Switching Programme: Regulation and Governance - way forward and statutory consultation on licence modifications

Ofgem statutory consultation

A Response by Utility Warehouse

This document sets out the views of Utility Warehouse regarding the Ofgem consultation '*Switching Programme: Regulation and Governance - way forward and statutory consultation on licence modifications'* published by Ofgem on 15 October 2018.

Utility Warehouse is the UK's only fully integrated provider of a wide range of competitively priced utility services spanning both the Communications and Energy markets. Customers benefit from the convenience of a single monthly statement, consistently good value across all their utilities and exceptional levels of customer service. Utility Warehouse does not advertise, relying instead on 'word of mouth' recommendation by existing satisfied customers and distributors in order to grow its market share.

We take our responsibilities as an energy provider very seriously and make every effort to ensure we provide such essential services to our customers with the utmost integrity; the customer is at the heart of our business model and the way in which we operate. Customer value is the cornerstone of the success we have had and continue to achieve.

Utility Warehouse welcomes the intent of the proposed changes and the introduction of a Retail Energy Code (REC), with a vision of consolidating and improving industry codes.

We have set out our response to each of the consultation questions below. We trust Ofgem will find our comments useful and we are happy to discuss further should Ofgem find this useful.

General feedback on the consultation process
We are concerned that the approach taken to this consultation process has made it challenging to effectively engage with the proposals. Our main concern is the volume of new material published alongside the statutory consultation to which we have had no prior visibility. This places a requirement on Suppliers and other industry parties to review all new proposals, in addition to the final publication of the proposed Licence Modifications and REC v1.0 drafting, within the four-week consultation period which undermines the effectiveness and ability of interested participants to fully engage.

This presents a risk that both the finalised proposals for REC v1.0 and the new content published for REC v2.0 may not benefit from a full and detailed review from all interested parties and potential issues may be overlooked that would have otherwise been identified with a more realistic response time. While we are pleased that Ofgem has since informally confirmed they will accept responses to the REC v2.0 and REC v3.0 aspects of the consultation until the end of November 2018, this decision has not been widely communicated and may have come too late to assist parties with their response. We request that Ofgem ensure an appropriate consultation response window is allocated in advance of future consultations, that is proportionate to the level of content that requires review.

REC v1.0 drafting

We note that Ofgem have stated in this consultation that they don't intend on making any changes to the draft REC v1.0 legal text. We have identified changes referenced in the consultation that have not been accurately reflected in the main body of the REC V1.0 legal text. For example, it is outlined in Chapter 4 that Ofgem originally planned for the REC Panel to have a greater responsibility, but has now determined that the role will be restricted to managing the change process, and has now been referred to as the 'RECCo Change Panel'. The drafting of REC v1.0 still references the REC Panel, throughout the main body, in its previously intended capacity.

Given that Ofgem has not asked any questions around the drafting in the consultation, and has stated it will not make any further changes to the drafting in the future; this implies the legal text will either not be aligned with Ofgem's proposals, or will be different to that published alongside the consultation.

We would welcome clarity on the final version of legal text that Ofgem is planning to baseline, and assurance that any changes to the drafting are highlighted in a clear and transparent manner.

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.

We do not believe it is appropriate for Ofgem to have an ongoing role in ratifying RECCo Board appointments.

Once the detailed proposals for the composition of the RECCo Board are finalised and there is a clear understanding of the required skills, experience, expertise and duties of RECCo Board members, there should be a clearly governed process that allows REC parties to ratify any future appointments in line with how other Board/Panel compositions are managed.

Suppliers will have a requirement to ensure the REC remains a code that meets its relevant objectives. They will therefore have an inherent interest in ensuring that the RECCo Board continues to have the requisite mix of skills, expertise and experience that is required to work effectively.

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.

As outlined in our response to Question 4.1 above, we believe that while Ofgem should have a role in ratifying the initial composition of the RECCo Board, we do not consider this necessary for subsequent boards which should be managed by REC parties.

