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Dear Jon

**SWITCHING PROGRAMME: REGULATION AND GOVERNANCE – WAY FORWARD AND STATUTORY CONSULTATION ON LICENCE MODIFICATIONS**

Further to Ofgem’s consultation of 15 October 2018, I have set out below Northern Powergrid’s comments in respect of the proposed licence modifications and governance arrangements.

**Summary**

Our view is that:

- the licence obligation imposing a duty to accede to the Retail Energy Code (the “REC”) should not be introduced until the REC is ready and there is also clarity regarding the obligations that will be placed on the licensee as a result;
- the list as to what constitutes the duty to cooperate with the outcome of a “Significant Code Review” should be an exhaustive one;
- the licensee should be able to recover material, efficiently incurred costs driven by this new obligation; and
- we are generally supportive of the proposed governance arrangements for the REC, given that they would appear to contribute to the efficiency and effectiveness of the process.

**Proposed licence modifications - Duty to accede to the REC**

In our response to Ofgem’s previous consultation, we made the point that taking forward this modification would place a duty on the licensee to become a party to and comply with the REC before it has been finalised. We also noted that, in taking this approach, the Authority is not meeting its duty to have regard to “the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted ...”.

**NORTHERN POWERGRID**

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On page 84 of the consultation, Ofgem acknowledges that “[m]ore generally, as with all activities it undertakes and instances where it uses its powers, the Authority must have regard to its duties, including having regard to the principles of better regulation and to act reasonably at all times.” But the consultation offers no explanation as to how this duty is being met in respect of the proposed duty to accede to the REC.

Given Ofgem’s comments on page 5 of the consultation that the consultation only provides “the text of the first version of the interim version of the REC (REC v1.0)” and “as much of the intended drafting of the enduring REC (REC v2.0) as is currently practicable”, we continue to have difficulty in seeing how a duty to comply with the REC can be accepted until it is ready and there is also clarity regarding the obligations that will be placed on the licensee as a result.

### **Proposed licence modifications - Duty to cooperate**

We note that Ofgem has tightened the drafting somewhat but we continue to believe that:

- a) the list as to what constitutes the duty to cooperate should be an exhaustive one;

We would, therefore, suggest the drafting of the start of proposed standard licence condition 20.11 should be “For the purposes of condition 20.10, cooperate shall mean:”; and

- b) the proposed licence condition should include a materiality threshold, over which the licensee can recover efficiently incurred costs driven by this new obligation.

We also have the following drafting points:

- a) For clarity, add “the later of either” after “from” in proposed standard licence condition 20.3 such that it is obvious that existing licensees must comply with the REC from the date on which it takes effect.
- b) Remove the quotation marks and capitalise Significant Code Review in proposed standard licence condition 20.10.
- c) Proposed standard licence condition 20.11 a) should read “the sharing of such information as may reasonably be required in the circumstances and constructive participation in industry engagement in order to undertake appropriate planning of changes to IT systems or industry standard operational processes to give full effect to the conclusions of a Significant Code Review”.
- d) Proposed standard licence condition 20.11 a) should read “the provision of such test scripts and results of any testing as may be reasonably requested by any person appointed to assure the success of any testing; and”.
- e) In proposed standard licence condition 20.11 e) ii), insert an apostrophe in “the licensees” and change “the programme” to “a Significant Code Review”.
- f) In proposed standard licence condition 20.11 e) iv), change “these obligations” to “the obligation under standard licence condition 20.10”.
- g) Change the definition of Significant Code Review in proposed standard licence condition 20.12 to read “**Significant Code Review** means, for the purpose of standard licence condition 20.10, a review of matters which, following Consultation, the Authority considers ...”.
- h) Include the following definition in proposed standard licence condition 20.12: “**Consultation** means, for the purpose of standard licence condition 20.10, a consultation specifying why the Authority considers a matter to be of particular significance in relation to its principal objective and general duties such that it warrants being progressed as a Significant Code Review.”.

