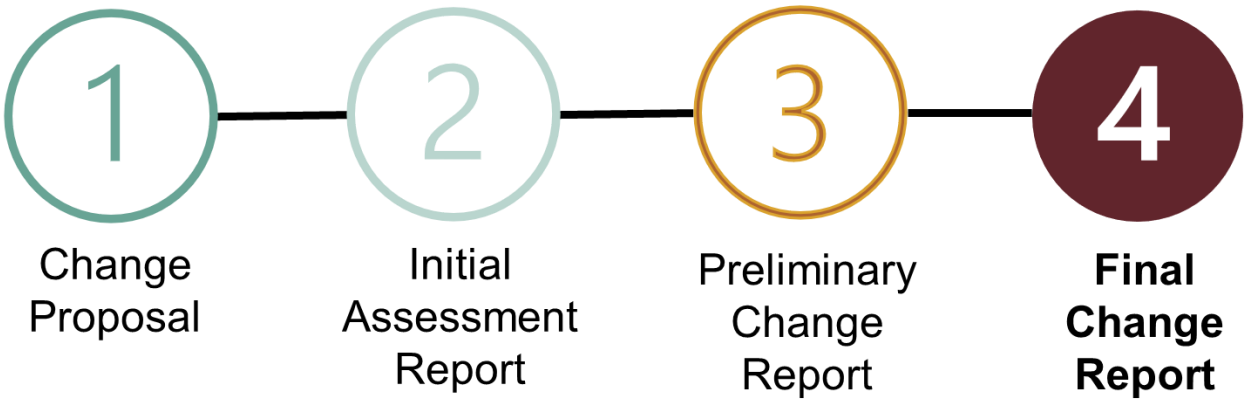
RETAIL ENERGY CODE

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FINAL CHANGE REPORT



PURPOSE:	The Final Change Report sets is the final stage of the Change Proposal, following consultation of the Preliminary Change Report. The Code Manager will set out their final assessment and recommendation, clarifying any changes made from the Preliminary Change Report.
NOTES:	There are three versions of the Final Change Report: one is issued the Responsible Committee for decision; one is published after the vote; and (if Authority Approval is required) one is published after the Authority determination.
NEXT STEPS:	The Final Change Report will be issued to the Responsible Committee who will vote to either approve or reject the Change Proposal, considering the recommendation of the Code Manager.

RETAIL ENERGY CODE

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

FINAL CHANGE REPORT

R0034 – MARKET STABILISATION CHARGE

DOCUMENT VERSION	1.0
DATE ISSUED	18/03/2022
DOCUMENT APPROVAL STATUS	PRE-VOTE

RESPONSIBLE COMMITTEE	CHANGE PANEL

LEAD ANALYST	ANN PERRY	EMAIL

CHANGE OVERVIEW

	High Impact: N/A
	Medium Impact: N/A
	Low Impact: Energy Suppliers and Retail Energy Code Company

This Change Proposal seeks to introduce the Market Stabilisation Charge into the Retail Energy Code.

RESPONSIBLE COMMITTEE DECISION

On 23 March 2022, the Change Panel voted unanimously to recommend to the Authority that Change Proposal R0034 should be **APPROVED** for implementation on 14 April 2022, subject to the Authority making a determination by 08 April 2022.

RETAIL ENERGY CODE

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BACKGROUND

1 SUMMARY

On 15 December 2021, Ofgem issued a Statutory Consultation[1] on potential short-term interventions to address risks to Consumers from market volatility.

On 16 February 2022 Ofgem issued its decision on those proposals[2], which include the modification of the licence to introduce the Market Stabilisation Charge (MSC), requiring Energy Suppliers to pay a MSC when acquiring new Consumers from 14 April 2022.

An Energy Supplier gaining new Consumers will pay a charge to the Losing Suppliers. This charge will only take effect if wholesale prices fall significantly below the level used to set the price cap from April (parameters set by Ofgem).

The charge would represent a proportion of the economic loss to the Losing Supplier when the Switch occurs and would be based on the Consumers estimated annual consumption.

The payment mechanism would be managed by the Retail Energy Code, with the Retail Energy Code Company (RECCo) calculating net credit and debits based on all Switches across the market and the level of charge set by Ofgem.

