

## DN Sales Development & Implementation Steering Group Minutes

### Meeting 14

20 July 2004, 10:00 am – 2:00 pm

Ofgem's office, 9 Millbank

#### Attendees

Sonia Brown	Ofgem (chair)	Tory Hunter	SSE
Mark Feather	Ofgem	Charles Ruffell	RWE Innogy
Farook Khan	Ofgem	Adam Whitmore	Deloitte
Jason Mann	Ofgem	Sam Parmar	Statoil
David Ashbourne	Ofgem	Mike Young	BGT
Roger Morgan	Ofgem	Nigel Sisman	National Grid Transco
Catherine Saporon	Ofgem	Sue Higgins	National Grid Transco
Nick Wye	Waters Wye Associates	Mike Ashworth	National Grid Transco
Steve Moore	EDF Energy	Peter Bingham	National Grid Transco
Duncan Jack	Elexon	Peter Bolitho	E-on UK

#### 1. Review of items from previous DISG meeting held 6 July 2004

##### a) Review of minutes

There were no comments on the minutes from the last meeting.

##### b) Review of actions

The actions arising at the previous meeting had been discharged as follows:

- ◆ **Action:** *Ofgem to consider how shrinkage issues fit into the forward work plan.* Ofgem has not yet discharged this action and asked the group which shrinkage issues need to be considered in particular. The group considered that the incentives for shrinkage need to be considered. NGT agreed to write a paper on the existing incentives for shrinkage to be presented at the next CIWG meeting.
- ◆ **Action:** *The group to provide Ofgem with any additional comments on constitution of the GT Joint Office.* No additional comments were given. Elexon provided a paper on comparative costs with the electricity governance entity which was discussed later in the meeting.
- ◆ **Action:** *Ofgem to report back to the group on the most appropriate way to co-ordinate codifying ungoverned services going forward.* The SPAWG have discussed ungoverned services going forward and an update was given later in the meeting
- ◆ **Action:** *The group to provide any further comments or questions on emergencies & site isolation to Ofgem before 3 August.* No additional comments have been given to date.

## **2. Report from the workgroups**

### **(a) Report from the Commercial Interfaces Workgroup**

Mark Feather reported that the CIWG has met twice since the last DISG meeting. The main areas of discussion were the Interruptions RIA and the regulation of the SOMSA arrangements which were discussed later in the meeting.

### **(b) Report from the Supply Point Administration Workgroup**

Roger Morgan reported that the SPAWG has been working on the matrix of ungoverned and governed services. SPAWG consider that some ungoverned services are essential to suppliers to enable them to register customers. SPAWG also consider that robust escalation processes are required in the event any changes to ungoverned services are proposed or in the event that of customer dissatisfaction with service provision. Transco have proposed a User Group forum that would enable customers to receive notice of any changes to ungoverned services. The SPAWG consider that potentially some ungoverned services could be included in the UNC.

The SPAWG consider that governed services should form part of the UNC. Some governed services are currently only briefly mentioned or appended to the NC and some SPAWG members are concerned about the ability to propose amendments to these services.

The SPAWG are preparing a paper for the DISG on 17 August.

## **3. Ofgem timetable for DN sales**

In response to requests from industry participants for information regarding the potential DN sales Ofgem published an open letter to the industry on 16 July 2004 providing an indicative timetable. Mark Feather went through the indicative timetable which focuses on two issues: the timing of RIAs and the development of a licensing regime. The timetable focuses on the areas Ofgem have direct control over and does not cover areas such as Network Code modification proposals or changes to network owner safety cases.

Mark Feather said that in issuing this indicative timetable and describing the regulatory processes, it is important to make clear that there can be no expectation on the part of Shippers, Transco, potential DN purchasers or any other interested parties either as to what the Authority's final decision in relation to the proposed DN sales may be, or as to the regulatory framework which may be implemented if the Authority consents to the proposal. The information and guidance in the timetable letter is provided on an informal basis and should not be treated as binding on the Authority. Nothing in the timetable letter is to be construed as granting any rights or imposing any obligations on the Authority.

Tory Hunter asked if the decision on the Offtake Arrangements RIA will be published at the same time as the decision on the Interruptions Regime RIA. Sonia Brown said that that this will be a decision for the Authority. However, the intention is for the Authority to consider them at the same time as they have important interactions.

Charles Ruffell asked if the RAWG would be re-constituted to work on the development of the licensing regime. Sonia Brown suggested that the RAWG is resource intensive

and would only be reconvened if necessary. Sonia Brown proposed using the DISG forum and possible DISG sub-groups to help input into the licensing regime work.

