

Monday 16 November 2020

To: Rachel Clark, Switching Programme, Ofgem
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Consultation response: The Retail Energy Code – proposals for version 1.1

We broadly agree with the proposals set out in the consultation paper and have summarised our position on the four topics in the sections below.

Company and Code Governance

We are supportive of the overall governance structure proposed and welcome the addition of subject matter experts from outside the energy industry. This will allow RECCo to be more agile and facilitate a faster decision making process.

Integrating BSC obligations for metering agents into the REC makes sense, particularly when considering MEMCoP, AMICoP etc are also being integrated into the REC. Bringing all of the metering agent obligations together into REC will ensure full oversight and will enable efficiencies and cost savings for metering agents. They will be able to be accredited under one central code, avoiding duplication, which will make it easier for new participants to join the market and ultimately reduce the cost to the consumer.

Performance Assurance

Regarding the composition of the PAB, we note that the number of supplier representatives is still to be confirmed. Whilst we recognise the need to not overpopulate the PAB, it is important to ensure there are sufficient appointments from supplier parties that are representative of the volume and diversity of the supplier population. If suppliers are not effectively represented there is a risk that the PAB is only informed by a very narrow cross section of the market which could lead to outcomes which are not suitable for a large section of the population.

We also support the PAB having the discretion to escalate liabilities and impose severe yet proportionate sanctions on parties experiencing significant performance issues and it is important that these and any other consequences of poor performance are

transparent to all parties to the REC. This will ensure that all parties are sufficiently incentivised to exhibit the behaviours set out within the REC. Unfortunately this is not always the case within the existing code landscape as is apparent from performance reporting currently available.

We also believe it is important for all parties to have visibility of PAB agendas and outcomes for all areas of performance that are in scope of the REC. This will provide visibility of the value PAB delivers and that it is focussing on the right areas. The need for this to be transparent under the REC is highlighted by the current ET PAB. This was established some time ago in 2019, yet there has been little to no visible output to the wider energy market to date. Whilst we acknowledge the intention of the ET PAB is positive and should ultimately benefit the consumer, it is difficult to perceive the value it is currently delivering. A more transparent approach to the REC PAB is welcomed.

We note that both the BSC and UNC equivalents to the PAB will be represented on the REC PAB. We see this as a positive step as it will enable and encourage best practice to be shared and efficiencies to be realised. Furthermore our view is that in the future the BSC, UNC and REC performance frameworks should be integrated into one single framework. Our belief is that this will be a more cost effective way of managing industry risk and help ensure standards and sanctions are applied consistently across the codes.

Change Management

The proposed changes to this process are very welcome and we agree that they will improve and speed up the enactment of change. It's widely acknowledged that the existing change management processes are lengthy and have inconsistencies between codes. Currently the level of process and scrutiny that some small changes experience is disproportionate to the impact they have, which ultimately costs the industry. We agree that the proposed three tier categorisation for changes will facilitate faster change implementation whilst maintaining a robust level of scrutiny for individual changes. The categorisation criteria should be reviewed on a regular basis by the Change Panel to ensure the process continues to work as intended without detriment to the wider market.

We note the proposal to constitute the Change Panel in the same way as the PAB, with a limited number of representatives from the REC parties. Whilst we recognise the need to ensure the change process is and remains as efficient as possible, the current

proposal will continue to allow changes to be enacted by a small, closed group of parties. It is acknowledged that currently a small number of parties enact decisions on behalf of the wider market of which they are not always representative. This is particularly noticeable with the supplier constituency - there are three or four suppliers making decisions that impact more than forty suppliers. This has led to a significant number of parties being dis-engaged with the existing change process to the detriment of consumers. It is our view that if the proposed structure of the Change Panel is implemented, this status quo will continue, albeit with different parties making those decisions. A more equitable model would be to have an open forum accessible by all relevant REC parties to vote on a decision. This will ensure that a balanced view is taken.

Theft Arrangements

It is widely acknowledged that the current theft incentive schemes do not do enough to promote the behaviours set out under the supply licences. If a supplier deems it to be more cost effective to pay debits under the scheme rules instead of detecting theft, there is no further enforcement action. This scenario is highlighted as a risk by Ofgem in the consultation document.

Also given the lack of TRAS service in the 2021 - 2022 scheme year, coupled with no industry wide visibility of theft reporting until at least September 2021, there is the potential for an increased number of suppliers to reduce / cease theft detection activities in favour of making the debit payment.

We therefore welcome the proposed approach for theft transition particularly the objective to procure a theft methodology and using this to assess the effectiveness of Theft Reduction Strategy. Furthermore we strongly believe the AUGE should be consulted during procurement of the methodology as they will be able to provide valuable insight into undetected theft levels which should be utilised in the methodology.

In addition, under the current DCUSA and SPAA schedules there is a requirement for the TRAS service to share theft investigation outcome information with the BSCCo, CDSP and AUGE. Within the transition Theft Reduction Schedule there is no provision for this exchange of information to continue once the current TRAS contract ends at the end of March 21. As it stands, theft reporting data would not be provided to these parties until a new TRAS service provider is in place in April 22.

This poses a risk to settlement in that not all confirmed theft is captured. This is already a known issue currently being investigated through UNC Mod 734. Having no agreed process for ensuring confirmed theft is accounted for in the settlements process will likely exacerbate this problem and lead to increased costs for supply parties.