As the RECCo Board will be directly accountable to Ofgem for delivery against its objectives, we believe Ofgem should have the right to remove a RECCo Board member where required, if their removal will mean that the Board can better facilitate these objectives. However, we have not seen any evidence to suggest that there is a problem with the way that industry currently manages Board/Panel appointments with other codes and believe that the appointment process should be managed by REC parties.

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?

We agree that there should be less reliance on face to face industry meetings for the development of modifications, and recognise the issues highlighted by Ofgem in the consultation. Workgroups, if operated inefficiently, can sometimes delay the development and

refinement of proposals based on the conflicting interests of attendees, and the attendee's own appetite for the change.

Empowering the REC Manager to be able to analyse and develop proposals on behalf of the proposer will introduce efficiencies and reduce barriers to engaging with modification process. Our view is that the current 'Critical Friend' role does not provide any meaningful assistance to parties wishing to engage in the modification process and the new 'Code Manager' provides an opportunity to better this.

However, there is a risk that the REC Manager could also unduly delay or attempt to steer the proposal away from their original intent where the proposal differs from the REC Managers own interests. It is also possible that unnecessary and costly analysis could be procured where it isn't required.

It is, therefore, important that there are clear principles and accountabilities in place that guide the REC Manager's involvement in the process. We believe that the proposer should maintain discretion over the proposed solution(s), the timetable for progression and the content in the modification report. The additional powers of the Code Manager should complement and assist the proposer and the RECCo Change Panel, not create any unforeseen inefficiencies.

It is also important that REC parties have the opportunity to comment on proposals and solutions during the development/refinement process of modifications. This early feedback can prove to be invaluable, in particular for self-governance modifications, and allows parties to highlight any material issues with the proposal at an early stage. Responding to a Final Modification Report consultation may be too late to highlight material changes to a proposal and may result in a proposal being rejected or sent back by the RECCo Change Panel unnecessarily.

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 agree that a recommendation to the Authority should be made using the same criteria that they will be using to inform their determination. Therefore, we agree that the recommendation to the Authority should be made by the RECCo Change Panel, with reference to the relevant objectives. This is because party votes do not provide any useful input to the Authority's decision making process, and this will be determined based on how the proposal better facilitates the relevant objectives of the code and the impact on consumers.

Where relevant, party views against the relevant objectives, the impact on consumers and the benefit of the proposal can be reflected in their consultation response which should then be included in the Final Modification Report when issued to the Authority.

Question 4.5: Do you, in principle, support the approach to performance assurance outlined?
In principle, we support the approach to performance assurance that has been outlined in this consultation. We agree that the PAB should be suitably empowered to request any reporting or analysis that it reasonably requires, and that there must be a proportionate and measured approach to monitoring and addressing non-compliance. We note that the detail of this will be developed in the Performance Assurance schedule, and the subsequent development of the Performance Assurance Methodology. We would therefore welcome the opportunity for REC parties to engage with the development of this, prior to wider consultation of the proposed methodology.

Question 5.1: Would you support the development of a REC digitalisation strategy?
We fully support the development of a REC digitalisation strategy. Currently, there is a technical skill set required to navigate and interpret code obligations and the impacts of changes to those codes. The structure of these codes makes it difficult for parties who don't have an existing familiarity with these codes, and the historical developments of the code, to engage and fully understand its obligations.

We welcome the utilisation of digitisation and digitalisation as this will create opportunities to reduce barriers to engagement with the REC that exist with other industry codes. This should facilitate greater representation and engagement from a wider range of industry parties and innovators.

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?
We agree that the Registration Services Schedule meets the required standards set out in the Regulatory Design Principles.

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 agree that the Address Management Schedule meets the required standards set out in the Regulatory Design Principles.

We have one comment on the drafting of clause 2.4(c): We would welcome Ofgem providing clarity on the intention of how the DCC and other REC parties should interpret DCC-enrolled SMETS1 meters. The current definition in the interpretation schedule and SEC would include SMETS1 meters, meaning there could reasonably be two communications hubs where there are two Suppliers (electricity is SMETS1, gas is SMETS2). The current drafting states *'each Location can reasonably be expected to have a single Communications Hub shared by an Electricity and a Gas Meter'*. We believe any assumptions in the application of this should be clarified ahead of the development of the Address Management Service.

