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29 October 2026

RECCo response to: Market Stabilisation Charge activation

We welcome the opportunity to respond to this consultation. Our non-confidential response represents the views of 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 organisation responsible for ensuring the proper, effective and efficient implementation and ongoing management of REC arrangements, with a focus on promoting competition, innovation and positive consumer outcomes.

As set out in our response to Ofgem's earlier consultation, we continue to have concerns about the potential impacts of the MSC on competition, consumer switching and engagement. Nevertheless, we recognise the wider market stability considerations and Ofgem's responsibility for determining whether intervention is justified. RECCo has therefore made preparations to administer the scheme should Ofgem decide to activate it.

We would particularly highlight three points from our response:

- **Activation notice period:** While recognising the need for Ofgem to respond promptly to changing market conditions, we recommend a minimum notice period of five Working Days, rather than one. This would better reflect current switching timescales and reduce the risk of suppliers incurring unexpected liabilities for customers who agreed tariffs before activation, with potential consequential impacts on consumers.

- **REC implementation arrangements:** RECCo has developed a phased implementation approach to enable the scheme to be activated promptly. REC Change Proposal R0343, scheduled for implementation on 6 November 2026, extends the deadline for issuing the first MSC statement following activation from 15 to 40 Working Days. This allows liabilities to be recorded while the remaining calculation and payment functionality is completed. We welcome Ofgem's acknowledgement of these arrangements and the potential delay to initial payments.

- **Proportionality and deactivation:** As an exceptional market intervention, the MSC should remain targeted and in place only while the relevant risks to market stability justify it. We support Ofgem's proposed flexibility over deactivation but recommend that continued intervention is actively justified against prevailing market conditions, with a proportionate consultation period to avoid unnecessarily prolonging distortions to competition and consumer choice.

We would be happy to discuss any of these points and will continue working closely with Ofgem and industry participants to support effective implementation.

Yours sincerely,

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Director, Strategy and Development

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Appendix: RECCo response to consultation questions

Q1: Do you have any comments on our description of the current market context?
We broadly agree with Ofgem's assessment of the current market context and the heightened risks associated with wholesale price volatility, increased customer exposure to the price cap and the approach of winter. We recognise that sharp price reductions, while generally beneficial to consumers, could expose responsibly hedged suppliers to significant losses, potentially undermining market stability and ultimately imposing costs on consumers. Nevertheless, it remains important to distinguish exceptional, systemic risks from those arising through normal commercial activities, and to ensure that any intervention preserves the benefits of competition and consumer switching.
Q2: Do you agree that we should activate the MSC?
We continue to have concerns about the potential impact of the MSC on competition, consumer switching and engagement, as outlined in our response to earlier MSC consultations. However, we recognise the wider considerations of market stability, supplier financial resilience and the potential costs to consumers of disorderly supplier failures, particularly in exceptional market conditions. Ofgem also has the benefit of experience from the MSC's operation between April 2022 and March 2024, providing an evidence base against which to assess the merits and effectiveness of reactivation. We recognise that responsibility for balancing these considerations and determining whether to activate the MSC rests with Ofgem. RECCo's primary responsibility is to give effect to that policy decision through the REC, ensuring that the necessary arrangements are implemented efficiently, transparently and effectively. We have therefore made appropriate preparations for activation.
Q3: Do you have any comments on our proposed MSC guidance?
We welcome the revised guidance, which retains the established calculation methodology and parameters. We have two suggestions to improve clarity and reflect the arrangements developed for reactivation. **Timing of MSC liability:** It may be helpful to clarify for avoidance of doubt that the date used in the MSC process to determine liability is the switch effective date – i.e. the date of registration with the incoming supplier - rather than for instance the date on which the consumer agrees a contract or the gaining supplier initiates the switch, with an appropriate cross-reference to the relevant REC provisions in Schedule 22. While the existing licence and REC provisions refer to switches having occurred, an explicit explanation would provide greater certainty, particularly where switches are initiated before activation but completed afterwards. This would also help suppliers understand and manage the commercial implications of the proposed activation notice period, as discussed in our response to Question 7. **MSC administration arrangements:** We suggest updating paragraph 2.39 to reflect the arrangements developed for reactivation, including REC Change Proposal R0343, which will be implemented 6 November 2026 and amends the timetable for issuing the first MSC statement following activation from 15 to 40 Working Days. This supports a phased implementation, allowing supplier liabilities to be recorded before the full calculation and payment functionality becomes available. Updating the guidance would provide a more accurate description of RECCo's administration arrangements and the potential timing of initial payments, as acknowledged in paragraph 6.5 of the consultation. We also suggest a small number of editorial corrections, including replacing references to a date the MSC *expires* with it being *deactivated.*
Q4: Do you agree with our proposal to keep the MSC parameters unchanged?

