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RECCo response to: DCC Review – Flexibility in the process for appointing the successor licensee

We welcome the opportunity to respond to this consultation, DCC Review Phase 2: Governance and Centralised Registration Service. Our non-confidential response represents the views of the Retail Energy Code Company Ltd (RECCo) and is based on our role as operator of the Retail Energy Code (REC).

RECCo is a not-for-profit, corporate vehicle ensuring the proper, effective, and efficient implementation and ongoing management of the REC arrangements. We seek to promote trust, innovation and competition, whilst maintaining focus on positive consumer outcomes. Through the REC, the services we manage, and the programmes we run, we are dedicated to building a more effective and efficient energy market for the future. We are committed to ensuring that RECCo is an "*intelligent customer*", ensuring efficacy and value-for-money of the services we procure and manage on behalf of REC Parties, including those which constitute the REC Code Manager.

While Ofgem has indicated that it is minded to remove the obligations to deliver the Centralised Registration Service (CRS) from the DCC licence to the REC, to be delivered by RECCo, a decision on that is not expected until this autumn. We consider that a positive decision to proceed with the transfer of CRS and for that transition to be completed by the end of 2025 would mitigate risk to the licence renewal process and allow bidders to focus on their approach to delivering smart metering.

While the process for identifying and appointing a successor licensee is set out in primary legislation and regulations[1], which is expected to follow a successful competitive tender, we consider that it is appropriate for Ofgem to consider the eventuality that a suitable bid may not be forthcoming. The nature of the licensed activities and associated business opportunities are significantly different that they were at the time regulations were enacted. This is in part due to the ongoing DCC Review and in particular the requirement that the smart meter communication licensee adopt a not-for-profit model, but also due to the changing nature of the GB energy market. Although the Regulations anticipate that possibility, neither of the two options seemingly available to the Authority of either re-running the tender exercise or simply determining that it has failed and is finished, provide certainty over the future arrangements.

While the current consultation does not set out what alternative arrangement may be available to the Authority, we recognise that none could be considered legitimate unless and until there is a change to the Regulations mentioned above. Therefore, in response to the immediate question:

> "**Do you agree that it is in consumers' interests for Ofgem to have greater flexibility in the way in which the Successor Licensee may be appointed?"**

Yes, RECCo agrees that consumers' interests for Ofgem to have greater flexibility in the way in which the Successor Licensee may be appointed. However, we are of the view that a competitive tender in line with the

[1] Sections 6, 6A of the Electricity Act 1989 and Sections 7AB, 7B of Gas Act 1989; and The Electricity and Gas (Competitive Tenders for Smart Meter Communication Licences) Regulations 2012.

process anticipated by the Regulations should remain the preferred option and an alternative approach only adopted in there is sufficient evidence that such competitive tender is unlikely to proceed. This could appropriately be at an early stage, for instance following a response to a Prior Information Notice, which would avoid nugatory effort and allow the alternative procedures to commence but would test assumptions and avoid the need for the alternative becoming a *self-fulfilling prophecy.*

Assuming there is support for greater flexibility in the appointment process and, if necessary, parliamentary time to change the relevant legislation, we would a further consultation on both the options available to Ofgem and whether they should follow any order of precedence, as outlined above. The further options which may be available include:

- A further extension of the current licence beyond the current renewal and/or extension dates;
- Revise the proposed reforms to the licence in order to mitigate key concerns that may be prevent appropriate organisations from bidding;
- The establishment (or development of) a special purpose vehicle to deliver the licenced activities – potentially by building upon the existing Smart Energy Code Company;
- Incorporate the smart meter communication licensee's activities within scope of an existing central delivery body.

We have not sought to expand upon the potential advantages and disadvantages of any particular model at this stage but would be happy to contribute to development of options in due course if Ofgem is given opportunity to pursue such options. In the meantime, we would be happy to discuss any of the points raised in this response.

Yours sincerely,

Jon Dixon
Director, Strategy and Development