RETAIL ENERGY CODE

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01	Initial Assessment Report
02	Preliminary Change Report
03	Final Change Report

CHANGE REPORT

R0025 - SERVICE PROVIDER PERFORMANCE CHARGES (DCC)

CHANGE REPORT	PRELIMINARY
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PRIORITY STATUS	HIGH	URGENCY	STANDARD

DEADLINE FOR ALTERNATIVE CHANGE PROPOSALS	15/11/2022

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CHANGE OVERVIEW

This Change Proposal seeks to introduce an economic incentive scheme for the Centralised Registration Service (CRS) Provider through the introduction of Service Provider Performance Charges linked to performance against service levels defined in the REC.

	High Impact: Data Communications Company (DCC)
	Medium Impact: REC Performance Assurance Board, Code Manager
	Low Impact: N/A

CODE MANAGER'S RECOMMENDATION

The Code Manager recommends Change Proposal R0025 is **APPROVED** for implementation on 01 April 2023.

RETAIL ENERGY CODE

CONTENTS

BACKGROUND		
1.	Summary	3
2.	Problem Statement	4
3.	User Stories	5
PROPOSAL		
4.	Summary Of Analysis Undertaken	5
5.	Proposed Solution	8
6.	Draft Legal Text	10
7.	Delivery Against Change Proposal Plan	10
8.	Key Risks, Assumptions, Issues and Dependencies	10
9.	Proposed Implementation Date and Approach	11
10.	Business Case Assessment	11
11.	Case For Change	12
12.	Code Manager's Recommendation	13
13.	Consultation Plan And Next Steps	13
14.	Appendix	13
15.	Glossary	14

RETAIL ENERGY CODE

BACKGROUND

1 BACKGROUND

Performance Assurance Techniques (PATs) are a critical part of the Code Manager's Performance Assurance Framework. These techniques are the mechanisms by which the Code Manager understands the causes of poor performance and acts to improve performance. As set out in the PATs document, Performance Charges will be used in specific circumstances to incentivise performance based on objective, measurable performance criteria.

The performance of REC Service Providers is essential to the proper functioning of the market. It is therefore important to incentivise these providers.

There are two categories of service providers under REC governance, those procured by the Retail Energy Code Company (RECCo) and those provided by other Parties:

REC SERVICES PROVIDED BY RECCO
REC Code Manager
Electricity Enquiry Service / Secure Data Exchange Service
Gas Enquiry Service
Green Deal Central Charging Database service
Energy Theft Tip-off Service
Metering Auditors

REC SERVICES PROVIDED BY PARTIES	
DCC Responsibility:	Distribution Network Operators / Gas Transporters Responsibility:
Central Switching Service (CSS)	Electricity Retail Data Service (ERDS)
Switching Operator Service	Gas Retail Data Service (GRDS)
CSS Certificate Authority	

RECCo are responsible for contract management, including creating appropriate service levels and service credits for the services they procure. As a consequence of REC V3.0, similar incentives do not exist for services relating to the CSS, Switching Operator Service and CSS Certificate Authority. Given the scale and importance of these services in the market, the Code Manager has developed a Performance Charge framework to incentivise this performance.

The recommended approach, which was first endorsed by the Performance Assurance Board (PAB) in December 2021, and which has subsequently been developed between the Code Manager, RECCo and Ofgem, focuses on performance against service levels defined in REC Service Definitions. The basic principle of the approach is that Performance Charges will be applied where the Service Level Agreement (SLA) metrics, which will be based on the requirement set out in the REC Service Definition, are not met. The CRS Provider operates as a regulated monopoly under a price control regime, and in accordance with the Smart Meter

Communications Licence issued by Ofgem. Any Performance Charge framework developed needs to be cognisant of, and complimentary to, the price control regime set by Ofgem.

The price control provisions within the Smart Meter Communications Licence require that 100% of DCC's baseline margin must be at risk. Ofgem is proposing changes to the Smart Meter Communication Licence. They will be proposing that the baseline margin relating to DCC's switching services would be split across two categories of incentive (approximately an 80/20 split, with the exact split to be confirmed by Ofgem). This is similar to the way the current Operational Performance Regime (OPR) for smart metering is designed, although this currently has three categories that the DCC are measured on.

