside the reference to the central systems and communication infrastructures the REC governs.

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

We support Ofgem’s approach to appoint the interim RECCo Board from individuals from the existing representatives on the MRASCo Ltd and SPAA Ltd Boards. These individuals have already undergone industry selection, through governed nomination processes. Therefore, the interim RECCo Board should have a broad understanding of the operation and day to day running of the existing retail codes and switching programme. However, our support is based on the assumption that Ofgem would replace any interim RECCo Board members whose necessary commitments, prior to appointment, have not materialised. This would ensure the interim RECCo Board has the appropriate skills and resource to support its significant deliverables on behalf of industry over the next year.

Regarding the enduring RECCo Board, we would like to see the interim RECCo Board be expanded to include non-executive directors, including some appointed by suppliers, over the next year. Lessons can then be learnt on the effectiveness of the mixed skill sets and competencies of industry and non-industry representatives before further appointments are made. The Shipper-nominated Board Members on the Xoserve Board have amply demonstrated the value of this approach.

With the limited level of detail provided, we are unsure how the nomination committee for the enduring RECCo Board would work in practice. We would however encourage representation by at least two interim RECCo Board members within the committee. This would have to be carefully managed by Ofgem. For example, to avoid interim RECCo Board members being excluded from the initial establishment of the enduring RECCo Board if they were chosen to support the nomination committee.

**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?**

The decisions taken at code Change Panels can have a varying degree of impact for individual organisations which means having the correct representation for each constituency is vital to ensure interests are fairly and effectively represented. Although we believe the current Change Boards of the MRA and SPAA generally work on the whole, larger organisations tend to dominate the outcome of votes due to resource capacity.

The Change Panel composition needs to be balanced, giving industry parties sufficient transparency and accessibility to voting on REC change proposals, while protecting against the historical issues noted above under Q1. Innovation must be enabled under the REC which enables selective change by organisations for some issues i.e. we would like options to be considered as to whether solutions should be able to be implemented by innovative organisations who would like to use a solution and allow other suppliers to choose not to use the solution rather than mandating all suppliers to accept and implement a change. This would allow suppliers to innovate and differentiate their services, giving customers more choice and reason to engage with switching.

We would like to see further consideration being given to ensuring fair representation of large, medium and smaller Suppliers at the REC Change Panel. For example, we would like to move away from the approach adopted under the MRA where the Big 6 suppliers each hold voting seats and all other smaller suppliers have to share a rotation of 2 seats. We believe a fairer model would be one where there is an equal number of seats across each constituency.

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

Utilita has several observations regarding the proposals for the establishment of the REC PAB which require further consideration.

There seems to be a significant focus on the PAB for the overall success of the REC performance assurance regime which we believe to be presumptuous considering the procurement processes for the REC Code Manager services have not yet taken place. We would like to see potential bidders be challenged to provide their proposals for the overall REC performance assurance regime, their role and responsibilities, those of the PAB, against a set of desired outcomes and key deliverables. We are concerned that Ofgem placing significant expectations on the PAB at this early stage this may hinder or influence the proposals put forward by potential bidders which may restrict innovative ideas and practices that may be being adopted in other industries. If workable, creative and innovative solutions are not forthcoming, then a reversion to industry standard processes can be applied at that point.

Whilst we agree there are benefits to the approach of establishing the REC performance assurance regime as soon as reasonably practical following the awarding of REC Manager service contract(s), the contracted service provider should be responsible for

setting out a mobilisation plan against a set of deliverables ahead of the full operation of the REC in April 2021. Again, we do not believe Ofgem should be overly prescriptive in its expectations of the PAB or the contracted service provider ahead of the procurement of REC Code Manager services. We would however we supportive of Ofgem setting out a level of minimum standards to support RECCo Board procurement activity.

We are supportive of the approach that the performance assurance regime of the REC should cover all risks to the operation of the retail market, subject to proportionate action being taken based on the severity of risks identified. Therefore, the scope should include all REC Parties, contracted service providers and the REC Code Manager(s). We would also expect the RECCo Board to have an independent assessment of its own performance against its strategy and the overall REC objectives which could be included within its annual report to Ofgem.

Finally, we note Ofgem's proposals for potential remedies for mitigating identified risk which may include liability payments and Liquidated Damages payments. This option must be proportionate and consistent with the other financial penalties which exist already across the market. It is also important to note that significant additional penalties on suppliers in the form of the Guaranteed Standards of Performance metrics have already been introduced from 1<sup>st</sup> May 2019 for failures to switching processes. A single, consistent approach to financial penalties must exist and parties must not be subject to multiple, parallel regimes.