## Governance arrangements

We note Ofgem's comment that it does not currently intend to provide an updated proposal for the mission statement and objectives for the REC Manager. Given Ofgem's comment in the previous consultation that the REC Manager role will go much further than the current code administrator role, it would appear that the REC Manager is intended to be a significant part of the process. Consequently, the comments we made in our response to the previous consultation continue to stand in that respect. However, this would serve to support our view that the licence obligation imposing a duty to accede to the REC should not be introduced until the REC is ready.

Please see Appendix 1 for our comments on the proposed governance arrangements.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'J Elliott', written in a cursive style.

John Elliott  
Head of Regulatory Compliance

**Chapter 4: Enduring REC Governance*****Question 4.1: We would welcome views on whether Ofgem should have an ongoing role in ratifying RECCo Board appointments after the appointment of the first board.***

Yes, we believe Ofgem should have an ongoing role in ratifying the RECCo Board appointments until the wider consolidation arrangements are complete in REC v3.0. We note that Ofgem proposes to establish a nominations committee to recruit and appoint an appropriate mix of suitably qualified RECCo Board members. We assume that this nomination committee will convene whenever RECCo Board vacancies arise and that the committee will have appropriate terms of reference to guide the appointment process to maintain the requisite mix of RECCo Board members.

***Question 4.2: We would also welcome views on whether the REC parties should have a role in ratifying the first and/or subsequent boards.***

No, we see no requirement for this. However, it may be appropriate for there to be a clear provision whereby REC parties could raise with the chair of the nominations committee any concerns, suggestions or recommendations about the RECCo Board's composition as the REC develops.

***Question 4.3: Do you agree that the REC should place less reliance on face to face industry meetings for modification development and instead empower the REC Manager to develop and analyse proposals, procuring expert support as and where required?***

Yes, we agree with the principle of less face to face meetings and appropriate empowerment of the REC Manager instead. However, this should be subject to sufficient peer review of the relevant documentation being undertaken. We appreciate Ofgem's intention to maintain consistency with the general steps set out in the CACoP while seeking to improve the efficiency and effectiveness of the change process. Providing a means for REC parties to engage in the change process without the need to attend face to face meetings may stimulate more participation in the process, including by smaller REC parties.

***Question 4.4: Do you consider that a recommendation to the Authority should be made by the RECCo Change Panel, with reference to the REC relevant objectives, or based on a vote of REC parties?***

We prefer the former and believe that, given the technical nature of the issues the REC covers, the RECCo Change Panel's recommendations are likely to assist Ofgem in making appropriately balanced decisions on changes to the REC to benefit consumers. Our view is based on the assumption that the Suppliers will be responsible for funding the RECCo's work and not the Distributors. We do not support a recommendation process that relies solely on REC party voting as this may lead to recommendations that are unduly influenced by partisan interests.

In addition, in respect of the REC change management process and notwithstanding the fact that we have assumed that the Suppliers will be responsible for funding the RECCo's work and not the Distributors, it is clear that the Distributors will incur other costs in order to support the proposed faster switching processes.

These costs will include maintenance and development of MPRS, creation of MPANs, linked to connection addresses, and their destruction at the end of the connection's life. Given this significant support role and the associated obligations, Distributors will need to be able to raise changes to at least some aspects of the REC and generally participate in the change process. Arrangements in the Balancing and Settlement Code (the "BSC") provide an example of where the core processes facilitate trading arrangements for the supply market and Distributors have important obligations in support of the BSC's processes without having funding obligations.

Consequently, clear parallels can be drawn between the REC and the BSC in relation to the Distributors' supporting role and the funding of core activities by Suppliers. If party voting is to be part of the REC change process, Distributor Parties will need appropriate voting rights.

***Question 4.5: Do you, in principle, support the approach to performance assurance outlined?***

Yes. We note that the PAB will be accountable to the RECCo Board for monitoring the performance of REC parties and service providers and REC parties and will be able to instigate remedial actions and appropriate changes to the REC. We see merits in this being a distinct role that is separate to the role of the REC Manager.