The operational / system performance incentive category would be assured through the REC, with up to 80% (or the final percentage split confirmed by Ofgem) of DCC's approved baseline margin being at risk through the achievement of SLAs defined in the REC. Total liquidated damages would be calculated on a sliding scale up to a defined maximum threshold on a quarterly basis. Based on 80% of the DCC's Baseline Margin being at risk over the financial year, that would equate to 20% of their annual Baseline Margin at risk per quarter.

Therefore, the proposed solution in this Change Proposal seeks to use the application of REC Performance Charges, related to the CRS Provider's performance against service levels, as the mechanism through which DCC's operational performance is to be measured as part of Ofgem's price control.

Originally, this Change Proposal also sought to include the REC Services provided by Distribution Network Operators and Gas Transporters (ERDS and GRDS) in scope. Through the development of the Change Proposal, the introduction of Performance Charges for these services have been removed and are no longer in scope of this Change Proposal, however assurance techniques and further incentives to improve performance in these areas may be explored at a future point.

This Change Proposal is linked to changes being made to the Smart Meter Communications Licence (DCC Licence) by Ofgem that need to be implemented on 1st April 2023 to be in for the start of the next regulatory year. Therefore, the prioritisation and Change Proposal Plan accommodates this timetable.

2 PROBLEM STATEMENT

Service Provider performance measures and charges do not currently exist for services that are not procured by the Retail Energy Code Company but are provided by the CRS Provider. The performance of the CRS Provider is essential to the proper functioning of the market, without appropriate performance measure or Performance Charges there is little incentive to maintain service performance or improve poor performance in a timely manner.

3 USER STORIES

REF.	USER STORIES
MARKET PARTICIPANT USER STORIES	
M1	As the REC Code Manager, I want to ensure that REC Service Providers achieve their Service Level Agreements (SLAs) defined in REC Service Definitions, so that impacts to the REC Code Manager, REC Parties and other Service Providers, as a consequence of Service Provider underperformance, are minimised and the change process delivers to time and cost.
M2	As the CRS Provider, I want clarity on when and how Performance Charges will be used as part of the Performance Assurance Techniques, so that I'm clear on what service levels I need to meet and the consequences of not delivering against these.

PROPOSAL

4 SUMMARY OF ANALYSIS UNDERTAKEN

In April 2022, RECCo issued a consultation on the approach to DCC Performance Charges following engagement with Ofgem on how this would interact with DCC's price control regime.

In July 2022, RECCo published their response to the consultation setting out a summary of responses and the proposed next steps agreed with Ofgem. Since this, RECCo have been working with Ofgem and the DCC on the design of the scheme, proposed under this Change Proposal.

Several workshops have taken place to review and refine the detail of the proposed scheme. There have been a number of refinements made to the proposal as a result of these workshops:

Timescales for making representations to the PAB

The original proposal suggested that the CRS Provider should have to provide a representation and associated evidence to the PAB within 10-15 Working Days of the end of the relevant Quarter where they felt that certain failed service levels were not reasonably within their control to achieve. These timescales were originally proposed to ensure that a decision could be taken by the PAB in their first meeting following the end of the relevant quarter. Following further discussion with the DCC, it was noted that the current agreed report submission process that has been agreed with the Code Manager would not work with these timescales, as the report is submitted prior to the DCC completing an internal review with service providers. It was agreed that a timescale of 20 Working Days would be sufficient to provide the relevant representation to the PAB, and that this would need to be reviewed by the PAB in the second month following the end of the relevant period. As the DCC already provide monthly SLA reporting, rather than quarterly, it was further agreed that any representations to the PAB would be made on a monthly basis, to align with the current reporting cycle, rather than wait until the end of the quarter to make these representations.

