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Dear Ofwat,

Interim supply arrangements: policy conclusions and consultations on the draft Interim Supply Code

We welcome the opportunity to comment on the draft interim supply code.

We consider that the interim supply process should be proportionate and efficient, ensuring that risk is appropriately balanced between all market participants and that all market participants continue to have equivalent obligations and opportunities. We are therefore generally supportive of the policy conclusions Ofwat has made regarding interim supply.

We have reviewed the policy conclusions and draft Interim Supply Code and our comments are set out below:

Termination of wholesale contracts

- **Ofwat approval prior to termination of a wholesale contract.** We understand why Ofwat has concluded that approval is required before a wholesale contract is terminated in order to protect the market and customers. However, we consider that there is a need for a transparent process regarding how Ofwat will decide if a contract can be revoked and consider that there is a need to ensure the wholesaler is consulted during this process and that it has an opportunity to raise concerns and input into solutions.

Notice and provision of information

- **Customer contact.** We agree that retailers should notify customers that are acquired under the interim supply process that the process has been undertaken and why, but we query if the obligation to inform customers within five working days is realistic and

practical. Our preference is that the draft ISC is drafted to reflect this i.e. interim licensees have an obligation to write to each affected customer allocated to it within five business days where practical.

- **Baselining the customer portfolio.** We note that additional Ofwat guidance is still to be developed to support how the procedures set out in the ISC will be implemented in practice. Whilst we agree that customers should not be prevented from switching after an interim supply process has been invoked we consider that the supporting guidance needs to account for the potential impact customer switching might have on the market-based allocation process proposed.

Basis of interim supply

- **Outstanding service requests.** We agree that the process of managing outstanding service requests following an interim supplier allocation needs to balance the interests of customers, wholesalers and retailers and are keen to ensure that market stakeholders retain visibility and input into the development of a practical and efficient process.

We believe that some categories of service request should continue without being placed on hold e.g. work linked to water quality and GSS events. Other work (and the associated SLAs) should be put on hold until the retailer has had an opportunity to review and ensure that the tasks are still required and this could be time bound e.g. 10 WDs post transfer.

- **Uncertainty and the timing of further changes.** We note that there are several key decisions still required which relate to the ongoing development of the Customer Protection Code and changes to the Wholesale-Retail Code. We would welcome visibility of how these policy issues and Code changes are developing as soon as possible to support the development of wholesale and retail processes for market opening.

Governance of the Retail Exit Code and additional guidance

- **Potential additional Ofwat guidance.** We note that the draft code permits Ofwat to issue guidance relating to certain aspects of how the procedures set out in the ISC will be implemented in practice. We believe that stakeholders need to understand how to gain sight and input into the development of this guidance which includes key elements of the ISC process including the form and content of the 'statement of interim supply capacity' and 'interim supply offers' and the criteria to be used to select the basis of allocation.

- **Governance of the code.** We note that Ofwat will be obliged to carry out periodic reviews of the Interim Supply Code and, if appropriate, issue a revised code. Our strong preference is that the Codes Panel also has a role in agreeing and determining any modifications to the Interim Supply Code, as that is the body being created for the purpose of keeping all relevant codes under review, as part of the market architecture process.

We would be pleased to provide more information about any point made in our response.

Yours sincerely



Dr Tony Ballance
Director, Strategy & Regulation