

**Governance in the Electricity Distribution  
Commercial arrangements**

**Consultation Document**

December 2004      276/04



## Summary

The existing rules and obligations relating to connection and use of the distribution networks have been based on bilateral agreements between distribution network operators and suppliers. With the advent of a more competitive supply market, distributed generation and independent network operators, a number of stakeholders have identified deficiencies in these arrangements. For instance, they are not sufficiently transparent as they are not accessible in any centralised location. The rules and obligations are also difficult to amend to address the demands of changing circumstances. They also require distribution network operators and users of the distribution network to enter into a number of bilateral agreements which means that the costs of amending the agreements are duplicated. Responses to Ofgem's 2002 consultation paper on Governance of Electrical Standards brought the suitability of these bi-lateral arrangements into question. The Distribution Code Review Panel has also acknowledged the deficiencies in the current arrangements. In addition the establishment of Independent Distribution Network Operators (IDNOs), the increase in distributed generation and the introduction of distribution charging methodologies make it timely to review the current arrangements.

Ofgem has been hosting a Distribution Commercial Forum ('the Forum'), which has reviewed the current situation and examined whether a governance framework involving a consolidated document to govern the terms of electricity distribution commercial arrangements (hereinafter called the Document) should be introduced. The Forum has also considered how such a governance framework and the Document could operate and the issues which could be covered by the Document. Ofgem has agreed to build on the work of the Forum, and particularly the work of the governance sub group of the Forum, by publishing this consultation paper. This consultation seeks stakeholder views about whether the existing disparate rules and obligations should be consolidated into a Document and how the Document could be implemented. In this consultation, Ofgem also puts forward its provisional views on these matters. In summary, Ofgem's provisional views are that:

- Existing arrangements governing commercial arrangements should be consolidated into a new consolidated Document having multilateral application generally but with provisions applying bi-laterally where appropriate. The Document should have its own governance arrangements, involving a Panel of stakeholder representatives.

- This could be implemented through a collective licence modification which would require licensees to develop and implement a new consolidated Document by a set date (such as September 2005).

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# 1. Introduction

## ***Distribution Commercial Forum / background***

- 1.1. Ofgem's consultation paper on the governance of electricity standards, published in 2002, noted that the existing change mechanisms and disparate rules governing commercial issues in distribution might be inadequate to meet the challenge presented by increased connection resulting from the anticipated rise in distributed generation. The paper proposed a Distribution Connection Use of System Code and a forum to deal with the relevant issues arising. In 2003, Ofgem's distribution charges consultation paper expanded on these proposals by suggesting that a distribution forum could develop model terms for connection to and use of distribution networks, which could form the basis for a multilateral code. In November 2003 Ofgem convened an Electricity Distribution Governance Workshop, to evaluate the benefits and disadvantages of current governance arrangements and the options for change.
- 1.2. Detailed consideration of these matters and the potential for change began with the establishment of the Distribution Commercial Forum, with Ofgem hosting the inaugural meeting in February 2004.<sup>1</sup> The Forum, which is a voluntary gathering of interested stakeholders, agreed that its objectives were to consider issues which could usefully be addressed in a new agreement and how a workable governance framework could be developed. The Forum set up two sub groups, one to consider a potential governance structure and the other to consider the subject areas and content that could be included in the new arrangements. The sub groups worked through spring and summer 2004, reporting to main Forum meetings and with the Forum re-defining their terms of reference as appropriate.
- 1.3. The Governance sub group's work is covered in detail in the next chapter.

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<sup>1</sup> Information about the work of the Forum including agendas, minutes, presentations and all of the reports prepared by the sub groups are available on the Ofgem website [www.ofgem.gov.uk](http://www.ofgem.gov.uk) under the heading *Ofgem's Work- Electricity Codes*. A more detailed account of the Forum's work is at *Appendix 1: Summary of work to date*.

- 1.4. The Issues sub group concluded that most commercial issues fell into four areas: Connections, Metering, Use of System and Distributed Generation (although this last area linked into the other three, and could possibly be subsumed into them).
- 1.5. The Issues sub group worked on identifying and prioritising the subject areas that new governance arrangements should cover. Classification ranged from areas where significant reform was required and where a consistent approach was considered to be beneficial but difficult to agree on, to areas where common arrangements already existed, which could be easily captured in common terms, but where urgency to effect change was relatively low. The Issues sub group and Forum noted that this latter area might form a natural and non contentious starting content for a governance framework.
- 1.6. The sub group concluded that although some of these issues would require substantial commitment from the industry to solve, there would be considerable benefit in adopting consistent arrangements going forward, and in some cases this was a matter of some urgency (revised credit cover arrangements and dispute resolution, for example).
- 1.7. At the October 2004 Forum meeting, Ofgem stated that it would build on the work of the Governance sub group by publishing a consultation paper seeking wider stakeholder views about the matters considered by the Forum (this paper). In the meantime, the Forum agreed that the Issues sub group should specialise and form further sub groups to consider some of the areas classed as urgent in the sub group's assessment.

## Commercial Arrangements

- 1.8. At present, the primary contractual terms governing connection to and use of the systems operated by Distribution Network Operators reside in the Connection Agreements and the Distribution Use of System Agreements (DUoSAs) , which are bilateral agreements between the Distribution Network Operators (DNOs) and Users (usually suppliers). Each of the licensed Distribution Operators has their own DUoSA and could potentially have a slightly different DUoSA for each User. In addition to the DUoSAs, distribution commercial arrangements include various metering codes of

practice, bilateral contracts such as connection offers, the Master Registration Agreement (MRA), and charging arrangements.

