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Date 2 June 2004

Dear Nick

### **Gas Retail Governance: Decision Document**

Thank you for providing EDF Energy with the opportunity to comment further on the issues discussed within the above decision document. This response represents the views of EDF Energy, which includes the licensed entities of London Energy plc and Seeboard Energy Gas Limited. I confirm that our response can be treated as non-confidential and may therefore be placed on your website.

We welcome the open and informative manner in which the concerns raised in response to earlier consultations have been set out within the document and for the explanations provided by Ofgem at meetings of the Gas Industry Governance Group, of which EDF Energy is an active member.

We recognise that the SPAA represents the culmination of considerable time and effort invested by the industry and that its implementation will represent a significant achievement in relation to governance of the retail gas market. We remain firmly committed to the concept of SPAA, as demonstrated by the nomination of Paul Waite to the SPAA Executive Committee.

Within this response, we have focussed on those areas where a degree of concern still exists. It is not our view that such continuing concerns should prevent us from acceding to the SPAA, but rather signals our intent to continue to work within the context of the SPAA to ensure that the relevant objectives are met.

The remainder of this response addresses the issues raised in the decision document, namely:

- Voluntary I&C Accession;
- The proposed GT condition;
- Interaction with Network Codes;
- Customer Representation;
- Appeals;

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- SPAA Executive Committee;
- Interim Arrangements;
- The RGMA Baseline.

## **1. Voluntary I&C Accession**

We have previously expressed our opinion that the SPAA should be a fully inclusive agreement to which all classes of supplier should be a party. The I&C community has been engaged in the development of both SPAA and the RGMA baseline and will be parties to the commercial arrangements put in place to support metering competition. The only definite means of ensuring participation in both the commercial and administrative framework of retail governance is via a licence condition. Any fragmentation of the RGMA baseline resulting from non-participation of I&C suppliers in SPAA, which required domestic suppliers to differentiate within systems and market processes, would be costly and unwelcome.

An accurate assessment of the potential level of voluntary I&C supplier sign up to SPAA is difficult at present. This is an area which we will monitor going forward in terms of potential impact on the future development of the RGMA baseline.

## **2. The proposed GT condition**

We support the inclusion of GTs within SPAA and the proposed licence condition to oblige accession. We have previously stated our preference for GTs to contribute to the funding of the SPAA, using the principles employed under the MRA model as a basis. We are satisfied, however, that the extension of Schedule 5 to require a future review of funding is sufficient to ensure that this area remains open for consideration as SPAA develops.

## **3. Interaction with Network Codes**

We agree that the requirement to maintain alignment between the SPAA and Network Codes needs to be encapsulated within the SPAA and support the view that this can be effectively covered by an obligation on GTs within SPAA. Acceptance of such an obligation via the SPAA Change Process would, of course, require agreement by the GT constituency.

## **4. Customer Representation**

We accept the proposals put forward regarding the role of the customer representative in relation to SPAA EC and therefore support the removal of these provisions from the SPAA. We remain concerned at the ability of the customer representative to raise change proposals but agree that the inclusion of a universal requirement to provide business justification for changes provides some mitigation in this respect. As part of our role within the SPAA Constitution Group, we have been pro-active in the development of the Change Process for SPAA and will continue with efforts in this area leading up to approval of the process by the SPAA EC.

## **5. Appeals**

Our views on this are well documented and we note that Ofgem recognises that the appropriate forum for this debate is through the DTI consultation.

## **6. SPAA Executive Committee**

We note the proposed timetable and, as stated earlier in this letter, EDF Energy has provided a nomination for membership of SPAA EC.

## **7. Interim Arrangements**

We agree with Ofgem's proposal to act in an administrative capacity for the SPAA pending the appointment of a contracted service provider. We recognise that much of the work required during the interim period, in relation to the formal establishment of SPAA and with regard to RGMA go-live, will fall to the SPAA EC and its sub-committee(s) and we re-iterate our commitment to support these activities.

## **8. RGMA Baseline**

We agree that the proposal to migrate the RGMA baseline into SPAA in its entirety is sound and that the implementation date should aim to be consistent with the proposed RGMA go-live. The suggestion that a re-constituted CCB should become a sub-group of the SPAA EC is logical in order to retain the expertise built up to date. We do not believe however that such a step would require a change to be raised within SPAA, as the creation of a sub-group is within the remit of the SPAA EC under clauses 6.51 – 6.53.

It will be essential to ensure that the period immediately post RGMA go-live is effectively managed and that any urgent requirements for change can be facilitated without undue interruption to live operations. It is therefore prudent to consider a moratorium on non-essential changes, although this should only be applied for the minimum period necessary, in order not to stifle further development of the baseline.

With respect to the NGT metering contract, we remain in communication with Ofgem regarding our concerns about the discrepancies between Rainbow and the RGMA baseline. We would find it totally unacceptable for TMSL to be in a position to exercise any sort of veto over development of the baseline and we therefore welcome the proposed inclusion of a reasonableness clause within the licence.

I trust you will accept that the points raised in this response are consistent with the fact that we remain committed to the implementation of the SPAA. We will be making every effort to work with other industry participants to assist with the remaining pre and post-implementation work during what promises to be a critical period over the coming months.

If you have any queries in connection with these comments, please do not hesitate to contact either myself or Paul Waite on 07971 152430 or by e-mail [paul.waite@edfenergy.com](mailto:paul.waite@edfenergy.com).

Yours sincerely



**Denis Linford**  
**Head of Regulation**