



Rachel Clark
Ofgem
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Dear Rachel

Switching Programme: Regulation and Governance – statutory consultation

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 happen in a way that will deliver best value on behalf of energy consumers and other industry participants. We also noted there is much good in the existing switching governance arrangements which have provided dependable service thus far and we should build on this, whilst remaining vigilant that further good intentions do not result in poor value for money outcomes.

Our previous consultation response was broadly supportive of your proposals and we noted 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. At this stage we noted:

1. Your intention was to introduce this as a duty at a “high level”.
2. We felt guidance in the consultation was also offered at a very high level and for the purposes of transparency we requested specific guidance on how these new powers will be used in practice.
3. Your proposal was to extend this duty to certain licensees who would be unlikely to engage in switching consultations, such as for Electricity Generation or Interconnector.

We are now in receipt of the statutory licence consultation and wish to seek further assurances regarding the following aspects of the proposed modifications. Our comments are in connection with **all** relevant licences for which the Duty to Cooperate is applicable, but particularly those in respect of Smart Metering, Electricity Distribution, Electricity Generation, Electricity Supply, Electricity Interconnector, Electricity Transmission, Gas Supply and Gas Shipper.

The need for proper definition and control of scope within the SCR

In principle, we welcome your proposal to tighten the drafting of the proposal in 2.18 in that the duty will only apply in circumstances where the Authority has consulted upon and given notice of matters being taken forward as part of a SCR. In developing the scope of an SCR your

intention is “it should be clear which code and therefore which licensees are, and are not, expected to engage in its successful implementation” However, we also note there will be an unsatisfactory risk to this intention through flexibility, since in 1.180 you recognise that “the SCR launch statement and associated scope should be adhered to as far as practicable” and the need to modify scope “to respond to changing circumstances and evolved thinking”. It will be essential for practical guidance on all aspects of SCR scope management to include:

1. Clear and unambiguous definition of scope within the consultation. This must be explicit to guard against ongoing effects through misinterpretation.
2. Modification of the original scope within the consultation will require a formal justification, to protect parties in providing an appropriate level of regulatory certainty.

In the absence of precise definition and strict controls surrounding interpretation and modification of scope, it is not beyond imagination that outcomes could morph way and beyond that that was originally envisaged and would therefore remove reasonable safeguards for regulatory certainty. We believe this is unacceptable in the absence of mitigating process enhancements, which should be covered off with this proposal.

Sustaining an open and effective engagement with industry

We hope engagement continues to be held in a positive manner and collectively we all benefit from uninhibited expertise, working together and delivering outcomes which are fully informed. Importantly, we must openly embrace the achievement of outcomes which are robust, enduring and which represent the best value on behalf of the customer. Being mindful of this, we note under 2.18 a) the “constructive participation in industry engagement”. Albeit an apparently laudable intention, we must ensure this objective is not interpreted in any way which could stifle participant participation and does not inhibit participants driving for more pragmatic modifications which offer greater overall benefit and would better suit the objectives applicable to that code.

We also note in the consultation paragraph 2.20 the intention that “programmes proceed on a collaborative basis”. This would appear another laudable intention, but we must ensure “collaborative” does not in practice mean that proposals are railroaded without effective challenge and there is a genuine openness to consider alternative proposals which may offer greater benefit. We must ensure that an insistence for “better” is not mistaken as showing a lack of collaboration.

Ability for the Authority to raise modifications outside of an SCR

We are also not convinced in paragraph 4.28 of the consultation whether it would be satisfactory for the Authority to raise individual change modifications for the REC outside of an SCR (which would not relate to an SCR or for compliance with EU law). We assume past restrictions were designed for good purpose to overcome a potential conflict of powers and in effect such a modification would remove the effective ability of parties to mount a challenge or appeal

In addition to our concerns surrounding the application of the new Duty to Cooperate, we wish to flag an unrelated concern for consideration, in connection with the gas settlement process. Potentially there could be risk introduced to the gas settlements process, by making



the supplier key to data submission, particularly in connection with change of supplier readings. This could weaken the quality of source settlements data, submitted to the shipper and through to Xoserve. We cannot verify the necessary safeguards from the existing level of detail, however it will be essential that the impact to the UNC and to gas shipping will require careful consideration at the appropriate stage of definition, we anticipate for REC v3.0.

