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Dear Bryony

Consultation : Gas Governance

Thank you for giving ScottishPower the opportunity to respond to the Ofgem consultation on gas governance. As you are aware ScottishPower has been heavily involved in the Gas Industry Governance Group and has been chairing the discussions on Transporter inclusion in SPAA. As outlined within the consultation document, the gas market is in need of robust governance arrangements not solely to address the voluntary codes, which facilitate Supplier inter-operability, but also to ensure that metering competition takes place in a stable and change controlled environment.

It is ScottishPower's belief that not only does SPAA provide the mechanism to achieve this, but also that it has the potential to deliver strategic advances in the change of Supplier process. It has been evident through discussion over objections and the subsequent changes to working practice, that the electricity governance arrangements, under the MRA, serve the market better than the voluntary arrangements under the Gas Forum. It is the case that the voluntary arrangements were originally an integral part of ensuring adequate transfers could be achieved from competition start date and the Gas Forum can be commended for their work in this area.

However, as Ofgem are aware the gas and electricity industries are analysing what improvements can be made for the benefit of customers and market participants. It is therefore obvious to ScottishPower, that to deliver robust change in the gas market there must be a strong governance arrangement underpinning it and we see SPAA as being the vehicle for doing this. Equally, we believe that there is a clear need for governance in support of the RGMA Baseline and see SPAA as fulfilling this role.

Having attended the industry seminar on SPAA, it is evident that I&C Suppliers are uncertain of both the benefits that can be had from SPAA and also the risk associated with signing on to it. It is ScottishPower's opinion that I&C and Domestic Suppliers should be bound by SPAA, as has always been the intention. As outlined within the consultation document there are a number of principles that underlie good governance. There are at least two such principles that would be impacted if I&C Suppliers do not sign onto the SPAA, effectiveness and participation.

In relation to effectiveness, Ofgem are correct in stating that there would be little value in an agreement if it did not achieve what it set out to do. However, it is also the case that the agreement would be ineffective if it did not also bind all parties who are required to achieve the objectives of the agreement. Consequently, participation, another principle of good governance would not be assured.

As set out within the consultation, the primary objectives are to govern voluntary Codes of Practice and to provide a robust change and compliance mechanism for RGMA, with the ultimate objective of governing retail processes. It is therefore unclear how the agreement can be effective without the assignation and involvement of I&C Suppliers. An equal case can be made for the inclusion of Transporters, however our views on this matter are covered later in our response.

We set out below our points on the consultation and answer questions posed in the order in which they appeared.

SPAA – Ofgem's Views

As explained above, there are a number of principles that underpin good governance and the SPAA has been developed to promote these. That said the agreement is only one aspect of achieving these principles and therefore the surrounding environment and compliance monitoring need to be managed to ensure that the principles are adequately delivered.

Some of the key drivers in setting up SPAA were to ensure transparency, allow all parties to have a say and implement change as quickly and cost effectively as possible. That said, a balance has to be struck between speed and time given for assessment, as well as ensuring that significant burdens are not levied on parties without due consideration.

In answer to the questions posed in the consultation, ScottishPower do believe that 10 days is appropriate for consultations to take place and suggest that criteria should be developed for urgent status. In respect of the introduction of schedules into SPAA, we would envisage that this should be phased with schedules either being introduced as voluntary or elective before becoming mandatory.

Having considered the right of appeal, it would seem appropriate, that as only changes to mandatory schedules can be appealed that there should solely be an appeal for unfair prejudice and not appeals for other categories that Ofgem will already have considered.

We consider that it is appropriate for the clauses mentioned in paragraph 5.34 to be afforded protected status.

It was after significant consideration of the GIGG constitution group that the voting mechanism was agreed. It was purposefully set to promote change and ensure that Parties who did not show interest could not stifle change. In light of discussions under the Customer Transfer Programme, ScottishPower believe that this is the correct environment and that if a Party does not vote, that it should not be considered in assessing if a change proposal was successful.

Customer Representation

As explained above, ScottishPower has been involved in the GIGG discussions since the outset. As such, we were somewhat confused that Ofgem participated in these discussions and allowed the agreement to be formulated before raising the proposal to include customer representatives in the change process. As yet, we remain unconvinced that there is a role for customer representatives in SPAA and would question why Ofgem's involvement in overseeing the agreement, through the reserved sections and granting change over mandatory schedules is not protection enough.