The MSC will be a temporary measure, with the licence condition coming into effect on 14 April 2022 and due to expire on 30 September 2022, unless a decision is made to extend the condition by up to a further six months to 31 March 2023, or remove it earlier, if it is considered necessary to do so.

This Authority Change Proposal seeks to give effect to the MSC through changes to the Retail Energy Code (REC), to allow for the effective discharge of the new licence obligation on Energy Suppliers to pay the MSC.

A subsequent Change Proposal (R0035 – Market Stabilisation Charge - Administration) has been raised, to introduce the necessary governance and charging arrangements to allow these MSC payments to be administered.

2 PROBLEM STATEMENT

Following the publication of Ofgem's decision on potential short-term interventions to address risks to Consumers from market volatility, the Market Stabilisation Charge will be introduced via the modified Standard Licence Condition 24A. A change is needed to the REC to give effect to the Market Stabilisation Charge from 14 April 2022.

[1] Statutory consultation on potential short-term interventions to address risks to consumers from market volatility

[2] Decision on short-term interventions to address risks to consumers from market volatility

3 USER STORIES

REF.	USER STORIES
MARKET PARTICIPANT USER STORIES	
M1	As the Authority, I want the necessary changes made to the Retail Energy Code to introduce the MSC obligations, so that the new MSC licence obligations on Energy Suppliers can be effectively discharged by RECCo.

PROPOSAL

4 KEY RISKS, ASSUMPTIONS, ISSUES AND DEPENDENCIES

4.1 RISKS AND ISSUES

No risks or issues have been identified in relation to the progression and implementation of this Change Proposal.

4.2 ASSUMPTIONS AND DEPENDENCIES

No.	ASSUMPTION	NOTES	HOW/WHEN TO VALIDATE
A1	The funding provisioned for MSC within the RECCo 2022/2023 budget will be sufficient for the design, development and implementation of the MSC		This will be validated following the procurement activity being undertaken by RECCo

No.	DEPENDENCY	NOTES	STATUS
D2	The Authority will need to make a determination on whether to approve or reject this Change Proposal by 08 April 2022 if this is to be included in an extraordinary REC release on 14 April 2022		Open

5 PROPOSED SOLUTION

This Change Proposal seeks to give effect to the MSC through the introduction of a new Market Stabilisation Charge Schedule, to allow for the effective discharge of the modified licence, placing obligations on RECCo and Energy Suppliers.

Consequently, a new definition for the MSC will need to be added to the Interpretations and Definitions Schedule, and the introduction of a new REC Schedule will require an update to the REC Baseline Statement. As the REC Baseline Statement is a Category 3 document a Category 3 Change Proposal, C3-0018, has been raised to progress the changes to the REC Baseline Statement.

We consider the introduction of a new Schedule to be the appropriate mechanism for introducing the MSC into the REC, as this reflects the short-term nature of the obligations and would enable the easy removal of the Schedule at an appropriate point in the future.

While the implementation of this change in itself is not expected to have a direct impact on REC Parties, a subsequent Change Proposal (R0035 – Market Stabilisation Charge - Administration) has been raised to introduce the necessary governance and charging arrangements, to operationalise the MSC scheme and allow the MSC payments to be administered.

6 DRAFT LEGAL TEXT

The legal text changes to deliver the proposed solution to R0034 can be found on the Change Proposal Page on the REC Portal.

7 PROPOSED IMPLEMENTATION DATE AND APPROACH

PROPOSED IMPLEMENTATION DATE	14/04/2022

PROPOSED IMPLEMENTATION APPROACH	BIG BANG

Under the licence notice change there is a 56-day period from publication of decision to the point the changes come into effect. The MSC licence condition will come into effect on 14 April 2022, following publication of the notice on 16 February 2022.

The implementation of the legal text changes required to introduce the MSC into the REC need to be aligned with the licence condition effective date.

As this is following an ‘Authority Determined’ Change Path, the final determination on whether to approve or reject the Change Proposal is made by the Authority.

There is a dependency that the Authority issue its decision on this Change Proposal by 08 April 2022 for this to be implemented on 14 April 2022.

8 CHANGE PATH

CHANGE PATH	AUTHORITY DETERMINED

9 RESPONSIBLE COMMITTEE

RESPONSIBLE COMMITTEE	CHANGE PANEL

10 SUMMARY OF CONSULTATION RESPONSES

A consultation was circulated on 04 March 2022 to obtain views on the Preliminary Change Report. In total four responses were received, all from Energy Suppliers. The key themes from these responses have been summarised and set out below.