We also believe that if one category of code party is subject to liability payments, in whatever form, then this must apply to all code parties including the CSS Service Provider and the DCC. Lessons must be learned from the smart programme which has led to contracts being imposed on various organisations, including the DCC, which have had major negative impacts on the market, without remedy for suppliers.

Liability payments, if introduced at all, should cover a range of failure and redress the imbalance of liability. Customers pay for industry costs through suppliers, at present there is a "standard" which is that if issues in the industry are caused by suppliers, there are liability payments imposed, for example ETs. If, however, the issue causes lie elsewhere, liabilities are far less clear. Examples include the failure of Nexus to be able to deliver the required system capacity for mass migration to Class 3 settlement. This, was assured as part of the Nexus programme but has (through R0700), been reverse engineered out. Customers have already paid for this product and no party appears to be being held liable for the negative impact being imposed on suppliers. Utilita is in favour of a future industry where all parties are held firmly and fairly to account for failures that impact everyone and customers.

We are not clear how liability payments on the CSS Service Provider/DCC would work in practice, when there are no known proposals for when RECCo Ltd will hold a contract with the CSS Service Provider. We would welcome further information from Ofgem on when the DCC's role within the switching programme intends to come to an end as we believe this will save Suppliers significant expenditure than paying the DCC to effectively contract manage a service provider on its behalf.

**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?**

Utilita believes the Schedule as drafted goes some way to address problems associated with existing code governance however we have several comments. Our main observation is that the Schedule contains an unhelpful level of prescription, which is unnecessary at this stage, rather than being based on principles as the question suggests. For example, under section 4.5-4.6 rather than stating Change Proposals must meet a quality standard, the Schedule specifies in detail what the Change Manager must do in cases of refusal including writing to the Proposer and copying in the REC Panel. We suggest this level of detail should be developed at a later stage, such as following the appointment of REC Manager Services when potential bidders may provide more efficient and effective solutions to deliver REC change management.

Although we appreciate Service Provider costs are a contractual matter, we are disappointed under section 14 of the Schedule that there is still an expectation for some Service Providers to charge for detailed impact assessments when others in industry do not currently. We strongly believe the DCC's ability to charge significant sums to even evaluate the basic requirements for impact assessments under the Smart Energy Code (SEC) has acted for a blocker to change in the past. We strongly oppose a continuation of this poor practice if the CSS Service Provider/ DCC is able to charge under the REC.

Under Schedule 19, we believe where a RECCo Board vote is required to a Change Proposal, the REC Change Panel's vote on any such change should be one on a recommendation basis, similar to votes being taken for Authority consent requiring changes.

## **Section 2 – Delivery Approach**

**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?**

Utilita agrees with the proposed choreography of retail code consolidation and the switching programme changes. This should provide welcomed clarity to industry and the MRA and SPAA code administrators and Panels who can now work to ensure the timeframes are met under each of the codes.

We also believe proposals for the switching programme changes to be introduced as 'dormant' ahead of being made 'active' is sensible and we have no further comments to add.

**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?**

We support the approach outlined for managing the delivery of the switching programme SCR and the Retail Code Consolidation.

Our only comment is in regard to paragraph 2.14, our preference is for all consequential change drafting to be published for comment as a suite of changes and we would be prepared to wait beyond Autumn 2019 if required.

**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?**

The switching programme is still evolving, including policy decisions by Ofgem as to the future of certain arrangements under industry codes and codes of practices. Until Ofgem has reached such policy decisions, consequential changes will need to be under continual review. On this basis, we are reluctant to spend a significant amount of resource at this stage reviewing the full set of proposed changes when they are almost certainly subject to further change. We are however engaging with relevant code groups on the development of these changes and will continue to do so.

Finally, we would like clarity from Ofgem when the proposed consolidation of other arrangements such as SMICoP, GDAA and MOCOPA will be included within the scope of the suite of consequential changes workstream.

### **Section 3 – Switching Programme: REC Operational Arrangements**

**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.**

We agree that the Registration Services Schedule partially meets the required standards set out in the Regulatory Design Principles. Our main concern is that there is a high reliance on other documents to support the use of the Schedule. For example, in order to make full sense of the document, a reader must also read in parallel the REC Technical Specification. There are 171 references to the REC Technical Specification within this Schedule.

