

DN Sales Development & Implementation Steering Group Minutes

Meeting 2

3 February 2004, 9:00 am – 2:00 pm

Regus Offices, 12 St James' Square, London SW1

Attendees

Jess Hunt	Ofgem	John Houlden	Burges Salmon
Mark Vaughan	Ofgem	David Ashbourne	Ofgem
Sebastian Eyre	Energywatch	Mark Feather	Ofgem
Tory Hunter	Scottish & Southern Energy	Jason Mann	PA Consulting
Simon Goldring	British Gas Trading	Paul Whittaker	National Grid Transco
Neil Shaw	AGT / GTC	Chris Train	National Grid Transco
Eddie Proffitt	MEUC	Mike Ashworth	National Grid Transco
Nigel Nash	Ofgem	Nick Wye	Waters Wye Associates
Roger Morgan	Ofgem	John Costa	EdF Energy
Kyran Hanks	Ofgem (chair)	Peter Bolitho	Powergen UK

1) Welcome & apologies

Kyran Hanks welcomed the group to the second meeting of DISG. Apologies were received from Keith Smith (Wessex Water) and Iain Osborne (Ofgem).

2) Review of minutes from previous meeting, of 20 January 2004

The group had no additions to make to the minutes. However, Simon Goldring raised a question over the process for DN sales, asking whether the Gas and Electricity Markets Authority ('the Authority') must grant a consent for the sale of each DN individually, or whether it will consent once to the disposal of all DN assets by NGT. Kyran Hanks said that, in the event of consent being granted, the precise mechanism of hive-down had yet to be considered in detail by Ofgem and NGT, and that a paper on the process of transfer would need to be drafted at some stage.

Paul Whittaker and Mike Ashworth commented that consent is required for the hive-down of DNs into separate legal entities, rather than for the transfer of ownership or shares from NGT to another party.

3) Reports back from workgroups

a) Exit & Balancing Working Group

This group has been renamed the **Commercial Interface Working Group (CIWG)**.

Mark Feather reported on the CIWG meeting held on 28 January. Ofgem gave a presentation to the Group on the key issues from its perspective. The largest issue for consideration seemed to be the contractual & operational structure of the industry, with the alternatives being the existing NGT proposals versus the BETTA-style model.

Also, Russell Cooper (NGT) gave a presentation to CIWG on the work of the Exit Capacity Workstream, to update CIWG on the progress of the workstream to date. CIWG discussed how its own work would relate to that of the workstream, and what options existed for the future co-operation of both groups.

Finally, NGT gave a presentation to CIWG on the proposed Offtake Code.

b) Agent Working Group

Nigel Nash and Roger Morgan reported on the progress of the AWG. Following the presentation on proposed Agent functions at the first AWG meeting, the Group gave feedback on the proposals. Several issues were raised, primarily relating to the functions which the Agent will carry out, and how the resolution of disputes will occur if the Agent should fail to provide a particular service. The group also recognised issues relating to the governance and ownership of the Agent, and will consider these once the functions of the Agent have been clarified.

As a first step, the Group has undertaken to identify the current points of contact between the shipping community and NGT. Simon Goldring commented that this exercise might identify interfaces which are not currently accounted for under the Network Code, and that the Group would consider these alongside those which are.

Nigel Nash outlined a further issue, the governance of UK-Link. Kyran Hanks commented that this was one of several governance issues to be resolved, which might indicate the need for a new, "Governance" work group. However, he indicated that he would be reluctant to begin a new group given that three already exist. Paul Whittaker commented that the RAWG might be the best forum for the discussion of such issues.

Roger Morgan noted that the AWG has agreed a timetable for the consideration of these issues over the coming weeks.

c) Regulatory Architecture Working Group

David Ashbourne reported on the RAWG meeting held on 27 January. The Group agreed its Terms of Reference, and looked at the issues contained in the Issues Log. In addition, the Group was given presentations on both the UNC and the Offtake Code by NGT, and agreed to give feedback on the UNC at its next meeting.