10.1 SUMMARY OF RESPONSES

10.1.1 COMMENTS ON THE SOLUTION

Three of the four respondents agreed with the proposed solution, with feedback provided on the proposed legal text, which the Code Manager has taken onboard and is reflected in the revised legal text.

One respondent agreed that introducing a new MSC Schedule was the acceptable approach to enable the discharge of the MSC, however they do not believe the legal text defines RECCo's interim scope for developing a solution, nor does it provide sufficient details on the approach to the procurement and build process.

The aspects highlighted by the respondent, which are detailed in the Consolidated Consultation responses, will be covered in Change Proposal R0035.

The Code Manager acknowledges the questions raised about the procurement activity and approach. The procurement approach has been taken for the following elements of the MSC:

- RECCo will be utilising existing data Service Providers for the provision of the data required to calculate Suppliers' net positions;
- RECCo will invite competitive bids from existing Service Providers for the Supplier reconciliation and billing system procurement; and
- It is anticipated that auditing of the MSC will be completed by an Ofgem procured Service Provider.

10.1.2 CASE FOR CHANGE AND CODE MANAGER'S RECOMMENDATION

Three of the four respondents agreed Code Manager's assessment of impacts against the REC Objectives.

One respondent does not agree that this Change Proposal meets the REC Objective of ensuring Consumer's interests and data are protected in the operation of the REC. They consider the solution only focuses on the short-term protection for Consumers rather than its future implications on Consumers.

The Code Manager accepts that Ofgem, as the competent authority, has assessed the policy impacts of the MSC. The Code Manager's assessment of impacts against the REC Objectives is predicated on the case set out by Ofgem. The Code Manager considers that in the event of wholesale prices falling significantly the implementation of this Change Proposal will result in the longer-term stability of the market and reduced Consumer exposure to mutualised costs associated with Energy Supplier exits, ultimately ensuring Consumer's longer-term interests are protected.

10.1.3 IMPLEMENTATION APPROACH AND DATE

Three of the four respondents agreed with the implementation approach and date, with one respondent raising the urgency of the Change Proposal as something to be reconsidered.

One respondent understands the purpose of setting the implementation date as the 14 April 2022, however they do not consider the proposed framework is sufficient to enable a robust procurement exercise.

At this time the Code Manager believes it is still appropriate to be progressed as an Urgent Change Proposal, implementing the solution on the 14 April 2022.

10.1.4 OTHER CONSIDERATIONS

Two respondents highlighted recent market conditions as a potential driver for reconsidering the urgency and Code Manager's recommendation.

The Code Manager considers it is still appropriate to align the implementation of this Change Proposal with the modification of Standard Licence Condition 24A, to give effect to the MSC on 14 April 2022.

One respondent raised concerns about the methodology for identifying domestic gas Switches, which will be applicable for the MSC, and whether this is in alignment with Ofgem's definition of a Domestic Consumer.

We are reliant on data already available and intend to use the Market Sector Code to identify Domestic Switches. The need for expediency precludes a solution that can cater for all exceptions. Ofgem has been involved in the data requirements definition and the use of Market Sector Code is inline with their expectations.

11 SUMMARY OF AMENDMENTS MADE FOLLOWING CONSULTATION

DOCUMENT	SECTION	AMENDMENT	REASON
Final Change Report	4.2	New assumption added - the funding provision in the REC budget will be sufficient	To confirm this is the Code Manager's current assumption.
Final Change Report	4.2	Dependency D1 removed	Was closed in the PCR
Legal text	Schedule 1 – Interpretations and Definitions	Unnecessary text removed.	To correct a drafting error.
Legal Text	Schedule xx – Market Stabilisation Charge	Updated to include specific reference to the re-distribution of Charges to Losing Suppliers	Added for clarity, following feedback received during the Consultation.

12 BUSINESS CASE ASSESSMENT

On 15 December 2021, Ofgem issued a Statutory Consultation on potential short-term interventions to address risks to Consumers from market volatility[3].

On 16 February 2022 Ofgem issued its decision on those proposals[4], which include the modification of the licence to introduce the Market Stabilisation Charge (MSC), requiring Energy Suppliers to pay a MSC when acquiring new Consumers from 14 April 2022.