We do not understand why a process (such as Annulments) can be documented in one Schedule but the timings are outlined within the Technical Specification. This places a huge reliance on the digitalisation of the code to make REC governance accessible. For this reason, we believe it has some way to go to meet the Design Principle 6 'Design – Simplicity'.

**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 agree that the draft Address Management Schedule meets the required standards set out in the Regulatory Design Principles, however we have several comments.

Section 2.5 sets out that the REC PAB will be able to change the CSS Providers Performance Standards regarding the accuracy and quality of REL Addresses. We are concerned what powers the REC PAB will actually have to enforce the Performance Standards when the CSS Providers contract is held by the DCC rather than RECCo Ltd. We feel this model will only repeat the issues experienced under the Smart Metering Implementation Programme (SMIP) where the smart metering ecosystem is still not fit for purpose and the SEC Panel have a lack of authority to hold the DCC or its Service Providers to account.

Section 3.4 implies that the CSS Provider will be responsible for self-reporting on its service levels. Although we understand that service providers may be best placed to provide data on some service levels, we believe the REC provides an opportunity to provide better scrutiny to the services paid by industry parties and end consumers. For

example, we would like to see a Contract Management function be in place under the REC to provide a more transparent view of a service providers performance to the RECCo Board.

We would also like the REC PAB or REC Code Manager Services function to be empowered to undertake intermittent reviews of RECCo service providers reported performance in order to ensure high quality and economical services.

**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.**

Yes, we agree that the draft Data Management Schedule mostly meets the required standards set out in the Regulatory Design Principles however we have some observations.

Firstly, considering the language is meant to be in plain English and easy to interpret, for a governance document there is a significant amount of newly introduced technical terms and definitions, this is unfortunate. We understand the document has been developed to reflect data terms used across other industries however the terminology is overly complex in places and requires reading alongside the Interpretation Schedule.

Our final comment is that we note the Code Manager will be required to use the switching network to update the CSS Provider following certain events such as a party being qualified through market entry. This feels like an unnecessary requirement on the Code Manager and we question the overall benefits in having a further organisation access the switching network for making infrequent updates to a small subset of data other than other notification methods.

**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.**

Yes, the draft Service Management Schedule mostly meets the required standards set out in the Regulatory Design principles however we have a couple of comments to improve the quality of drafting.

The wording within the Schedule could be refined to improve readability. For example, section 1.11 begins with "Notwithstanding any requirements or efforts by other persons to improve the operation of this REC Schedule..." we do not believe this fits the brief of being in simple, plain English language and rather is typical of legal drafting.

We believe the timeframes for the Switching Operator to notify Market Participants (and other interested parties) of Major Incidents to the Switching Service need to be reviewed. We would rather see the Switching Operator raise awareness straight away, i.e. within an hour of Major Incident being classified by the MIM. The current wording of 'soon as reasonably practice' doesn't leave us with much confidence that we will be made aware of Major issues to service in a timely manner.

**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, we have a number of comments on the draft Entry Assessment and Qualification Schedule.



We are extremely concerned that the DCC has recently published a draft Connections Code which set out the expectation that the DCC has an authorisation role as party of entry assessment processes. Parties who wish to communicate with the CSS are proposed to undergo a separate approval process by a 'DCC Security team'. The proposed organisational security requirements by DCC are also very prescriptive and appear to require a significant overhead, similar to the SEC security requirements, for all types of participant roles to adhere to. We strongly oppose this potential requirement.

Nowhere in the Entry Assessment and Qualification Schedule does it make clear that REC Parties will have to gain separate approval by the DCC in addition to the REC Code Manager for operating in the retail market. Both processes currently seem disjointed and we would like the REC to clearly set out what is required by a Supplier party in order to exit market entry and send and receive messages from the CSS.

Secondly, we note that Market Exit arrangements are out of scope of this Schedule. We believe it makes sense to include Market Exit arrangements in this Schedule rather than placing them somewhere else in the REC which overly complicates the accessibility of the requirements. We would also expect the contracted party responsible for managing REC Entry Assessment arrangements to also undertake Market Exit arrangements, so it makes sense to have the relevant governance located in one place.

