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Dear John

Ofgem's Consultation on Governance of Electrical Standards

We are pleased to be able to comment on your recent paper on governance. We understand the reasons behind the need to have good governance processes, but we are concerned that Ofgem have proffered no concrete evidence of failures of the existing process. As a result we remain sceptical of the need for any radical changes to the existing arrangement, although we accept the necessity to review the detail. Underlining this we note that in 2.1 of your paper you reflect the views of several commentators in that the Distribution Code Review Panel (DCRP) is currently an example of effective governance process. Whilst there are always aspects of consultation that can be improved, and obviously tensions between some objectives of different panel members, it is not obvious that the current process has produced any demonstrable failures or delays

Before dealing with the points in your questions, we would wish to make a further couple of general points regarding issues raised in the consultation paper.

Firstly the criticisms in 3.16, although always a valid concern, have not in practice been an issue. The DCRP already has members from trade bodies representing smaller companies and recent experience has shown that the development of standards such as Engineering Recommendation G83 has benefited from the inclusion of appropriate representatives from smaller or other DCRP non-represented parties.

Secondly we believe that the DCRP has dealt with consultation issues with appropriate efficiency, addressing most of the principles of 3.8 of the Ofgem consultation, and we cannot bring to mind an occasion in recent years where there have been any delays of the nature referred to in 3.14.

Lastly although this should go without saying, UU is concerned that any arrangements for standards properly reflect the appropriate preservation of safety and reliability, the protection of workers on the network and of all connected customers. We believe the current arrangements have served the United Kingdom very well in this regard, and we would require

to be satisfied that any proposed arrangements really addressed these issues at least to the current level before we would willingly support any changes.

We now cover the remaining points in answering your specific questions.

Question 1: Is it appropriate to restrict the scope of this review to the governance of Distribution Code technical standards or should it include governance of Grid Code technical standards?

We believe from the discussion in the consultation paper that the standards you are referring to are those cited in Annex 1 of the D Code.

We firmly believe that the scope should be limited to those aspects of standards that bear directly on market participants, and should not necessarily include those standards that are licence conditions. This latter stricture, we believe, only applies to Engineering Recommendation P2/5. This should therefore restrict the scope of governance issues to those standards explicitly cited in Annex 1, and to new or changed standards that the Panel determines should also be cited in Annex 1. It would be helpful for the relevant criteria for including standards in Annex 1 to form part of the DCRP constitution or rules.

Again, we are not aware of any particular problems with the National Grid Company's standards (nor those of the Scottish transmission licensees) that would suggest that their arrangements should be within the scope of this review.

Question 2, would it be helpful to establish Technical Standard Groups under the Grid and Distribution Code Review Panels?

As far as the DCRP is concerned, this is effectively the existing rôle of the panel. It therefore does not seem appropriate to set up a daughter organization covering largely the same spread of responsibility.

Question 3, how should the enhanced Grid and Distribution Code Review Panels be funded?

In general by their participants. We wish to draw your attention to the fact that the current arrangements are solely funded by the DNOs, including all secretarial support, and are very modest. It seems to us that some of those who are complaining about the current process, and who already benefit from it, would be unlikely to contribute to the costs of either the existing arrangements or to any changed arrangements.

Whilst we can envisage some changes to address some transparency issues, any substantial change to the process must be arranged such that costs fall on those who are causing them.

Question 4, is it appropriate to modify the role of the Distribution and Grid Code Review Panels to cover commercial, regulatory and administrative matters?

We have noted your comments on the holistic treatment of regulatory and commercial issues. We also believe that there is a void for the resolution of these issues other than by the current route of ultimate determination by the Authority. It is not clear to us

that under the present regulatory arrangements a single body can be given sufficient powers to impose negotiated or agreed commercial terms on all industry participants.

We also believe that the technical standards are developed to deliver the foreseen most economic technically-acceptable solution. For this reason amongst others it is important that those involved in developing standards are representative of all those affected by them. The commercial issues arising from the application of standards in individual cases, in the light of the preceding observations, are best dealt with under determinable bilateral agreements. Accordingly we do not see a rôle for a panel with supposed oversight over commercial matters.

Given also that there is no forum for users to debate or express their concerns on commercial matters (ie the only route for resolution of commercial issues is bilateral negotiation with an individual DNO and/or by appeal to Ofgem) we believe that this gives rise to a certain level of frustration that might appear as complaints, albeit unjustified, about technical standards or processes, when the problems underlying the complaint are not technical.

Question 5, how should these panels be funded?

Our response to Q4 indicates that we do not see a rôle for such panels, so the question of their funding does not arise.

Question 6. Is it appropriate that drafting of electrical standards be performed by a new body with a remit to act for the benefit of the principal stakeholders?

We believe that this would introduce additional bureaucracy, given the existence of the DCRP, for no benefit. We also firmly believe that the services of the Electricity Association (EA) must be retained for detailed work on standards development. This suggestion seems to be simply moving the governance of the work from the DCRP, where we believe it is appropriate to manage it going forward, to the new body.