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?
We agree that the Data Management Schedule meets the required standards set out in the Regulatory Design Principles.

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?
We agree that the 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?
We agree that the 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:
● **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;**
● **The Code Manager should have clear obligations to support the Applicant and coordinate with other code managers; and**
● **Suppliers that undertake a material change to their systems, processes or people should undertake Re-Qualification?**

We fully support a tailored, proportionate, risk-based approach to the Entry Assessment and Re-Qualification process. While it is important to tailor the Entry Assessment process to the applicant, there may still be a set of specific risks that are relevant to the majority, if not all, of a particular Market Role. We agree that this should initially be determined based on the experience during the DBT phase of the programme and any associated risks identified by PAB.

We also agree that Suppliers who undertake a material change to their systems, processes or people should be considered for Re-Qualification by the PAB. Re-Qualification may not always be required based on the size and scope of the change. This should be assessed on a case-by-case basis and should be proportionate to the risk posed by the change.

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?

Yes, we believe there must be close engagement between PAB, the REC Manager and service providers to ensure that the risks of material changes to central systems are appropriately monitored, and any required assurance measures are utilised to mitigate such risks.

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?

We agree that the Service Management Schedule meets the required standards set out in the Regulatory Design Principles. We also agree that the roles and responsibilities of the Switching Operator, Switching Data Service Providers, Switching Network Service Providers and Market Participants have been set out clearly, and that the Switching Operator should have oversight of all Switching Data Service Providers and Switching Network Service Providers.

Although we are not entirely clear, and would therefore welcome clarification, the proposed KPI's imply that Incident resolution times will be reported based on the end-to-end resolution time, including any 'working duration'. We believe this is an important metric and would request clarification that this is the case. We see examples in DCC's Smart Meter Communications role where they appear to *'stop the clock'* when assigning incidents to resolver groups. For clarity, we are referring to the period of time that the incident is assigned to a service provider not being included in the reported incident resolution period. We believe this distorts the overall performance of incident resolution and would not allow for clear monitoring of the Switching Operators responsibility to ensure that required timescales and Service Levels are met.

The proposal of the '*Incident working duration by resolver group*' and '*Incidents which have been re-assigned between resolver groups more than 2 times*' KPIs, will provide adequate insight into any particular resolver groups that contribute to a failure to resolve Incidents within agreed Service Levels.

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

We do not have any views on the draft Service Levels in Appendix B. These seem to be sensible starting positions, although we note that further details are required to understand the criteria for categorising Service Requests, Incidents and other 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?

We agree that the Switch Meter Reading Schedule meets the required standards set out in the Regulatory Design Principles.

However, it is not clear why the procedure is drafted in a way that suggests that the response to an initial request can't be an acceptance of the proposal where this is above the 250kWh/1200kWh threshold. The drafting in section 4.8 suggests that the only response to an initial request is to propose an alternative reading, while the steps in the Interface Timetable suggest that the Supplier can respond with either an acceptance, alternative reading or an indication that there is no alternative reading available. We believe this should be clarified to ensure that the interface timetable and the main drafting of the schedule are aligned.

We also note that a change was recently introduced into SPAA Schedule 9 (SPAA CP 17/408) to require Suppliers to work together to resolve issues that are preventing a reading agreed on a SAR to be accepted by the CDSP. This includes the Old Supplier replacing any erroneous meter readings that would cause the CDSP to reject the agreed reading, via their Shipper. This process isn't currently recognised in the drafting, and Appendix 2 suggests the only outcome of a rejected meter reading would be initiating a new SAR or using the reading for billing without amending the opening reading. We believe that the process recently agreed by industry should be reflected in this schedule.

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 believe that the scope of the procedure should be extended beyond domestic consumers but understand that this should not apply to all non-domestic consumers. While we understand that the process associated with a domestic premise is not necessarily suitable for a large industrial site, that does not mean that all non-domestic consumers should be out of scope of this procedure.