We would like to challenge the material change incorporated into section 1.11 of the Schedule. If a Supplier or Network is able to apply for Entry Assessment without holding an Energy Licence, we would still expect the applicant to be able to evidence that they have applied for an Energy Licence with Ofgem at the time of REC application. As a result, a change should be made to section 2.7 to add this as a pre-requisite. Otherwise there may be unnecessary administration undertaken by the code manager service provider in initiating and commencing with Entry Assessment procedures when an applicant has not started processes to gain an Energy Licence.

Under the MRA, there are a significant number of Suppliers who have acceded to the code but are yet to signal their intention to commence Market Entry processes. This requires monitoring and engagement by the Secretariat to ensure there are no attempts to register customers until Entry Assessment has been commenced and completed. As a result, we do not believe the changes to 1.11 will improve this administrative burden but rather add another factor for the Code Manager Service provider to monitor.

**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?**

Although we are mostly supportive of the draft Resolution of Consumer Facing Switching and Billing Problems Schedule, following review we have the following comments.

### **Section B: Erroneous Switches**

Under section 6.2 we believe that an Energy Supplier should confirm with the customer whether they agree an Erroneous Switch has taken place before initiating the Erroneous Switch. This will prevent poor customer experiences if in fact the Supplier has been mistaken or the customer wishes to stay with the current Supplier.

We believe under section 7.1.a, the wording should be amended. There are cases when both Suppliers are involved in an erroneous switch and claim to have contracts but whether a contract is actually valid requires investigating as part of the process.

## Section G: Debt Assignment

Following review of this section, we are unclear how debt assignment should be resolved if a customer has a Smart Meter. Paragraph 26.2 seems to suggest the process outlined under Section G is in relation to debts where the repayment is scheduled on a Prepayment Meter that is not a Smart Meter. We believe this is misleading and restrictive when the current Debt Assignment Protocol (DAP) process is not limited to legacy only meters. By 2020 we the government intends for every home within the UK to have been offered a smart meter, therefore the REC should be building a governance regime around smart and not legacy metering.

**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?**

Yes, we are comfortable Section B has adequately captured the requirements of the ETCC. We also agree the proposed governance within the section aligns to the existence of the Guaranteed Standards of Performance that cover failures in response to erroneous transfers which were introduced in May 2019.

**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?**

We believe all requirements should generally apply to all Non-Domestic Energy Suppliers rather than applying to just micro-business consumers. We believe this will help improve customer experiences of switching whilst resolving a number of issues that we encounter.

For example, we experience a number of regular cases where a non-domestic Supplier has incorrectly registered a domestic site. Due to non-domestic Suppliers not being mandated to comply to the Erroneous Transfer (ET) process and therefore use the Data Transfer Network to initiate and respond to ET requests, our operational teams have two processes in which they need to operate. This is time consuming and can lead to customers experiencing different approaches to resolution, depending on the Suppliers involved.

We would also be minded-to support further consideration being given to whether the Switch Meter Read Problems Schedule should be extended in scope to Half-Hourly settled metering points. We would however encourage reviewing the processes outlined within the Schedule to ensure that prior changes would not be required to requirements to allow for Half-Hourly settled metering points as it we do not believe it is a simple case of merely extending the scope of arrangements to cover both non-Half Hourly and Half-Hourly metering points.

**Question 3.9: Do you agree with our proposal to introduce a harmonised 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.**

Yes, we see no reason why different escalation approaches should remain across each switching exception process. We note some efforts have already been taken under existing codes to align the escalation stages and timeframe, but we would fully support further efforts in harmonising, including reducing the escalation timeframes, especially when it comes to the importance of resolving Erroneous Transfers timely.

Alongside harmonising the escalation procedure, we would also like to see better enforcement on Suppliers responses to escalations, including ensuring Suppliers are keeping their escalation contacts up to date.

**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.**

Yes, although we have several observations which require addressing to improve the readability of the Schedule. For example, we are disappointed that the arrangements have not been better harmonised across gas and electricity, which should be a key requirement of all changes under this programme, wherever possible. This would include, for example, the approach taken under other Schedules (e.g. the Consumer Facing Switching and Billing issues Schedule). Instead the approach seemingly been taken is to have some dual fuel processes (i.e. Section B) but a number of separate gas and electricity processes despite the similarity across fuels (i.e. Section C and D).