1.9. There are a number of limitations to the current commercial arrangements

- ◆ The distribution market is becoming increasingly complex: new entrants (Independent Distribution Network Operators (IDNOs), distributed generators and independent connections providers) are creating new kinds of relationship with current players (principally DNOs and suppliers), which are not adequately covered by existing 'standard' terms such as the DUoSA. Also the existing arrangements do not facilitate the development of common terms for new activities.
- ◆ The ability to introduce wholesale changes or to adapt effectively the existing commercial terms to address changing circumstance (for example in the credit arrangements) will be difficult to achieve with no comprehensive governance framework. The use of bilateral agreements also means that the costs of amending agreements such as the DUoSAs are unnecessarily duplicated.
- ◆ The commercial arrangements in place for connection and use of DNO's networks do not provide sufficient transparency to new entrants. Although changes are being introduced to the charging arrangements with the introduction of charging methodologies from 1 April 2005, the remainder of the commercial terms generally are not transparent.

1.10. The current arrangements for amending the rules governing commercial arrangements in distribution could arguably be improved. Also, the current arrangements also may be not wholly be consistent with better regulation principles for good governance, particularly those principles relating to transparency and consistency.<sup>2</sup> Under the DUoSAs, for example, Ofgem determines on disputes submitted by parties. Though only the parties to a particular dispute are formally bound, the convention is for other parties to amend their contracts in accordance with the policy outlined in the Ofgem decision regarding the bi-lateral dispute. More centralised governance might

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<sup>2</sup> The Better Regulation Taskforce's website is at [www.brta.gov.uk](http://www.brta.gov.uk), and contains the leaflet (revised in 2000)

better ensure that issues and disputes which were common to a class of parties could be simultaneously addressed and consulted upon with the views of relevant parties being factored into a final decision.

- 1.11. The charging arrangements for electricity distribution have been under review. From 1 April 2005, DNOs (and IDNOs) will be obliged to publish charging methodologies for connection to and use of the distribution system. This will provide greater transparency of the basis for charging both for existing parties and new entrants. Within other sectors, such as electricity transmission, similar charging arrangements exist with charging methodologies for connection and use of the system published along with a framework for modifying these arrangements. In transmission there are already multi-party agreements in place with centralised governance, e.g. the Connection and Use of System Code (CUSC) and Balancing and Settlement Code (BSC) which provide a greater level of transparency across the commercial arrangements and also again provide a change framework to allow development. In gas transmission and distribution there is a network code which covers similar commercial arrangements. With developments in gas distribution, in particular the gas Distribution Network (DN) sales, consideration is currently being given to establishing new governance structures (including an independent governance entity) to reflect the new relationships between Transco, the DNs and shippers.

### ***Structure of this consultation paper***

- 1.12. This consultation builds upon the work of the Forum and the Governance sub- group and invites stakeholder views about introducing uniform governance into the commercial arrangements for electricity distribution.

- 1.13. The consultation document is structured in the following way:

Chapter 2 – sets out the timetable for the consultation and responses

Chapter 3 – lists the three key issues about which Ofgem has formed a provisional view and seeks responses on these issues.

Chapter 4 – summarises the conclusions of the Governance sub-group about the parties to, operation of and change management for such a Document and sets out Ofgem’s provisional views about these conclusions.

Responses are sought about the conclusions of the Governance sub group, and about Ofgem’s provisional views on those conclusions.

Chapter 5 – contains some initial indications of the costs and benefits of moving to new arrangements, and seeks further information from respondents about the suggested costs and benefits.

## 2. Timetable and responses

2.1. The proposed timetable for this consultation process is:

- ◆ A workshop to discuss Ofgem's provisional views outlined in this consultation paper will be held at Ofgem's offices at 9 Millbank, London, SW1P 3GE at 10:30 am on Friday 21 January 2005
- ◆ Responses to this consultation should be received by Ofgem by Friday 11 February 2005
- ◆ Ofgem aims to publish a conclusions document by the end of April 2005.

### Views invited

2.2. Comments are invited on the issues and Ofgem's provisional views set out in this document. Ofgem will consider any comments made, and, where appropriate, revise its views.

Comments should be sent to:

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The closing date for responses is 11 February 2005. Ofgem prefers to receive responses in an electronic format so they can be placed easily on the Ofgem website.

## **Contact**

- 2.3. If you wish to discuss this consultation paper, please contact David Edward using the contact details above.

## **Confidentiality**

- 2.4. All responses will normally be published on the Ofgem website and held electronically in the Ofgem Research and Information Centre unless there are good reasons why they must remain confidential. Respondents are asked if possible to put any confidential material in appendices to their responses.

### 3. Ofgem's key consultation questions

- 3.1. This consultation paper provides Ofgem's provisional views on the conclusions of the Governance sub group of the Forum to develop and implement new arrangements to govern commercial activities in the electricity distribution sector. Ofgem intends to use the responses provided to this consultation to assess stakeholder support for development and implementation of a new governance framework..
- 3.2. Ofgem considers that the key question to be considered is:
- ◆ Whether a new Document is desirable.
- 3.3. If it is considered that a new Document is desirable, the next key questions are:
- ◆ How the Document should be developed and implemented; and
  - ◆ Who should be bound by the Document?

In the text below, Ofgem has briefly described its provisional views about each of these issues. Ofgem seeks responses about its provisional views. Ofgem has focused this paper on governance matters and intends to consult on what subject areas should be covered by the Document in more detail in a subsequent consultation paper. Therefore Ofgem has only provided a very basic list of its provisional views about which subject areas should be covered by the new Document.

**1. *IS A CONSOLIDATED DOCUMENT WITH A GOVERNANCE FRAMEWORK DESIRABLE?***

Ofgem considers that, given the limitations with the current arrangements and expected industry developments, outlined above, it would benefit industry and consumers if many of the distribution commercial arrangements were consolidated into a single document with flexible governance consistent with better regulation guidelines. Ofgem considers that this would allow these arrangements to be modified in a more efficient and transparent manner.

*Ofgem's provisional view is that a consolidated Document is desirable.*

## **2. HOW SHOULD THE DOCUMENT BE DEVELOPED AND IMPLEMENTED?**

Ofgem considers that there are two options for the development of a new Document. Either:

- (a) The process could be led by industry, who could develop a new Document and its content. (A licence requirement could be imposed by a collective licence modification to require the Document to be developed by a set date, which would provide a spur to development of the Document.) Once developed by licensees, the Document would come into force following approval by Ofgem.
- (b) The process could be led by Ofgem with committed involvement from industry by means of working groups with the required expertise in the area. The Document would then be introduced through a collective licence modification once development was complete.