The Group has also agreed to look into how the GT licence will develop, in particular how activities will be categorised as either 'Transmission' or 'Distribution' activities.

Tory Hunter commented that the process for managing this transition was not clear; David Ashbourne replied that work in this area is being taken forward jointly by Ofgem and NGT, and that Ofgem and NGT were discussing the publication of a draft GT 'licence' as an aid to discussion.

ACTION: Ofgem to post a new-form 'licence', containing standard conditions, on the Ofgem website, to aid discussion of how activities will be categorised as either 'Transmission' or 'Distribution'.

4) Actions from previous meeting

Action 1: *Participants to review issues log and provide feedback.*

Kyran Hanks invited the Group to review the current Issues Log (v1.3, 2nd Feb 04). A number of amendments to issues were made, and these will be contained in the next version of the Log.

Paul Whittaker asked if Closed Issues (and issues subsequent to them) could retain their numbers instead of all the issues in the log being re-numbered each time one was closed.

ACTION: Jess Hunt to ensure that Closed Issues, and issues subsequent to them, retain their numbers for the lifetime of the Issues Log.

Tory Hunter asked whether clear post-sale cut-off dates (for the purposes of invoicing and such activities) had been established. Mike Ashworth replied that, under the UNC, transitional arrangements would be put in place to manage the cutover to the post-sales arrangements. Chris Train suggested that this issue should be addressed by RAWG.

Kyran Hanks asked whether NGT could provide the Group with a paper on SOMSA. Tory Hunter asked whether that paper could include a summary of the activities currently performed by DNs. Paul Whittaker and Chris Train agreed to provide a paper on this, possibly for discussion at DISG3.

ACTION: NGT to prepare paper on the SOMSA and DN activities.

Action 2: *NGT to prepare paper on the separation of RDNs to be presented at DISG meeting 2. This paper would address the impact of separation and its linkages to price control determinations.*

Paul Whittaker said that work on the paper was currently in progress, and he hoped to present it at DISG4.

Action 3: *NGT to prepare paper on metering to be presented at DISG meeting 2 or 3.*

Chris Train said that work on the paper was currently in progress.

Action 4: *NGT to prepare paper on connections to be presented at DISG meeting 2 or 3.*

Chris Train said that work on the paper was currently being taken forward in concert with representatives of IGTs, and he hoped to present it at DISG4.

Action 5: *Mark Feather to seek advice within Ofgem on what issues are likely to arise with regard to performance standards and to report on the outcome at DISC meeting 2.*

Closed: Mark Feather said that he had sought advice from Andrew Walker (Ofgem) on this issue. The advice given was that current Standards of Performance (SoPs) relating to DNs would have to be transferred to any new owner. In addition, Andrew Walker's team are looking into extending the application of the current SoPs on interruption; the delivery date for Ofgem's proposals in this area is April 2005.

It was agreed that RAWG would need to keep this issue under consideration.

Action 6: *NGT to meet with IGTs and connections services providers to further develop proposals. NGT to prepare paper on IGTs for DISC meeting 3.*

As Action 4.

Action 7: *Jess Hunt to circulate NGT's draft offtake code business rules and put them on Ofgem's website. NGT to give a presentation on its proposed business rules for the offtake code at the first meetings of the EBWG and the RAWG.*

Closed: The draft Offtake Code business rules have been circulated and published. In addition, NGT has presented the rules to both workgroups.

Action 8: *Jess Hunt to seek advice within Ofgem on the nature of the current arrangements and to report on the outcome at DISC meeting 2.*

Closed: Jess Hunt explained that this action related to how the arrangements for testing the quality of wet gas should be handled. The way forward is that Ofgem's Technical department will be reviewing this issue, which has been entered into the Issue Log as #30.

