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Dear Greg,

### **Consultation on Data Best Practice guidance and Digitalisation Strategy and Action Plan guidance**

Thank you for the opportunity to respond to Ofgem's consultation on its Data Best Practice (DBP) guidance and Digitalisation Strategy and Action Plan (DSAP) guidance. It is helpful to understand Ofgem's thinking in this area and also important that stakeholders are able to feed into this critical piece of work.

We support the new Energy Digitalisation Taskforce (EDiT) launched in May 2021 by the Department for Business Energy and Industrial Strategy, in partnership with Ofgem and Innovate UK, to continue the Government's focus on modernising the energy system to unlock flexibility and drive clean growth towards net zero emissions by 2050.

The EDiT work is considering the market design, digital architecture and governance of a modern digitalised energy system, following the highly influential Energy Data Taskforce which successfully initiated a wave of energy data activity across government, the regulator and industry. Ofgem is part of this work and will undoubtedly be drawing on the work of the EDiT in informing other policy, such as this guidance.

We note that Ofgem's aim is to improve the digitalisation of the energy system and ensure better use of data to create benefits for consumers and provide information that is of public interest. These are aims that we support. We are also supportive of Ofgem's recommendation that DNOs voluntarily aspire to meet the requirements set out in the DBP and DSAP licence obligations that have been created for the RIIO-2 licences for Gas Distribution, the Electricity System Operator and Transmission. We continue to be subject to compliance with relevant legislation (e.g. Utilities Act Section 105), absent of a specific licence condition being in place or unless we have appropriate consent from the data provider to share it.

Given the importance and wide-ranging impact of this consultation we note that the consultation period is limited to only four weeks, at the time our ED2 draft business plans are being finalised in parallel. We do support concluding the guidance by Summer 2021 and suggest this date is



maintained by Ofgem, if necessary by considering rebalancing other priorities. This will help us use the outcome of this consultation, if a decision is rapidly published, to inform our ED2 final business plan submissions<sup>1</sup>.

Ofgem states that it intends to use the DBP and DSAP guidance documents as follows;

- as the associated documents to the RIIO-2 Digitalisation licence obligations (see Special Condition 9.5 for Electricity Transmission, Gas Transmission and Gas Distribution and Special Condition 2.11 for the Electricity System Operator).
  - ENWL is concerned about the proliferation of associated documents in RIIO-2 which become the vehicle for additional requirements with licence obligations to deliver, but are not subject to appropriate checks and balances;
- to help inform the proposals we [Ofgem] will make for the licence obligations that will apply to Electricity Distribution networks as part of the upcoming RIIO-ED2 price controls.
  - ENWL supports the benefits of progressing this work in summer 2021;
- to provide further clarity to ED2 participants relating to our expectations as explained in the Business Plan Incentives.
  - Additional clarity to expectations is welcomed, especially where these could impact the content and assessment of our business plan submission; and
- as our [Ofgem's] data and digitalisation standards, as stated in our Forward Work Programme (FWP) 2021/22 decision, with these to be followed by licensees and by Ofgem itself.<sup>2</sup>
  - This is a strong example of Ofgem leadership in this area, where we believe Ofgem has made significant progress.

As outlined earlier in our response, we welcome Ofgem producing guidance for ED2 final business plan timescales, so we can incorporate as many of the requirements as reasonably we can. If this is the case, it will be necessary for these changes to Ofgem's requirements to final business plans to be in place by, or during, September 2021.

In addition to our responses to the questions asked by Ofgem (set out in the appendix to this letter) we have some general comments, as follows:

- 1 In paragraph 1.2 of the consultation Ofgem states that the DBP guidance is a principles-based set of guidance. There is a risk that "principles-based" could lead to significant additional requirements for licensees in an area where fixed price control allowances might be in place, exposing licensees to unforeseen and unfunded costs. Best practise might develop quickly and in unforeseen ways to wider consumer and public benefit. That might result in materially increased costs, so it could require further consideration of how Ofgem's proposed approach might need to be managed as part of a price control.
- 2 We note that Ofgem proposes (paragraph 1.20) to treat the Supporting Information as a "living document" that may be updated without a consultation process. We request Ofgem therefore advise how updates will be managed and notified to stakeholders, including licensees, so that they can review changes in a timely manner and also have the opportunity

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<sup>1</sup> Our final ED2 business plan needs to be submitted to Ofgem by 1 December 2021. In practical terms to allow assurance and governance as well as work to respond to policy developments, ENWL is seeking updates to guidance and policy during or before September 2021.

<sup>2</sup><https://www.ofgem.gov.uk/publications-and-updates/consultation-data-best-practice-guidance-and-digitalisation-strategy-and-action-plan-guidance>

to contribute their own experience/solutions. We are particularly interested to understand the evidence needed for a best practise to be adopted into the body of supporting information, including any cost benefit assessment at an appropriate level of detail.