*Ofgem's provisional view is that, as a new document would be a commercial matter, the Document should be developed by industry, and approved by Ofgem before being implemented.*

### **How should the content of the Document be determined?**

Ofgem considers that there are three options available to determine the content of the Document.

- (i) **Agree the structure, governance and content of the Document and then implement it by collective licence modification.** The common, commercial arrangements to be governed by the Document could be agreed before the Document was

implemented by a collective licence modification. The timing of such implementation would depend upon the time it takes to reach agreement on the common commercial arrangements to be included in the Document. In the interim, the rules relating to the current arrangements would apply. (Ofgem anticipates that it might take 18 months before such implementation could occur, ie that implementation might occur in mid 2006).

- (ii) **Agree the structure, governance and some basic content of the Document and then implement the Document by a collective licence modification.** The starting content could take the form of an agreed consolidation of the existing use of system agreements including a governance framework. The timing for such implementation would depend on the time it took to reach agreement on what constituted a consolidated version of the existing DUoSAs, but Ofgem considers it would take less time to agree a simple starting content than it would to reach agreement on all of the matters outlined in the options above, and that implementation could take place at the end of 2005. Further subject areas and commercial arrangements to be included in the document could later be added by means of the Document's governance mechanism.
- (iii) **Impose a collective licence modification requiring the Document framework to be produced and then to develop the Document.** A licence condition could require DNOs to produce the framework of the Document, in the shape of broad subject area headings and to have the internal governance in place. The detail of the common commercial arrangements to be governed by the Document could then be included at a later date. Under this method, the collective licence modification to produce the framework Document including the governance framework could occur in summer 2005 and the detail of the commercial arrangements to be covered would then be added to the

Document after this date. Again, in the interim, the existing rules would apply.

*Ofgem's provisional view is that the second option would ensure that the Document was adding value as soon as it was in place, while ensuring that the appropriate level of consultation and input takes place regarding the inclusion of further subject areas. The challenge presented by the first and third options is in devising an equitable and efficient mechanism for agreeing the inclusion of rules relating to commercial arrangements to apply commonly, yet one that works expeditiously enough to minimise the duration of dual arrangements existing in this area.*

### **3 WHO WOULD BE BOUND BY THE DOCUMENT?**

Ofgem's provisional view is that accession to the Document should be mandatory for: all DNO's, suppliers, IDNOs (as service receivers) and possibly generators and large connected customers. Ofgem's provisional views about parties to the Document are discussed in more detail in chapter 4 of this paper.

### **4. WHAT SUBJECT AREAS MIGHT BE COVERED BY THE DOCUMENT?**

Ofgem's provisional view is that subject areas covered should include:

- The content of the current DUoSAs
- Metering
- Credit Cover
- Connections
- Distributed Generation- connection and use of system
- Dispute Resolution

## 4. Conclusions of Governance sub group and initial Ofgem views in response

- 4.1. The Governance sub group's most recent report to the Forum was dated 8 October 2004. A complete copy of this report can be found on the Ofgem website at [www.ofgem.gov.uk](http://www.ofgem.gov.uk) under the heading *Ofgem's Work- Electricity Codes*. Contents of the report included consideration of the BRTF guidelines for good governance and a summary of the key features of existing governance models such as the Master Registration Agreement (MRA) and the CUSC. Ofgem recommends that those wishing to provide responses to this consultation should also review the Governance sub group's report to the Forum dated 8 October.
- 4.2. The Governance sub group's report also examined each of the key features of possible governance arrangements and listed proposed alternative features. This work was presented in a tabular form in the report. The right hand side of the table provided brief notes about each of the features, and occasionally listed the sub group's recommendation about preferred options. This section of the Governance sub group's report is copied below. Ofgem's initial view about the various options is provided underneath each of the options.
- 4.3. Ofgem seeks responses about the views of the Governance sub group and also about Ofgem's initial views.

### ***Form of agreement***

#### **Sub group's views**

<b>Bilateral</b>	Existing – dispersed governance No centralised governance. The sub group noted that the existing bilateral arrangements were not consistent with the BRTF guidelines for good regulation. Further, that the change management processes were insufficiently transparent and flexible.
<b>Multi-party</b>	Multi-party Centralised governance The sub group noted that a multi-party arrangement, introducing centralised governance, would offer an improvement by providing efficiencies in change management that might translate into lower costs.

<b>Combined</b>	Flexible –e.g. DUoSA could be multi-party and Distributed Generator (DG) – DNO ancillary service contracts could be bilateral

### **Ofgem’s provisional view**

- 4.4. Ofgem considers that a combined model is the most suitable option. Ofgem considers that such a model could deliver the efficiency benefits of centralised governance while simultaneously ensuring that commercial peculiarities of parties, such as site-specific requirements not amenable to general application, are acknowledged by means of bilateral arrangements.

### ***Parties to the agreement***

#### **Subgroup’s views**

<b>Distribution Network Operators (DNOs)</b>	Mandatory – possibly licence condition to offer certain services via Multi Party agreement The sub group considered that it should be mandatory, via a licence condition for DNOs to be party to the agreement.
<b>Suppliers</b>	Mandatory – possibly licence condition The sub group considered further that it should also be mandatory for suppliers to be party to the arrangements, possibly via a licence condition
<b>Independent DNOs</b>	Mandatory as a service receiver – possibly licence condition. Could also be a Party as a service provider. Obligations and rights need to be balanced  The sub group noted how IDNOs could be involved in the arrangements either as service provider, or service receiver. The groups noted that their rights and obligations would need to be balanced but in either case it would be appropriate for it to be mandatory that they sign up to the document, possibly by way of a licence condition.