We would welcome further input from Ofgem in this area, to better understand the need for further representation of customers.

Implementation

As outlined above, it is ScottishPower's opinion that I&C and Domestic Suppliers should be signatories to SPAA, in order for the governance arrangements to achieve their objectives. We do envisage that for the SPAA to be fully effective, that a Licence Condition would be required, that binds all licenced Suppliers to sign on to SPAA. That said we do not believe that the Licence Condition as drafted is what is required.

We find it difficult to accept that a more complex licence condition is required for SPAA, by comparison to that for MRA accession by Suppliers. At no point within the discussions about SPAA was there ever any proposal of relevant objectives for Suppliers. We suggest that Ofgem provides for a discussion on the proposed Licence Condition to allow Suppliers to fully understand why the SPAA and the MRA should have different provisions.

Without this discussion, we would have serious concerns of agreeing to a Licence change.

In respect of anti-competitiveness, the SPAA was drawn up, to take account of both small Suppliers, new entrants and prospective Suppliers and we understand that any concerns raised were answered. However, we would urge Ofgem in their role within SPAA and through designation of SPAA to confirm that the agreement is not anti-competitive now and remains so into the future.

Codes of Practice

The primary focus of the introduction of SPAA was to formalise the voluntary codes that support Supplier inter-operability and ensure robust governance arrangements for RGMA change control. Under the direction of GIGG, the Domestic Code of Practice workgroup have been reviewing the appropriateness or otherwise of the Domestic Code of Practice Schedules contained within the consultation. We therefore fully support the proposals as outlined in the consultation document, but would clarify that we would envisage that no schedule would be automatically proposed as mandatory, but as voluntary or elective through the change control process. We would also envisage that an archive of the remaining schedules not proposed into SPAA remain with the Gas Forum, with this document becoming obsolete at a suitable juncture after SPAA go live.

It is also ScottishPower's opinion that I&C Code of Practice should carry out a similar exercise and propose schedules that could move to SPAA. Again, we believe that such schedules should be implemented using the SPAA change control process.

GT Involvement

It is ScottishPower's belief that GTs should become signatories to the SPAA and we understand from discussions with them under the SPAA Transporter Forum and the AiGT that they are willing to do so. At the present time meetings have commenced to look at what conditions would have to be, to allow this to happen. It is apparent that there are cost recovery concerns, in particular for the iGTs and we would urge Ofgem to give this due consideration.

It is ScottishPower's opinion that that all GTs should be involved in SPAA and that they should accede at same time, that being inception if possible. It is our opinion that this arrangement should be a Licence Condition, but that the Licence Condition should be reflective of the electricity MRA provisions on Distributors.

With regard to funding, we believe that much debate is still to be had on this issue, but we envisage that a proportion of funding should be met by Transporters and would see the method used under the MRA as a good model. In addition it is imperative that monies allowed for SPA under the Transco Price Control are identified ensure that these can be used for future service development.

Metering Governance

In respect of the questions raised within the consultation document regarding the governance of the Transco metering contract, it is ScottishPower's opinion that it is not good practice to govern one contract with another and that governance of the metering contract should be encompassed in the agreement itself. That said, we do however believe that "back to back" arrangements have to be put in place between the two contracts to ensure that changes to operational processes are carried out in a timely manner. In addition, it is also imperative that updates are timed to happen at the same time in each of the agreements.

We believe that the SPAA document should set out a prudent way of operating in relation to the transfer of assets between Suppliers, but believe that the market should be left to set prices for the assets themselves. That said it is important for there to be a guideline given to ensure that fair terms are offered for meters. As previously advised we suggest that Ofgem issue a guideline, which ensures that costs for a meter cannot be levied higher than Transco.

ScottishPower remain committed to the implementation of SPAA, but would like assurances over the content of the Licence Condition and the accession of I&C Suppliers. It is our intention to continue with the Transporter Suppliers meetings and we hope to work together with the industry to ensure that robust and all encompassing governance arrangements are put in place.

Should you wish to discuss any matters raised in this response, please do not hesitate to contact me on the number above.

Yours Sincerely

Angela Love
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