#### **4. Transco business rules on modification rules**

Nigel Sisman presented a paper which outlined the current Network Code modification rules and proposed a structure for Uniform Network Code (UNC) modification rules which included the operation and composition of the Modification Panel and the voting format. Nigel Sisman said that changes are proposed to the current structure as there is scope for improvement and to make the process work in a post DN sales environment.

Peter Bolitho did not agree with NGT's proposal for the Panel voting format under which the simple majority rule would apply and in the event of a tie the Chairman would exercise a casting vote. Peter Bolitho suggested that in the event of a tie the Final Modification report should go to the Authority with no formal recommendation. Nigel Sisman considered that it would not be appropriate for modification reports to contain no recommendation on issues such as implementation timetables and questioned why there were concerns with the Chairman having the casting vote when they would be an independent member of the UNC Joint Office staff. Tory Hunter agreed that it was not appropriate that the report does not contain a recommendation on implementation dates but considered it would be appropriate that the report contains no recommendation on whether the proposal better facilitates the relevant objectives in the event the Panel is split.

Mike Ashworth proposed that if the Panel is split on recommending an issue such as an implementation date the Chairman would have the casting vote but if the Panel is split on recommending whether the Modification Proposal better facilitates the applicable objectives no recommendation should be made. Sonia Brown asked NGT if they would accept the proposal of the Chair having the casting vote for certain matters but not for others such as recommendations to the Authority on the acceptance or rejection of modification proposals in the event of split panel voting. Nigel Sisman said that they would agree to this proposal and change the proposed business rules to reflect this.

Peter Bolitho did not agree with NGT's proposal for gas transporters (GTs) to have the opportunity to make recommendations in the Draft and/or Final Modification Report. Sonia Brown said that there are some areas where GT's have specialist knowledge which is useful to make transparent in the Modification Report to enable the industry to consider this information and to assist the Authority in its decision. Sonia Brown suggested that there should be a section in the modification report which requires GT's to give their views on the potential impact of the modification proposal on security of supply, electricity interactions and the potential impact of divergence and fragmentation. However, there should not be a section for GT's recommendations against the applicable Code objectives as these should be provided in the same way as other industry participants in consultation responses appended to the modification report.

Mike Young suggested that the development of the licensing regime could have an impact on the development of the modification rules. Sonia Brown agreed that all potential scenarios would need to be considered.

Tory Hunter queried section 7.3 of the paper which referred to "Transco's opinion" being contained in the Modification Report. Nigel Sisman confirmed this was a drafting error and the business rules would be amended to reflect this.

## **5. Transco paper on UNC structures and process for establishment**

Mike Ashworth summarised Transco's paper on how a UNC might be implemented.

Peter Bolitho said that he would prefer that the short form Network Codes did not have their own modification rules. Peter said that if there are to be short form network codes at all then any changes to these codes should be managed and assessed through a single national modification procedure. Sonia Brown noted that this is a key concern of Shippers.

Tory Hunter suggested that it needs to be clear in the UNC whether obligations are common or at NTS/LDZ level. Sonia Brown agreed that the UNC will need to be clear who is being referred to by obligations.

Mike Ashworth said that a series of methodologies contained in subsidiary documents to the Network Code will need to be referenced in the UNC. Sonia Brown requested that NGT circulate the list of these methodologies.

**Action:** NGT to circulate list of methodologies contained in Network Code subsidiary documents to the group

## **6. Transco paper on agency escalation routes**

Sue Higgins summarised Transco's paper on proposed escalation routes for Shippers in the event they are dissatisfied with services provided by the Agency (xoserve). This was the same paper presented to the SPAWG last week. The escalation process proposes the establishment of a User Group which would provide a forum for Shippers and Suppliers to raise issues in the event they have reached a certain stage.

Peter Bolitho said that the proposed escalation process is welcomed by Shippers but they are still concerned that this process does not replace the need for codifying ungoverned services. Sonia Brown suggested that the Shippers at the SPAWG had been comfortable with the proposals in the paper. Sonia Brown considered that the escalation issues have now been fully covered by the DISG.

## **7. Ofgem position on pensions**

Sonia Brown said that in giving this presentation and in issuing a position paper on pensions, it is important to make clear that there can be no expectation on the part of Transco, potential DN purchasers or any other interested parties either as to what the Authority's final decision in relation to the proposed DN sales may be, or as to the regulatory framework which may be implemented if the Authority consents to the proposal. Sonia stated that the Ofgem presentation and proposed position paper are provided on an informal basis and should not be treated as binding on the Authority. Sonia stated that nothing in the presentation or the position paper is to be construed as granting any rights or imposing any obligations on the Authority. Sonia stated that the Authority's discretion in this matter will not be fettered by any statement made in the presentation or in the proposed positions paper on pensions.