<b>Connected customers (generators or demand consumers).</b>	<p>Only if paying charges for services received directly under the Multi Party Agreement</p> <p>The sub-group observed that connected customers whether generators or demand consumers could be party to the Code provided they pay charges for the services received directly from the Multi-party document.</p>
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### **Ofgem's provisional views**

- 4.5. Ofgem considers it should be mandatory for the DNOs and Suppliers to be party to the arrangements. The most effective method of ensuring this would be via a licence condition so that the Authority could provide the appropriate regulatory oversight and enforcement.
- 4.6. In relation to having IDNOs as parties to the agreement, Ofgem agrees with the subgroup's views.
- 4.7. In relation to connected customers, whilst recognising that it will improve the inclusiveness of the arrangements if all connected customers, whether generators or demand consumers, were party to the Document, Ofgem does not consider it proportionate for licence obligations to be imposed on all potential connected customers. Ofgem does recognise that DNOs will require contractual arrangements with small generators, for example, and that the Document should mandate certain minimum standards relating to performance assurance. Ofgem welcomes views on a mechanism to include connected parties in a proportionate manner

## ***Role of Panel***

### **Subgroup's views**

<b>Administration, day to day governance, operational issues, change implementation within the Multi Party Agreement</b>	<p>Panel would be empowered to contract out services, hire advisors (e.g. for legal work) and appoint an administrator if this was more cost effective. Defined constraints required.</p> <p>The sub group considered that a Panel should be charged</p>
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	with such matters as the administration and day to day governance of the document; operational issues; change management and implementation; contracting out services, hiring advisors, with the proviso that defined constraints would be required
<b>Develop budgets</b>	<p>Within defined constraints</p> <p>The sub group also considered it appropriate for a Panel to develop budgets but within defined constraints</p>
<b>Acceptance of New Party applicants</b>	<p>Defined process and acceptance criteria required. Subject to discussion with Ofgem regarding acceptance of licence holders for their licensed activities. Defined criteria required (e.g. credit rating) for unlicensed activities</p> <p>To have responsibility along with Ofgem for accepting new Party applicants provided there was a defined process and acceptance criteria and defined criteria for unlicensed activities.</p>
<b>Intellectual property</b>	<p>May need to act as guardian of intellectual property rights. The group considered that the Panel should be charged with being the guardian of intellectual property rights.</p>
<b>Change management process</b>	<p>Decides process options from standard timetable within defined constraints</p> <p>May appoint expert sub groups to deal with particular issues depending on complexity</p> <p>The Group considered that the Panel should be in charge of change management including making decisions on process options from a standard timetable. The group also considered that the Panel should have the ability to appoint expert sub groups to deal with particular issues.</p>
<b>Change management decisions</b>	<p>Decisions possibly by Metering Point Administration Number (MPAN) weighted Party votes or some other arrangement with defined method of aggregation within each constituent class</p>
<b>Change management recommendations</b>	<p>Only for issues that can be determined solely by or with the consent of the Authority</p> <p>The sub group considered that it was appropriate for the Panel to make recommendations on issues that could be determined solely with the consent of the Authority.</p>
<b>Coordination with other industry documents</b>	<p>Panel obligation to liaise and coordinate change management with other relevant groups and governance arrangements. May require changes to other industry documents to enable the Panel to discharge its</p>

	<p>obligations.</p> <p>The sub group considered that the Panel should have an obligation to liaise with the owners of other documents so as to co-ordinate change management.</p>
<b>Operational issues; issue resolution</b>	<p>Could refer to Distribution Forum, delegate a sub group, seek expert advice or resolve against defined objectives.</p> <p>The sub group considered that the Panel should be able to resolve operational issues either by referring them to a Distribution Forum; by delegating the issue to a sub group; by seeking expert advice or by resolving them against defined objectives.</p>
<b>Dispute resolution</b>	<p>Careful definition of role and scope required to prevent conflict with Authority's role.</p> <p>The sub group considered that dispute resolution was appropriate business for the Panel provided there was clear definition of role and scope in order to prevent conflict with the Authority's role.</p>
<b>Dealing with breach of agreement</b>	<p>Careful definition of role and scope required to prevent conflict with Authority's role.</p> <p>Requires incentives on Parties to comply with the Multi Party agreement.</p> <p>Panel would need appropriate powers to deal with breach.</p> <p>The sub group considered that that the Panel should be able to deal with breaches of the document provided there was no impingement on the Authority's enforcement role. The Panel would therefore require the power to apply sanctions.</p>
<b>Derogations</b>	<p>Within constraints against defined objectives</p> <p>The sub group considered it appropriate for the Panel to have the power to make derogations within the constraints of defined objectives</p>
<b>Appeals</b>	<p>Admin only – route of appeal to Ofgem and /or Competition Commission depending on arrangements designated under the Energy Act</p> <p>The sub group's view was that there should be a route of appeal from Panel decisions to Ofgem and / or the Competition Commission.</p>

## **Ofgem's provisional views**

- 4.8. **Administration.** Ofgem agrees with the sub group's assessment and notes its consistency with the functions of other Panels in other governance areas. Ofgem considers that because the Panel will have diverse and specialist functions to discharge they will require the support of a secretariat.
- 4.9. **Develop budgets.** Ofgem agrees with the conclusions of the sub group and notes its consistency with the functions of other Panels in other governance areas.
- 4.10. **Acceptance of new Party applicants.** Ofgem agrees with the subgroup's conclusion noting that the defined criteria would need to include some prohibition against discrimination in the acceptance of new parties to the Document.
- 4.11. **Intellectual property.** Ofgem agrees that the guardianship of intellectual property rights should be within the control of the Panel and notes its consistency with other code/regulatory frameworks.
- 4.12. **Change management process.** Ofgem also considers that change management should be in the Panel's control. Further it would be appropriate for the Panel to delegate evaluation of proposals to expert groups made up of a list of volunteers who could convene to evaluate issues.
- 4.13. **Change management decisions.** The sub group was of the view that decisions should be made according to MPANs or weighted party votes or some other arrangement with defined methods of aggregation within each constituent class. Ofgem considers that it is more equitable and in accordance with good governance for decisions to be made by reference to clear objective criteria by a panel that is representative of expertise in the area, rather than on a purely commercial partisan basis. Ofgem further considers that these decisions should only be made on issues which could not directly impact on the consumer. (See section on Who Can Approve Change).
- 4.14. **Change management recommendations.** Ofgem considers this appropriate business for the Panel and this is consistent with Panel practice on other

Codes. Ofgem notes that the Panel will require the appropriate indemnities to undertake this role.