***Chapter 5: REC v2.0: Enduring switching arrangements***

***Q5.1: Would you support the development of a REC digitalisation strategy?***

Yes, we would support the development of a REC digitalisation strategy if the digitalisation provides benefits to the industry such as improved navigation and identification of obligations etc. as set out in the consultation. The availability of a digitalised REC would need to be considered as part of that strategy to ensure industry requirements could be met.

***Q5.2: 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?***

Yes, we agree that the draft Registration Services Schedule meets the required standards set out in the Regulatory Design Principles, although we do believe it could be improved by including a reference to the Interpretation Schedule.

***Q5.3: 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??***

Yes, we agree that the draft Address Management Schedule meets the required standards set out in the Regulatory Design Principles. However, as noted above, we believe it could be improved by including a reference to the Interpretation Schedule.

***Question 5.4: 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 meets the required standards set out in the Regulatory Design Principles. However, as noted above, we believe it could be improved by including a reference to the Interpretation Schedule.

***Question 5.5: 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 agree that the draft Interpretations Schedule meets the required standards set out in the Regulatory Design Principles.

***Question 5.6: 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?***

Yes, we agree that the draft Entry Assessment and Qualification Schedule meets the required standards set out in the Regulatory Design Principles.

**Question 5.7: Do you agree with our proposals that:**

- a) ***PAB, as part of its role in mitigating risk to consumers and the market, should provide information to the REC Manager on the specific risks that it wants to be mitigated and assured against through Entry Assessment and Re-Qualification;***

Yes, we agree that the PAB should share its concerns with the REC Manager to ensure that remedies are evidenced and/or mitigated as part of Entry Assessment and Re-Qualification and such that appropriate assurance is provided.

- b) ***The Code Manager should have clear obligations to support the Applicant and coordinate with other code managers; and***

Yes, we agree the Code Manager should have clear obligations to support the applicant and coordinate with other code managers so as to provide good customer service and consistent levels of assurance across the industry.

- c) ***Suppliers that undertake a material change to their systems, processes or people should undertake Re-Qualification?***

Yes, we agree that Suppliers should undertake Re-Qualifications where there has been a material change to their systems, which would be in line with other codes. However, changes to processes or people should be assessed on a case by case basis and a decision made based on set criteria.

**Question 5.8: Do you think that PAB and the REC Manager should work with service providers to identify and mitigate risks associated with material changes to their systems, processes or people?**

We believe the PAB and the REC Manager should work with industry parties rather than service providers to assess material changes as responsibility sits with them. Should the industry party provide permission, the service provider agrees and it is appropriate to do so, the PAB and the REC Manager could then liaise directly with service providers.

**Question 5.9: Do you agree that the draft Service Management Schedule meets the required standards set out in the Regulatory Design Principles including whether we have set out clear and workable roles and responsibilities for Market Participants, service providers and the Switching Operator that will support the effective operation of the new switching arrangements? If not, please describe how you think it should be improved?**

Yes, we agree that the draft Service Management Schedule meets the required standards set out in the Regulatory Design Principles.

**Question 5.10: We also welcome views on the draft service levels set out in Appendix B of the draft Service Management Schedule.**

The draft service levels seem appropriate and in line with standard IT service levels.

**Question 5.11: Do you agree that the draft Switch Meter Reading Schedule meets the required standards set out in the Regulatory Design Principles? If not, please describe how you think it should be improved?**

**Question 5.12: We welcome views on whether we should retain or amend the remit of the proposed Switch Meter Reading Exception Schedule beyond domestic consumers and electricity NHH consumers.**

**Question 5.13: Do you agree that we should move any requirements to obtain and process meter reads for settlement purposes into the BSC and UNC?**

**Question 5.14: We welcome views on whether the Switching Meter Reading Exception Schedule should make specific provisions for consumers with smart gas meters.**

***Question 5.15: Do you agree that the draft Debt Assignment Protocol Schedule meets the required standards set out in the Regulatory Design Principles? If not, please describe how you think it should be improved?***

We believe that Questions 5.11 to 5.15 are best answered by Suppliers.

