



Rachel Clark
Ofgem
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E14 4PU

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Dear Rachel,

Switching Programme modifications to regulation and governance

We welcome the opportunity to respond to Ofgem's consultation on proposed modifications to regulation and governance. We are responding on behalf of SSE Electricity Limited, Southern Electric Gas Limited, SSE Energy Supply Limited, Southern Electric Power Distribution plc and Scottish Hydro Electric Power Distribution plc.

We remain committed, in our part, to making switching more reliable and in a way which will deliver best value on behalf of energy consumers and other industry participants. We are broadly supportive of the proposals in this consultation and commend the value of the efforts thus far in making this happen.

It is essential we deliver a quality replacement for the existing separate fuel arrangements, which have, thus far, provided dependable service in the regulation and governance of switching in the energy markets. This is an opportunity to build on this track record and to deliver improvements in switching oversight, but in a way which carefully takes stock of the wealth of past and current experiences. Most importantly, our responsibility is to obtain best value on behalf of consumers, whilst maintaining vigilance to ensure today's fresh ideas will not morph into tomorrow's exemplars of poor value for money.

We note your proposal to introduce a "Duty to Cooperate" as a generic licence condition to cooperate with certain designated programmes which require large scale and mutually dependent system changes. Whilst we understand the intention of the proposal to introduce this as a high-level duty, further specific guidance is required on how these new powers will be used. We also observe you propose extending this duty to generation and interconnector licensees who wouldn't normally engage on consultations related to switching.

We believe the REC Co Board Powers and Functions are likely to require further refinement in practice and we must seek to learn lessons from the operation of other organisations such as the Alt HAN Group or from Smart Energy GB to achieve the best value outcome. In terms of specific functions, we do not feel it is appropriate for the REC Panel to manage the invoicing of REC parties and payments to service providers – we believe these would more appropriately sit under the auspices of the new REC Co Board to ensure proper discharge of its fiduciary duties.

Regarding the REC Manager, we would like to see more explicit reference to either "cost effectiveness" or "value for money" in the Mission Statement. We welcome the intention of the mission regarding support for parties, however the "particular focus" on new entrants and smaller parties would need very careful definition to ensure the overheads from this focus are appropriate

and do not place a disproportionate burden on existing participants. We are also not supportive of the costs of party's accession to the new arrangements being spread amongst the existing REC participants and surely this should be viewed as an aspect of the speculative cost associated with a new business venture.

A further consideration in the development of the new REC and its product sets is that we must ensure all intellectual property rights for the new arrangements remain vested on behalf of industry, rather than being assumed as the property interests of any one party. The SEC model may offer a suitable comparator in this regard.

We remain strongly supportive of the aims and objectives from delivery of the Programme and are pleased to provide our response to your consultation. We therefore look forward to our continued engagement with the programme team. If you have any questions related to our response, please contact Martyn Edwards on martyn.edwards@sse.com.

Yours sincerely,

Adam Carden
Head of Regulation – Industry Codes

Annex: Response to Consultation Questions

Chapter 2: Transitional requirements

Q2.1: Do you support our proposal to introduce a high-level duty upon licensees to cooperate, where appropriate, in delivering the outcome of a significant Ofgem-led programme, such as a SCR?

We support the principle of a high-level “duty to cooperate” on licensees to work constructively to deliver significant programmes but we seek clarity in several areas.

The definition of a “significant code project” in Appendix 5 of the consultation is widely drafted and is not limited to significant code reviews or areas where parliament have granted Ofgem specific powers. We believe Ofgem would need to provide clear criteria on when other projects would be directed to be a “Significant Code Project”.

We would like to understand what safeguards a licensee could reasonably ask to be in place with a “person appointed by the Authority” before cooperating and coordinating with that person. For example, is it reasonable for a licensee to insist on confidentiality/non-disclosure agreements and appropriate security controls to be in place?

We would like comfort that nothing in the draft licence condition prevents a licensee from disagreeing with a policy proposal or a change under a “Significant Code Project”.

We would also like confirmation that any information, data, test scripts and testing results provided to the Authority or persons appointed by the Authority will be treated confidentially, will not be published in an unaggregated form and would not be releasable under a Freedom of Information request.

Q2.2: Do you agree that the RECCo should be established earlier than REC v2 in order to assist with the successful delivery of the Switching Programme?

The RECCo will provide a useful vehicle to focus collaboration with industry during the programme delivery phase. This experience will aide preparedness prior to go live, which will de-risk implementation. The existence of a corporate body will also act as a procurement vehicle on behalf of industry for obtaining services such as for a REC Manager or other administrative services, which will be necessary prior to the existence of RECv2. Care should be taken however to avoid any accidental impacts to either the switching programme timeline or to delays in the approach of current regulated parties.

Q2.3: Do you agree that the bodies constituted under the REC could suitably play a formal part in the programme governance?