No double jeopardy principle

It was agreed that there was a reasonable expectation that the DCC should not have multiple performance charges applied for an issue that would inevitably result in more than one service level being missed. For instance, if there was an issue resulting in the service not being available, which also meant that during that period responses to messages could not be issued in the required timeframe, the CRS Provider should not have duplicate charges applied for missing both service levels when it is not possible to achieve one and not the other. It may not always be clear that this is the case, as there may be cases where the same two service levels can be met independently of each other in a particular scenario, and where they cannot in another scenario. For this reason, it was noted that the PAB will need to apply its discretion on where this is the case based on the evidence submitted by the DCC. However, the principle of the PAB not applying duplicate performance charges has been strengthened in the legal text, to give greater confidence to the DCC that there is no intention to diverge from this principle.

Definition of service levels / performance levels

The original drafting refers to the scope of the scheme applying to 'Performance Levels' in the Service Definitions. This was due to the term 'Performance Level' being used in the Service Level section of each Service Definition, which sets out the required performance against each Service Level.

It was identified that, based on how the Service Definitions are drafted, this did not include availability requirements for the services. This is because availability is defined in a separate section of the Service Definition and does not include the term 'Performance Level' in the drafting. This was an oversight, and the intention was that availability is included in the scheme, therefore the legal drafting has been updated to reflect this.

Materiality / weighting of different service levels

The DCC questioned whether the scheme should target specific SLAs that were considered more material in nature if they weren't met, or if there should be a weighting to better reflect the damages that would be felt by service users in the event of a failure.

In the responses to RECCo's consultation on DCC Performance Charges, there were differing views around which service levels were considered the most material. Some views stated that it was too early in the operation of the service to determine which would have a higher detriment to service users in the event these are not met. The Code Manager agrees that it is too early in the operation of the service to fully understand which service levels directly result in a higher level of detriment to service users and consumers. Therefore, it is proposed that there is no weighting initially associated to these. The CRS Provider will be measured on their overall performance against the service levels expected and funded by REC Parties. Where this service is not delivered, this will reflect that REC Parties have not received the service that has been paid for, therefore Performance Charges will apply to reflect the reduction in the level of service delivered.Issues with existing service levels

The DCC expressed some concerns they have with the drafting of certain service levels in the REC, noting that these were agreed in Design Baseline 4 for the Switching Programme in order to support the procurement of the CSS and had been directly translated into the REC from this. There were broadly two categories of concerns that the DCC raised in relation to existing service levels:

1. Clarity of existing wording

There were several service levels where the DCC felt that the wording of the service level in the REC could be clearer to address any potential ambiguities that may exist in how these are reported and how performance against these is measured for the purposes of the scheme. There were several examples of this identified, where the intent of the service level could be better reflected in the REC with a housekeeping change to better reflect the intended effect of this.

One example was that Paragraph 6.1 of the CSS Service Definition defining a response time for 'Average daily volume' and 'Peak daily volume' of all Market Messages, however Section 7 of the Service Definition only defines average and peak daily volumes for certain message types. Therefore, it's not clear how 'average daily' and 'peak daily' is defined for other messages.

Another example was that Paragraph 6.5 of the CSS Service Definition refers to the 'relevant data for reporting' being available to generate ad hoc reports within two Working Hours of a request. While there are requirements for the CRS Provider to provide ad hoc responses to certain users in certain circumstances (which are defined in the REC). The current wording suggests that any new report request would need to be generated within two Working Hours, which was not the intent of this service level.

RECCo and the Code Manager agreed that these changes could be progressed in a separate REC Change Proposal to improve the drafting of these service levels, where there is not a material change to the intent of the service levels which have already been agreed. RECCo, the Code Manager and the DCC have agreed to take this forward with a view to these being addressed ahead in time for April 2023, when the scheme is proposed to be introduced.

2. Proposed changes to existing service levels

The DCC also raised a number of proposals to change existing service levels where the drafting and intent of these were clear, but they considered that a change should be made to either the requirement or the way this is measured based on early operation of the service.

One example of this related to requirements to respond to and resolve Switching Incidents within required timescales that have been set out in the REC. The REC currently requires that 100% of Switching Incidents are responded to and resolved within the timescales defined in the Code. The DCC suggested that this was not a reasonable target for financial incentives to be associated with and should be reviewed ahead of an economic incentive regime being introduced or excluded from the scheme.