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Yes, RECCo agrees that the existing MSC parameters should be retained. They provide an established balance between mitigating exceptional risks to market stability and preserving incentives for competition and consumer switching.

Given the exceptional nature of the intervention, we consider it important that the MSC remains targeted and proportionate, rather than seeking to eliminate suppliers' exposure to normal commercial risks. Retaining the existing parameters also provides regulatory certainty and avoids unnecessary complexity or delay in reactivating the scheme.

Q5: Do you agree with maintaining the MSC trigger as a percentage value?

We support retaining the MSC trigger as a percentage rather than a fixed monetary value. A percentage-based trigger is more proportionate, adjusting automatically to changes in wholesale prices and maintaining a consistent relationship with suppliers' underlying financial exposure. It is also consistent with the approach to risk allowances within the price cap, which similarly scale with wholesale prices. Retaining the established methodology avoids unnecessary complexity, implementation costs and potential delays, without any clear corresponding benefit from moving to a fixed monetary trigger.

Q6: Do you agree with not including deferred allowances in the MSC calculation?

Yes, we agree that deferred allowances should not be included in the MSC calculation.

As Ofgem has previously recognised, the MSC is an exceptional market intervention which may be justified by particular risks to market stability, but which also has the potential to distort competition and produce unintended consequences for consumers.

It is therefore important that the scope of the intervention remains targeted and proportionate to the exceptional risks it is intended to mitigate. Extending the MSC to deferred allowances would risk moving beyond that purpose, providing compensation for costs and commercial risks that suppliers would ordinarily be expected to manage, alongside the corresponding opportunities, under normal market conditions.

RECCo therefore supports Ofgem's proposal to exclude additional deferred allowances, maintaining an appropriate balance between protecting market stability and preserving competition, commercial incentives and consumer choice.

Q7: Do you have any comments on the notice period required for activating the MSC?

RECCo recognises the importance of Ofgem being able to respond promptly to changing wholesale market conditions and supports a relatively short activation notice period. However, we recommend a minimum of five Working Days, rather than the proposed one full working day.

Domestic switches are generally completed within five Working Days, although consumers may request a later date. As MSC liability is determined by reference to completed switches, suppliers could incur charges for customers who agreed tariffs before the activation decision was announced. Those charges may not have been anticipated or reflected in the agreed prices.

Five Working Days' notice would provide a proportionate adjustment period for suppliers to review their tariffs and acquisition arrangements, and for intermediaries to update their offerings. It would also allow more switches already in progress to complete before activation. This would reduce, but not eliminate, exposure on previously agreed contracts, particularly where consumers have chosen a later supply start date.

When the MSC was originally introduced in 2022, approximately eight weeks elapsed between Ofgem's decision and implementation. While we recognise that the circumstances differ, and that the current proposals are expressly intended to allow a more dynamic response, we consider that retaining a slightly longer notice period would provide a more appropriate balance. This would allow suppliers a reasonable opportunity to reflect the MSC in their pricing before registrations become subject to the charge, without materially compromising Ofgem's ability to respond to market developments.

RECCo has also progressed REC Change Proposal R0343, which extended the period for issuing the first MSC statement following activation from 15 to 40 Working Days. This supports phased implementation of the administrative arrangements, allowing liabilities to be recorded before the full calculation and payment functionality becomes available. R0343 is scheduled to be implemented 6 November 2026. While this flexibility supports timely activation, it does not address the separate commercial risks associated with short notice for suppliers.

We therefore invite Ofgem to consider a minimum notice period of five working days, or alternatively transitional arrangements that exclude switches initiated before activation, to avoid unexpected liabilities and potential adverse consequences for consumers.

Q8: Do you agree with our proposed approach to deactivating the MSC?

RECCo broadly agrees with Ofgem's proposed flexible approach, recognising the need to avoid repeated activation and deactivation. However, as Ofgem acknowledges, the MSC is an exceptional market intervention, with the potential to distort competition and consumer choice. Its continuation should therefore require ongoing justification, and the period of intervention should be minimised.

We suggest that Ofgem should actively consider deactivation once the exceptional pressures affecting wholesale energy markets have sufficiently subsided, and forward prices and volatility have returned to levels broadly consistent with more normal market conditions. In particular, the unwinding of short-term geopolitical or supply disruptions, such as those affecting the Strait of Hormuz, should prompt a reassessment of whether the risk of significant stranded hedging losses continues to justify intervention.

We also consider that the consultation period for deactivation should be proportionate to the objective of minimising unnecessary market intervention. Ofgem has considered two weeks sufficient for consulting on activation, and we see no reason why a longer period should ordinarily be required for deactivation, particularly where this would prolong restrictions on competition and consumer choice.

Q9: Do you have any comments on our draft impact assessment?

RECCo broadly agrees with Ofgem's assessment of the potential benefits and costs of activating the MSC, including its recognition of the trade-offs between market stability, competition and consumer choice.