We will remain strongly supportive of the aims and objectives from delivery of the Programme and are pleased to provide our response to your statutory consultation. 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

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.

Realistically, Ofgem's drive to influence will probably recede as confidence grows through the transition to an effective Board operation. We must recognise this is a Board rather than a Panel, so strictly there will be no formal role in the appointment process per-se, but in practice Ofgem will wish to influence future developments and we must bear in mind the RECCo will be accountable to Ofgem.

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.

To promote and maintain confidence in the RECCo Board, we believe it is essential that REC parties have a role in ratifying the first and subsequent Boards. We believe that this would be best achieved using the existing shareholder/member mechanisms to approve Director appointments at AGMs under the Company Law. Such a shareholder/member approval could also be kept independent of Board appointments.

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?

In theory there could be greater efficiency and contextual awareness if an efficient REC Manager operation developed what would be in effect strawmen proposals, however the "procurement" of expert support must always be treated with caution and subjected to the rigours of cost justification to avoid excessive loading of central costs. The procurement of extra support would also require neutrality safeguards and the relevant business interests of all influencing parties would require explicit and up-front transparency. We must also balance regularity enthusiasm for influencing the REC Manager remains within proportionate limitation, to ensure their appropriately balanced influence in the code modification process. This relationship should be carefully managed in a way which retains the genuine neutrality and integrity of the code manager and which maintains their trust in dealings with industry participants. To avoid unintended negative consequences, we must ensure the process retains openness and trust and continues to benefit from the candidly offered up experiences and valuable business understanding from industry governance which encourages proactive participation.

We must also ensure there is a process step prior to the REC Manager undertaking this activity, to ensure there is consensus and perceived benefit in supporting the requirement for change in the first place. One must not also lose sight of the advantage of bringing together multiple experts to develop modifications. Operational insight into the practical challenges faced by industry is invaluable in developing modifications that are effective.

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 believe both approaches add appreciable value. We believe that the Panel must be able to demonstrate how a modification supports the REC relevant objectives in its recommendation but that the result of party voting is also of value as gauge of industry opinion, particularly regarding implementation timetables, and should be passed to the Authority alongside any recommendation.

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

In principle, the scope of assurance should and would appear to only focus on the overall integrity or matters affecting other parties using the switching process. The good intentions from PAB raising modifications without the sponsorship of a party will require careful ongoing scrutiny in our view. We must ensure proposals always have a genuine benefit to the market in entirety and where there is no undue favour to any party, or constituency. We must ensure PAB operates efficiently and with utmost integrity.

Question 5.1: Would you support the development of a REC digitalisation strategy?

We note that several topics in Section 5 have not been consulted on previously and are in addition to the statutory consultation. We believe that further time should be afforded to allow proper consideration of this material.

We support the pursuit of a REC Digitalisation strategy; however, the ambitions should look to emulate the most efficient, cost-effective deployment examples from relevant experiences elsewhere.

Question 5.2: 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.

Question 5.3: 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?

We believe the reliability of the REL Address Data Quality Indicator is a potential concern and could adversely affect the efficiency of reliable switching in practice. We believe further clarity on this issue is necessary before we can support this component.

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.

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.



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.

Question 5.7: Do you agree with our proposals that:

- 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 – as per our response to question 5.1, this will be necessary to protect the integrity of the switching process for the benefit of its users.

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

Yes.

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

In principle yes, but this will need to be subject to clear and unambiguous criteria to support effective decision making. Otherwise there will be a risk to the consistency and integrity of decision making.

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?

Although intended for the greater good, the policing and detection of material changes would be cutting very new ground and as such should be grounded with previous examples of where such activity has delivered useful purpose in practice.

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?

