

30 Millbank, London SW1P 4RD
Telephone: 0207 963 5908/5798
Fax: 0207 963 5983

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Robin Maclaren
Chairman Networks Sectoral Committee

Mr John Scott
Technical Director
Ofgem
9 Millbank
London
SW1 P 3GE

Dear John,

Consultation on Governance of Electrical Standards

This response to your consultation on the governance of standards is being made following discussion at EA's Networks Sectoral Committee on 12 June. You will be aware that NSC is the Senior Committee through which the views of all the Network Operating Companies, both Transmission and Distribution, are agreed. The response contains the unanimous views of all of those companies.

We have brought out some of the most fundamental issues in this letter, and have provided detailed comments on numerous other aspects in the attached table enumerated according to the sections of the Consultative Document. These comments reflect serious concerns about the need for and purpose of the consultation and identify errors of understanding and, in some cases, of fact.

The standards addressed in this consultation are clearly of significance to a number of economic interest groups and it is important that such interests are able to participate effectively and fairly in the preparation of standards where they have such interests. By the same token, the standards are central to our businesses and we are not prepared to participate in mechanisms which do not fully reflect their significance to us and do not provide cost effective and practical mechanisms from our perspective, reflecting our legal liability to develop and maintain economic and efficient networks.

We are aware that the consultation was set in train following one letter of complaint from a commercial organisation with a justifiable interest in the development of rules for the connection of domestic cogeneration. You are aware that the complaint did not relate to technical aspects of this matter. The complaint related to commercial aspects of the connection process which were outside of the remit of the Working Group that was developing the technical requirements. The complaining organisation participated fully and satisfactorily in the technical process and the technical issues have been fully and satisfactorily resolved through the existing consensus process. We consider that Ofgem must itself accept some responsibility in the consideration of the commercial aspects and if there was a failure to address this issue sufficiently early, then some of that failure rests with Ofgem. Our own view

is that the technology is still some way from the market place and there has been no commercially damaging delay in that respect.

A basis of the consultation is an assumption that Distributors are in competition with embedded generators. We would have hoped that you would understand, through the discussions we have had at DTI, that we do not consider ourselves in that position. We have participated and intend to continue to participate fully and constructively with all parties in response to Government initiatives on embedded generation. We are seeking solutions which properly reflect the needs of all users of electricity networks, including all embedded generators and ordinary consumers, and properly take account of our legal responsibilities and the needs of our businesses, but that does not mean we are in competition. We intend to continue to apply technical rules, agreed through consensus discussions, fairly and openly to all network users.

We do not accept that there is a need to change the way in which these technical standards are prepared and published. We do not perceive that any of the alternatives put forward in the Consultation would be more efficient or effective and most would be more expensive for all participants. We consider the current arrangements to be efficient, open and transparent. We can accept that some **codefication** of the process, through which DCRP considers the need for new standards or for updating those existing standards listed in Appendix A of the Distribution Code that are relevant to network users, could assist in properly conveying to all parties the openness and transparency of the arrangements.

We should be pleased to work with you to bring about such improvements.

Yours sincerely,

Robin Maclaren

Electricity Association

Detailed Comments on document: Ofgem – Governance of electrical standards, April 2002

Clause/ Subclause	<u>Comments</u>
1.3	<p>The need for consensus processes to develop and publish guidance on distributed generation issues derives from the way in which the Distribution Companies were privatised as separate regional companies. This has been instrumental in delivering the substantial efficiency improvements over the last twelve years. It is inevitable that issues emerge which require some effort from the involved parties to resolve satisfactorily, but the existence of such issues does not mean that the resolution process is inherently wrong.</p>
1.4	<p>The distributor has the legal liability and requirement to develop and maintain an economic and efficient network, and for this reason the engineering documents produced by EA are recommendations of general best practice. Distributors retain the right to derogate from such national documents where the specific circumstances dictate.</p> <p>Provided Distributors apply consistent requirements, it is clear that they do not themselves create a barrier to competition, since Distributors are not in competition with distributed generators. As explained above the development of national guidance has the potential to facilitate connection of distributed generation, rather than to create barriers to connection. All the national guidance produced so far or currently being drafted has been prepared with the active participation of generator representatives. It is therefore difficult to see how these documents can be perceived as a barrier to the connection of distributed generation. As for existing documentation, there are ready routes available to generators and others for revising these by making representations to DCRP or direct to EA, a good example of this process being the current revision of ER G75.</p>
1.5	<p>In line with the response to 1.4 above, the EA has requested and welcomed the participation of generator representatives in drafting the new Engineering Recommendation G83, designed specifically to simplify the connection requirements for small-scale generators.</p> <p>The Consultation frequently refers to “small companies” and “third parties” in the same paragraph as if these were always the same kinds of organisation, which they clearly are not. Small companies do encounter funding difficulties in all kinds of standardisation process, including those within international, European and national Standards bodies.</p> <p>It needs to be recognised that all such standardisation is aimed at achieving consensus, and that process must contain the right of Distributors also to be content with the final agreement, just as much as “third parties”.</p>