- 3 We have a view on how frequently does Ofgem updates to the DBP and DSAP guidance. We suggest this is done ahead of RIIO-T3/GD3 and ahead of RIIO-ED3 as key trigger points.
- 4 We welcome Ofgem's commitment to complying with the DBP and DSAP guidance itself. We suggest Ofgem also produces Digitalisation Action Plans, a strategy document and also reports on Ofgem's progress in a similar way to licensees.

We have set out our responses to the specific consultation questions in the appendix to this letter. In summary, we are broadly supportive of the purpose and content of the guidance documents and look forward to further engagement with Ofgem on them and to the publication of stakeholder's responses to this consultation.

Please contact me if you would like any further information on our response.

Yours sincerely,

**Paul Auckland**  
**Head of Economic Regulation**

## Appendix – Response to specific consultation questions

*Q1: Do you have any recommended improvements to the Principles, Explanations, Techniques or Examples?*

The techniques and examples shared on the Ofgem Wiki are very useful for research purposes. It would be good to see in the examples or techniques a section to share what challenges and obstacles have been faced and how this has been overcome within other industries. This will ensure that we can learn from the experiences that have taken place in other industries.

Is there an opportunity for members to share their own examples in the future to showcase what works and what doesn't?

*Q2: Are there any other Principles and Explanations you believe should be included?*

Not at present. There are several principles for networks to take on board and apply, and this has been done in an open manner with network members of the Energy Network Association. The challenge will be evolving these principles throughout ED2 and beyond when organisations are more mature. It will be necessary to adapt the approach as the digital and data landscapes evolve over the coming years, it is clear that this is an area that will be continuously developing.

*Q3: Are there any additional Techniques or Examples you recommend we include?*

Not at this stage.

*Q4: Do you agree with our treatment of data literacy and skills and of data governance as pre-requisites to compliance?*

We recognise the ever-increasing importance of data literacy and skills and the need for high standards of data governance. We look forward to engaging further with Ofgem on this, including as part of our ED2 business plan submissions as appropriate.

*Q5: Do you have a suggestion for improving our definition of Energy System Data and therefore the scope of data assets energy network companies must use in compliance with DBP?*

As a first step, we suggest a definition of Energy Systems Data which focusses on data directly related to the licenced activity itself. The definition as currently proposed is at risk of encompassing absolutely every piece of data, this could result in less focus being given to the data which is of most benefit as it's uniquely or directly related to the specific activity of the regulated business. Energy systems data should therefore at the start of the journey we are on focus on data about, or directly related to, the operation and ownership of the relevant licenced activity. In our case, of electricity distribution.

Additionally, we are unsure how the definition, as currently proposed, works when concerning Ofgem's own application of the DBP. Ofgem doesn't grant itself a licence and potentially has relevant data of use to the energy system which might not come from a licensee. Taking these factors into account we suggest considering a definition of: -

*"Those Data Assets for which an entity is a Data Custodian as a specific sole consequence of it undertaking or regulating the [direct licensed activity (e.g. distribution / supply etc)] under a licence granted to or issued by it under section 6 (1) (1A) of the Electricity Act 1989 or section 7, 7ZA, 7A or 7AB of the Gas Act 1986".*

*Q6: What are your views on DBP guidance and DSAP guidance being used as our data and digitalisation standards and, if you agree, what applications do you envisage for these standards?*

We are supportive of Ofgem's proposal to use the DBP guidance and the DSAP guidance as its data and digitalisation standards. We are comfortable that the compliance with the guidance should be

proposed as a RIIO-ED2 licence obligation, subject to the necessary consultation process, including material matters in the licence itself and with the mechanisms and allowances being made available to enable us to deliver. We consider that all parts of the energy sector that Ofgem regulates should be subject to the same requirements in this area. We would also be interested to understand how Ofgem proposes to evaluate whether a deviation (i.e. Ofgem derogations approach) from the standards would be in the best interests of consumers or in the public interest, to ensure clarity is available and enable the meeting of Ofgem's requirements.

In terms of the application of the standard to improve Ofgem's own work we suggest that Ofgem considers using the UK Regulators Network (UKRN) to disseminate best practice and encourage cross systems use of data.

*Q7: What is your view on the Electrical Engineering Standards Independent Review (EESIR) recommendation for "presumed capture and publishing of data" in relation to our default positions (DBP guidance and DSAP guidance)?*

We agree with Ofgem's proposal not to include Principles or Explanations relating to data capture in the DBP guidance or DSAP guidance presently. While we are broadly supportive of the principle of presumed data capture and publishing we consider that there is significant work to be undertaken in terms of standardisation of measurement and communication of data, as well as associated costs that the application of this principle would involve.

*Q8: Which gas and/or electricity market products/services (existing or planned) should be included in our upcoming data and digital monopolies review?*

We do not have any specific input to make at this early stage of the review, but we look forward to receiving further information from Ofgem on its proposals for the scope and conduct of the review. We would be pleased to respond to an Ofgem call for evidence or consultation on the more fleshed out scope of this review and any interim findings.