Under Section C and D we note that there are two sections on 'Issuing a new prepayment device (Section 7 and Section 12). We would prefer each process within the document to simply contain general principles which Energy Suppliers should follow. Each process could then specify how a process should be treated under gas or electricity where there are differences, rather than having completely different sections for gas and electricity. Additionally, Section 16, 'Replacement Prepayment Device' could fall under one consolidated section of 'Issuing or Replacing Prepayment Devices' rather than being separate. This is also an example of where the Schedule does not seem to follow a logical order.

**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.**

Yes, although Ofgem should note that work is currently being undertaken under the MRA MIF289 to determine if related HH MPANs should be 'related' within the CSS.

Following the end of this piece of work by the Issue Resolution Expert Group (IREG), further changes may be required to this Schedule.

**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.**

Yes, we agree that overall the draft Data Access Schedule meets the required standards set out in the Regulatory Design Principles.

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

We believe the Schedule provides a good foundation for implementing recommendations of the Energy data Taskforce.

We would like to see Ofgem working with the RECCo Board to take forward the Energy Data Taskforce vision including the idea that access to data should be open when RECCo will be responsible for the enquiry service contracts and associated REC governance.

We believe RECCo is best placed to introduce improvements to data access when it will have the responsibility for the governance of both the DES and ECOES enquiry services. This current model where governance of both services is split across two codes and managed by two separate organisations, means that there is a lack of incentives for consolidating the data sets or providing more open and innovative access to the services. The complexities associated with having governance across two codes and multiple service provider contracts was the key factor in the overall failure of the Market Intelligence Service (MIS) project.

**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?**

Yes, we believe obligations around the procurement of gas and electricity enquiry services better sit under the responsibility of RECCo Ltd rather than being placed solely on networks. The enquiry services have a primary purpose of supporting the change of supplier process including allowing Suppliers to preform necessary pre-registration checks and validate a customer transfer.

We also believe that by placing obligations for procuring (and maintaining) the enquires services under RECCo Ltd, there should be more freedom for RECCo Ltd to look at ways to innovate the enquiry services for the benefit of industry and end consumers. For example, by independently examining the benefit case of the envisaged outputs of the MIS project.

**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?**

We believe managing access to the enquiry services, including monitoring compliance should be undertaken by a suitable skilled service provider procured by RECCo Ltd.

Depending on the number of contracts the RECCo Board seeks to procure to deliver RECCo services, the role for managing access and system compliance could be undertaken by the most relevant service provider and this should not yet be prescribed under the REC Enquiry Schedule.

**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.**

Yes, we believe the draft Interpretation Schedule meets the required standards set out in the Regulatory Design Principles.

**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?**

Third Party Intermediaries (TPIs) are critical players in consumers' modern-day experiences of switching. For this reason, the REC provides an opportunity to introduce common principles and governance arrangements on these organisations to improve consumers' experiences of the change of supplier process. This must be a more efficient approach than best practice or voluntary governance arrangements sitting elsewhere with nothing to encourage compliance. Additionally, TPIs will already be engaging with RECCo due to having access agreements in place for accessing data to the electricity and gas enquiry services.

**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 here and articulated in Design Baseline 4 or other programme documents?**

Overall the REC Schedules have been drafted to a relatively good standard. However further improvements could be made to ensure their readability.

Our main outstanding concern is that the Schedules differ to their extent in following the brief of simplicity and being written in plain English. Some Schedules for instance, overly use technical or industry jargon (such as the Data Management Schedule). We also observe an over reliance on references to the Technical Specification, which leads to an added level of complexity when reviewing the Schedules and in some places, Schedules feel incomplete and disjointed. We understand the intention for the REC to be digitalised which should help the readability of the Schedules, but this exercise must be completed thoroughly and under constant review to prevent misinterpretations or confusion as the REC develops.

**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?**

Yes, we fully support Ofgem's proposal to lead an end-to-end process to develop all the necessary modifications to deliver RCC. We believe only this approach will deliver what is required by the April 2021 deadline for RCC.

We expect that Ofgem engages with the relevant code administrators and code Panels throughout the end to end process to ensure the expertise that exists across codes is fully utilised to deliver a comprehensive suite of code 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?**

Yes, we consider that all the provisions that exist under the MRA and SPAA today must be included within the scope of the SCR, otherwise there is a risk that the existing codes will exist for much longer than they need to at cost and complexity to industry parties.

