

DN sales: Regulatory Architecture Work Group

Meeting 2 – Notes

17 February 2004

Attendees:

| | | | |
|-----------------|---------------|----------------|-----------------------|
| Mike Ashworth | NGT | Lisa Waters | Waters Wye Associates |
| Alan Raper | NGT | Steve Rose | RWE Innogy |
| Nigel Sisman | NGT | Paul Hughes | SSE |
| Mark Feather | Ofgem | Mike Young | Centrica |
| David Ashbourne | Ofgem | Anne Clayton | Slaughter & May |
| Jon Dixon | Ofgem | Mike Pearce | Inexus group |
| Farook Khan | Ofgem | Sebastian Eyre | energywatch |
| Jonathan Jones | Burges Salmon | | |
| John Smith | Burges Salmon | | |

1) Statement on the re-organisation of Ofgem

After welcoming attendees to the second meeting of the RAWG, DA gave a short statement on the recent restructuring of Ofgem. It was confirmed that Sonia Brown would replace Kyran Hanks as the Project Director, though the existing policy team, including Mark Feather and Jess Hunt would continue. The restructuring will not impact upon the immediate timetable, and the groups will still be working towards producing a report to the April meeting of the Authority.

2) Review of Actions

- 1 No attendees have expressed concern at their contact details being made available, so these will be published on the DN Sales area of the Ofgem website.
Action closed.
- 2 The Issues Log and other documentation are now dated and/or have appropriate version numbering.
Action closed.
- 3 A paper on the licensing framework has been prepared by NGT and was discussed later in the meeting
Action closed.
- 4 A consolidated version of NGT's GT licence was distributed to attendees.
Action closed.
- 5 In the version of the Issues Log circulated at the 27 January RAWG meeting, Issue 62 was listed as "*What governance procedures should apply to the distribution charging methodologies*". It was noted on the day that this overlapped with Issue 55 and may therefore be superfluous. This may have been mis-recorded, as it seems closer to Issue 56: "*Where should the distribution charging methodology sit within the regulatory framework*".
Action carried over.

- 6 Slides of the NGT presentation to the 1st RAWG meeting have now been placed on the Ofgem website.
Action closed.
- 7 Ofgem has received comments from two parties on the UNC discussion paper. These have been forwarded to NGT and subject to the author's consent, will be posted on the Ofgem website. Further comments will be welcome.
Action carried over.

3) Issues Log

A revised RAWG Issues Log was circulated, which has re-ordered the issues into broad classifications, such as the licensing framework and the Network Code. LW commented that it may be useful to organise the issues log according to a hierarchy of the documents to which they relate, i.e. the Off-take Agreement will be subordinate to the UNC. JS suggested the forward work plan may also influence the classification of issues. With this in mind, early comments are sought on issues 1.3 and 1.8 in particular. LW stated that it is difficult to comment on whether any new licence conditions should be introduced (issue 1.3) until Ofgem has provided a firm policy steer on whether the framework will be designed to accommodate passive or active DN owners. This difficulty was acknowledged by DA and MF, though both stated that this position will become clearer shortly and progress in the meantime should be made wherever possible.

Action: RAWG members to provide comment on the restructured issues log by 20th Feb.
Updated Issues log to be provided at the next meeting.

4) Report from DISG

DA gave a short update on the discussions at the DISG meeting of that morning. In addition to a presentation by Mark Feather, which was repeated to the RAWG, discussion centred on three documents provided by NGT, covering; connections and iGTs; metering, and; the SOMSA's.

MP commented that the metering issues needed more clarity from Ofgem, in particular on the obligation to provide domestic metering (standard licence condition 8).

The connections paper focused on the relationship with independent Gas Transporters. MP stated that there was a lot of concern from iGTs on maintaining the existence standards of service from NGT, and on competition issues more generally. DA commented that he thought the paper to be presented would be on the obligations to provide connections and how this would work if the DN and NTS had overlapping authorised areas. There is also the general issue of how the iGTs will fit into any revised licensing structure.

The third paper looked at the proposed System Operation Managed Service Agreements (SOMSA). MA commented that NGT anticipated DN's to be dependent upon it to provide the services covered by the SOMSA until around 2006 so the service would be available until then, though this timeline may change depending on buyer expectations. The views of the HSE will also influence the ongoing provision of these services.

5) Working assumptions paper and presentation

To accompany the working assumptions paper already circulated, MF gave a presentation clarifying the alternative models of allocating responsibilities between the NTS and DN's. These

options are broadly split according to an active or passive DN owner scenario, with model offering a hybrid approach.