***Question 5.16: Do you agree that the REC should refer to existing security standards rather than develop separate and bespoke ones?***

We agree that the REC should refer to existing security standards rather than developing separate bespoke ones on the premise that the existing standards are relevant and sufficient for the new arrangements.

***Question 5.17: Do you agree that a consolidated PPM Schedule should be developed and given effect as part of REC v2.0?***

We believe that Question 5.17 is best answered by Suppliers.

#### **Chapter 6: REC v3.0: wider consultation**

***Question 6.1: What do you think are the pros and cons of Model A and Model B and which do you think we should use to develop an Exceptions Schedule in the REC?***

We believe that Question 6.1 is best answered by Suppliers.

***Question 6.2: Do you agree that the theft of gas and electricity provisions should be moved to the REC?***

Yes, we believe that it would be appropriate to move the theft of gas and electricity provisions into the REC, given that the REC is a dual fuel code and also because newer supplier parties would see more of their obligations for managing retail customers in the same place.

***Question 6.3: Do you agree that the REC Manager should undertake the (re)procurement of any services due to commence at or after REC v2.0 implementation?***

Yes, this may be appropriate. However, there may be a better approach by forming a procurement committee, reporting to the RECCo Board, the members of which could be a combination of senior REC Manager staff and a small subset of the RECCo Board.

***Question 6.4: Do you support the establishment of an industry-wide data catalogue that all code bodies incorporate by reference into their own codes and collaborate on the maintenance of?***

Yes, we would support the establishment of an industry-wide data catalogue as it would be a single point of reference and should aid REC parties in identifying and sourcing information.

***Question 6.5: Do you think that the REC should have the responsibility of hosting the industry-wide data catalogue?***

It would seem logical for the RECCo to host the industry-wide data catalogue especially with the incorporation of the MRA into the REC, as the current MRA data catalogue is widely used by industry parties.

***Question 6.6: Do you think that an industry-wide data catalogue should be developed for REC v2.0 (to enable REC CSS messages to be incorporated from day 1) or should consolidation be undertaken as part of REC v3.0?***

We believe the industry-wide data catalogue should be developed for REC v2.0 to support those REC parties involved in the programme.

***Question 6.7: Subject to further development, assessment and consultation, would you in principle support aligning the gas and electricity metering codes of practice under common governance?***

Whilst it may appear administratively prudent to combine MOCOPA (electricity) and MAMCOP (Gas) codes under the same governance, it should be noted that these two codes are very different because they deal with the engineering aspects of the meter (which are clearly different for gas and electricity). Consequently, the potential synergy savings of combining the codes is probably limited to the front-end administration of the codes themselves and, as such, we do not believe this would be a worthwhile step.

***Question 6.8: If yes, do you consider that the REC would be a suitable vehicle for such common governance?***

As noted above, we do not believe this would be a worthwhile step.

***Question 6.9: Do you consider that the SMICoP should be incorporated into an industry code, and if so, do you agree that this should be the REC?***

Given that the Smart Metering Installation Code of Practice was developed in order to provide additional consumer safeguards and standards applicable during the installation of Smart Metering Systems and Suppliers are responsible for installing smart meters, we believe that Question 6.9 is best answered by Suppliers.

**Chapter 7: The DCC**

We have no comments on Chapter 7.

**Chapter 8: The Way Forward**

***Question 8.1: Do you agree with the proposed collaborative approach to consultation and modification report production?***

Yes, we believe this is necessary.

***Question 8.2: Would you in principle support REC v3.0 code consolidation being progressed as a SCR separate to, but run in parallel with, the Switching Programme SCR?***

Yes, we agree, in principle, that this would be logical. We would, however, welcome more detail on how it would operate in practice, as Ofgem's thinking evolves.