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Non-Confidential Response to the Consultation on Reforming the Energy Industry Codes

Dear Mithila & David,

The Low Carbon Contracts Company (LCCC) and The Electricity Settlements Company (ESC) are private companies wholly owned by the Secretary of State for Business, Energy and Industrial Strategy (BEIS). They perform central functions in the operation of the Contracts for Difference (CfD) and Capacity Market (CM) schemes. LCCC carries out the functions of its sister company ESC, via a cost-sharing arrangement.

We welcome the opportunity to respond to the Consultation on Reforming the Energy Industry Codes, and LCCC and ESC wish to state that we regard ourselves supportive to BEIS and Ofgem's ambition to create an energy code framework that is forward-looking, informed by and in line with the Government's ambition and the path to net zero emissions; and ensures that codes develop in a way that benefits existing and future energy consumers.

We wish to draw your attention to two areas which we believe are pertinent to the reformation of the energy code framework:

1. It is important that there is coherence between the evolution of the EMR schemes, any new schemes and the evolution of the market and codes that govern it. This will require alignment of priorities for change between the legislator BEIS and the 'strategic body', in order to ensure a successful transition to net zero emissions by 2050; and,
2. LCCC and ESC manage the change pipeline for settlement of the CfD and CM schemes, including the prioritisation process for change across both. This prioritisation process could provide a useful template for either the 'strategic body' or the new code managers, should they be given the power to do this as part of the reform.

In conclusion, LCCC & ESC occupy a unique position in the energy marketplace, owned by the Secretary of State, yet independent. While we are not parties to any of the energy industry codes, modifications to these codes can and do impact our activities under CfD and CM regulations, and consequently on our settlement system, which then affect the delivery of the CfD and CM schemes. We use this knowledge to support and advise Government on how the schemes should evolve in the transition to net zero emissions by 2050. Further illustration of these points is provided overleaf.

It is important that there is coherence between the evolution of the EMR schemes and the evolution of the market to ensure a successful transition to net zero emissions by 2050.

The Office for Budget Responsibility[1] estimated that the CfD scheme will account for around 25% (approximately £3bn) of total environmental levies collected from consumers via energy supplier levies by 2023-24.

LCCC is obligated to use Balancing and Settlement Code (BSC) data as a requirement of the Contracts for Difference (Electricity Supplier Obligations) Regulations 2014[2], which requires each Supplier's Daily Contributions and Quarterly Contributions to be calculated from "*the amount of electricity which the BSCCo determines was supplied by that supplier*". We also use BSC data to operate the Capacity Market. It is therefore important that when modifications to energy codes are raised, potential impacts on the CfD and CM schemes are assessed and that these are considered in the relevant change processes.

Currently, the EMR schemes have a relationship with Elexon via Section (f) of the BSC[3] which stipulates that change requests must consider impacts on the EMR schemes. However, there have been recent examples when impacts on CfD and CM schemes have not been considered when changes to the energy marketplace have been designed. The Ofgem Market-wide Half Hourly Settlement 'minded to' position on the Target Operating Model was introduced to industry without recognition of potential impacts to EMR regulations and our settlement systems. Similarly, Ofgem's[4] position on exemptions from Final Consumption Levies for storage sites and small-scale generation, set out in BEIS and Ofgem's Smart Systems and Flexibility Plan[5], left small-scale generators being charged CfD and CM levies. In both cases, LCCC promptly brought the issues to the attention of the relevant bodies, and in the case of the storage sites exemption, has developed a temporary (but not universal) solution through our settlement system and existing industry data flows, whilst an enduring solution is being established via the BSC.

We therefore welcome the concept of a 'strategic body' which can co-ordinate the work on the energy codes, however we would suggest that BEIS and Ofgem need to consider what role this body should have in relation to Government-led schemes and related change processes. In order to achieve the transition to net-zero emissions, coherence and alignment of the entire regulatory framework, including EMR and any future government-led schemes, will be essential.

The proposed 'strategic body' will have to manage a change pipeline similar to that required to implement NETA and EMR

ESC jointly chairs the Regulatory Change Advisory Board (RCAB), alongside National Grid Electricity System Operator, to oversee and advise on the implementation of CM regulatory, rule, process enhancement and other proposed changes which have the potential to affect CM operations implementation schedules. LCCC also has to take into consideration the shared resource implications of delivering both the CM and CfD schemes when there is resource constraint to deliver both. In order to manage change requests from a variety of stakeholders, RCAB developed a consolidated change pipeline to monitor, and more importantly, prioritise, change requests within the CM scheme. The prioritisation of changes is agreed between the members (BEIS, Ofgem, ESC, NGESO), ensuring that changes are delivered in a way that mitigates scheme delivery risk, and in the most efficient manner possible. This approach is based on past experience of EMR implementation, which

[1] https://obr.uk/efo/economic-fiscal-outlook-march-2019/
[2] http://www.legislation.gov.uk/uksi/2014/2014/made
[3] https://www.elexon.co.uk/documents/bsc-codes/bsc-sections/bsc-section-f-modification-procedures/
[4] https://www.ofgem.gov.uk/system/files/docs/2017/10/electricity_storage_licence_consultation_final.pdf
[5] https://www.gov.uk/government/publications/upgrading-our-energy-system-smart-systems-and-flexibility-plan

itself was modelled on the collaborative development approach between delivery bodies and industry in the implementation of NETA.

As the ‘strategic body’ or code managers will be independent, they will be well placed to balance timely delivery of the Government’s policy objectives with minimisation of industry implementation impacts when considering how to sequence and schedule changes. We believe they will be subject to similar constraints to those we face on the Capacity Market, such as the ability of industry codes to deliver policy change that has significant system impacts. The ‘strategic body’ will have to prioritise resource across multiple codes and associated stakeholders, in the same manner as RCAB has done with the CM scheme, albeit on a larger scale. We would be keen to support the planning and delivery of this vitally important prioritisation activity as best we can with our own knowledge of EMR change processes.

Yours sincerely,

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