The payment mechanism would be managed by the Retail Energy Code, with the Retail Energy Code Company (RECCo) calculating net credit and debits based on all Switches across the market and the level of charge set by Ofgem.

This change will ensure the obligations on Energy Suppliers to pay the MSC, and on RECCo to implement, govern and administer the MSC are reflected within the REC.

12.1 CASE FOR CHANGE AUTHORITY DETERMINED

The Code Manager accepts that Ofgem, as the competent authority, has assessed the policy impacts of the MSC. The Code Manager's assessment of impacts against the REC Objectives is predicated on the case set out by Ofgem.

[3] Statutory consultation on potential short-term interventions to address risks to consumers from market volatility

[4] https://www.ofgem.gov.uk/sites/default/files/2022-02/Short%20Term%20Interventions%20-%20Decision%20Document.pdf

The Code Manager considers that R0034 has the following impacts against the REC Objectives:

OBJECTIVE	IMPACT TYPE	JUSTIFICATION
To ensure the REC operates and evolves in a manner that facilitates the achievement of its mission statement	Neutral	When assessing the impacts against this REC Objective, the Code Manager has considered impacts to the following areas: • The efficient and effective running of the retail energy market; • Competition; and • Consumer Outcomes. Ofgem has made the case for the MSC being required in order to achieve an effective retail energy market in the long term, however there is a recognised impact to competition in the short term. In the event of wholesale prices falling significantly a positive impact on Consumers is expected in the longer term. At this time the Code Manager considers the impact against this REC objective to be neutral, with the shorter-term nature of negative impacts being balanced by the longer-term benefits of stability within the energy market.
To ensure customers interests and data is protected in the operation of the REC	Positive	In the event of wholesale prices falling significantly, the MSC would likely have a dampening effect on some Consumers' willingness to switch. In these circumstances Consumers would still benefit from switching, even considering Energy Suppliers factoring the MSC into their prices. However, there has been very little assessment of the wider detrimental impacts to Consumer confidence in the market. On balance the deliberate detriment to competition in the short term, and reduced Consumer savings, are offset by the longer-term stability of the market and the reduced Consumer exposure to mutualised costs associated with Energy Supplier exits.
To drive continuous improvements and efficiencies in the operation of the REC and the central systems and communication infrastructures it governs	Neutral	The REC 2022/2023 budget includes provision for the operation of the MSC. Resources required for the development, implementation and administration of the MSC, will not be diverted from the delivery of the other areas targeted in the REC Strategy or Code Manager's Forward Work Plan.

		Therefore, Code Manager considers this Change Proposal does not positively or negatively impact this objective.

At this stage, the scale of the activity required by the REC and RECCo, to develop, operationalise and maintain the MSC scheme, is not clearly understood. This will be set out and assessed as part of Change Proposal R0035.

13 CODE MANAGER'S RECOMMENDATION

Based on the assessment in section 12 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.

However, in the event the MSC is never triggered an argument could be made that the approval and implementation of this Change Proposal would negatively impact the REC objectives.

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 14 April 2022

14 RESPONSIBLE COMMITTEE DECISION

On 23 March 2022, the Change Panel voted unanimously to recommend that the Authority:

- **APPROVE** the proposed change solution;
- **APPROVE** the proposed implementation approach, and
- **APPROVE** the proposed implementation date of 14 April 2022.

15 APPENDIX

CHANGE PROPOSAL	Change Proposal Page
LEGAL DRAFTING	Link to EMAR – Change Set
CONSOLIDATED CONSULTATION COMMENTS AND CODE MANAGER'S RESPONSES	Consolidated Consultation responses