Question 7. How should such a body be funded?

As indicated in Q6 we do not see a rôle for such a body. However if it was to be created it would need to be funded by all DNO network users in proportion to their call on its services. Such an arrangement would probably be hard to achieve, and it would probably prove expensive to collect its income on that basis. This proposal would require more work in this regard.

Question 8. Should Elexon oversee governance of the Distribution and Grid Codes and referenced electrical standards?

We can see some superficial attractions of Elexon, although on balance we do not believe this would be an appropriate solution. We agree that Elexon appears to be an effective organization, but for reasons outlined in Q3, we do not believe that it would be more cost effective than the current arrangements. In particular the issues of Q6 would arise, ie who is Elexon going to commission to do the real work? Before accepting this as a solution we would need to be convinced that Elexon has appropriate access to the necessary expertise, and in a way that was markedly more effective,

representative and transparent than modified current arrangements could easily provide.

Question 9. Should the governance of electrical standards by an alternative UK or international standards organisation be pursued?

We firmly believe not. Apart from the inefficiencies suggested in such an approach, as for Q6 above, the time for the new governance body to get up to speed on ESI matters would be most unhelpful, given the development needs that are currently foreseen.

Question 10. Should the DTI set up a new standards body?

We believe that the issues relating to Q6 and Q9 apply here too. We would not welcome this approach. In addition we believe the skill set within the DTI currently, associated with “prohibitive” standards is not a good match for the maintenance of a set of “permissive” standards.

Question 11. How should a DTI standards body be structured and funded?

If this is the route chosen, then the costs should be met from DTI funds.

Question 12. Should all draft documents be published on a publicly accessible Internet site, and should the site have a facility for readers to provide comments using the Internet?

Yes. The DCRP has recently pioneered this approach, using Ofgem’s website. We believe that there is a good case to formalize the DCRP consultation process, and to include specifically the use of the Internet.

Question 13. Are there other more appropriate governance arrangements not discussed above and that should be considered?

We believe so. We would strongly recommend maintaining the existing overall arrangements, but making some significant changes along the following lines:

Recognition of interface standards in the DCRP Constitution

The DCRP Constitution should be amended to state explicitly the rôle of the Panel in reviewing existing Annex 1 standards and for calling for new standards. This will also need to reflect that the remit of the Panel is those standards that affect the interface between all users of the network and the DNO. The models for NGC’s CUSC and the BSC are useful here, as are their processes for the raising and progression of change proposals. Similar checks and balances to those formalized in CUSC and BSC on the viability of proposed amendments would also be appropriate. We believe this is important to preclude the proliferation of non-economic or capricious amendments and work requests

Review Panel Membership

Review the representation of industry and trade participants to ensure it properly reflects the activities in the market. We note that you have suggested in 3.51 that Elexon could appoint experts to represent smaller players. There is no reason why, subject to suitable governance arrangements, the DCRP could not assume similar powers.

Formalization of consultation routes

It would be necessary to formalize consultation mechanisms, although relying heavily on use of the internet. Certainly UU would be happy to write on a one-off basis to all Authorised Electricity Operators in its Distribution Service Area and inform them of changes of governance arrangements, with a view to alerting them to the on-line arrangements for all future consultations.

Formal agreement with EA as technical provider and secretariat

UU strongly believes that there are practical benefits in terms of continuity and expertise (particularly with international standards) in retaining the services of the EA for document processing, technical advice, and some secretariat functions. However if this link is to be maintained there would need to be a formal understanding between the DCRP and the EA on the provision of these services. We also believe, again subject to a transparent formal agreement, that the EA could provide the necessary administrative support for the DCRP.

Annual Reports

As an aid to transparency the DCRP could publish an annual report on its activities. This would also be a useful check on the activities undertaken by the EA for the DCRP.

Question 14. Should drafting committees for standards falling under the Panels be open public meetings? If so, how is this best achieved?

No, but their proceedings should be available, as should the list of participants and who they represent. We believe that transparency via timely internet publishing is the current most efficient way of ensuring appropriate consultation.

Question 15. Is it necessary for drafting committees to have fully independent chairpersons? If so who might such people be?

No. Again provided the governance is designed correctly, and proceedings are open to scrutiny, this should provide adequate checks that chairmen are running balanced meetings and agenda.

Question 16. How best can third parties, particularly small players, take part in development of industry standards and how should this be funded?

Principally by trade associations. It is reasonable to expect that trade associations will collaborate and co-ordinate as necessary. The vitality of trade associations is a matter

for their members and possibly for the DTI. Please not also our suggestion in our answer to Q13.

Question 18. Overall, which option do you regard as the preferred way forward?

See Q13.

I trust you find these comments, and our suggestions for improvements to existing arrangements, helpful. Please do not hesitate to contact me if you feel it would be useful to discuss any of these points in more detail.

Yours sincerely

Mike Kay

Electricity Regulatory Affairs Manager

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