- 4.15. **Co-ordination with other industry documents.** Ofgem agrees with the subgroup's views.
- 4.16. **Operational issues; issues resolution.** Ofgem considers that the Panel should be able to delegate the resolution of operational issues to groups constituted of parties with expertise in the relevant area. The group may resolve the issues themselves or present a report with a recommendation to the Panel which the Panel may use as a basis for a decision.
- 4.17. **Dispute resolution.** Ofgem considers that it would be appropriate for the Panel to delegate this role to a sub group representative of party participation in the trading arrangements, that would make decisions based on clearly defined objectives and which may over time develop increased expertise in the field of dispute resolution in this context.
- 4.18. **Dealing with breach of agreement.** Ofgem also considers it appropriate for the Panel to consider whether a Party is in breach of the provisions of the Document, and for the Panel to set timescales for defaulting parties to take remedial action to cure the breach before sanctions apply and before the Authority intervenes.
- 4.19. **Derogations.** With regard to its principal objective, Ofgem considers that the Panel should only be empowered to make derogations in relation to clearly defined operational issues. Ofgem considers it would be inappropriate to empower the Panel to grant parties derogations from obligations, which if not met might adversely impact upon consumers.
- 4.20. **Appeals.** Ofgem considers that the Panel's decision making ability should be restricted to operational issues of the type that cannot directly impact upon consumers. In these cases, the Panel's decision should be final. Ofgem notes that the Energy Act does not empower the Competition Commission to hear appeals on any other issue than Authority decisions on Code proposals relating to designated Codes. The DTI have yet to conclude on which Codes should be designated as appropriate for appeal.

## ***Constitution of Panel***

### **Subgroup's views**

	<p>The sub group considered that a panel of about 12 would be an efficient size.</p>
<b>Experts or Company representatives</b>	<p>Balanced Panel with broad range of knowledge and experience required. Possibilities include:</p> <ol style="list-style-type: none"> <li>1. Each Party must attend</li> <li>2. Each Party may attend</li> <li>3. Party nominees attend</li> </ol> <p>The Group recommends option 3 as being the most efficient, using an agreed method of electing Panel members.</p> <p>The sub group considered whether the Panel should comprise experts or company representatives and whether it should be compulsory or discretionary for each Party to attend. The group recommended that the Panel be comprised of elected members nominated by Parties.</p>
<b>Ofgem</b>	<p>Invited to attend and speak. Ofgem would have no vote – present to demonstrate transparency, improve communication and governance coordination. Alternatively, Ofgem could propose an initiative to the Panel and the Panel would seek a Party sponsor.</p> <p>The sub group recommended that Ofgem have no vote on that Panel, albeit with a right in the interest of transparency to attend and speak at Panel meetings. Alternatively Ofgem would be able to propose initiatives to the Panel upon which the Panel could seek a party sponsor</p>
<b>Energywatch</b>	<p>Invited to attend and speak - no vote – present to demonstrate transparency and improve communication</p> <p>The group recommended that while energywatch should be invited to attend and to speak in the interest of transparency and improved communication, that they should have no vote</p>
<b>BSCCo MRASCo</b>	<p>Invited to attend and speak - no vote – present to demonstrate transparency and improve governance</p>

	<p>coordination.</p> <p>The sub group considered that BSCCo and MRASCo should be allowed to attend and speak in the interest of transparency and the facilitation of cross- governance co-ordination but that they should have no vote.</p>
<b>Other interested parties</b>	No other Parties were identified by the group

### Ofgem's provisional views

- 4.21. **Size of Panel.** Ofgem considers that the number of Panel members should be set with regard to efficiency and to attaining appropriate representation of expertise, while providing safeguards against particular classes of party gaining a voting advantage by virtue of numerical superiority.
- 4.22. **Experts or company representatives.** With regard to efficiency and principles of good governance, Ofgem considers that a Panel composed of an independent chair, a mixture of elected experts nominated by Parties, independent parties and a consumer representative would provide the appropriate diversity of knowledge to deliver effective decision-making together with a safeguard (to some degree) against voting outcomes determined solely by the numerical advantage of a particular class or party.
- 4.23. **Ofgem.** Ofgem agrees that it should have no vote at the Panel. It is also Ofgem's view that it would not be appropriate for Ofgem to submit modification proposals to the Panel. However, Ofgem can contribute to the efficiency of the Panel by attending and when required providing information on and responding to queries regarding the regulatory background of issues under consideration.
- 4.24. **energywatch.** Ofgem considers that because commercial distribution issues can have such a direct impact on the consumer, it would in keeping with principles of inclusiveness and good governance for energywatch to have a right to attend panel meetings together with a right to vote. Further in terms of governance it would be anomalous and inconsistent for energywatch to have suffrage in the wholesale commercial codes and not in the less remote (in terms of consumer impact) distribution sector.

- 4.25. **BSCCo, MRASCo.** Ofgem agrees with this recommendation and considers that BSCCo and MRASCo will be able to bring a wealth of experience in operational and implementation co-ordination to the governance framework
- 4.26. **Other parties/ NGT.** Ofgem considers that if BSCCo and MRASCo are Panel members that NGT should also be members of the Panel. Ofgem considers that NGT should be able to attend and speak at Panel meetings, but not have voting rights.