Yes, we see no reason why not subject to the usual avoidance of any conflict of interests that materialise out of any regulated changes.

Q2.4: Do you agree that our definition of ‘large supplier’ in REC v1 is suitable for ensuring an adequate level of engagement with User Entry Process Testing?

We need to be careful in assigning any categorisation of a supplier, based upon previously used thresholds for other purposes. It is perhaps more important to assess the intended purpose requiring supplier categorisation based upon size, ahead of seeking to assign a small or large label?

This definition will have significance later in the programme when seeking to establish appropriate thresholds for future accession and entry requirements.

In this context of definition, we believe the starting point should be for all participants to be adequately engaged with User Entry Testing, to protect the interests of their customers and for the functional integrity of the switching mechanisms. We need to explore whether a lower level of UEP testing engagement represents an increased risk to the aggregate of supplier portfolios with 250,000 RMPs or less? Indeed, as we look at automatic compensation possibilities any party not able to comply fully with the new switching arrangements could cause payments to be required from other suppliers involved in a switch. Implications such as this would suggest that all parties should fully comply with UETP prior to be accepted to operate in the new environment.

Q2.5: Do you agree that it would be appropriate to have in place interim governance arrangements prior to REC v2 coming into effect?

Yes, we are satisfied with the use of the programme change control process, supported by the interim REC Co Board and Panel arrangements for matters such as procurement of REC Code Manager services. The interim committees would add value to the programme, based upon the considerably experienced expertise available from the existing gas and electricity executive committees.

Chapter 3: REC Governance

Q3.1: Do you agree with the proposed powers and functions of the RECCo Board, REC Panel and REC Manager, and how they would be distributed amongst them?

We broadly agree with the functional distribution but observe that performance assurance is listed as RECCo Board function despite the REC Performance Assurance Board (PAB) being explicitly required in the proposed Supplier Licence Conditions. We would welcome clarity on the role of the RECCo Board in performance assurance as would expect the REC PAB should have full powers to act on party performance independently of the RECCo Board.

We also believe it would be appropriate for functional financial separation between the oversight of expenditure on REC Services, under the auspices of the REC Panel, and for the invoicing and collection of income to finance these services be performed under the auspices of the Board.

Q3.2: Do you agree with our proposal that independent Non-Executive Directors (NEDs), potentially from outside of the energy industry, should be present on the RECCo Board and that the composition of the RECCo Board should be subject to thorough review, both periodically and/or whenever the scope of the REC/RECCo Board responsibilities changes substantively?

In principle, we support a role for independent NEDs on the RECCo Board but subject to a clear understanding of the expected value such independence would bring. We would expect a mix of skills and experience from the Directors on the RECCo Board and it is important that the RECCo Board can draw on some knowledge and understanding of the sector and the needs of parties in discharging its duties.

In terms of appointment, we would strongly recommend the approach taken by Gas Shippers in appointing NEDs to the Xoserve board, as part of FGO. This process focused on the skills needed on the Board and on independence from existing industry parties. The appointments were made as independent NEDs of Xoserve and not as representatives.

Periodic review of Board composition is corporate governance best practice and we fully support this approach to ensure the RECCo Board remains effective and meets the needs of REC stakeholders.

Q3.3: Do you agree with the proposed composition, powers and functions of the REC Panel?

We agree with the principles set out to define the precise composition of the REC Panel. We support a strong voice for consumers on the panel but agree this must be balanced with the interests of REC parties.

We believe with the right balance of voting rights consumer interests can be protected. In most circumstances, we would expect the REC Panel to operate on consensus.

Q3.4: Do you agree that there should be entry and systems testing requirements placed on new entrants, comparable to those that we expect incumbent suppliers to undergo as part of the transition to the new switching arrangements?

Yes. However, we are not convinced with the effectiveness of “light touch” proposals and the detail of these would require very careful consideration to determine their fitness for purpose.

We must also challenge the fairness of charging the cost of market entry to existing participants, rather than the cost being part of the speculative up front cost of a new business plan. We also need to be clear how all of this sits with the use of new standard licence conditions such as those for “Small participant” that can demonstrate to the code administrator that it is resource constrained and therefore in particular need of assistance. We do not agree with any apparent intentions which appear to afford undue entrepreneurial favour and we believe would represent an unfair and seemingly indeterminate cost overhead for established participants to suffer.

Chapter 4: REC Content

Q4.1: Do you agree with the proposed minimum content for REC v2 (as listed in Appendix 3)? Is there any other content we should consider for inclusion in REC v2? If yes, please provide further details.

We agree with the proposed minimum content for REC v2, and we do not propose further additions at this stage.

Q4.2: Do you agree with our proposal that the REC Code Manager should collate Switching Domain Data and make it available to Market Participants? Or do you consider that the Data Master for each element of Switching Domain Data should make it available to Market Participants?