Sonia Brown said that this statement would apply for all future position papers presented at DISG meetings by Ofgem.

Mark Feather gave a presentation on Ofgem's position on allocating DN liabilities for non-active and active members of the existing Lattice pension fund. Mark Feather indicated that in respect of DN non-active members Ofgem prefers a regulatory approach on the basis that this has the lowest risk for customers. Under this approach,

Transco would manage DN non-active member liabilities and would be provided funding through its price control for undertaking this activity. A specific charging item would need to be established to recover the costs of managing these liabilities from DN customers.

Mark Feather also indicated that it was important that Transco establish separate cost centres for NTS and DN liabilities so as to ensure no undue discrimination and no cross-subsidies.

Mark also discussed the mechanisms by which asset values are transferred to individual DNs in the event of a DN sale.

In regard to ensuring no undue discrimination, Peter Bingham asked if rules had been set up to proportion liabilities between DNs on the basis of supply points. Sonia Brown said that this had not yet been determined.

Peter Bingham agreed with the regulatory approach but was concerned with the practicalities involved in creating cost centres and separating out DN non-active liabilities going forward. Sonia Brown said that Ofgem is interested in a practical solution. However, she stated it is an important cost recovery issue that costs should be efficiently targeted back to users of the relevant DN for which they are incurred.

Sonia Brown said that Ofgem will be circulating a position paper on pensions to the DISG shortly.

**Action:** Ofgem to circulate position paper on pensions to the DISG

## **8. Ofgem's proposed conclusions on ownership & governance**

Jason Mann gave a presentation on Ofgem's proposals for governance of the Agency (xoserve).

Jason Mann outlined Ofgem's view that it might be sensible to have an independent non-executive director on Board. Peter Bolitho suggested that if this was a Shipper they would bring valuable experience to the role but their primary responsibility would be to the interests of the Agency.

Sonia Brown said that the structure of the Board could be achieved in a number of different ways and it is unusual for the regulator to get involved in this decision. Sonia Brown suggested that it will be a decision for the owners to decide what expertise is required to fulfil licence obligations and therefore who to appoint.

Jason Mann outlined Ofgem's views that the voting rights among Board members should:

- Require special majority voting on pre-agreed issues or issues that meet certain criteria
- To get Board approval on these issues, will require Transco plus two others (of the 4 IDNs and one non executive director – assuming 4 IDNs created)
- Pre-agreed issues and/or criteria can be updated at any time by any shareholder

Peter Bolitho suggested a similar option whereby if all IDNs are in favour of an issue it would be up to the non-executive director to make the casting vote. Peter Bolitho considered that this would prevent an issue being blocked which all IDNs favour and which is in the interests of customers. Sue Higgins considered that any such issues would come under the governance of the Uniform Network Code where customers of the Agency would be adequately represented. Sonia Brown suggested that if Shippers

have concerns that the Agency is not acting in accordance with licence obligations then the issue can be raised with Ofgem directly. Sonia Brown suggested that the proposed solution has more checks and balances than the current proposed Agency structure. Sonia Brown considered that if issues emerge there are regulatory safeguards.

Sonia Brown suggested that Ofgem's proposed conclusion is a compromise and asked NGT their views. Sue Higgins said that Ofgem's proposed model is not entirely what NGT proposed and there are certain concessions that would need to be made. Sue stated however that appointing a non-executive director is a good way of getting expertise on board and could work.

Mike Young asked if the proposed structure adapts to different sales scenarios. Sonia Brown requested that NGT test the proposed solution to different scenarios and consider if the proposed solution is workable.

**Action:** NGT to test the proposed solution to different scenarios and consider if the proposed solution is workable.

## **9. Discussion of CIWG recommendation on SOMSA**

Jason Mann gave a presentation on the report from the CIWG on SOMSA arrangements. The CIWG concluded that the SOMSA should not be regulated as charges to customers will be unaffected.

The group did not have any comment/questions on the presentation.

## **10. ELEXON paper on governance entity**

Duncan Jack summarised an ELEXON paper which provided comparable costs of its role as the "governance entity" in the wholesale electricity trading arrangements. The directly comparable costs incurred by ELEXON in its role as the electricity governance entity for the year 2003/04 were approximately £600k.

Nigel Sisman suggested that the Balancing and Settlement Code (BSC) which ELEXON implements does not cover as many areas as the Network Code. Sonia Brown suggested that the Network Code is more comparable to the BSC and the Connection Use of System Code (CUSC) and the CUSC governance does not involve significant resources.

## **Next meeting**

The next meeting will be held at Ofgem's offices on 3 August 2004.