

**National Grid Transco – potential sale of network distribution  
business**



**Response to Regulatory Impact Assessment - Agency and governance  
arrangements**

## Introduction

United Utilities welcomes the development of the RIAs by Ofgem as part of the consultation process on the sale by NGT of some of its DNOs.

We share Ofgem's concern, set out in 2.3, that Transco's retention of some DNs will create the potential for it to discriminate in favour of those DNs that it continues to own.

## Agency

We agree with and support the fundamental principle identified by Ofgem, which is that the Agency should have responsibility for delivering those services where the costs that an individual DN would incur in providing such services as a separate entity would outweigh the potential benefits. This is provided, of course, that the Agency is an efficiently run business focussed on clear, defined objectives.

A key benefit of the DN sale process will be the opportunity for increased efficiency and innovation by the new DN owners and it is important that the scope of the Agency and its future governance does not detract from the IDNs opportunity to deliver this.

It is important that the Agency has the appropriate governance arrangements in place to control and monitor it, and we discuss this in more detail below. Consequently, the option that we believe provides IDNs with the greatest flexibility whilst ensuring that costs are minimised is **option B1**.

We note that Ofgem has, in addition to Option B1, identified Option E as having significant merits over the other options. Whilst we recognise that there is a theoretical benefit in placing all the shared settlement systems within the Agency we believe that there are significant costs associated with this approach that rule it out at this stage. It may be that, when systems become due for replacement in the future, the industry will want to look at this option again.

We strongly support the view that metering and connections should remain DN functions as we believe that this will provide the best incentives for delivery of an efficient improved and economic service to customers, with the highest standards of safety maintained.

We would concur with Ofgem's view set out in 4.15 that agency costs should be as transparent as possible, perhaps with costs represented on the basis of activity based costing.

## Governance Entity

We agree that there is a risk of discrimination if Transco continues to have responsibility for the administration of the Network Code modification proposals. Furthermore, governance will be helpful in ensuring adequate cost control within the Agency. However we believe that further work is necessary to detail exactly what

form the Governance Entity will take and what its exact role and responsibility will be.

There are clearly serious flaws with the current Network Code modification process. However these and many of the concerns regarding discrimination by Transco can and should be addressed in the modification rules. It is a process rather than governance issue.

Our specific concerns with the Governance Entity as outlined in Section 5.9 are

- **Structure.** We would like to understand exactly what form of joint venture Ofgem envisage – how this would be controlled and funded and in particular how the role of the joint venture would affect transporters' Licence obligations.
- **Role.** We understand that if the Governance Entity were to provide a genuinely secretariat role this would only involve a handful of people. This would surely not merit some form of joint venture. If however the Entity is intended to have a much more proactive role as appears to be indicated by the responsibility to prepare all reports including legal text, this potentially involves duplication of effort and cost. Transco has made it clear that it would wish to retain the resources and expertise which currently produces reports both in terms of technical knowledge and legal resource. Equally it is probable that a DN would also regard it as necessary to duplicate this technical and legal expertise in order to safeguard its interests.

Of the two governance options identified by Ofgem in Sections 5.19 to 5.28, we believe that the option of unrestricted governance is the correct one to adopt. The alternative option of restrictive governance would introduce an additional, unnecessary level of complexity and uncertainty. It is, of course, important that the cost of governance is kept to a minimum so that the benefits of governance outweigh the costs. We concur with the view of the workgroups that this could ultimately harm consumers' interests.

## **Future Issues**

We believe that it would be helpful if Ofgem could provide some additional clarification as to their thinking regarding the issues outlined in Sections 4.26 to 4.30 in particular in terms of the form of Licence and price control.

Ofgem has recognised that the greater the scope of the Agent's role the greater the risk of loss of accountability for delivery of services and the less the opportunity for development of new and innovative services. It is important that any arrangements do not restrict the ability of a DN to develop new services or provide services currently provided by the Agent where it believes that this will be to the benefit of the shippers and consumers on its network.