In principle yes, however, we would note that 5.52 indicates that provision has not been finalised around network access and we would caution partly accepting the service management schedule until all aspects are complete. We also agree with your concern, that until the procurement exercise is complete, the uncertainty that this brings would suggest finalising the service management scheduled should be delayed in our opinion.

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

We note in schedule B that the target resolution time for both Major incidents and Incidents of a severity 1 nature is proposed as being 4 hours. We feel this would not support our customer switching approach at the appropriate level. In practice, under certain



circumstances, we may have to decline switching consumers without access to the appropriate data. It is our opinion that anything above a 2-hour target would require a substantial penalty to be applied to the service provider. In the context of Supplier Guaranteed Standards, this may be a candidate for a “back to back” arrangement, for the service provider to bear the ultimate liability for consumer compensation.

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?

The draft Switch Meter Reading schedule would appear similar to the existing separate versions; however, we have comments for the following aspects and omissions, which affect acceptability as currently presented:

The total resolution time for the process is not mentioned, as it is currently and therefore our acceptance of the draft version will be reliant on this fundamental aspect.

In 3.6, the explanation of how the reading was determined is not a current obligation and the method selected for notification will have an impact variance on the cost to serve, affecting acceptability.

In 4.1, (c) we believe the opportunity should be taken to tighten the backstop opportunity for the losing supplier to initiate the process.

Escalation summary – should refer in the context to MPxN.

Appendix 2 A2.4 the reference to ??? should be deleted from the draft version.

For electricity A2.8, this should mention that the New Supplier via their NHHDC should send a ‘Withdrawn’ D0086 then submit the new agreed reading on a new D0086. This is covered in the MRA MAP but not mentioned in the new draft schedule. Re. Electricity A2.10 references to ???, these should be deleted.

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.

We are unsure of the need for this requirement in the context of HH consumers and how a change of supplier “meter reading” could represent an issue? HH consumers are settled and billed using interval advances.

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?

Yes.

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

We are not aware of concerns being raised regarding the lack of specific provisions for consumers with smart gas meters. Whilst we recognise the existing process may have potential gaps in connection with switching reading scenarios involving smart gas meters, we

consider that the issues presented with the earlier proposed arrangements would remain and therefore it is unlikely to deliver a positive impact on objectives in the interim.

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?

It would appear yes, subject to the 'to be' developed process map.

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

Where it is necessary for the REC to reference security standards which are appropriate to the purposes within the REC, it would appear prudent to source these from the wider scope of security standards which are contained in other codes such as the SEC. We fully support the objective to not duplicate or create multi-tiered security regimes that create burdensome processes for parties unnecessarily. However, if there were to be standalone security requirements in the REC, it would not appear prudent for the industry to seek their own de-facto standards and ideally these would reference established British and International Standards as appropriate.

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

This would appear an appropriate approach and under the circumstances should be sensibly achievable within the timescales.

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 more prescriptive approach offered by Model B will be necessary to achieve the most efficient and effective operation of inter party exceptions management. However, the right approach in our view will require more effort to implement and careful planning and feasibility would be required to test achievability within the REC 2.0 timescales. For all candidates for REC 2.0 we must guard against potential distraction from delivery of the CSS and ensure our desire is one of prudent deliverability based upon careful planning rather than an aspiration for "nice to have".

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

This would appear an appropriate approach and under the circumstances should be sensibly achievable within the timescales.

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, but subject to the result of an independent value for money assessment of the TRAS as outlined in the narrative.

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. Our response assumes “industry wide” in this context is referring to the industry data catalogues transferring out of the SPAA and MRA only.

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

Yes. That would appear necessary with the eventual consolidation of the existing codes.

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?

This is not essential for delivery of the CSS and all candidates for REC 2.0 must be weighed up against potential distraction from the overall delivery. There would appear no nugatory aspect by waiting further and therefore REC v3.0 would appear the prudent delivery option.

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?

Harmonised arrangements would appear the most appropriate and efficient option subject to further development, assessment and consultation.