We are also supportive of including other arrangements within the scope of the SCR as mentioned within the consultation. This approach should include Green Deal provisions, metering arrangements and SMICoP. We also agree with Ofgem that Midata should remain out of scope when arrangements do not currently sit under any governance regime and we understand this is now being considered as a project under the remit of the RECCo Board.

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

Yes, although we witnessed the complexity of attempts to merge the GDAA and Green Deal arrangements under the MRA previously, we believe this exercise of transferring arrangements to the REC brings efficiencies, could bring increased clarity and is better placed under the direction of Ofgem than industry and existing code bodies.

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

Yes, we believe the major benefit of GDAA parties acceding to the REC is the fact Green Deal Providers (alongside Green Deal Licensees) would be subject to the REC performance assurance regime. This would ensure a risk-based approach to compliance is adopted to all Green Deal arrangements, rather than just the provisions under the MRA today.

Due to the relatively small uptake of Green Deal Plans across the scheme, we believe Green Deal related changes could be handled under the existing REC Change Process, with a Green Deal only segment of the REC Panel in which Green Deal Providers could be invited to vote on relevant change proposals. There could also be a Green Deal committee that handles discussions to Green Deal only matters rather than the various committees that are held currently under the GDAA and MRA.

Finally, we do not consider that Green Deal Providers require any representation on the RECCo Board due to their limited interest on the scope of REC arrangements and the fact they will not be required to fund REC arrangements.

**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?**

Yes, we strongly support the requirements held in SPAA Schedule 22 and the RGMA Baseline should be mandatory for both domestic and non-domestic suppliers.

This approach will ensure that both domestic and non-domestic suppliers will be subject to the REC Performance Assurance Regime rather than compliance monitoring only being applicable to domestic suppliers in the case of gas meter agent appointments and MDD.

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

Yes, option 3 as documented within section 4.56 within the consultation will provide the best outcome for industry and end consumers.

By transferring the gas agent appointment provisions and electricity provisions related to MEM appointment and MAP notifications to the REC, this will resolve many known issues with the industry, including data quality issues. Some suppliers currently adopt different approaches to metering processes depending on whether a site is domestic or non-domestic due to the lack of obligations on non-domestic suppliers.

We would strongly suggest that Ofgem also considers other processes that will be contained under the REC that currently also only apply to domestic suppliers to improve overall customer outcomes.

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

Yes, we continue to support Ofgem's proposal for consolidating the metering CoPs into the REC.

With the existence of gas related metering arrangements being currently contained under the governance of SPAA, we are not aware of any reason why the arrangements should not continue to be governed under a retail code. We also see benefits with electricity equivalent arrangements being consolidated and governed under the REC rather than having a separate code body required to administer similar arrangements which adds costs to industry and overly complicates engagement.

We believe lessons should be learnt from the existing administration of metering arrangements, particularly learning from the successes of consolidation efforts that have taken place under the SPAA in recent years which have simplified gas metering arrangements for those involved. We accept that there will always be differences between gas and electricity arrangements however taking MOCOpa and MAMCoP as an example, there are many similarities across the documents such as the auditing practices upon agents.

We recommend Ofgem works alongside the RECCo Board, in consultation with industry, to determine the next steps for consolidating the metering CoPs into the REC. This should include consideration of the funding of such arrangements, how changes to the arrangements should be managed under the REC Change Process, how compliance of the arrangements should fall under the REC's performance assurance regime and the establishment of relevant governance committees.

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

Yes, we agree with Ofgem that current arrangements under codes which place obligations on suppliers but are delivered by third parties through bilateral contracts are often ambiguous and lead to end results that could be much improved.

We also agree that as part of receiving an accreditation to provide a service to industry, there should be a set of governance rules in which the accredited party agrees to follow and agrees to be monitored against under a performance assurance regime, such as one being developed under the REC. We believe this will improve accountability of industry issues and lead to improvements across the market when risks can be effectively mitigated directly with offending parties.

**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?**

In consideration of both models, we believe the current model adopted under SPAA works efficiently where there is a Change Board meeting that handles any Supplier and Gas Transporter related Change Proposals and a separate metering panel exists which focuses on all MAMCoP matters issues, including the voting of changes.

We would suggest a MEM/ metering Panel is established separate to the REC Change Panel and has a clear scope of what areas of the REC they are responsible for discussing and voting on change proposals. We would expect the scope of changes the MEM Panel would be responsible for only involves consolidated metering CoPs and no other REC

Schedules that MEMs may be governed under such as the Performance Assurance Schedule when there will not be restrictions on who can raise Change Proposals.

