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Date
14/11/2020

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The Retail Energy Code – proposals for Version1.1

SPEN welcomes the opportunity to respond to Ofgem's consultation on the Retail Energy Code – Proposals for version 1.1.

Our current responses are based on the information and documentation available at this point. We expect that our views may change as the work develops in this area and more granular detail emerges.

We look forward to the opportunity to respond to future consultations as work on the REC continues to progress and develop.

This response is not confidential.

Please feel free to contact me if there is anything in the response that you wish to discuss further.

Kind Regards

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Company and Code Governance

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

We have no additional comments. SPEN are supportive of the intention that the responsibility for the appointment of additional directors remains with the Authority until such time as the transition from the interim Board is in a state where the majority of RECCo Board members are independent non-executive directors at which point the nominations committee's recommendations will be submitted to the board for decision.

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

SPEN are supportive of the proposal to include MEM's as parties to the REC, and fully support the intention to provide assurance around the integrity of both the provision of and the quality of the data to support the Faster Switching Program.

Much of the information provided by the MEM forms the basis of accurate billing for the customer and the transfer to smart metering, there is a reliance on this information for a smooth Customer transfer process. We have concerns however around the inclusion of the technical standards and safety obligations being placed in the REC, as these are not 'Switching' obligations.

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 see no reason why controls around metering agent obligations could not be incorporated into the REC performance assurance framework. Due diligence must be carried out to ensure elements are not being reported twice, and any penalties incurred are tightly monitored to ensure that they are not incurred under two separate regimes for the same default. We would also recommend a consolidation where audits were required to ensure that this is streamlined where there are cross code elements.

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 are supportive of the requirement for RECCo to develop and maintain a strategy for the REC. We also appreciate that this may not change significantly on an annual basis, although should be issued annually for review.

We would like to see clear timescales for the publication of the final strategy following the review process. It would be beneficial if this was provided at the same time as the Annual budget.

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

Our view is that there are potential benefits to utilizing a 'zero based' budgeting approach. We would anticipate that this would allow for a full review of the current market, as well as past trends, and if all costs are accurately assessed then this could potentially be a more cost-effective methodology to adopt.

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

SPEN agree that the RECCo Board should decide the RECCo budget, subject to appeal by REC Parties. In terms of the documentation provided we cannot see a timescale for the final version of the budget and Strategy to be published following agreement. We would welcome clarity around this point.

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).

SPEN agree at a high level on the composition of the PAB, we see the benefit in the inclusion of independent parties and the impartial knowledge that they can bring. We do however note that there are key elements missing in the Terms of Reference.

“Section 2.3

[x] member(s) nominated by Parties who are Gas Suppliers and/or Electricity Suppliers;

[x] independent performance management experts who shall be appointed by RECCo for this purpose”

We would welcome the confirmation of these numbers as soon as they are available.

We also note that in the Performance Assurance Schedule issued with the Consultation document section 10.2, the following sentence does not make sense and appears to be incomplete. “Failure to provide data which that PAB has reasonably requested may in and of itself”. Clarity is required around the wording and intent.

Q3.2: Do you agree that any organisation undertaking an activity governed by the REC would be within scope of the performance assurance

We agree that all parties undertaking an activity governed by the REC should be included in scope of Performance Assurance. This ensures that ‘good practice’ is evident across the Code, particularly as there are dependencies on the quality and timeliness of data provided to ensure that the REC functions effectively and has the correct information available to make informed decisions.

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

We have no issue with at least one of the priorities being raised by Citizens advice, we believe that it is a positive step to ensuring that the Customer remains the focus of the Code. We are however keen to state that our view is that all PAB priorities require to be accepted on their own merits and should have a clear, well-reasoned case as to why they are a priority.

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?

SPEN believe that it is reasonable that 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 important, however to ensure this is underpinned by a requirement to make available clear documentation on the point at which this would be applicable along with all relevant mitigations. We believe that all avenues should be explored before this escalation is put into force and that there would be a need for this to be clearly defined rather than taken as an arbitrary decision in order that all parties are aware of the impact points.

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?

We are fully supportive of this measure and would seek a robust process be out in in place. We have a clear view that if a Supplier is not able to demonstrate that they can manage their current portfolio, then there is a case for limiting any increase till such time as this can be clearly demonstrated. We believe that this has the potential to reduce the risk/impact on several other REC/Industry parties.

Change Management

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

We are fully supportive of the inclusion of preliminary and detailed Impact Assessments. We believe that a 15 working day turnaround or a preliminary IA by the Code manager is achievable. In terms of the 40-working day timescale for a detailed IA we are supportive of this as a reasonable timeline, notwithstanding that this involves the engagement of Service Providers. The inclusion of the Impact Assessment in the proposed remit of Performance Assurance monitoring is a positive step. We support the intention of the 'cross code steering group' and feel that this will add value to the code and ensure that wider impacts are duly considered. It is, however, unclear from the drafting whether the 15-working day Preliminary Impact Assessment applies to those assessments that are to be obtained through the cross-code steering group.

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 agree that the Change Panel should be appointed by the RECCo Board, we believe that the incorporation of independent parties on the change panel is a positive step, however would re-iterate that a measured balance needs to be considered carefully to ensure that the relevant membership of parties have a breadth of understanding on how industry processes are managed and best practice retained.

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

We are fully supportive of the proposal for fortnightly change panels, rather than monthly (one formal and one buffer meeting) and strongly support the reduced requirement for face to face meeting as the standard meeting method. We view the inclusion of impact assessments provided by the Code Manager as a welcome enhancement to the change process. We view that the inclusion of these Impact Assessments as an enabler to keeping the monthly meetings to a reasonable time scale that manages the business in an efficient manner.

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

We hold the view that the categorization reflects positively the change types that would be progressing through the REC.

In terms of Category 2, we are supportive of the view that a formal working group may not be required for all changes but will be 'stepped up' when required.

We believe that Category 3 would benefit from elements of 'light touch' to ensure that what would be deemed as housekeeping issues can be progressed through the process by the Code Manager

(ensuring that visibility of progress is maintained). We believe that this will be a positive step in ensuring that attention is not detracted from more significant issues.

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

SPEN believe that Code Administrators and Managers should be able to raise any changes identified as part of the CCSG. We believe that this would be an effective process in ensuring that changes that impact multiple codes are aligned in their delivery. It should be clearly stated in the Code(s) at what stage it is appropriate for the change to be raised.

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?

Although this is a supplier process, as a DNO we would support the ability for a Supplier to raise an objection to include 'ongoing and timebound theft investigations' we believe that this would be in the best interest of the Industry as these investigations would either be lost or need to recommence following a switch. We are supportive of this being monitored by PAB to ensure that a robust process is followed and that objections are not erroneously raised or retained following resolution. We have no clear indicator of the period involved, however would suggest that a period of 12 months may be appropriate.

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

As a DNO we are not involved in the Incentive Scheme, however we hold the view that it should be reviewed by RECCO periodically to ensure that it is and remains effective.

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?

As a DNO we are not subject to these targets but believe that there is no reason to reduce the target.

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 would support the procurement of a theft methodology, and a Theft Reduction Strategy by RECCO, we believe that using these would be a positive approach to assessing changes and ongoing tracking in this area.