1.5	<p>Such consensus processes do take time and that is to the benefit of all interests. We have substantial experience of the public standardisation processes and consider that the preparation of national guidance in the electricity industry is not slow by comparison with other consensus processes.</p> <p>Consensus is defined as “the absence of sustained opposition by a significant interest” and we do not therefore understand what Ofgem means in referring to problems of “fringe parties”, nor do we see what such interests can usefully bring to bare in any process, since a fringe party has by definition no direct interest in an issue.</p>
1.7	<p>It is unclear to us what point is being made here. The intention of Directive 98/34/EC is to prevent National Authorities from creating technical barriers to trade through primary and secondary legislation. EA documents are not subject to these procedures unless they were called up by UK Government.</p>
3.5	<p>It is unclear to us how this clause is intended to relate to distributed generation, which is the issue underlying the consultation. The Network Companies generally would greatly favour an approach to Regulation that was less intrusive, but recognise that de-regulation generally requires a greater use of industry standards and codes.</p>
3.7	<p>We presume that this clause relates to unreasonable discrimination, though it does not say so. It is entirely appropriate for standards and codes of practice to discriminate against unsafe practices or products. New developments are not necessarily inherently safe.</p>
3.8	<p>The EA supports the principles of governance described in this paragraph. These principles are applied in drafting all new EA documents.</p> <p>There is however one vital principle missing from the list, the need to reach a consensus position that does not unfairly prejudice any one stakeholder. When parties are approaching an issue from opposite positions it is important for all to recognise the need for compromise.</p>
Q1.	<p>The scope of the Review should be limited to those EA documents which are referred to directly in the Codes and which relate directly to general conditions of connection. If a DNO seeks to impose requirements that create connection costs that an applicant User considers unreasonable, these are challengeable via determination.</p>
3.12	<p>As per the response to 1.4 above, the EA has invited and welcomed the participation of non EA Member Companies in the drafting of new EA documents, recent examples being: G5/4, G78, G77, G80, G83, ETR122 and ETR123. This participation is available at no additional cost to the participants, other than their own direct costs.</p> <p>We would be pleased to work with Ofgem and other interested bodies to formalise the consultative procedures for Dcode referenced documents.</p>

3.14	It is common practice within international standards bodies for the country wishing to see a new standard drafted to offer a new work item proposal (NWIP), often in the form of an outline draft for consideration by the working group established to develop the final standard. This process has been found to save time in that the working group has a clear starting point from which they can develop the text in accordance with developed consensus. The same is true within DCRP, all members of DCRP are asked to comment on the draft revision of any document referenced, or likely to be referenced, in the D-Code.
3.15	The G77 working group has benefited enormously from the participation of “small players” representing PV UK, these experts have sought and received DTI funding to attend meetings etc. The DNOs on the otherhand have to finance their own attendance and time spent on drafting G77 and its revision.
3.16	<p>In an age of electronic communication, responding to consultations is much more straightforward for players large and small, it has certainly worked well for all the documents cited in the response to 3.12 above.</p> <p>Experience suggests that the problems of funding of small players arise whatever governance arrangements are in place.</p>
3.17	PV UK is an example of an organisation formed to represent the collective interests of a group of small players.
3.18	The process advocated here is already in place and has been employed in the drafting of all the documents cited in the response to 3.12 above.
3.20	The more active participation of HSE and the DTI Engineering Inspectorate in the development of documents would be welcomed. It is not clear that greater involvement in Governance would be beneficial and could give rise to problems under Directive 98/34 quoted in 1.7.
3.21	This paragraph appears to highlight the misunderstanding in this document of the relationship between a network operator and an intended User of the network. The need for a network operator to protect the integrity of his network in respect of a new technology is not necessarily a competition issue at all. It is of great concern that Ofgem does not appear to give any weight to the rights of other Users to safety and absence of electrical interference.
3.23	We do not accept that there are “many perceived problems”, there are one or two interests, perhaps unused themselves to open consultative processes, who object to the rights of others to protect their own interests. The EA does not object to Ofgem carrying out the consultation, however, we are of the opinion that practical and beneficial arrangements could also be obtained by the various industry interests working together.

