

Rachel Clark
Ofgem
Switching Programme

Email: switchingprogramme@ofgem.gov.uk

13th November 2020

Dear Rachel,

Re: The Retail Energy Code – proposals for version 1.1

Thank you for the opportunity to provide representation on the above noted proposal. Northern Gas Networks has been actively involved in discussions, and has been continually monitoring proposed changes to the Retail Energy Code. We have set out our responses the specific question in the consultation in Appendix 1.

The main points we would like to highlight from our consultation responses are:

- Perceived lack of transparency and fair representation of all impacted industry parties and consumer representation within sub committees
- Perceived lack of clarity around structure of sub committees and interactions with REC Co Board
- Potential conflict of interest* for Gas Transporters in relation to Theft of Gas obligations in REC and Gas Act
- Potential conflict of interest* for Gas Transporters in relation to Theft of Gas obligations in REC and changes being brought to our licence under RIIO-2 arrangements

*While we agree that the current Theft of Gas arrangements need to transfer from SPAA into REC, this appears not to take into account changes that are being developed as part of RIIO-2. The REC and its code related documents need to ensure that theft obligations on Gas Transporters do not conflict across Gas Act, licence and codes, leaving Gas Transporters in breach of REC in order that they do not breach their Gas Act or Licence obligations.

I hope these comments will be of assistance and please contact me should you require any further information in respect of this response.

Yours sincerely,

Tracey Saunders (via email)
Market Services Manager (Industry Codes)
Mobile: 07580 215743

Consultation questions and responses.

Company and Code Governance

Question 2.1: Do you have any comments on the process for appointing additional RECCo directors?

Whilst we are comfortable in general with Authority direction in relation to recommendations proposed by the nominations committee, it is not clear how persons with the specialist knowledge will be identified and approached. There is also a concern as to whether the nominations committee or Authority can veto a party as a director that have been chosen by their peers from a specific constituency group

Question 2.2: Do you agree that MEMs should be Party to the REC?

We agree in principle that MEMs should be party to the REC with the caveat that as MEMs are not licenced entities, they should not have the same powers as licenced entities. We believe that their rights to vote and raise modification requests should be limited to only areas that directly impact them.

Question 2.3: Do you agree in principle that the obligations currently placed upon metering agents by the BSC could be integrated with the REC performance assurance framework, subject to certain conditions being met?

Northern Gas Networks, as a Gas Transporter, do not feel that we are qualified to respond to this question.

Question 2.4: What are your views on our assessment of the quantitative analysis. Do you agree that the RECCo should be required to develop and maintain a Strategy for the REC, including but not limited to digital transformation of REC processes and data?

This requirement should be an obligation as part of the Code Manager contract. We agree that REC Co should be involved with the development and maintenance of a Strategy for the REC, including digital transformation, with the ability for this to be outsourced to a third party. This approach would be consistent with digitisation strategies that have been placed on Gas Transporters within the RIIO-2 arrangements.

Question 2.5: Do you agree that RECCo should adopt zero based budgeting from 2021/22?

Yes, this would be in line with how other codes are managed.

Question 2.6: Do you agree that future RECCo budgets should be decided upon by the RECCo Board, subject to appeal by REC Parties.

We believe that any budgets should initially be prepared by the REC Co board and relevant committee. They should then subject to a consultation by REC parties, prior to being finalised by the REC Co board.

Performance Assurance

Question 3.1: Do you agree with the proposed composition of the PAB, as set out in the Terms of Reference published with this document (see Appendix 2).

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Whilst we agree with the majority of the proposed composition, we would like to further understand why other Performance Assurance Administrators (e.g. UNC PAFA, who are funded solely by Shippers, a non REC party) have a nomination for a voting member, when these parties are around settlement rather than wider performance assurance.

We also note that Citizen's Advice have representation, whilst we understand that Citizen's Advice in principle represent both domestic and industry, their expertise is primarily in the domestic consumer market. Therefore, it would seem prudent to also have representation from a body primarily representing the large consumer (e.g. Major Energy Users Council [MEUC] or similar).

Question 3.2: Do you agree that any organisation undertaking an activity governed by the REC would be within scope of the performance assurance framework in respect of those activities?

This scope seems to wide to be effective. This should be clearly limited to only the activities directly impacted by REC, and there needs to be checks to ensure that there is no scope creep. The document notes 'Theft of Gas' as an example covered by REC rather than individual codes; It should be noted that Gas Transporters have obligations and incentives under Gas Ace, licence, and RIIO-2 framework, and therefore this would need to be limited in REC to ensure there is no conflict.

Question 3.3 Do you agree that at least one of the PAB's priorities should be determined by Citizen's Advice?

Whilst we have no overall objection to this, we do challenge the fact that this seems to be without restraint. We therefore ask whether it would be better that all PAB priorities should be agreed by consensus of all PAB parties, as the overarching principle for these should be to benefit or protection of the end consumer. Again, we challenge that there should be representation for the large consumer market also.

Question 3.4: Do you agree that the PAB should have discretion to escalate liabilities within a defined range if the earlier application of charges does not achieve the desired effect?