QUESTION	RESPONDENT DETAILS	RESPONSE	CODE MANAGER COMMENTS
1. Do you agree with the proposed solution? If not, please explain why?	**ScottishPower Energy Retail** Energy Supplier	Yes	
	EDF Energy Supplier	We broadly agree with the proposed solution, and the introduction of the new Market Stabilisation Charge Schedule into the REC to support the delivery of the new obligations set out in the supply licences. We do, however, have the following comments on the draft legal text: **Interpretations Schedule** The definition of Market Stabilisation Charge contains superfluous wording that, if removed would make the definition clearer; as follows: "means, in respect of a Domestic Consumer who has Switched, the amount ~~of that name~~ (if any) payable by the Gaining Supplier in accordance with Condition 24A of the Gas Supply Licence or Condition 24A of the Electricity Supply Licence (or, if such an amount is payable under both the Gas Supply Licence and the Electricity Supply Licence, the aggregate of such amounts). " **Market Stabilisation Charge Schedule** The draft legal text ensures that suppliers will pay the Market Stabilisation Charge, but there is no mention of the need to ensure that RECCo redistribute these monies to Losing Suppliers. This needs to be more explicitly referred to in the legal text, for example we would suggest the following: This REC Schedule sets out arrangements concerning payment of Market Stabilisation Charges in relation to	The Code Manager accepts the suggested changes, these are reflected in the drafted legal text.

		Domestic Consumer Switches and the redistribution of those Market Stabilisation Charges to relevant Losing Suppliers.	
	Utilita Energy Limited Energy Supplier	Firstly, we continue to disagree with the implementation of a Market Stabilisation Charge (MSC) as an effective solution for consumers. The MSC Proposal overall leads to consumers underwriting a supplier's losses from their chosen hedging strategy. A MSC will not incentivise suppliers to make decisions with the long-term interest of consumers in mind but instead will force the customers to pay the charge, when triggered, without transparency. For the purpose of R0034 intentions, we accept that MSC can be discharged through the REC under a new Market Stabilisation Charge Schedule, however, we are concerned that the legal text does not define RECCo's interim scope for developing a solution and therefore does not deliver sufficient details to provide with the procurement and build process. In the proposed draft, 1.3 of the new Market Stabilisation Charge Schedule has no clear and specific guidance of the interim process RECCo will be procuring on behalf of the industry nor covers the necessary details to set up (procure and implement) MSC. The aspects that need to be reviewed and added to the Schedule include; 1. Adopting some of the guidance Ofgem has requested from RECCo in designing this new schedule. 2. Indicating the temporary nature of developing MSC (in procuring and implementing). 3. Highlighting clearly that RECCo's development of MSC is subject to consultation from stakeholders were reasonably necessary. 4. Confirming RECCo's intent to act in a prudent and cost-effective manner. The details of MSC are yet to be addressed in R0034 and R0035, therefore, the scale of this proposal and the procurement is still unknown. Without these necessary details, it is difficult to assess if R0034 and as a consequence R0035 will indeed be value for money for REC Parties and their Energy Consumers – this modification	The aspects highlighted by the respondent will be covered in Change Proposal R0035. R0034 does not of itself impose any costs. The Code Manager will ensure that the Change Proposal Reports and associated change communications for R0035 will address the aspects raised by the respondent.

		fails to provide sufficient confidence to parties. We are also concerned the budgeting for this REC change is will exceed predictions RECCo has assigned already in 2022/2023 and impact other more positive consumer change proposals.	
	EON Energy Supplier	We agree that adding a new schedule to the REC is a sensible approach for the reasons outlined in the preliminary change report and we look forward to receiving more detail on how the solution will be applied via R0035.	
2. Do you agree with the proposed implementation date and implementation technique? If not, please explain why.	**ScottishPower Energy Retail** Energy Supplier	We recognise that the date has been set by Ofgem, however given current market conditions, is it worthwhile reconsidering the urgency?	This Change Proposal still needs to have effect from 14 April 2022, to align with licence modification, even if we assume that it will not be triggered in the near term.
	EDF Energy Supplier	We agree that this change should be implemented on the 14th April 2022 as a 'big bang' implementation, to align with the introduction of the new licence obligations.	
	Utilita Energy Limited Energy Supplier	No. Delivering a new Schedule without sufficient powers, mechanisms, and robustness to meet a date, even a date set by Ofgem has little purpose behind it. We understand that the purpose of delivering this Schedule by the 14th of April is to begin procurement but as set out in Question 1, Utilita has concerns about the robustness of a procurement exercise based on such a limited framework.	The Code Manager acknowledges the questions raised about the procurement activity and approach. RECCo will be utilising existing data Service Providers for the provision of the data required to calculate Suppliers' net positions. RECCo will invite competitive bids from existing RECCo Service Providers for the Supplier reconciliation and billing system procurement. It is anticipated that auditing of the MSC will be completed by an Ofgem procured Service Provider.