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

We believe general rules around smart metering installs and replacements could be brought under one governance body, alongside other rules for engineer best practice. Utilita believe the REC is a better home for these rules, rather than SMICoP continuing as a separate standalone code of practice which only focuses on initial installations.

The creation of the REC is an opportunity to consolidate general metering practices and industry rules. We therefore recommend a review of SMICoP requirements that are both essential and efficient, alongside existing gas and electricity metering arrangements to ascertain what rules are critical to maintain high industry standards and consumer experiences of the energy industry rather than maintaining a set of requirements for the reason of ease of transition to the REC or because they exist today.

**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?**

Similarly, to our response to question 4.12, we believe the REC provides an opportunity to reconsider and significantly streamline the purpose of existing metering practices, how critical these requirements are to maintaining high industry standards and the risks to market if the requirements ceased to exist.

Where a set of rules which apply within SMICoP which are known to provide consumer and/or market value then consideration should be given to whether the rules should be extended to other types of installations or metering related work and where best these rules sit.

The REC is intended to introduce a risk-based approach to compliance. Resultantly, existing retail and metering governance would benefit from being reevaluated against their purpose, whilst removing prescription and complexities. We would recommend this take place, as much as feasibly practical, ahead of arrangements been transitioned into the REC in April 2021 otherwise other competing priorities may delay this valuable exercise from taking place.

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

This depends on the approach taken to transition SMICoP provisions into the REC.

In review of Ofgem's proposals, the consultation seem to suggest a lack of appetite to change the consumer protections of the code until a critical mass has been reach of smart meters installed as part of mass roll out. If this is the case, we would recommend SMICoP to fall under the REC as a new Schedule however removing boilerplate governance such as committee and change management arrangements. For example, changes to SMICoP could be considered under the business of the REC Change Panel. Where SMICoP specific issues are raised under the REC, then a suitable working group may be established to discuss such matters however we do not see a role for a SMICoP Governance Board to exist, nor for a separate company entity for administering SMICoP arrangements.



We would expect the REC performance assurance regime to include within its scope SMICoP arrangements. Through this inclusion, a review of should be undertaken on the existing audit and customer survey requirements as set out in Section B and C of SMICoP and whether they remain appropriate under the REC's risk-based compliance regime.

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

Yes, we believe the proposal for incorporating PSR provisions into the REC will simplify and increase the transparency of current arrangements rather than having to navigate across multiple codes to understand the rules under gas and electricity.

## Section 5 – Licence Condition Changes

**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?**

Our review of the proposed licence changes is restricted to the gas and electricity supply licence, Shipper licence and Smart Metering licence which are most applicable to Utilita Energy.

### Gas and Electricity Licence

We have no comments on the proposed changes to the gas and electricity supply licences.

### Shipper licence

Utilita supports Ofgem's proposals to remove the SLC8 obligation for Shippers to provide Gas Transporters specified information for all premises when the CSS will provide this information to Xoserve going forward for all sites recorded on the CSS. We believe the UNC already covers any further requirements on Shippers for sites not recorded on the CSS.

We also support the removal of the SLC8 Shipper obligation for giving the Gas Transporter with 14 days' notice of when it intends to start shipping at a premise. We believe the REC already provides for notification to the Gas Retail Data Agent on behalf of Gas Transporters for a Change of Shipper for any site recorded in the CSS. Where a site is not recorded within the CSS any obligations should be cater for under the UNC similarly to the provision of premise information by Shippers for premises not held under the CSS.

### Smart Metering licence

We have no comments on the proposed changes to the Smart Metering licence.

**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 cannot anticipate any further required changes at this present time.

**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?**

No, we do not believe the licence changes require different prescribed timeframes than Ofgem has proposed for either go-live of the new switching arrangements or Retail Code Consolidation.

We would however like early sight of the specific wording of the proposed licence changes and a reasonable indication of the actual implementation dates of both phases of change prior to actual go-live of new obligations.

**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?

As our response to question 3.14 stated we are supportive of removing licence conditions on Networks around the procurement/provision on gas and electricity enquiry services.

Similarly, we would be open to the further consideration of removing licence obligations concerning the provision of registration services and customer enquiry services. However equivalent provisions for these services must be codified under the REC with sufficient sanctions being available where there are failures in providing the relevant services to a high industry standard, at the disadvantage to market processes and end consumers.