We do not believe that this is an area where discretion is appropriate. Charges and liabilities will need to be clearly laid out to ensure parties have clarity and certainty around what these are. It needs to be clear how and when they should be applied to ensure that they are not penal in nature and are fairly and equally applied.

Question 3.5: Do you agree that suppliers with serious performance issues should face restrictions on their ability to acquire new customers until those issues are resolved?

Yes, we agree that the ability to levy sanctions is appropriate. For clarity and transparency, we suggest that when and how these can be applied should be clearly laid out to ensure they are applied fairly and with consistency.

Change Management

Question 4.1: Do you support our proposals regarding the production of preliminary and detailed IA?

Whilst we agree with the timelines relating to the preliminary and full Impact Assessments, we believe that any additional system changes requiring an IA, where this has been a necessity brought about by specifically impacting change within the REC, should be socialised costs.

Question 4.2: Do you agree that the Change Panel should be appointed by the RECCo Board, following a process overseen by the nominations committee?

There needs to be clarity as to the composition of the Change Panel, as well as how they are governed. The composition should be stipulated into code to ensure fair party representation, and all party types impacted by change need to have a representing vote. It should also be stated in code or terms of reference as to whether the Change Panel member is representing a constituency or representing industry as a whole.

We do not believe that REC Co Ltd should be a party to the REC in its own right as there could be a conflict with Change Board as a subcommittee of REC Co board. This could result in the subcommittee placing obligations on the board (as could any subcommittee) which could place board members in possible conflict with their duties as directors under the Companies Act.

There is a concern that where the REC Co board has the ability to appoint members, that personal bias could influence. To avoid this, members should be nominated by their peers as a representative of that party category.

Whilst we understand that Citizens Advice, in principle represent both domestic and industry, their expertise is primarily in the domestic consumer market. Therefore, it would seem prudent to also have representation from the large consumer representation (e.g. MEUC or similar).

Question 4.3: Do you agree that the REC should encourage shorter and more frequent Change Panels, to be held remotely where possible?

Whilst more frequent meetings would be a more agile approach, some members will have this role as an additional responsibility over and above other duties they are employed to carry out. More frequent meetings may cause issues with diary congestion, so planning these a year at a time may allow for better diary planning for participants. Whilst we understand the desire to speed up progress of items, we have a concern that bringing items back to the following meeting would not allow Change Panel members sufficient time to effectively seek the views of their constituencies. Therefore, items may need to be returned to later meetings than the next scheduled as a standard principle.

Question 4.4: Do you agree with the proposed categorisation of REC documents and associated change paths?

This seems aligned with how other codes work; Uniform Network Code (UNC) has UNC related documents, e.g. Offtake Arrangements Document, that are managed by specialist committees. All change paths need to be transparent and open to appeal.

Question 4.5: Do you agree that code administrators and managers should be able to raise any changes identified as necessary by the CCSG

We believe that code administrators and managers should work with other codes to effectively ensure modifications are raised within each of their codes. We do not agree with the ability for code managers to be able to raise modifications in other codes, as it is likely that the code managers will not fully understand or be aware of consequential impacts that code change can have within other codes.

Ofgem has recently rejected modification proposals for code managers to raise modifications within their own codes, based on their being no evidence that this would speed up or improve the process. There are examples of where codes managers have liaised to bring about cross code change, e.g. moving the MDD process from

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SPAA to UNC, as well as numerous changes co-ordinated across both the IGT UNC and UNC. Also, when the SEC was being introduced the changes were effectively managed as part of a collaboration between existing codes. Therefore, unless there is demonstrable evidence of this failing to happen on a material basis, we do not see that this benefits the REC or other industry codes.

Theft Arrangements

We do not feel that as a Distribution Network we are qualified to answer questions relation to Supplier theft, and therefore will not be answering the questions in this section individually.

We would, however, like to add the following general statements in relation to theft arrangements:

- Gas Transporters have separate obligations under the Gas Act and licence in relation to theft. We therefore would like to highlight that this needs to be taken into account, and additional conflicting obligations should not be placed on Gas Transporters, leaving Gas Transporters in breach of REC in order that they do not breach their Gas Act or Licence obligations. Furthermore, there are additional changes being introduced under the RIIO-2 framework, we suggest this should be closely monitored in relation to ensure that these obligations do not diverge from each other.
- We believe there should reasonable timebound theft investigations, however these need to be flexible enough to take into account variable issues. There needs to be a defined point at which the case is deemed to have been resolved.

Question 5.1: Do you agree that we should extend the valid reasons for an objection to include ongoing and time-bound theft investigations, and subject to monitoring by the PAB? Do you have any suggestions for the period of time during which it should be possible to maintain investigations as a reason for an objection and what should trigger the start of that period of time?

See above

Question 5.2: Do you consider that the RECCo should be required to periodically review the effectiveness of the incentive scheme(s)?

See above

Question 5.3: To what extent, if any, do you consider that the Theft Target should be reduced pending the replacement of the Theft Risk Assessment Service?

See above.

Question 5.4: Do you agree that the RECCo should procure a theft methodology, and use that to assess the effectiveness of a Theft Reduction Strategy, which it should also develop?

See above.