	EON Energy Supplier	We agree	
3. Do you agree with the Code Manager's assessment of the Change Path, that this Change Proposal should be subject to Authority Determination?	**ScottishPower Energy Retail** Energy Supplier	Yes	
	EDF Energy Supplier	Given the link to the licence changes, we agree that this change should be subject to Authority Determination.	
	Utilita Energy Limited Energy Supplier	Yes. MSC is being introduced to the License Conditions by the Authority for the 14th April 2022 therefore this change proposal is following the appropriate steps highlighted in REC Schedule 5. The issue remains on understanding the full intent of this change proposal as it should be a two-part approach for R0034 1. Enabling RECCo to begin work on MSC and 2. Highlighting what is in this exact remit within the new Schedule.	As above
	EON Energy Supplier	We agree	
4. Do you agree with the Code Manager's assessment of impacts against the REC Objectives? If not, please explain why?	**ScottishPower Energy Retail** Energy Supplier	Yes	
	EDF Energy Supplier	We agree with the Code Manager's assessment of impacts against the REC Objectives.	
	Utilita Energy Limited Energy Supplier	No, Utilita can not agree that this change proposal 'positively' meets the REC Objective of ensuring Consumer's interests and data are protected in the operation of the REC. As mentioned in Question 1 this solution only focuses on the short-term protection for Consumers rather than its future implications on Consumers.	The Code Manager accepts that Ofgem, as the competent authority, has assessed the policy impacts of the MSC. The Code Manager's assessment of impacts against the REC Objectives is predicated on the case set out by Ofgem.
	EON Energy Supplier	Yes, we agree	
5. Are there any other impacts or considerations the Code Manager	**ScottishPower Energy Retail** Energy Supplier	Current market conditions.	
	EDF Energy Supplier	Ultimately, the supply licence requires arrangements to be in place under the REC to support the introduction of the Market	

should take into account when developing the Codes Manager's Recommendation, as part of the Final Change Report?		Stabilisation Charge; it is probably a moot point whether this change does (or doesn't) meet the REC Objectives, it needs to be delivered following the decision to amend the supply licences.	
	Utilita Energy Limited Energy Supplier	On top of our concerns are already highlighted in Question 1, we expect the Code Manager to take into account the current (and recently changing) market conditions when putting together recommendations for the Final Change Report and its suitable implementation date.	This Change Proposal still needs to have effect from 14 April 2022, to align with licence modification, even if we assume that it will not be triggered in the near term.
	EON Energy Supplier	The REc should consider how a switch is identified as domestic We have become aware that the REC has made a request to Xoserve for the provision of data for the purposes of calculating the charge and we do have some concerns about this. Xoserve will be utilising the market sector indicator within UK Link to identify whether a switch is domestic and for which therefore the MSC will apply. It is our view that this is not in line with the Ofgem definition of a domestic consumer and is not an accurate way to determine which switches incur the charge. The site and/or end consumer may well be domestic but there are circumstances where for contracting purposes, the switch would be a non-domestic one. Examples of this include where we contract with a business (eg a landlord or housing association) - the contract is non domestic and therefore the switch should not incur the MSC.	We are reliant on data already available and intend to use the Market Sector Code to identify Domestic Switches. The need for expediency precludes a solution that can cater for all exceptions. Ofgem has been involved in the data requirements definition and the use of Market Sector Code is inline with their expectations.
6. Do you agree with the Code Manager's minded to position, that this Change Proposal should be approved for implementation on 14 April 2022?	**ScottishPower Energy Retail** Energy Supplier	Yes, but would prefer a review.	
	EDF Energy Supplier	We agree that this Change Proposal should be approved for implementation on 14 April 2022	
	Utilita Energy Limited Energy Supplier	As mentioned in Question 2, although the implementation date aligns with Ofgem's decision the necessary details on how RECCos will manage the interim development of MSC needs to be present before any implementation date.	As above
	EON Energy Supplier	yes we agree	

If not, please explain why.			
7. Do you have any other comments relating to this Change Proposal?	**ScottishPower Energy Retail** Energy Supplier	No	
	EDF Energy Supplier	No	
	Utilita Energy Limited Energy Supplier	No further comments.	
	EON Energy Supplier	We have no further comments at this time	