



**ENVIRONMENT
AGENCY**

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE
GAS AND ELECTRICITY MARKETS AUTHORITY
AND THE
ENVIRONMENT AGENCY
RELATING
TO
ENVIRONMENTAL ISSUES**

MAY 2001

INTRODUCTION

1. This Memorandum of Understanding (MoU) is between the Gas and Electricity Markets Authority (the “Authority”) and the Environment Agency (the “Agency”). Its purpose is to ensure effective co-ordination of the actions undertaken by the two organisations related to environmental matters.
2. The Utilities Act 2000 established the Authority with its principal objective of the protection of consumers’ interests, wherever appropriate by promoting effective competition. In carrying out these functions the Authority must have regard to the effect on the environment of activities connected with the generation, transmission, distribution or supply of electricity, and the conveyance of gas through pipes. The Office of Gas and Electricity Markets (Ofgem) is the regulator for the gas and electricity industries in Great Britain.
3. The Agency was established by the Environment Act 1995 and brought together the functions of Her Majesty’s Inspectorate of Pollution (HMIP), the National Rivers Authority (NRA) and the Waste Regulatory Authorities (WRAs). Its primary aim is to protect and improve the environment in England and Wales and make a contribution towards the delivery of sustainable development through the integrated management of air, land and water.
4. The gas and electricity sectors have a substantial effect on both the local and global environment. This was recognised in the Authority’s Environmental Action Plan discussion document published in July 2000. Following on from that, action on the social and environmental issues is one of six priorities identified in Ofgem’s Plan for 2001/2002.
5. Interfaces between Ofgem and the Agency regarding environmental issues can arise in a number of different ways. Both Ofgem and the Agency are committed to close co-operation to avoid duplication of effort and to ensure that neither organisation nor the industry concerned is faced with conflicting demands where both organisations have an interest. To this end, the bodies will communicate with each other regularly, and consult with each other at an early stage where appropriate. Each undertakes to assist the other in its decision-making processes as far as possible. Working level arrangements underpinning the MoU may be developed on individual issues, as and when appropriate.

THE MOU

6. The MoU has been signed by the respective Chairmen of the two organisations. This will ensure that staff in both organisations are aware of the importance that both organisations place on working effectively together regarding environmental issues.
7. It is the responsibility of everyone in both organisations to adopt an open approach regarding environmental issues, and to achieve effective liaison between Ofgem and the Agency. This may involve discussions at the working level to agree how the statutory provisions and standards issued under them should be interpreted in particular circumstances, in order to prevent misunderstanding and to determine ways of reconciling any differences that may arise.

JOINT CO-ORDINATION GROUP

8. A Joint Co-ordination Group (JCG), chaired at Managing Director level for Ofgem and at Environment Protection Directorate Head of Function level for the Agency will meet i) in 2002 following the first anniversary of the signing of the MoU and ii) normally every 2 years thereafter, or iii) whenever the need arises, to review the working of the MoU. The Chair will be taken alternately by Ofgem and the Agency for a two-year period (with the Agency taking the chair initially).
9. The terms of reference for the JCG are to keep under review the working of the MoU, and in particular:
 - a. to develop the scope of the MoU as is shown necessary in practice;
 - b. to make recommendations for changes to the MoU as necessary;
 - c. to identify subjects on which working level agreements should be prepared;
 - d. to discuss other matters of common interest;and in the extreme
 - e. to resolve any problems referred to the JCG, and to identify, consider and, if possible resolve any other problems or conflicts that arise from the practical application of the responsibilities by the two organisations.
10. Membership of the Group will comprise representatives of both organisations as agreed by the respective Chairmen of the JCG. In the event of the Group's inability to resolve particular issues which may bear on policy matters, it will refer to the respective Chief Executives.