These service levels were defined as part of the Switching Programme, and the DCC were heavily involved in the initial drafting and acceptance of these prior to procuring their service providers, and further review and acceptance of these being translated into the service definitions in the REC. When these service levels were defined as part of the Switching Programme, the requirement for 100% of incidents to be resolved within the required timescales was considered when the resolution timescales were agreed. For instance, the Switching Operator has 10 Working Days to resolve a Priority 4 Switching Incident, on the basis that the 10 Working Days is a maximum timescale and all incidents will be resolved in this period.

If the DCC wish to propose changes to these service levels, we consider that this is a more fundamental and material Change Proposal that requires appropriate industry engagement and

impact assessment to identify an appropriate solution and consider the evidence for if a change should be made. If the DCC wish to propose a change to these service levels, the Code Manager will work with them and industry to analyse and develop the proposal. However, we do not consider that this activity needs to complete, or reasonably can complete, prior to the completion of this Change Proposal. The CRS Provider will be expected to operate to the current service levels defined in the REC unless these are formally amended through the change process, and regardless of whether an economic incentive scheme is associated with these.

Scope of R0025

The original scope of R0025 has been amended to remove the ERDA and GRDA roles from the scheme, and to remove change management incentives, to allow the Change Proposal to focus on the agreed solution that will interact with DCC's price control regime.

Assurance requirements of ERDA and GRDA roles, and/or change management performance may still be explored in the future if/when required.

5 PROPOSED SOLUTION

The proposed solution introduces an economic incentive scheme linked to the CRS Provider's performance against existing SLAs. There is an existing reporting mechanism in place to monitor this which is sent to the Code Manager for review each month. The scheme would be the mechanism through which the DCC's operational and system performance would be assured through their price control regime. Ofgem will determine a percentage of the CRS Provider's baseline margin for switching that will be at risk through the scheme in each regulatory year.

The Performance Assurance Board and Code Manager will measure the CRS Provider's performance on a quarterly basis, and the PAB will be responsible for determining where Performance Charges should be applied based on the reported performance in each quarter.

It is important that the design of the scheme strikes a balance between appropriately incentivising the CRS Provider to deliver the expected levels of service required by Service Users, whilst recognising that some flexibility and concessions are required to reflect the reality of operating a complex service of this nature. It would not be reasonable for the CRS Provider to lose its entire margin for the year based on issues caused from a major incident, or series of incidents, that may result in a particularly poor performing quarter. The scheme is not designed in any way to act as a punishment or penalty for poor performance, but as an incentive to prevent poor performance. Likewise, where there are issues in delivering against expected service levels, it is important that the scheme incentivises the CRS Provider to rectify the issue in a timely manner and prevent future iterations of the issue from occurring.

The Code Manager considers that there are a number of advantages and disadvantages for the CRS Provider in the design of the scheme, that together offer the balance required for this type of scheme.

Advantages for CRS Provider	Disadvantages for CRS Provider
- Scheme is designed to incentivise achievement of existing service levels that the CRS Provider and industry have previously reviewed and accepted. - Total value at risk limited to x% of baseline margin (no risk of operating at loss). - No pass-through costs are required to Service Providers or sub-contractors as funding of external costs is not at risk. - Proposed tolerance of 1 missed service level per quarter. Allows for minor issues to occur in the delivery of the service without performance charges being incurred. - Performance charges are measured quarterly, capping potential liabilities for a poor performing period to 25% of the total margin at risk. - "No double jeopardy" principle. Requirement for the PAB to treat issues that would inevitably result in multiple service levels failing as a single failed service level. - Ability to make representations to the PAB where they consider achievement of a failed service level was not reasonably within their control, and discretion for the PAB to consider these representations prior to applying performance charges. - Additional backstop provision to make representations to the Authority in annual price control submission if they disagree with a PAB decision.	- Escalating Performance Charges based on the number of failed service levels. Each additional failed service level (after the initial tolerance has been breached) results in a higher proportion of the margin at risk being subject to performance charges. - No proposed weighting of particular service levels. Any failed service levels would be treated with the same materiality. This will reflect the overall reduction in service received by service users rather than specific damages associated with the individual service level. - Charges would be incurred on a quarterly basis rather than an annual basis (as is currently the case with the Smart Data Service Provider). - PAB decision is final (in determining application of Performance Charges), subject to any decision by the Authority to overturn this in the annual price control submission. - If a decision to apply Performance Charges is overturned, the CRS Provider will have already incurred the charge and will need to wait until the following years' budget to recover this.