There was then some discussion of how investment decisions will be co-ordinated between the NTS owner and individual DNs. Paul Whittaker sought to clarify the Group's understanding of how this would work by referring to the proposed Offtake Code. Simon Goldring then asked how DN-to-DN investment decisions would be co-ordinated. Paul Whittaker noted that the Offtake Code encompassed flows between DNs. Kyran Hanks said that the issue of planning in this area should be considered in future, possibly alongside discussion of how the new arrangements will accommodate IGTs.

Action 9: *NGT to give presentation on emergency handling procedures at DISC meeting 2.*

Closed: Chris Train gave a presentation (attached) on how NGT's emergency call handling and response function could operate post-sale.

Action 10: *Mark Feather to check with Andrew Walker regarding the scope of his letter about the mains replacement expenditure cap.*

Closed: Mark Feather said that Andrew Walker's draft letter considers overruns of expenditure in this area. Ofgem will publish this open letter in the near future; Kyran

Hanks said that an ongoing issue (for Ofgem) is whether there are issues wider than those already covered by the letter which will need consideration.

Action 11: *NGT's presentation on emergencies at DISG meeting 2 to include information about the HSE process.*

Closed: As action 9.

During Chris Train's presentation, there was some discussion of both the role of the DNs and the HSE in the process. Neil Shaw said that IGTs would require much more detail than was given in the presentation, especially regarding standards for emergency response times. Chris Train replied that the HSE would not accept a future Safety Case unless the post-sale procedures were demonstrably robust. Paul Whittaker highlighted that any internal reorganisation of the emergency functions of NGT would need HSE approval, as would the Safety Case of any new DN owner.

Kyran Hanks closed the discussion by identifying the HSE's assessment as the critical path, and said that Ofgem's view of emergency arrangements would be informed by the HSE's decision.

Action 12: *Jess Hunt to circulate NGT's discussion document on changes to the network code UNC and put it on Ofgem's website. NGT to give a presentation on its proposals for the UNC at the first meeting of the RAWG.*

Closed: The document has been circulated, and NGT has given the presentation.

Action 13: *Ofgem and NGT to develop proposals on the separation of distribution and transmission licence obligations. These proposals will be presented at the RAWG.*

David Ashbourne said that work to develop these proposals is ongoing.

Action 14: Peter Bolitho to prepare paper regarding appropriate lessons from BETTA, in particular lessons relating to credit rules, which will be provided at DISG meeting 2.

Closed: See Agenda item 5.

Action 15: Mark Feather, David Ashbourne to initiate meetings of CIWG and RAWG. (AWG meetings have already commenced).

Closed: The meetings have been initiated.

5) Presentation – 'lessons from BETTA', Peter Bolitho, Powergen UK

Peter Bolitho gave a presentation to the Group on how the contractual model adopted for the BETTA project might hold relevant lessons for the potential sale of DNs (material attached). He stressed that some, rather than all, aspects of BETTA provided lessons, which he intended to draw out. He said that, from his point of view, the presented model ('the BETTA model') would minimise disruption and cost to shippers, since it avoided any fragmentation of codes between different DNs. This was in contrast to the existing, or 'NGT model', he said.

Discussion of the Role of DNs

Following the presentation, Tory Hunter said that the key area to understand was the split of responsibilities between the NTS SO and DNs.

Paul Whittaker commented on the BETTA model, saying that one view of it was that it ensured no future divergence of the commercial terms between DNs. However, the NGT model could also prevent this if Ofgem gave a steer to that effect. Chris Train noted that the key difference between the models was that under the BETTA model DNs have no contractual relationship with shippers.

Peter Bolitho replied that he saw the key issue for most shippers as being the minimisation of the extra costs that could result from fragmentation of charging arrangements and market rules.

Nick Wye commented that Ofgem's view of any divergence was likely to be more holistic than this. He suggested that if the costs of divergence to shippers were to be offset by greater benefits to consumers, Ofgem would support such divergence.