## ***Who can propose change?***

### **Sub group's views**

<b>Anyone</b>	This was discounted – open to abuse because it would be a right without any obligation
<b>Parties</b>	The group recommend that Parties to the Agreement should be the only entities able to propose change. This would balance rights and obligations under the Multi Party agreement  The group recommended that only parties to the document should be able to propose change.
<b>Voting Parties</b>	Any Party with obligations under the Multi Party agreement should be able to propose change  The sub-group considered that voting parties and funding parties and parties with obligations under the document should be able to propose change.
<b>Funding Parties (if different from voting Parties)</b>	Any Party with obligations under the Multi Party agreement should be able to propose change
<b>Ofgem</b>	If Ofgem could propose change, there may be role conflict. It would be a better route for Ofgem to introduce a licence modification if necessary, and would be consistent with other industry governance. Alternatively, Ofgem could propose an initiative to the Panel, who would then drive a solution.
<b>energywatch</b>	Unless energywatch had obligations under the agreement, the ability to propose change would unbalance rights and obligations  The sub group considered that unless energywatch had obligations under the document it would not be

	appropriate for energywatch to have the ability to propose changes as this would unbalance rights and obligations.
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### **Ofgem's provisional views**

- 4.27. **Anyone.** Ofgem agrees with the sub group recommendation that it would not be appropriate for just anyone to be in a position to put forward proposals for change. Ofgem considers that this would not be efficient or consistent with principles of good governance
- 4.28. **Parties.** Ofgem agrees that it accords with the principles of fairness and good governance for parties to the Document to be able to propose changes to it. Ofgem further considers that it might be appropriate for the Panel to put forward proposals subject to constraints. For example Panel proposals could be limited to those designed only to improve the efficiency in the implementation and administration of the arrangements.
- 4.29. **Voting parties.** Ofgem agrees that it would be equitable for the above named parties to have the ability to propose changes to the Document
- 4.30. **Funding parties.** Ofgem agrees that it would be equitable for any party with obligations under the Document to have the ability to propose changes to the Document.
- 4.31. **Ofgem.** It is also Ofgem's view that it would not be appropriate for Ofgem to put modification proposals to the Panel. However, Ofgem considers that it can contribute to the efficiency of the Panel by attending and when required providing information about and responding to queries regarding the regulatory background of issues under consideration.
- 4.32. **energywatch.** Ofgem considers that changes to any Document may have impacts on the consumers and so Ofgem also considers it appropriate for energywatch to have the same rights as any other party to raise proposals. Ofgem notes that this is consistent with other governance arrangement such as the BSC and the CUSC.

## Who can approve change?

### Sub group's views

<b>Parties to the agreement</b>	Balances rights and obligations  The group considered whether parties to the document should be able to approve changes.
<b>Ofgem from a "recommendation"</b>	The group considered that the two tier approach slows down the process and adds costs.
<b>Normally parties with Ofgem consent or veto in defined circumstances</b>	Efficient and likely to be least overall cost and therefore recommended by the group Needs defined objectives to satisfy Ofgem/BRTF guidelines. These should be based on relevant licence conditions and Ofgem's statutory objectives. Decisions reserved for Ofgem may include those that impact on licence obligations, require licence changes or require Impact Assessment  On the grounds of efficiency and cost, the group recommended that parties should be able to approve changes to the document but that in defined circumstances it would be appropriate for Ofgem to approve or have veto powers. The group recommended that parties should make their decisions bases on defined objectives which would be based on the relevant licence conditions and Ofgem's statutory objectives.
<b>Impartial experts based on defined objectives</b>	Diverse commercial interests may prejudice the decision making process  The group considered whether decision-making by impartial experts based on defined objectives would be preferable to the above as diverse commercial interest may prejudice decision making.

### Ofgem's provisional views

- 4.33. **Parties to the agreement.** Ofgem does not consider that principles of good governance would be observed by implementing procedures that allowed parties to have the ability to raise proposals and also decide on those proposals. Given the diversity of parties to the Document it would seem inefficient for all parties to have the right of approval.

- 4.34. **Ofgem from a “recommendation.”** Ofgem’s initial view is that changes should be approved by Ofgem following a recommendation. Ofgem considers that such a two-tier approach with assessment made on differing but related objectives would ensure a level of evaluation appropriate to the complexity of the proposal. This mode of decision-making also helps to ensure that issues relating to a proposal which lie outside the remit of the evaluation bodies (Panel and mod groups) such as possible significant environmental impact, or impacts on the consumer are factored into the final decision.
- 4.35. **Parties with Ofgem consent or veto in defined circumstances.** Ofgem considers that it would facilitate good governance and administrative efficiency if recommendations on proposed changes to the Document were made by a representative panel based on code objectives rather than by a group of parties. Ofgem considers that a system involving approval by parties would introduce complexities and inefficiencies and would be conducive to decision making on a partisan basis. Ofgem considers it appropriate for Ofgem to make the final decisions on any change that may foreseeably have an impact on the consumer. However in the interest of efficiency it would seem appropriate for a Panel representative of expertise to make decisions on operational issues.
- 4.36. **Impartial experts based on defined objectives.** Ofgem considers that it would facilitate good governance and administrative efficiency if recommendations on proposed changes to the Document were made by a representative panel based on code objectives rather than by a group of parties. Ofgem considers that a system involving approval by parties would introduce complexities and inefficiencies and would be conducive to faction based decision making.

## ***Voting rights***

### **Subgroup’s views**

<b>Equal votes</b>	Would give undue weight to minority interests
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	The Group considered that a system which involved equal votes for all parties to the document would give undue weight to minority interests.
<b>By weighted MPANs</b>	Easy to copy from existing governance models  The group considered that voting by reference to weighted MPANs would provide an equitable system that would be easy to copy from existing governance models
<b>Decided later by the constituent classes</b>	Would need overall framework first
<b>% vote required for approval</b>	Further definition required  The sub group suggested that a percentage threshold would be required for approval but acknowledged that further definition of this would be required.