We recognise that the service is still relatively new and is completing a period of bedding in. As this scheme is proposed to be introduced from April 2023, this will give the CRS Provider sufficient opportunity to resolve early life operational issues in the first nine months of service, before being incentivised on their performance.

We expect that as the service develops there will be additional information available to analyse and improve service performance. This may include proposing changes to service levels,

introducing new service levels or amending the design of the Performance Charge scheme. As these are all proposed to be defined in the REC, any interested party can propose a change to these where they consider this is required. Where changes are approved, the CRS Provider would be measured against the new baseline from when this is implemented.

6 DRAFT LEGAL TEXT

The legal text changes to deliver the proposed solution to R0025 can be found here.

7 DELIVERY AGAINST CHANGE PROPOSAL PLAN

The Change Proposal Plan can be found here.

8 KEY RISKS, ASSUMPTIONS, ISSUES AND DEPENDENCIES

8.1 RISKS AND ISSUES

No risks or issues have been identified that may impact the progression of this Change Proposal Plan.

8.2 ASSUMPTIONS AND DEPENDENCIES

No.	ASSUMPTION	NOTES	HOW/WHEN TO VALIDATE
R0025.CPP.A001	The solution discussed between RECCo, the Code Manager and Ofgem will be taken forward in Ofgem's upcoming consultation on changes to the Smart Meter Communications Licence.		Validated through the development of the Change Proposal.

No.	DEPENDENCY	NOTES	STATUS
R0025.CPP.D001	A decision will be made on this Change Proposal in time to support an Ofgem decision on the overall scheme and licence changes in January 2023.		Open

9 PROPOSED IMPLEMENTATION DATE AND APPROACH

PROPOSED IMPLEMENTATION DATE	01/04/2023	PROPOSED IMPLEMENTATION APPROACH	BIG BANG

This Change Proposal is linked to changes being made to the Smart Meter Communications Licence (DCC Licence) by Ofgem that need to be implemented on 01 April 2023 to be in for the start of the next regulatory year.

10 BUSINESS CASE ASSESSMENT

The intention of this change is to introduce an economic incentive scheme for the CRS Provider through the introduction of Service Provider Performance Charges linked to performance against service levels defined in the REC.

Without this Change Proposal in place, there is no mechanism for incentivising the performance of the CRS Provider to ensure the expected level of service is delivered. The performance of Service Providers is essential to the proper functioning of the market, without appropriate performance measures there is little incentive for these providers to maintain service performance or improve poor performance in a timely manner.

Analysis of this Change Proposal has not identified any material costs or impacts to the CRS Provider or Code Manager. As the proposed scheme will be measuring performance against existing service levels, which already have appropriate reporting cycles in place between the CRS Provider and Code Manager, there should be no material change to how these are monitored. Likewise, as the scheme intends to only put at risk the CRS Provider's switching baseline margin, there will be no direct commercial impact to the CRS Provider over and above existing commercial impacts associated with non-delivery of these requirements. The switching baseline margin relates to the profit margin the CRS Provider is allowed to earn under its price control, therefore should not impact the external costs associated with service provider delivery.

Approval of this Change Proposal will deliver effective performance of central services, which is expected to result in greater value for money for Parties that pay for the service. In the event that this Change Proposal is not approved then there will continue to be no effective incentives for the CRS provider to deliver the expected levels of service reasonably expected from REC Parties and Service Users.

Therefore, the Code Manager considers that a positive business case can be made to approve this Change Proposal.