The impact to a micro business consumer is very similar to that of a domestic consumer. However, there is currently no governed process in place for resolving disputed meter readings where there has been a change of supply event between a Non-Domestic Supplier and a Supplier who supplies both domestic and non-domestic consumers. We believe that there is a gap where micro business consumers do not receive appropriate protections that are afforded to domestic consumers, where Suppliers may not have the same incentives to resolve these issues as they would with larger non-domestic consumers. The REC provides an opportunity to review the existing governance arrangements, to ensure they are fit for purpose in the future to best serve all consumer types.

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, we agree that these processes sit best within the BSC and UNC and that the REC should govern the process related to Suppliers agreeing the meter reading.

We note that the REC should include the step of the Supplier sending the meter reading to the Shipper for gas RMPs, and any steps required by the Supplier in response to a notification from the Shipper, as the UNC can only govern requirements on the Shipper after this step.

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 do not recognise a need for specific provisions for smart gas meters in the Switching Meter Reading Exception Schedule. However, we note that the procedure should reflect that meter reading retrieval is different for smart meters than traditional meters. For example, section 5.1.9 suggests that if an additional meter reading is required, this should be obtained by either the consumer or the meter reading agent. If the meter installed is a smart meter, and there are no issues with communications/interoperability, the Supplier could collect this meter reading remotely to proceed to the next stage of the procedure.

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 agree that the Debt Assignment Protocol Schedule meets the required standards set out in the Regulatory Design Principles.

Question 5.16: Do you agree that the REC should refer to existing security standards rather than develop separate and bespoke ones? / Do you have views on the management of security requirements in the REC? Please give reasons.
We do not believe that the REC should have a need to develop bespoke security standards. The existing security standards in the SEC already require parties to comply with ISO/IEC 27001:2013 (Information Technology – Security Techniques – Information Security Management Systems), ISO/IEC 27005:2011 (Information Technology – Security Techniques – Information Security Risk Management), any future equivalent to those standards, along with several bespoke security requirements relevant to the interaction with DCC Systems.

We are supportive of the REC referring to these existing security standards and do not see a need to introduce additional requirements, which makes engagement with the REC more onerous and costly, with minimal additional benefit to consumers.

We note that there may need to be a requirement to develop bespoke security standards for central service providers, such as Switching Network Service Providers, who will not be governed by existing security standards in other industry codes.

Question 5.17: Do you agree that a consolidated PPM Schedule should be developed and given effect as part of REC v2.0?
In principle, we agree that a consolidated PPM schedule should be given effect as part of REC v2.0. We note that there are time sensitive processes, and interactions with non-code parties (PPMIPs), associated with MAP 14 and Schedule 27. The handover of processes governed under these schedules will need to be planned appropriately to ensure there is no undue disruption to parties, and the REC Manager can manage this at the time it's given effect.

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 there are merits to moving towards both a performance-based, and risk-based, approach that focuses on consumer outcomes. However, there are existing issues with supplier engagement and cooperation in resolving industry exceptions, even where there are established, clearly defined processes in place. The current prescriptive process exists to protect consumers and ensure the contacted supplier can deliver a positive outcome to resolve

the consumers query, as they should reasonably expect a response as set out in the governed procedure.

We see long term benefits in moving towards the proposals set out in Model A but believe that a level of prescription is still required until there is an established and refined Performance Assurance Framework, and the PAB have a clear method for monitoring supplier performance and driving improvements from outlying suppliers.

We therefore believe that Model B should initially be used to develop an Exceptions Schedule in the REC, to ensure that the early removal of prescription doesn't encourage parties to 'take their foot off the pedal' in the early days of the REC. The PAB could then consider an appropriate time to migrate towards a version of Model A in the future when a risk-based approach can be fully embraced without introducing additional risks to interoperability and the consumer experience.

Question 6.2: Do you agree that the theft of gas and electricity provisions should be moved to the REC?
We agree that the theft of gas and electricity provisions should be moved to the REC and look to align these into dual fuel schedules where possible.