The passive DN model would entail NGT retaining much of the existing planning and management functions, with the passive DN owner then carrying out the maintenance and investment identified as being necessary by NGT. The active DN approach envisages though DN owner taking on all of the responsibilities of operating the network, though these too could be codified under a single agreement with a shorter, network-specific code where there is any divergence in operating practice. The hybrid approach splits responsibilities according to which party is likely to be best able to manage that process.

MF emphasised that the intention is to clearly set out the options rather than close them off at this stage, but Ofgem are keen to get a steer on the preferred approach from each of the workgroups. MF did comment that the DISG were not in favour of the wholly passive DN model, as realistically the DN owner would have to be more involved than the model implies, though this would have the advantage that shippers would only be required to contract with NGT (who would then back off arrangements with the DN owners). It was suggested that this would only be attractive to potential owners from the financial sector rather than utility operators.

It was commented that under a short form network code model¹, with the DN owner being wholly or partly pro-active in managing their network, you would get more innovation. It was thought DNs would be more focussed on the development of their individual businesses and the way in which they operate and therefore more likely to want to introduce innovative services.

SR asked what was meant by 'innovation' in this context, given that proposals can be raised by any party. MF suggested DN owner innovation was likely to be at the margin but could include differentiated services such as line-pack provision.

LW suggested that an advantage of the short form network Code was that this allowed an innovative service to be either introduced just into one short form code or into the uniform code, depending on the nature of the change. This could allow a service to be trialled on one network before being rolled out nationwide. LW also suggested that this would increase the chance of changes being implemented, rather than being held up potentially indefinitely while uniformity is sought. For example, not all DNs may have appropriate systems to trial a new approach – with single UNC all would have to move at the pace of the slowest.

MF also commented that the DISG had asked for more details on the relative accountabilities under the hybrid approach. There was also some unease about the potential for disputes between SO's and how these could be resolved. SSE and NGT were to discuss this off-line, with a view to reporting back to the next DISG.

MY asked whether the options had to be mutually exclusive, or could be determined on a DN by DN basis. SR also asked whether you could start with option 2 and then progress to some of the more active options. MA suggested that such an approach would not be impossible, but very difficult and not in line with the principle of a common contractual framework. He also added that the difference between models 1 and 3 may boil down to the scope of the proposed Off take agreement.

¹ whereby each DN owner has its own Network Code, albeit that on day 1 it will merely refer to the Uniform network Code

LW raised concern at how the change to all the various contracts and agreements could be co-ordinated, given that there will be knock on impacts. She suggested that although the Elexon model had its faults, it should not be wholly discounted as it could allow one party to manage all of the processes for amending the uniform network code, short form codes, agency rules and offtake code amendment. LW thought that some system which co-ordinated modifications across the contractual frameworks was important. It was agreed that this was both a RAWG and DISG issue, and as such should be raised at the DISG.

6) Feedback on the UNC

DA confirmed that two responses on the NGT UNC discussion paper have been received so far, from SSE and Centrica. These will be published on the website, subject to the consent of the authors. AR confirmed that the comments received were being considered.

7) The licensing framework

Comments were invited by the 24th Feb (next meeting) on the licensing framework table that had been produced by NGT and circulated to RAWG members. Further discussion on the licences centred on the forward work plan.

8) Forward Work Plan

There was much discussion on the way forward for the group, focusing on what it could usefully and reasonably do in anticipation of a steer on the high level framework issues. The group felt it was worthwhile to first go through the licence and the separation of obligations rather than network code issues, which will to a large extent be subordinate to the policy developed for the licence. Equally, developments on the Off-take agreement will need to take full account of, and to an extent be guided by, discussions on the UNC.

MA suggested that work on the UNC could be split into three categories:

1. Technical change – amending existing text to reflect the new corporate entities would be the simplest task and may account for the bulk of necessary changes.
2. Splitting of obligations – this will apportion existing obligations into either the NTS or the DN, and will require a further degree of policy development, with input from DISG and CIG in particular (MA confirmed the NGT is working on the basis of existing exit obligations until told differently).
3. New rules and obligations – these will be entirely new areas which take into account the separation of NTS and DN and put in place appropriate obligations in respect of services and information flows between them, protection against discrimination etc.

MA also suggested that effort should be put into developing robust business rules which capture the emerging policy and guides future drafting, rather than going straight into a review of the drafting.

It was generally felt that a similar classification could apply to the Licence.

Action: Ofgem to circulate suggestions for a short term work plan ahead of the next RAWG meeting, focusing on the classification and prioritisation of issues and identifying where new licence obligations may be necessary.

9) Date of next meeting

It is envisaged that the RAWG will need to meet every week until the end of March to complete its objectives. The next meeting is therefore scheduled for 2pm Tuesday 24 February, to be held at Ofgem's offices, 9 Millbank.