This will also have an impact on the calculation of UIG as the AUGE will not have any data on confirmed theft within the industry to inform their calculations. As theft of gas is a significant contributor to UIG, not having this data will likely increase the cost of UIG to all parties as opposed to those responsible for energy theft.

It is our view that an interim process should be agreed to ensure that confirmed theft data is shared with the CDSP, BSCCo and AUGE for the period Apr 21 - Mar 22.

We have set out our response to some of the consultation questions below. We trust Ofgem will find our comments useful and we are happy to discuss them further should clarity be needed.

Kind regards, on behalf of Utility Warehouse,

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APPENDIX

Company and Code Governance

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

We are supportive of the process for appointing additional directors to RECCo and welcome the addition of subject matter experts from outside the industry.

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

Yes we agree they should be party to the REC for specific, relevant clauses only.

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?

Yes we agree in principle and note that care should be taken to ensure there is no duplication with the BSC and that obligations between the BSC and REC are not in conflict but compliment each other. Integrating the BSC requirements along with other metering codes (MEMCoP, AMICoP etc) will reduce complexity for metering agents enabling them to be accredited under one central code. This will reduce barriers to entry for new participants and ultimately reduce costs to consumers.

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?

Yes. Will enable transparency on REC development and provide the ability for REC parties to robustly challenge RECCo performance. It's important that REC parties can see the REC Co provides scrutiny and value for money.

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

Yes. This will ensure the transparency of the budget and provide the ability for REC parties to robustly challenge the data to ensure value for money is being delivered and the correct level of funding is allocated.

Furthermore we believe that RECCo should have the ability to carry forward any under or over spend to the following budget year in certain scenarios. For example if a forecast project spend was not utilised within year 1 due to a rephasing of work into year 2, the budget and funding should be carried forward in line with this. Adopting this approach would reduce the administration burden and the need for multiple credits and debits to parties.

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

Yes provided there is sufficient consultation with REC parties prior decision making. This approach is more efficient and should facilitate faster decision making.

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.

We agree with it in principle and welcome the addition of representatives from the BSC and UNC performance frameworks. This will allow for the sharing of best practice and the application of consistent methods where appropriate. We note that the number of supplier representatives is yet to be confirmed. Whilst we acknowledge the need to ensure

the PAB is not overpopulated, it is important to maintain a representative sample of the supplier community. If too few are appointed there is a risk that information provided to the PAB is not reflective of the different challenges and methods suppliers are operating in. This could lead to performance methods and metrics being implemented favouring a minority of suppliers.

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 feel strongly that the Performance Assurance Framework should cover code parties only, such as Supplier Parties, Metering Agents and network operators and oversee the fair operation of the code. Commercial entities which are not directly party to the code should be governed under commercial contracts. We would expect that the entity responsible for contract management would tightly manage Service Levels and apply Service Credits where failures arise. Therefore we would advocate that CSS providers and other contracted parties should not be included within the REC performance assurance scope.

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?

Potentially if the performance issues have a direct bearing on the ability to service customers to the required standards and should be an absolute last resort. There could be unintended consequences in that it could exacerbate any underlying problems and potentially trigger scenarios in which the supplier defaults in other areas.

Change Management

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

Yes. Any improvements to the process which makes it more efficient is welcome.

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 can't agree that the Change Panel should be closed and feel this may stifle innovation. We don't think there should be an appointment process and feel all REC parties should be entitled to vote.

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

Yes. This will allow the panel to be more agile and enable change to be enacted in a more efficient way. It will likely reduce the cost of the process and ensure that there is ample opportunity for discussion.

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

Yes. This should improve the process and make it simpler for lighter touch cosmetic or non-consequential changes. RECCo should review periodically to ensure the categories continue to be accurate and are working as intended.

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

Yes, we support code administrators raising both material and non-material changes to aid governance.

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?

Yes. Without this there is a significant risk that a consumer would be able to swap multiple times before theft is identified. When calculating a period of time, consideration should be given to the length of time required to obtain sufficient consumer and site information to determine a potential theft has occurred. This could vary greatly between suppliers due to detection techniques they're using. Consideration also needs to be given to the time required to conduct a site visit and gain access to a property - this could be up to 14 days from the time it has been identified as needing one.

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

Yes. The effectiveness of the incentive scheme should be reviewed as a minimum on a 2 yearly basis. This will allow time for the new TRAS service and any new target methodology to bed in and provide meaningful data for analysis. This should form part of the RECCo strategy. It is also apparent that not all suppliers are actively taking part in the scheme and instead opting to pay the debit with no further recourse. It is our view that if the scheme was to continue in its current form, there is a risk that an increasing number of parties would opt for this approach instead of actively seeking to detect and prevent energy theft.

There is also a lack of transparency on the timing of some aspects of the schemes, particularly the credits and debits process. Improvements to these areas under RECCo are extremely welcome.

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?

We don't feel there is any value to be gained by amending the Theft targets as performance of the incentive scheme is determined based on relative comparison to industry average. Anecdotally TRAS leads are unreliable and significant desktop investigation needs to be conducted to identify positive instances of theft. We don't feel that amending the theft targets will provide an extra incentive for suppliers to seek alternative data sources to support theft detection activity.

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?

Yes. This should form part of the wider RECCo strategy and should seek expert advice from the AUGE during the process. The AUGE is currently conducting a deepdive into energy theft (as part of their wider UIG calculation) and will be able to provide up to date data on theft which could be utilised by RECCo to inform the theft methodology.