We believe the most consistent approach would be for the REC Code Manager to collate Switching Domain Data on behalf of Market Participants. This would be gathered from the appropriate Data Master for each data element.

Q4.3: Paragraphs 4.20-4.24 suggest that the DCC should be subject to a data quality objective and performance standards around the quality of REL Addresses. Do you have suggestions on the quality measure areas and levels quality measures will take? Do you believe that the REC Panel should have a role in setting these targets (initially and/or on a periodic basis)?

The quality of REL Address data will have a significant impact on the operation of effective customer switching arrangements and poor data quality will affect performance on customer affecting outcomes, such as Erroneous Transfers. As such, the rigour around performance standards should be appropriately high and should penalise poor data quality. We believe it would be appropriate for the

REC Panel to be precise over performance in this matter, on behalf of the customer interest and on behalf of industry users who will be directly penalised if ETs were to occur.

Q4.4: Paragraph 4.25 outlines that the REL Address data quality indicator is currently intended to be an internal measure for the CSS. Do you believe there is value in making this available to other market participants? If so, please provide your rationale for this and outline which market participants should have access.

In support of the above, we feel there needs to be full transparency surrounding this aspect of data which directly impacts switching outcomes. Suppliers and participants should understand the confidence levels required from this data and should appreciate the supporting rationale criteria for the indicator. In addition, we believe consideration should be given to how accountability for data quality should be managed and regulated.

Q4.5: Paragraph 4.25. suggests that the DCC should set out the methodology it will apply to meet the REL Address data performance standards on an annual basis. Do you agree that it would be beneficial to make this methodology publicly available?

For reasons as previously mentioned, we believe this would be appropriate as would be the performance against these standards. We further believe that the methodology proposed by DCC would merit full consideration from all industry participants.

Q4.6: Do you support the creation of an Enquiry Services Schedule in REC v2? If so, which of the options around the requirements (in paragraph 4.32) do you prefer? Please provide details to explain your answer.

Yes, and our preference would be for Option 3 which appears to offer the most straightforward process arrangements, subject to where there is need to call upon REC and UNC processes in the case of disputes.

Q4.7: Do you agree with our proposal to create a REC Exceptions Schedule to be contained in REC v2, with the scope outlined in Figure 3? If not, please provide further details.

The proposal appears reasonable in terms of the scope for REC v2.

Q4.8: Do you agree that the grey areas highlighted in Figure 3 should be out of scope of an Exceptions Schedule for REC v2? If not, please provide further details.

Yes, as above.

Q4.9: A list of suggested content for a set of REC Technical Documents can be found in section 4.44. Do you believe that any of the content listed is unnecessary or is there any content that you would expect to be included? If so, please provide details.

The proposals appear reasonable.

Q4.10: Do you believe that table 1 captures all of the items that should become a REC subsidiary document? If not, please provide details of the additional items that should be included and why.

Yes.

Q4.11: Do you believe we have assigned the correct responsibility for producing each REC subsidiary document? If not, please provide further details.

Yes, however the list of Outstanding Issues will need to be reviewed and if necessary changed by the Switching Programme/REC Panel.

Chapter 5: The DCC licence Question

Q5.1: Do you agree with the role we have set out for DCC during the DBT phase and steady state operations? If not, why not?

Yes. We should also be asking for the provision and constant refreshing of suitable populated testing environments. These need to be provided with adequate timescales for participants to prepare for all testing activities and be able to fully accommodate all possible testing exceptions.

Q5.2: Do you believe that our proposed drafting to amend LC 15 of DCC's licence would, if implemented, accurately reflect our expressed intentions? If not, why not?

We believe the FRSC definition should be wider to say FRSC must be competitively procured and cannot be supplied by DCC or its affiliates, including participation in consortia lead by other organisations.

Q5.3: Do you agree with our proposal to add new CRS specific price control terms. Do you think any of these terms are unnecessary or are there other terms we should consider adding?

They look like sensible additions - however, we would expect these to be reviewed annually and perhaps move towards the introduction of a penalty-based approach around a percentage fluctuation above forecast occurring. (similar to the model previously suggested at the commercial group for service providers that will deliver components of the CRS).

Q5.4: Do you agree with the high-level programme outcomes we believe the programme should look to incentivise? Can you suggest further areas we should look to include and are there aspects you believe should be prioritised?

As noted above – there would appear greater focus on positive incentives rather than dis-incentives. We believe this aspect should be subject to further consideration, especially where there may be consequential compensation liability for others arising through deliverables, such as those for the address service.

Chapter 6: The SCR process

Q6.1: Do you agree with the changes that we propose to make to the scope of the Switching SCR?

Yes

Q6.2: Are there any further changes that you consider we should make, either to bring something into scope, or to explicitly rule it out of scope?

No.

Q6.3: Do you agree with our proposed approach of publishing the drafting of all SCR related changes circa Q1 2019, but waiting until systems have been proven through testing before submitting the proposals into the modifications process?

Yes.