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

Further to our response to question 6.7, since suppliers have a statutory responsibility for metering, it would appear appropriate that they are directly party to the industry governance arrangements. Subject to the previously mentioned assessment and consultation, REC would appear a suitable vehicle.

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?

We believe there is merit in the proposal, however it would not appear appropriate to incorporate the entirety of SMICoP as-is. In the first instance, we believe suitability for incorporation would need to be assessed based upon each of the existing SMICoP provisions, leading to production of a suitable candidate for incorporation into an industry code. At this stage, we believe the REC would appear the most appropriate consolidation vehicle.

Question 7.1: Do you agree with the five incentivised milestones identified? Do you think any milestone should be given greater importance and therefore a larger proportion of margin placed at risk?

As an overarching view, we do not believe it is possible for parties to provide a sufficiently informed response to questions such as this, in the absence of sufficient exposure to key information contained in business plans. In this case, we cannot appreciate how much profit the DCC will earn in practice, based upon a 12% margin on its own resources. In view of this obscurity, it is not feasible to objectively assess whether incentives are necessary. We do not feel subjective views add sufficient value. What we would draw attention to is the effect of movements to plan milestones in the achievement of milestone incentive payments and a potential conflict of interest where an organisation has particular and significant influence



over circumstances driving the need to re-baselining of plans, which could also influence their eligibility for milestone incentive bonuses. If milestone incentives are considered necessary by Ofgem, these should be based on the existing planned milestone dates and any eligibility incentives would be forfeited where there was a need to re-baseline.

Please note further comments on the five incentivised milestones as follows:

DBT Readiness – since achievement of this milestone is such a fundamental aspect of Programme delivery, we would not expect this should warrant a significant milestone payment. We also expect the policing of the level of readiness delivered would be challenging in practice and the need to focus resource in this way would not be helpful in serving what we will all be striving to achieve.

CSS PIT exit – we are assuming this should say “has successfully completed PIT” would be a more justifiable milestone. The number of attempts to complete PIT would also be useful to demonstrate confidence in the quality of deliverables. This milestone will also be susceptible to the effects of plan re-baselining as previously mentioned.

SI Readiness for SIT – We would view this as more appropriate as an incentive for the SI rather than the DCC? Similarly, to the above, we have concerns with the scale of resources necessary to monitor eligibility for the incentive as well as the potential risks from plan re-baselining. We would expect setting the bar @ 30% would not appear particularly onerous to achieve.

E2E Testing Exit – this appears directed at the SI and since it is based upon such a critical milestone, we would expect penalties for non-achievement may be more appropriate?

Transition Stage 2 Exit – we believe this is the most relevant milestone thus far with value in managing the DCC’s performance and should be relatively straightforward to police.

Question 7.2: Do you agree with our proposals for the shape of the margin loss curves. Do you have any suggestions for other margin loss curves which may better incentivise DCC to achieve its milestones in a timely manner while encouraging quality?

If one accepts that incentives are necessary in addition to standard payments, this proposal would appear acceptable. The table supplied is subjective and the timescales for drop off would need to be actively discussed for each milestone. We acknowledge the DCC’s clarifications, however we feel fixed dates and the percentage drop off for example every week would be more appropriate.

Question 7.3: Do you agree with our proposal for a potential recovery mechanism? Please give reasons. What types of criteria could be considered for demonstrating clear, transparent communication and what portion of lost margin should be available to be recovered?

We do not feel it is appropriate to allow the recovery of lost margin. If the incentive is to ensure the task is completed to time, then failure to achieve should result in removal of incentives attached to that milestone. The capping of recovery is a reasoned approach, but as previously mentioned we do not feel it is appropriate to allow time to reclaim a lost incentive.



Question 7.4: Do you agree with our proposals for a discretionary reward where it can be demonstrated that DCC has gone above and beyond established requirements for REL Address matching? Please give reasons.

We are not sure it will be appropriate to award a discretionary award for REL data matching, the achievement of which will have benefitted from the industry's efforts in data cleanse. We believe the granting of an award based purely on the efforts of the DCC would appear more appropriate.

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

Yes.

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.