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By email to: switchingprogramme@ofgem.gov.uk

16 November 2020

Dear Rachel,

Retail Energy Code – Proposals for version 1.1

Thank you for the opportunity to respond to your consultation in relation to the above¹.

For the ease of comparison with other respondents, we have structured our response alongside that of the consultation document.

Company and Code Governance

Q2.1 Do you have any comments on the process for appointing additional RECCo directors?

We support the suggested approach and agree with the proposed expansion of the RECCo Board. In particular, we consider the inclusion of a consumer advocacy perspective to be critical to ensure that the REC is focussed upon consumer outcomes as it continues to develop. We also support the inclusion of digital transformation skills, as this will facilitate the future REC strategic development (Q2.4).

Q2.2 Do you agree that MEMs should be Party to the REC?

We support this approach and consider that MEM accession to the REC could facilitate improvements in data accuracy and data sharing.

Q2.3 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?

We agree.

¹ https://www.ofgem.gov.uk/system/files/docs/2020/10/201001_recv1.1.1_condoc_final4.pdf

Q2.4 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?

We agree. The strategy should be publicised to REC parties and other stakeholders, including progress and variance reporting.

We support the inclusion of digital transformation within this strategy as this would be consistent with wider general digitisation principles. We note that the proposed expansion of the RECCo Board (Q2.1) would facilitate the requisite skills.

Q2.5 Do you agree that RECCo should adopt zero-based budgeting from 2021/22?

We agree, as zero-based budgeting will ensure all cost elements are challenged and justified, thus encouraging efficiency in the REC and RECCo operations.

Q2.6 Do you agree that future RECCo budgets should be decided upon by the RECCo Board, subject to appeal by REC Parties?

We agree that the RECCo Board should approve the RECCo budget. However, we would recommend a supporting process whereby the proposed budget is circulated to REC parties for formal consultation prior to final Board approval, with the Board taking into account any views or challenges raised. While this should mitigate the risk of any parties seeking a post-approval appeal, an appeals function should be included in the interests of good governance.

An approach such as the one described above would be consistent with the REC Board objective to “conduct[s] its affairs in an open and transparent manner”².

Performance Assurance

Q3.1: 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).

We support the proposed composition of the PAB³.

Q3.2: 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?

We note that the Performance Assurance Schedule⁴ (1.3) states the following: “*The key objectives for the PAF are to ensure that Consumers have a positive experience when engaging in the retail energy market; and that REC Parties act in a manner that is not detrimental to the effective competition between Energy Suppliers and their agents.*”

We also note that the Schedule describes the Performance Assurance Methodology focus (7.1) as:

“(a) Identifying and evaluating risks which are Retail Risks;

(b) assessing the materiality of Retail Risks in relation to REC Parties and Consumers;

(c) applying Performance Assurance Techniques to mitigate Retail Risks.”

² 5.3(b) REC v1.1 - https://www.ofgem.gov.uk/system/files/docs/2020/10/proposed_changes_to_rec_main_body_red_lined_text_0.pdf

³ PAB Terms of Reference - https://www.ofgem.gov.uk/system/files/docs/2020/10/performance_assurance_board_terms_of_reference_2.pdf

⁴ Performance Assurance Schedule - https://www.ofgem.gov.uk/system/files/docs/2020/10/performance_assurance_schedule_0.pdf

We therefore conclude that, while it is appropriate that any activity governed by REC should be within the scope of the Performance Assurance Framework (PAF), the priority and focus should be on risks which specifically relate to retail activities and which, if left un-mitigated, could impact the consumer experience or competition in the market. This focus feels appropriate given that retail activities are the key element governed by the REC.

The refinement of a wider REC scope towards retail-specific risks is important as this reduces the likelihood of the PAB seeking to address an issue which is already being managed elsewhere – for example if a risk is more related to settlement, it would be more appropriate that it is managed through the Uniform Network Code Performance Assurance Committee. We note that inclusion of representatives from other codes (UNC, BSC) will aid in the coordinated management of risks between codes.

Q3.3 Do you agree that at least one of the PAB’s priorities should be determined by Citizen’s Advice?

We support the ambition to ensure PAB priorities are aligned with consumer priorities.

However, rather than specifically linking a certain number of priorities to consumers, rather we would expect that all stakeholders, including Citizen’s Advice, would collaboratively define the PAB workload to ensure that consumer experience is a key component of all priorities, as defined by the Performance Assurance Schedule (see Q3.2).

Q3.4: 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?

It is critical that the PAB is empowered, and that performance monitoring and measures are taken seriously. As such, we agree that the PAB should be able to apply any liabilities within a defined range. However, it is critical that the criteria for applying, and escalating, any liabilities are clearly set out in advance, and that the appropriate governance steps are followed. Consideration should be given to the level of reporting regarding liabilities which is provided to the Authority for oversight.

Q3.5: Do you agree that suppliers with serious performance issues should face restrictions on their ability to acquire new customers until those issues are resolved?

As above, it is critical that the PAB is empowered, and that performance monitoring and measures are taken seriously. However, from a regulatory perspective we do not consider it appropriate for the PAB to be applying restrictions on the acquisition of new customers as we consider this to be within the remit of the Authority, if required.

We would also highlight the practical challenges associated with placing restrictions upon new customers due to the Shipper-Supplier relationship which exclusively exists in the gas industry. Placing restrictions upon a Supplier under REC would also impact their Shipper counterpart, whom is neither party to REC nor necessarily subject to the same performance issues. This could create an impact upon fair competition. As such, from a practical perspective we would also advise against the PAB imposing restrictions.

Change Management

Q4.1: Do you support our proposals regarding the production of preliminary and detailed IA?

We agree.

Q4.2: Do you agree that the Change Panel should be appointed by the RECCo Board, following a process overseen by the nominations committee?

We understand the Change Panel to be a sub-committee of the RECCo Board, and therefore we would expect the Board to oversee the process, including the nominations committee.

We would take this opportunity to highlight the importance that that the Panel composition is clear, particularly for example in relation to participants' responsibilities and the guise in which they are acting as a Panel member. The comparison would be with the UNC Modification Panel, where there is the specific expectation that members act in the best interests of the industry as a whole, rather than their organisation or constituency.

Q4.3: Do you agree that the REC should encourage shorter and more frequent Change Panels, to be held remotely where possible?

We agree, as this would be keeping with an agile change and governance process.

Q4.4: Do you agree with the proposed categorisation of REC documents and associated change paths?

We agree, however would note that transparency must remain a key feature.

Q4.5 Do you agree that code administrators and managers should be able to raise any changes identified as necessary by the CCSG?

We agree, although for clarity, would expect that any change identified by the CCSG is raised by the administrator or manager of the code to which the change relates.

Theft Arrangements

Q 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?

We agree.

We consider that investigations should be undertaken until the theft is resolved.

Q5.2: Do you consider that the RECCo should be required to periodically review the effectiveness of the incentive scheme(s)?

We agree.

Q5.3: To what extent, if any, do you consider that the Theft Target should be reduced pending the replacement of the Theft Risk Assessment Service?

It would be pragmatic to temporarily reduce the Theft Target until a new TRAS, or equivalent, is in place.

Q5.4: 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?

We agree.

Should you require any further information or wish to discuss the above then please do not hesitate to contact me at Hilary.Chapman@SGN.co.uk.

Yours sincerely,

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SGN