3.24	<p>We support the clarification and formalisation of the roles of the GCode and Dcode Review Panels to oversee work on the limited number of documents directly involved.</p> <p>We would expect Ofgem itself to handle commercial issues through its processes. If this is not possible in some cases it may be that some commercial aspects could be handled through Elexon. In respect of the technical issues we can see no benefit in establishing a new technical secretariat in Elexon, which currently has no such capability.</p> <p>There is in our experience insufficient income available from the sale of these documents to make a new standards body viable.</p> <p>We consider the economics make the involvement of other standards bodies unlikely and doubt that this offers a viable long term solution.</p> <p>We consider Option 6 inappropriate because of Directive 98/34, and in any case generally undesirable because of the DTI's role as a Regulator of the industry.</p>
3.25	<p>For reasons of cost effectiveness it is essential to ensure that work is only undertaken as and when it is needed. The review of supporting documents is already undertaken within DCRP itself, which has very adequate expertise to handle the issues, there is no need for a new standing group with the task of reviewing / drafting standards.</p>
3.29	<p>The appointment of Chairpersons to DCRP and GCRP is a constitutional matter for those Groups and greater involvement of DTI or Ofgem would be unhelpful.</p>
3.35	<p>There will be four generator representatives on the GB DCRP; it seems fundamentally a decision for DCRP members as to the desirability of increasing the membership to cover the DCHP community, however it is questionable whether this post would need a long term commitment extending beyond the publication of ER G83.</p>
3.38	<p>It is essential that all parties be self financing and share equally (based on number of seats) the cost of any external work, this will demonstrate commitment to the work of the group and avoid the 'committee for committee sake' syndrome. For small players this could mean government assistance e.g. small generators financed from the new and renewable energy programme.</p>
Q2.	<p>The EA believes that the introduction of another layer of management in the standards development process will only act to slow the drafting process. However if Ofgem is insistent on pursuing this option then it is recommended that DCRP follow a similar process to that which is practiced in international standards groups i.e. the party wishing to see a new / revised standard produces a NWIP which is the seed corn for the establishment of a new working group.</p>
Q3.	<p>See response to 3.8 above.</p>

Q4.	The proposal here is both unprecedented and unacceptable since it would allow a small body of “experts” to have control over the financial well being of a private company(s) for no good reason.
Q5.	See response to 3.8 above.
3.44	It is inappropriate to compare the governance of industry standards with the running of the BSC; the former is related to process and technical stewardship whereas the latter has been designed to facilitate trading between companies.
Q6.	The “new body” described here would add another layer of management / bureaucracy to the process with no certainty that access and transparency would be assured.
Q7.	See response to 3.8 above.
Q8.	Elxon is not constituted appropriately to address DNO’s interests in the context of technical standardisation.
3.54	Option 5 has some benefit in ensuring that practices in the UK align with those in the rest of Europe / the world. However, the process would be much slower than the existing process and it is difficult to see how Ofgem could have any influence over the governance of standards.
Q9.	There are merits in this option but it is unlikely to deliver the level of openness and speed of response that Ofgem purport to require.
Q10.	Of all the options, Option 6 is the one least likely to deliver the required output. The proposal raises serious concerns about DTI’s role in safety regulation and the enforcement of standards through legislation is not viable because of the impact of Directive 98/34.
Q11.	The EA is firmly of the opinion that Option 6 is unworkable, as such it is not prepared to offer a view on how such a process should be funded.
Q12.	There is considerable merit in publishing standards on a publicly accessible internet site, but the costs associated with both setting up and maintaining this site could be significant dependent upon the number of documents to be listed and the frequency of their maintenance.
Q13.	We are of the opinion that the formalisation of existing procedures under DCRP and GCRP will deliver the required governance process at lowest cost and with optimum efficiency.

Q14.	It is sensible to recognise the process adopted by international standards bodies, a process that has been developed over many years and one that works, i.e. take a NWIP, establish a working group consisting of interested stake holders and develop the NWIP into a draft standard which is then circulated for comment, the comments are reviewed the draft is updated and circulated again, this process continues until a consensus document has been developed after which is circulated for Approval and then published. The process just described is the one currently employed by the EA in the drafting of all new standards or the revision of existing standards.
Q15.	It is more important to ensure that the chairperson behaves in an impartial way in the direction he/she gives to the group, rather than to have "independent chairperson". This is evident in all public standards bodies, in which chairpersons are never "independent" in the sense implied in the question. True independence involves a suitable funding mechanism which is expensive and counterproductive to efficiency.
Q16.	Small players can participate either as individuals where the subject matter is narrow or via trade associations / representative bodies for the broader areas of work. It must also be recognised that large and small players are governed by a plethora of rules, regulations and standards over which they have no possible means of influencing the requirements of contained within these documents.
Q18. (Note there is no Q17.)	Overall the EA would prefer to see no change to the existing arrangements because we firmly believe that the current process of producing EA documents works efficiently, it is both open and transparent and there are very few complaints. However, if there must be a change simply to pacify the few complainants to the existing process, then the EA would recommend clarification of the existing role of DCRP provided that: a) DCRP's governance is restricted to those documents referenced in the D-Code that are directly relevant to network users; b) There should be no new additional standing body for the production of standards sitting below DCRP and any new standard should start life in DCRP as an initial draft (NWIP) prepared by the party wishing to see the new standard introduced / existing standard revised.
Appendix 1. 1.19	It seems odd that Ofgem should appear to be criticising any organisation for doing its job vigorously and is misleading to quote only the opening statement from the EA's mission statement. The statement goes on to say ". . . and aim to be recognised as a first class organisation which is the effective and credible voice of the UK electricity industry. We will achieve our mission by providing high quality services to all our members, building effective relationships with external agencies and giving continuous attention to the training, development and motivation of our staff." The reference to working with external agencies is particularly pertinent to this consultation.