

Peter Dickinson
Technical Advisor
The Office of Gas and Electricity Markets
9 Millbank
London
SW1 P 3GE

Our reference

Your reference

Date

24 June 2002

Dear Peter,

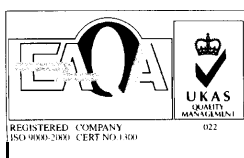
GOVERNANCE OF ELECTRICAL STANDARDS: APRIL 2002 CONSULTATION


I am writing on behalf of EPN and LPN in response to **Ofgem's** consultation of the 30 April 2002 seeking feedback on options for reform of the governance of electrical standards. Please find below our responses to the questions raised in the consultation. I am sorry for the slight delay in submitting this response.

The standards in question underpin enormous long-term capital investments. Those making such investments (for regulated rates of return) have a right to expect stability in the standards, and full price control recognition in respect of necessary changes, including those that might arise out of Government/regulatory policy. We **recognise** that recent policy changes arising out of environmental concerns and commitments may require a number of changes. However, such shifts in policy arise infrequently, and it seems inappropriate to contemplate new or radically altered governance arrangements for what will almost certainly turn out to be a relatively short-term period of activity. The radical governance options mooted in **Ofgem's** paper are therefore unnecessary. Indeed, if **Ofgem** wishes to pursue radical change in this area it should, as it should in all other areas of regulatory policy, demonstrate through Regulatory Impact Assessment how such change furthers the achievement of the Authority's statutory objectives.

In our view, the existing governance arrangements have worked well and we are unaware of a level of concern by impacted parties that would necessitate radical change. Furthermore, we note that **Ofgem** has power to approve changes to the Distribution Code, determine connection and use of system agreements (which may require compliance with the code/supporting standards), and enforce competition legislation. We are not aware that **Ofgem** has used, or even considered, using these powers in respect of concerns expressed by impacted parties. **Ofgem** has asserted that a number of problems exist with the current arrangements, but has not quantified these and demonstrated that its existing powers are insufficient to deal with these.

Contrary to its usual practice, **Ofgem** has not set out its various powers and duties in the consultation document. This is unfortunate since it suggests to the reader that the



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only solutions to the perceived problems described are via revised governance arrangements, when clearly this is not the case.

Question 1: Scope of the review

We see no reason why the scope of **Ofgem's** review should not include both the Distribution and Grid codes. However, we do not believe that it would be desirable to see merged governance of the two codes. Given the clear differentiation between transmission and distribution system planning standards and also the make up of interested parties, it would seem appropriate to retain distinct review processes for each code. In this way, representation in the governance of the relevant planning standards body would not be diluted through too wide a brief or by inappropriate representation. Any governance, both in terms of scope and in time and resource available, has to be clearly focused on those aspects of interest and importance to the parties impacted. Continuance with distinct transmission (essentially bulk energy transmission) and distribution (essentially mass customer supply delivery) would seem appropriate, but with co-ordination where necessary.

Question 2: Technical standards groups

We see no need to revise the current arrangements so long as impacted parties can make representations and that appropriate appeals mechanisms are in place.

Questions 3, 5 and 7: Funding

The relevant network licensees can fund the Grid and Distribution Code panels and pass on these costs to users (both demand and generation) in their network access charges provided that the price control provides an adequate allowance for such costs.

Question 4: Commercial, regulatory and administrative matters

We believe there is merit in the Distribution and Grid Code review panels covering the general economic aspects associated with technical standards, as they currently do; for example, **P2/5** is essentially an economic standard. Indeed, the current standard distribution licence obligations (Condition 9) require licensees to implement a distribution code that delivers an economical system of electricity distribution and facilitates competition in the generation and supply of electricity. However, the commercial and regulatory impact of revised standards on the companies affected is a matter for them and the regulator, and should not be covered by the respective code review panels. **Ofgem** will need to ensure that it is fulfilling its statutory duties, both in respect of customers and licensees (particularly following any representations), before approving any material changes to the technical standards. It may be appropriate for **Ofgem** to consult widely on such changes, particularly where they imply a significant cost to the affected parties. We would naturally expect such consultation to address price control issues where relevant.

We note that a party who considered that the standards are anti-competitive can seek a remedy using the Competition Act 1998. This would seem to be a powerful and sufficient incentive to licensees to ensure that their obligations to

facilitate competition are complied with. We also note that persons wishing to use, or be connected to, a licensee's distribution system can refer any disputed agreement to the Authority for determination. The authority is able, through this route, to determine that such an agreement need not require compliance with the Distribution code or any of the supporting standards. This would also seem to be a powerful protection for such persons. The presence of powerful safeguards suggests that radical changes to governance are not necessary.

Question 6: New drafting body

Unlike the energy market rules (governed by the BSC, CUSC, MRA) we do not see electrical standards as sufficiently dynamic (many just reflect IEC standards anyway) to warrant a new governance and drafting body. We prefer to retain the existing arrangements.

Question 8: Elexon governance

We believe it would be wholly inappropriate for Elexon, as an essentially markets governance body, to become involved in technical standards. In particular, the interests of BSC parties would be too wide for proper governance of electrical standards.

Question 9: Governance by other UK or international bodies

The IEE is not a standards organisation and is in our view, not an appropriate body. There is already a role for the BSI in the development of, and initial consultation on, electrical standards where the standard is based on BS/IEC standards (e.g. BSEN61000-3-1 2 is the basis for Engineering Recommendation G5/4).

Questions 10 and 11: A new DTI governance body

We have referred above to the importance of the Authority's statutory duties in respect of balancing the interests of customers and licensees. We **recognise** that the Secretary of State shares these duties, but consider that **Ofgem** is better placed for the governance of electrical standards because of its role in economic regulation, and the commercial implications of changes to technical standards.

Question 12: Internet access

Yes, provided at reasonable cost.

Question 13: Other options

We favour making improvements to the current arrangements.

Question 14: open public meetings

We believe that in the initial stages of drafting there is no need for open public meetings. Public consultations by the standards body of draft standards should provide sufficient opportunity for representations to be made. Consultation by **Ofgem**, as part of its approval process, would provide another opportunity for third party review and public input.

Question 15: independent chair

Given our Competition Act obligations, we expect the chairman of the drafting body to conduct meetings such that an “independent” person would add little value. Indeed, if such a person was not the best candidate, in terms of technical competence, then there could be a detriment to having an independent chair.

Question 16: involvement of small players

As per question 14.

Question 17:

There is no question 17?

Question 18: Preferred way forward

We would like to express our support for the sentiments expressed in the Electricity Association’s letter and the view expressed that the governance arrangements for these standards must reflect their importance in meeting our obligations to develop and maintain economic and efficient networks. We support the need for open consultation when changes are required, as is being undertaken for the growth in distributed generation, but, by their nature and purpose, these are not standards that should need to be amended regularly.

We support the suggested process improvements describe in the recent letter to you from the Chairman of The Distribution Code review Panel of Great Britain. We will work with **Ofgem** to ensure that appropriate improvements are made.

I hope that I have provided sufficient background to assist in progressing activity on governance issues.

If you have any queries please do not hesitate to contact me on 020 7725 3169.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Paul Delamare". The signature is fluid and cursive, with a large initial 'P' and 'D'.

Paul Delamare
Networks Head of Regulation