### **Ofgem's provisional views**

- 4.37. **Equal votes.** In the context of voting members on to a Panel or voting on recommendations and decisions on proposals, it is Ofgem's view that a system which involved equal votes for all parties would not be in keeping with good governance principles nor would it be proportionate.
- 4.38. **By weighted MPANs.** Ofgem's view is that voting with regard to weighted MPANs may be appropriate in the context of the ability of trading parties to vote members on to the Panel. With regard to voting on decisions and recommendations, Ofgem considers that elected experts with an impartiality objective provides a more equitable and efficient model of decision making.
- 4.39. **Decided later by the constituent classes.** Ofgem invites proposals for models for this framework in order to make a better assessment of it in accordance with principles of good governance
- 4.40. **%vote required for approval.** Ofgem welcomes views on this model in order to better assess its accordance with principles of good governance but observes that this method might involve unnecessary complexity

## ***Constituent classes***

### **Subgroup's views**

	Only Parties should vote. Provision for minority views required.  The sub group concluded that only parties should vote but that there should be provision for minority views to come forward.
<b>DNOs</b>	Mandatory Service Provider Party
<b>Suppliers</b>	Mandatory Service Receiver Party
<b>IDNOs</b>	Mandatory Service Receiver Party Optional Service Provider Party
<b>Generators</b>	Service Receiver Party only if receiving and paying for services through Multi Party Agreement. Possible Service Provider through bilateral agreement
<b>Demand customers with direct DNO contracts</b>	Service Receiver Party only if receiving and paying for services through Multi Party Agreement

### **Ofgem's provisional views**

- 4.41. Ofgem supports the use of constituent classes with regard to the election of trading parties on to a proposed Panel. However, for making decisions and recommendations to the Authority about proposed changes to the Document, Ofgem considers that the concept of an impartial panel making recommendations based on clear objectives is preferable to voting by constituent parties which would be subject to the risk of faction-based decision making

## ***Decisions based on:***

### **Subgroup's views**

<b>Commercial drivers influenced by regulatory obligations</b>	<p>Not transparent. Conflicts with commercial confidentiality.</p> <p>The group considered whether decisions should be based on commercial drivers but influenced by regulatory obligations but concluded that this would not result in transparent governance and would conflict with commercial confidentiality.</p>
<b>Defined objectives based on compliance with legal and licence obligations</b>	<p>This would allow companies to meet defined licence obligations whilst at the same time allowing fulfilment of commercial objectives through company legal obligations. The Group recommends this approach as best satisfying the BRTF and Ofgem guidelines.</p> <p>The group recommended that decisions should be made against defined objectives which are based on compliance with legal and licence obligations on the grounds that this would enable companies to meet licence obligations whilst at the same time allowing for the fulfilment of commercial objectives through company legal obligations.</p>
<b>Other specific objectives</b>	<p>The focus should be on licence objectives</p>

### **Ofgem's provisional views**

- 4.42. Ofgem's view is that in the interest of better clarity and transparency, decision making should be based clearly on licence objectives.

## ***Appeals***

### **Sub group's views**

<b>Ofgem (if not the decision maker)</b>	<p>Preferred option – logical for regulator to determine, if Parties cannot resolve an issue. Same as current process under standard licence condition 4.</p> <p>In cases where Ofgem is not the final decision maker on a proposed change, the sub group suggested that Ofgem should hear appeals if parties cannot resolve an issue.</p>
<b>Interim level to attempt consensus prior to Ofgem intervention</b>	<p>More delay, expense and regulatory uncertainty</p> <p>The group considered that Ofgem might have a role at</p>

	an interim level to attempt consensus prior to making more formal intervention but concluded that this might result in more delay, expense and regulatory uncertainty
<b>Energy Act Appeals process</b>	Need to ensure governance design is consistent with the Energy Act and subsequent designated requirements  The group concluded that the governance design should be such as to be consistent with the Energy Act and subsequent secondary order provisions relating to appeals.
<b>Independent Arbitration</b>	Possibly. If all issues are within Ofgem jurisdiction, why would an independent arbitrator be better qualified to carry out this role? Ofgem would be disempowered  The group considered the use of independent arbitration to deal with disputes.

### Ofgem's provisional views

- 4.43. **Ofgem (if not the decision maker).** Ofgem notes that this is consistent with many other governance frameworks where Ofgem is not the final decision maker.
- 4.44. **Interim level to attempt consensus prior to Ofgem intervention.** Ofgem largely agrees with the conclusions of the Group on this point. If Ofgem has a formal role in the dispute resolution process it may be inappropriate for Ofgem to become prematurely involved in the dispute resolution process.
- 4.45. **Energy Act appeals process.** Ofgem notes that the consultation relating to the Secondary Orders is still being undertaken. By April 2005, DTI will designate the Codes which will be subject to the appeal provisions of the Energy Act.
- 4.46. **Independent arbitration.** Ofgem considers it may be appropriate for independent arbiters to hear appeals regarding disputes on bilateral operational issues.

## ***Funding of non-party specific costs***

### **Sub group's views**

<b>Shared by voting parties (either equal shares of weighted MPANs or a combination)</b>	Balances incentives on all voting Parties, provided appropriate regulatory allowance for licensed monopolies is made by Ofgem
<b>Shared by signatories</b>	If a Party is expected to pay for governance, it would expect a vote
<b>Added to Distribution Licence fees by Ofgem</b>	Simple, although puts Ofgem in the funding loop
<b>DNO funded out of allowed revenue</b>	Appropriate regulatory allowance for licensed monopolies required
<b>DNO funded out of excluded service income</b>	Balances incentives on Parties, depending on the regulatory allowance for licensed monopolies made by Ofgem.

### **Ofgem's provisional view**

- 4.47. Ofgem considers that the funding arrangements should be designed with safeguards against the risk of some classes, by virtue of their relative higher contribution, exerting inappropriate influence over the arrangements.

