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Dear Marion

### **Code Governance Review (Phase 3) Initial proposals**

Thank you for the opportunity to comment on your initial proposals for phase 3 of the code governance review. We are supportive of the majority of the proposals and provide comments on areas where we believe further consideration is required. Our response is split into the four main areas identified within your proposals document.

#### **Significant Code Reviews (SCR)**

We agree with the approach whereby Ofgem has the ability to lead an end-to-end SCR process, including the development of code change and legal text. The current two stage approach has tended to result in an excessive timeframe leading to inefficiencies and duplication in the understanding of the requirements and obligations. This additional option will help in the more complex SCRs that affect multiple codes and Licences.

We welcome the recent launch statement regarding the SCR covering a move to reliable next day switching, inclusive of a centralised registration service. We are disappointed that the scope did not include an opportunity to consider code consolidation since significant aspects of the Master Registration Agreement (MRA) would move into the Smart Energy Code (SEC). We do however welcome the recognition of such a consolidation and that this will be undertaken as a separate project. We suggest that this should be developed in parallel and meet the same implementation deadline.

Similarly the EU network codes present a particular implementation challenge and one that requires significant co-ordination and project management. The existing governance structure lacks a specific co-ordination role for issues such as this. Whilst we could change governance rules to create such a function, it is hard to imagine that this would operate effectively without Ofgem (or Government) oversight. So again we would suggest using the SCR powers to effect co-ordinated changes where appropriate would help the industry.

#### **Self Governance**

The move from why self governance should be used to why Authority consent is required is welcomed. This should be supplemented with a set of criteria contained within the codes in order that code panels can assess whether a change is material and as such needs Authority consent. Those that do not meet the criteria should then follow the self governance route. An appeal process should also be set out in the codes where parties and/or the Authority disagree with the code panel decision. For the avoidance of doubt, there should be no need for code panels to seek approval of their materiality decision.

## **Code Administration**

There are a number of different industry code models that have been introduced during the last couple of decades each having slightly differing administration arrangements. We are generally supportive of a common industry approach to code administration but the time for reform is when there is a significant impact on them eg the recent SCR for faster switching and the impact on the MRA as indicated above. Also we should await the outcome of the Competition and Markets Authority review on energy market reform which is also looking into this area. To undertake an alignment of codes during a period of significant change places a large burden on the industry without any cost justification having been undertaken.

Regarding some of the specific proposals in this section we have the following comments for your consideration.

We are surprised by the proposal to change the voting rights away from parties to the Distribution Connection and Use of System Agreement (DCUSA) code panel. Our view is that code panels are administrators of the code and as such oversee and co-ordinate the process for assessing change proposals and that voting rights sit with parties. The latest code introduced, (the SEC), follows such an approach no doubt after consideration of best practice. The MRA follows the same model. The only difference is that the DCUSA panel manages the change process as well as other code business whereas the other two have set up separate boards to manage the process. A move away from this approach would still create inconsistencies across codes and needs further consideration.

On the topic of independent panels, chairs and working group chairs we agree that code panels should be independent and indeed most codes include that within their code governance arrangements. Whilst we fully support the independent behaviour of a chair, in our experience in attending technical and charging methodology working groups the efficient progress is helped enormously by having a subject matter expert as the chair rather than an administrator.

A number of other code administrator initiatives have also been proposed. Some of these have merit but we would suggest that there needs to be a balance between seeking commonality and best practice and providing a value for money service. There seems to be no consideration being taken as to the cost of these measures that will ultimately affect customers' bills. This needs to be undertaken prior to any changes in this area.

## **Charging Methodologies**

The charging methodologies, currently managed by the Electricity Networks Association, should be brought under DCUSA Governance now that the charging methodologies are under open governance in DCUSA. This would help with one web location for documentation, and access to modelling to assist in pre-modification work and hopefully avoid the potential to duplicate the work from its activities in the Methodology Issues Group (MIG) and that of a working group set up to develop the change proposal.

We do not support the current Balancing & Settlement Code model of having panel sponsorship of panel sub groups as is being suggested for the MIG. Any change proposal being presented to the panel should provide clarity of detail and be easily understood, including the impact on parties and customers, as well as being measured against the DCUSA objectives rather than having a panel sponsor understanding the change. There has been more than one occasion that the DCUSA panel has exercised the push back powers and added value to the change report both on general changes as well as charging methodology changes. There is no need to add additional costs in this area.

The DCUSA panel receives a monthly report on the activities of the MIG and has requested feedback on potential changes being prepared by them. By having this under the control of the DCUSA panel will help with forward planning of change proposals.

Finally on the issue of change windows, we remain to be convinced that this is a workable proposal. We agree that it is important that MIG identifies change proposals that can be merged to deliver changes more quickly. This has previously been attempted and ultimately unpicked by parties keen to protect their interests by-passing this process and directly raising DCUSA change proposals. Moving MIG under direct DCUSA governance should, with associated governance changes, avoid parties being able to raise methodologies changes directly in DCUSA to facilitate this prioritisation. However, the biggest concern is to avoid changes being rushed to achieve a milestone that has consequential impacts on customer bills that will now take at best part of two years to unravel (DCP178<sup>1</sup>). Overall it would be worthwhile reviewing the whole issue of charging methodologies and the value they have or have not created through open governance. Are we just moving the goalposts around and around at a significant cost to the customer?

We trust our comments will assist Ofgem in its thinking in this area. If you require any further assistance or clarification please contact John Lawton, Regulation Manager on 08433 114321.

Yours sincerely,

A handwritten signature in cursive script that reads "Sarah Walls".

Sarah Walls  
Head of Economic Regulation

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<sup>1</sup> [Notification period for change to use of system charges](#)