FRAMEWORK FOR LIAISON

11. Effective liaison between Ofgem and the Agency is important. Each party agrees to consult the other on forward work plans and other key documents such as Ofgem's Environmental Action Plan. In addition, a number of activities concerning environmental issues may become the subject of additional supplementary working level agreements. In particular, these might involve the following topics:
 - a. Climate changes measures;
 - b. Environmental consequences of power production;
 - c. Economic consequences of environmental regulation;
 - d. Provision of environmental information;
 - e. Performance of industrial companies against reporting requirements;
 - f. Inputs to international policy matters;

- g. Provision of technical standards and guidance;
 - h. Staffing issues including secondments between the two organisations.
12. Other topics may be added following experience of the increased level of co-operation between Ofgem and the Agency.

WORKING ARRANGEMENTS

13. Initial topics of mutual interest reflecting the Framework for Liaison given above are set out in the following section.

Climate change measures

14. Generation of electricity from the combustion of fossil fuels is a major contributor to the total emissions of greenhouse gases. In particular they contribute to carbon dioxide emissions. Furthermore, some fossil fuels are a major cause of emissions of sulphur dioxide and nitrogen dioxide.
15. The UK Government has recently issued an Action Programme to reduce emissions of greenhouse gases, in order for the UK to meet its Kyoto Protocol targets.
16. A number of new Climate Change measures are also soon to be introduced by the Government and are of direct concern to both organisations. In particular, these concern the introduction of the Climate Change Levy, and of Emissions Trading.
17. Liaison between Ofgem and the Agency will be necessary to provide the Government with a consistent approach to meeting the Kyoto Protocol targets and on the introduction of the climate change measures.

Environmental consequences of power production

18. Ofgem is committed to achieving coherence across its environmental activities and has specific responsibilities in the areas of renewables, CHP and embedded generation and energy efficiency. It also seeks to ensure that the Agency's approach to environmental regulation is compatible with the objectives of competition in the electricity market.
19. Each of these initiatives could have differing environmental consequences and will be of direct interest to the Agency. Liaison between Ofgem and the Agency during the development of these initiatives should lead to a more consistent approach being developed.

Economic consequences of environmental legislation

20. Many of environmental protection measures currently being introduced will have economic consequences on the industries concerned. This is especially the case of the gas and electricity sectors in view of their contribution to the national emissions of Oxides of Nitrogen (NO_x), Oxides of Sulphur (SO_x) and Carbon Dioxide, and the Government's target to reduce these emissions under the Kyoto Protocol.

21. The Agency will undertake to discuss with Ofgem the economic consequences of the introduction of any such environmental legislation for the gas and electricity sectors during the implementation of the legislation. This will include consideration of how specific environmental objectives can be achieved at minimum economic cost.

Provision of environmental information

22. Some of Ofgem's reports on the gas and electricity industries refer to environmental issues. Liaison between Ofgem and the Agency during the preparation of this work should help to provide environmental information in a manner appropriate to both organisations.

Performance of industrial companies against reporting requirements

23. Most industrial companies, including those involved with the gas and electricity generation sectors include details in their annual reports of environmental issues at their sites. However, the basis on which the reporting is made varies widely and this can make comparison difficult. Ofgem and the Agency intend to discuss how such environmental reporting can be made coherent.

Inputs to international policy matters

24. The Agency has a role in the preparation and implementation of international legislation, standards and commitments. Where such international developments of interest to both Ofgem and the Agency arise, those concerned should consult with each other, and with the Department of the Environment, Transport and the Regions (DETR) or the Department of Trade and Industry (DTI), as appropriate. This may involve both technical and policy considerations.

Provision of technical standards and guidance

25. Ofgem and the Agency should liaise where appropriate in the application and interpretation of technical standards, and in the preparation of relevant guidance on environmental issues, to achieve a more consistent approach.

Staffing issues including secondments between the two organisations

26. When appropriate areas of mutual interest arise, secondments between the two organisations should be considered. Such secondments will assist in improving the understanding of the culture in the other organisation.

Signed

Callum McCarthy
Chairman
for the Gas and Electricity
Markets Authority

Sir John Harman
Chairman
for the Environment Agency

Date: MAY 2001

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