



WRC Consultation
Retail Market Opening Programme
Ofwat
21 Bloomsbury Street
London
WC1B 3HF

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Dear Ofwat

Consultation on the Wholesale Retail Code

We welcome this opportunity to provide feedback on the Wholesale Retail Code before formal issue in advance of Market Opening in April 2017. Having been involved in the Open Water programme for some time, we have found that there has been ample opportunity for companies to provide feedback on the drafting of the Codes themselves, either during initial Code creation, or through the Interim Code Panel. Therefore, we have limited comments at this stage.

Revised Structure

We support the revised structure, drafting and format of the Wholesale-Retail Code and believe that any further changes should be minimal (unless they present a material risk to the functioning of the market) in order to allow a 'steady state' for the remainder of Shadow Operations and the early stages of the live market.

Specific Comments on the Code

We have set out below our comments against the relevant individual documents.

Wholesale Contract for Wholesale Services

The consultation indicates that all Wholesale Contracts required for Market Opening will be signed when the MAC Framework Agreement is signed, ahead of Market Opening. We note that clause 2.1 of the Wholesale Contract provides for the parties to insert an agreed date as the "Effective Date" for the commencement of the Wholesale Contract. It would be inappropriate for Wholesale Contracts to include an Effective Date which is prior to the date of market opening, so it would be helpful for Ofwat to clarify in its forthcoming Programme Note how it envisages market participants should deal with clause 2.1 at the time Wholesale Contracts are signed.

Schedule 1 Part 2 Business Terms

We welcome that Section 4.8 and Section 22 of the Business Terms seek to preserve the position under Section 205 of the Water Industry Act 1991 where there are different service providers in relation to the same premises.

We are concerned that as drafted, Section 4.8 may not fully achieve this objective. In particular:

- Section 4.8.2 appears to introduce in 4.8.2(d) an unnecessary pre-condition that the Relevant Party agrees the matters in Section 4.8.2(d)(i)-(ii) before the payment obligation in the final paragraph of Section 4.8.2 applies; and
- as currently drafted, the references to 4.8.2(c)(i) in both Section 4.8.2(d)(ii) and the final paragraph of Section 4.8.2(d) are erroneous.

These appear to be drafting matters rather than points of substantive policy. We have suggested minor drafting amendments to Section 4.8 below that would address this concern.

In order for the market to operate on a level playing field basis, we consider that these minor changes should be made before market opening. We have not raised this proposed change with the Interim Codes Panel. It has come to light as part of our review of the Business Terms published as part of the consultation.

4.8 Charging for Meter Reads

4.8.1 This Section 4.8 relates to section 205 of the Water Industry Act 1991 which provides for the Contracting Wholesaler or the Contracting Retailer or any relevant Trading Party to disclose meter readings in certain circumstances subject to the relevant Trading Party receiving a reasonable proportion of the expenses of taking and providing such Meter Reads. It sets out a mechanism intended to preserve the ability to charge such reasonable proportion of expenses irrespective of whether or not the Meter Reads are disclosed to and/or by the Market Operator prior to such payment being received.

4.8.2 Where:

- (a) different services are provided in relation to the same Eligible Premises by different Service Providers;
- (b) one of those Service Providers obtains a meter reading from a meter used in determining the amount of charges applied in relation to the Eligible Premises; **and**
- (c) the charges of the Contracting Wholesaler and/or the Contracting Retailer (not being the Service Provider) (the "Relevant Party") are fixed by reference to any matter to which the reading is relevant; **and**

~~(d)~~ — then the Relevant Party agrees that where:

- (i) the Service Provider is entitled, pursuant to section 205 of the Water Industry Act 1991, to charge the Relevant Party a reasonable proportion of the expenses of obtaining the reading together with the reasonable expenses of the disclosure of the reading to it in accordance with the Wholesale Tariff Document or as otherwise to be charged between Contracting Retailers as notified from time to time; and
- (ii) the Service Provider has not waived its right to charge the Relevant Party the expenses, referred to in 4.8.2 (c)(i) above,

the Relevant Party shall pay the Service Provider the expenses referred to in 4.8.2 (c)(i) above, irrespective of whether the meter reading has been issued by the Market Operator to the Relevant Party prior to the Relevant Party being invoiced for the expenses by the Service Provider.

Schedule 1: Part 3 Operational Terms

Shadow Operations has given us the opportunity to test the majority of operational processes in an 'as live' environment. We have included feedback on some of these in the following section. Whilst we agree that any future changes should be made through the Codes Panel using the mechanism provided, we feel it may be useful to highlight some of these areas for consideration prior to market opening.

Additional processes for consideration

We believe there is much to gain from considering the addition to the bi-lateral processes of some additional high volume drivers of operational contact;

- Pressure and flow (outside of an unplanned or planned event)
- High consumption investigations

Both of these processes are lengthy and can involve numerous visits to the customer before problems are identified and resolved. During Shadow Operations, we have managed these processes via email or using the F4 enquiry form. However, this does not provide the ability for jeopardy reporting for Wholesalers and Retailers.

SLAs

The SLAs included within the Operational Terms allow clear performance expectations for Wholesalers, Retailers and customers. As regular market participant performance reviews are formalised over the coming months, we see there will be value in reviewing performance against to currently agreed SLAs to ensure that they remain realistic, achievable and acceptable to end customers in the live market.

E3 – Identifying and managing unplanned changes to the supply of Water Services

We fully support the current discussions taking place (as part of the Wholesale Interface Group) regarding allowed Wholesalers to have access to and maintain across the market a log of emergency contact details for NHH customers. This will enable Wholesalers to manage any events as quickly as possible involving affected customers. It also de-risks any possibility of delay caused by an unplanned network failure negatively impacting the customer's experience.

We have no further comments to make on any of the other documentation included within this consultation.

If you require any further information regarding our response, please do not hesitate to contact me.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "C. Offer".

Christopher Offer
Director of Regulation