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Ms Lisa Vango
Strategy and Corporate Transactions Manager
Ofgem
9 Millbank
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Dear Ms Vango

Proposed Merger of National Grid Group plc and Lattice Group plc to create National Grid Transco plc

A consultation paper

The Confederation of UK Coal Producers (Coalpro) represents member companies who produce over 80% of UK coal output. The great majority of this production is sold to the electricity generation industry. Coalpro therefore takes a close interest in all developments affecting that industry and has supported the introduction of NETA and Ofgem’s objectives in maximising competition in the electricity and gas industries.

Coalpro is of the view that the proposed merger would be fundamentally anti-competitive and raises serious regulatory issues. Such a merged company would have an interest in maximising the transmission of both electricity and gas through the respective networks. It would therefore be in its interests to maximise the production of electricity from gas fired power stations and to so arrange charges for electricity transmission, and the operation of the electricity transmission network, to achieve that objective. The opportunities for cross-subsidisation are obvious. This would operate to the disadvantage of generators who use other fuels, including coal.

Coalpro recognises that NGC and Transco are subject to non-discriminatory licence provisions and that Ofgem monitors the behaviour of market participants. It is Coalpro’s view, however, that the degree of transparency under the present arrangements would be wholly insufficient to permit the detection of all the profit-maximising and anti-competitive behaviour that such a merger would encourage.
Para 5.13 of the consultation paper asks whether the increased potential for information sharing between the two network businesses might operate to the disadvantage of other parties. Coalpro’s view is that it is likely that such information sharing would be used against the interests of those electricity generating stations not fuelled by gas. It would also, therefore, act to the disadvantage of coal producers. Coalpro does not believe that there can be an adequate remedy to this probability other than the prevention of the proposed merger.

On regulatory issues, Coalpro considers that, if the merger is allowed to proceed, it is imperative that the system operator functions of both network businesses be fully divested as legally separate, not-for-profit organisations with no compensation payable. Coalpro has already raised this issue in relation to NGC’s SO functions in relation to BETTA. It is appreciated that such separation may be technically and organisationally difficult but it should be incumbent on the respective businesses to produce schemes which are satisfactory to Ofgem and market participants as a condition for the merger being allowed to proceed.

Full divestment of the system operator functions will go some way to alleviating the competition concerns expressed above. Notwithstanding this, Coalpro remains of the view that the opportunities for anti-competitive behaviour are such that the merger should not be allowed to proceed.

Yours sincerely

Brian J Rostron
Director General