Kyran Hanks said that Ofgem's view on the evolution of DNs was that, although they would be the same on 'Day 1' following a sale, there should be the potential for evolution if this became desirable.

Eddie Proffitt said that, in his view, the BETTA model prevented divergence between DNs, but did not necessarily prevent improvements in efficiency. He also said that a prime concern for consumers was that divergence would result in a much more complex set of charging methods.

Mike Ashworth commented that if the BETTA model were to be adopted, and then divergence were to become desirable, the industry would effectively have to repeat the current process to achieve it, creating a duplication of effort. Eddie Proffitt and Peter Bolitho said that in their view such a revisiting of issues would not be a problem.

Simon Goldring expressed a general concern over the regulatory architecture of whichever model was adopted, if this had the potential to become significantly more complex as the model evolves.

Tory Hunter returned the discussion to the role of DNs, and asked how it was possible for the system balancing function to be split between Transmission and Distribution. Paul Whittaker replied that such a split would be achievable, given that balancing is not instantaneous but takes place over daily periods.

Mark Feather said that the first step in any discussion of contractual frameworks should be to clarify obligations of the NTS and DNs, particularly with regard to interruptions. For example, if DNOs are to be able to call interruption, there will need to be a contractual relationship between them and the shipping community.

Peter Bolitho questioned whether, if practices on interruption varied between DNs, consumers in some parts of the country might be disadvantaged relative to others. Eddie Proffitt suggested that this might present a similar problem to the fragmented nature of the current IGT arrangements, which were a barrier to competition in supply.

Kyran Hanks said that the Authority's consent to asset disposals would in part depend on there being no demonstrably detrimental effects upon competition in supply.

Discussion of credit issues

Chris Train commented that the BETTA model provided for centralised credit arrangements, taking this function away from individual DNs. He said that DN owners would probably want to manage this process themselves, as credit is a key risk for most businesses.

John Costa suggested that centralised credit management would be more efficient than if each DN managed credit separately. However Nick Wye disagreed, suggesting that the centralised option would result in a greater overall cost. The Group did not reach a conclusion on this issue at this meeting.

In the light of the discussions thus far, Paul Whittaker outlined what in his view were the four general issues for resolution:

- Who decides what the level of NTS exit capacity is?
- Who decides what the level of DN exit capacity is?
- Who decides when to call interruption?
- Who manages credit?

The Offtake Code

Simon Goldring asked whether there would be one Offtake Code which applied to all DNs, or whether several Offtakes Codes would be developed. Mike Ashworth responded that there will be one Offtake Code, but it will have schedules which set out the different operational parameters for each DN. Chris Train noted that, under the NGT model, all DNs would have the ability to propose changes to the Offtake Code. Furthermore, Mark Feather noted that shippers and consumers would have the right to comment upon Offtake Code modification proposals.

Way Forward

Kyran Hanks concluded the discussion of the BETTA model by outlining how Ofgem viewed the role of DNs, in order to give the Group some working assumptions and objectives on which to base future discussions, without fettering the discretion or decision-making power of the Authority.

The first assumption is that DNs would actively manage their networks with responsibility for network investment and interruption. Secondly, DNs would retain the ability to evolve, though on 'Day 1' they would all adopt the same pricing methodologies and market rules. Thirdly, there must be no detrimental effects upon competition in supply as a result of potentially separate paths of evolution.

Kyran Hanks agreed to set out these assumptions in a paper for the next meeting of DISG. He said that, on balance, the NGT model was more likely than the model proposed by Powergen to fulfil these objectives, albeit that both models had the capability to do so.

Peter Bolitho asked whether changes to the proposed 'short-form' Network Code could be constrained by linking them to the UNC. Kyran responded that Ofgem would address this in the paper.

ACTION: Ofgem to produce a paper for DISG3, setting out the 'working assumptions'.

Next meeting

The next meeting of DISG is scheduled for Tuesday 10 February, at the same venue.