We believe that the content of these schedules should be reviewed to consider removing any unnecessary or superfluous information that may not be required. An example would be the content described in Appendix 2 of the TRAS schedules which provides details of the TRAS Programming Manual. Parties who need to reference the Programming Manual should only ever look at the live document, and any changes made to the manual currently require a SPAA and DCUSA change to be raised to make a housekeeping change the Appendix. As the SPAA and DCUSA change process is not aligned with the TRAS contract change process, it results in the Appendix being out of date for several months after a programming manual change, thus undermining any potential usefulness.

We believe that the consolidation of the theft provisions into the REC would provide an opportunity to review and simplify the content in these schedules.

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, we agree with Ofgem's thinking set out in the consultation that any contract renewals falling prior to the cutover to REC v2.0 should be dealt with by existing code administrators and code bodies. The expectation remains that the agreement will be novated to RECCo, and contract renewals that are due to commence at or around the implementation of REC v2.0 should be progressed by the REC Manager.

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?
We support the establishment of an industry-wide data catalogue, with each code body maintaining responsibility for their own element of the data catalogue that is managed through the relevant change process. There is a lack of consistency and transparency in the management and publication of data catalogues between code bodies and the establishment of an industry-wide catalogue would go some way to resolving this issue.

Question 6.5: Do you think that the REC should have the responsibility of hosting the industry-wide data catalogue?
It would be sensible for an industry-wide data catalogue to be hosted under the governance of a dual fuel code to ensure this is accessible for both gas and electricity market participants, and therefore believe this would sit best under the REC.

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 that the consolidation of data catalogues should be undertaken as part of REC v3.0. This activity adds benefit but isn't required to deliver the new switching arrangements. As the consolidation of these catalogues could impact the way industry parties interface with existing catalogues (e.g. how systems interface with data catalogue releases), we would suggest that this is considered as part of REC v3.0.

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?

We believe it is too early to comment on the benefits for the consolidation of the metering codes of practice under common governance. We note that the requirement and objectives of both codes differ significantly, which is reflected in the funding and governance structure.

The administration and governance of the gas metering codes is currently funded by SPAA Ltd; therefore, we believe the transfer of these into the REC is a natural fit given the winding down of SPAA.

However, the MOCOPA is an agreement between Meter Operators and Distribution Networks only with a funding and governance structure that represents this. We do not believe that migrating MOCOPA into the REC would suitable at this stage, as the extent to which the gas and electricity agreements can be aligned is very limited given the fuel specific requirements set out in each agreement. As Suppliers have obligations in the DCUSA that require their Meter Operators to be a party to, and comply with, MOCOPA, we believe there would be more merit in incorporating this with the DCUSA if there is merit in consolidating this into another industry code.

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

As we have set out above, we believe that the REC would be a suitable host for the gas metering codes but not necessarily MOCOPA.

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 note that while it is likely that there will continue to be new smart meter installations after 2020, the number of installations will have significantly decreased therefore the requirements of SMICoP will not apply to as many consumers as it does at present. We agree that if the level of activity doesn't justify the cost of maintaining SMICoP as a standalone agreement, and cost efficiencies can be gained through incorporating this into an industry code, then this should be considered.

We agree that if this is incorporated into an industry code, then this should be the REC.

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

We agree with the proposed approach for a joint and collaborative consultation process across all impacted codes. This is on the basis that any changes to the legal text would have been consulted along the way as described in the consultation. While it is assumed that there will not be a need for a long consultation window, this decision should be made at the time and consider the level and materiality of any changes to the legal text when determining the consultation period.

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?

In principle, we support REC v3.0 wider code consolidation being progressed as a separate SCR to the Switching Programme. We note that the code consolidation SCR will share common resources with the Switching SCR, both within the Switching Programme and for industry parties. We would encourage Ofgem to carefully consider the forward plan of work and parallel activity for both SCRs carefully, to ensure that industry resources can successfully engage with both programmes.