11 CASE FOR CHANGE

11.1 AUTHORITY DETERMINATION

The Code Manager believes that R0025 better facilitates the following REC Objectives:

OBJECTIVE	IMPACT TYPE	DESCRIPTION AND JUSTIFICATION
To ensure the REC operates and evolves in a manner that facilitates the achievement of its mission statement[1]	Positive	This change would positively impact the REC's mission to "facilitate the efficient and effective running of the retail energy market, including its systems and processes". Ensuring that REC Services are effectively incentivised and accountable to deliver the required service levels to support the efficient delivery of REC processes, is essential to the achievement of the REC's mission statement.
To ensure customers interests and data is protected in the operation of the REC	Positive	The CRS Provider service levels set out in the REC are designed to drive the delivery of a real-time, Consumer-focused switching service. Certain service levels have been designed to support a seamless and reliable Consumer switching journey. Performance against these service levels can have a direct impact on the Consumer experience of switching and is therefore vital to ensuring that Consumer interests are protected in the operation of the REC. The incentive scheme reinforces the importance of the service levels being met and the effects on Consumers where poor performance is seen.
To drive continuous improvements and efficiencies in the operation of the REC and the central systems and communication infrastructures it governs	Positive	The incentivisation of the CRS Provider to deliver against expected service levels and resolve any issues preventing this in a timely manner, will ensure that these vital central systems deliver a high value and efficient service in the operation of the REC. RECCo and the Code Manager's ability to operate a comprehensive performance management framework for all REC Service Providers is an important step in achieving this objective.

[1] REC Mission Statement

12 CODE MANAGER'S RECOMMENDATION

Based on the assessment in section 10 and 11 of this report, the Code Manager considers that the REC Objectives would be better facilitated on the basis of this Change Proposal being implemented than would otherwise be the case.

The Code Manager recommends that the Change Panel recommend that the Authority:

- **APPROVE** the proposed change solution;
- **APPROVE** the proposed implementation approach; and
- **APPROVE** the proposed implementation date of 01 April 2023.

13 CONSULTATION PLAN AND NEXT STEPS

The consultation on this Preliminary Change Report for R0025 will be published on the REC Portal on 15 November and closes on 06 December 2022**.**

Following consultation, the Code Manager will produce an updated version of this Preliminary Change Report (referred to as the Final Change Report). This will include the outcome of the consultation, setting out a summary of the consultation submissions and the Code Manager's response.

The Final Change Report will be issued to the Performance Assurance Board to make its determination.

14 APPENDIX

CHANGE PROPOSAL	R0025 Change Proposal Page
LEGAL DRAFTING	Link to EMAR

15 GLOSSARY

TERM	DEFINITION
Data Communications Company (DCC)	means the person holding the DCC Licence
Performance Assurance	means the activities undertaken by the Code Manager and the REC PAB in accordance with the Performance Assurance Schedule.
Performance Assurance Framework (PAF)	means the Performance Assurance Schedule and the documents, processes and arrangements established pursuant to the Performance Assurance Schedule, for the purposes of (or in relation to) the monitoring and assurance of roles and obligations undertaken by REC Service Users and REC Service Providers pursuant to this Code.
Performance Assurance Operating Plan (POAP)	means the plan of that name approved by the REC PAB, as described in the Performance Assurance Schedule.
Performance Assurance Technique (PAT)	means any provision or process that may be employed by the REC PAB and/or the Code Manager in order to mitigate Retail Risks in accordance with the Performance Assurance Schedule.
Performance Charges	means the charges which the REC PAB may levy on REC Service Users and REC Service Providers as part of the Performance Assurance Framework.
REC Service	means each of the services provided pursuant to this Code, as described in the Service Definitions.
REC Service Provider (Service Provider)	means the provider of each REC Service.
Retail Energy Code (REC)	means this Code, including its Schedules and the Technical Specification, maintained pursuant to the electricity supply licences granted under the Electricity Act 1989 and the gas supply licences granted under the Gas Act 1986, as such code is modified from time to time in accordance with its provisions
Retail Energy Code Company (RECCo)	means the company established under Clause 5 of the main body of this Code.
Retail Risk	means a risk that retail energy consumer outcomes and the effectiveness of the retail market are measurably and significantly degraded by a failure by a REC Service User or REC Service Provider to meet the objectives, standards and core processes under this Code.