## ***Secretariat and administrator***

### **Subgroup's views**

	Assists Panel to meet its objectives  The group considered that a Secretariat and Administrator might be required to assist the Panel in meeting its objectives.
<b>Volunteer DNO</b>	Role conflict The Group then considered the possible composition of the Secretariat. Firstly they considered whether a volunteer DNO should undertake this role and concluded that this expedient may create a role conflict.
<b>Volunteer Supplier</b>	Role conflict

	The group considered whether it would be appropriate for a volunteer Supplier to undertake this role but dismissed the idea on the same grounds as above
<b>Defined Rota</b>	Role conflict, lack of continuity and experience  The group considered a rotating secretariat but dismissed the idea on the grounds that this mechanism would not lend itself easily to fostering continuity and experience.
<b>Ofgem</b>	Problems with incentives and role conflict  The group considered that Ofgem should undertake the secretariat role but concluded that the issue of incentives and role conflict militated against good governance
<b>Appointment of independent administrator</b>	Potentially efficient, using a market solution. Recommended by the Group  The group recommended the appointment of an independent administrator as the most efficient method.

### **Ofgem's provisional views**

- 4.48. Ofgem agrees with the subgroup's views. In general, Ofgem's view is that, given that the calibre of personnel required to sit on the Panel will be industry experts with demanding schedules and obligations, it would be helpful if the Panel is assisted by a Secretariat. Ofgem notes that this would be consistent with other governance frameworks.

## 5. Costs of implementing and administering a new Document

- 5.1. The governance sub group's report to the Forum meeting of 8 October 2004 contained some detail about costs at section 2.3 of that paper. In summary, the report noted that it was difficult to "quantify each Party's direct costs, because these costs are opaque."
- 5.2. The sub group's report also estimated that if an 'intelligent secretariat' was used for any new Document, the likely annual running costs could be around £350,000 per year. This would allow £250,000 for secretariat services, £50,000 for legal services and £50,000 for contingencies. An 'intelligent secretariat' was described as one providing a range of services such as financial management, administering the change management process and managing and supporting the breach and default process. The report also estimated that if an 'administrative secretariat' was used, the annual running costs might be approximately £200,000 per year but the costs of Panel members and parties to the governance framework would rise.
- 5.3. Ofgem does not consider it appropriate to conduct an impact assessment until its conclusions document on this issue has been published (expected date of publication is the end of April 2005). For the purposes of conducting an impact assessment Ofgem notes that it is difficult now to assess the costs of implementing and administering a new Document.
- 5.4. Ofgem will not be able to assess the costs of implementing and administering a new Document without the assistance of industry participants who are willing to provide Ofgem with an estimate of their costs. Ofgem therefore invites responses from industry outlining:
  - ◆ The cost of operating under the current arrangements governing distribution
  - ◆ The costs of implementing a new Document and operating the new Document

- ◆ Potential savings (if any) and benefits (if any) associated with using the new Document instead of the current arrangements.

# Appendix 1 Summary of work to date

## Work on governance of electrical standards -2002

- 1.1 In March 2002, Ofgem's Technical Directorate produced a consultation document on the *Governance of Electrical Standards*. One outcome of this consultation process was that the current DUoSAs were identified as being potentially unable to handle the expected growth of distributed generation to meet government targets. Ofgem's consultation provided possible models for addressing this issue, including one model based on the current governance arrangements in the Connection and Use of System Code and the Balancing and Settlement Code.
- 1.2 The consultation culminated in an October 2002 *Final Proposals* document which stated that Ofgem would be taking steps to introduce a Great Britain-wide distribution network forum where commercial, administrative and regulatory issues could be addressed. The *Final Proposals* document also advanced the idea of developing a Distribution Connection and Use of System Code and asked industry to provide comments.<sup>3</sup>

## Work on electricity distribution charges - 2003

- 1.3 Ofgem's June 2003 *Structure of Electricity Distribution Charges* document stated that Ofgem intended to consult on whether such a forum should be used to develop proposals for model contract terms to govern connection to and use of distribution networks. These model contract terms could form the basis of a Distribution Connection and Use of System Code (DCUSC), which might offer users a simplified, transparent, common and customer-friendly set of commercial arrangements for connection to and use of distribution networks.
- 1.4 In November 2003 Ofgem convened an Electricity Distribution Governance workshop. The workshop stimulated constructive debate concerning the benefits and disadvantages of current DUoSAs and the options for change.

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<sup>3</sup> The Final Proposal document is available on the Ofgem website at [http://www.ofgem.gov.uk/temp/ofgem/cache/cmsattach/46\\_8oct02.pdf](http://www.ofgem.gov.uk/temp/ofgem/cache/cmsattach/46_8oct02.pdf)

## Work of Distribution Commercial Forum 2004

### Forum Meeting 10 February 2004

- 1.5 Following the workshop, Ofgem hosted the inaugural Distribution Commercial Forum on 10 February 2004.<sup>4</sup> At this Forum meeting, terms of reference for the Forum were agreed. These included measures to:
- ◆ assist industry participants in evaluating the governance and framework of the existing DUoSAs, connections and other agreements within the UK electricity industry
  - ◆ determine areas of commonality in the existing disparate Distribution and Connection Use of System Arrangements and, where applicable, develop suitable alternatives to the current DUoSA arrangements embracing all of the activities and services under which Distributed Network Operators have a licence obligation to offer terms
  - ◆ identify the issues that might impact on the scope of a governance framework
  - ◆ discuss the formation of a workable governance framework going forward awarding due consideration to the financing of such arrangements.
- 1.6 At this Forum meeting, fourteen key issues affecting electricity distribution were identified as requiring consideration. These issues included: use of system, ancillary services, metering, embedded interface and ancillary services. The Forum decided that an issues subgroup should be formed to examine all fourteen issues, and that a governance sub group should be formed to consider a governance and implementation framework for new arrangements. Forum participants were invited to volunteer as members of the subgroups, and the subgroups agreed to report to the next Forum meeting. The Distribution Commercial Group agreed to review existing agreements in the area, and to prepare a high level report about the commonalities between these agreements.

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<sup>4</sup> As was noted above, Information about the work of the Forum including agendas, minutes, presentations and all of the papers prepared by the subgroups are available on the Ofgem website [www.ofgem.gov.uk](http://www.ofgem.gov.uk) under the heading *Ofgem's Work-Electricity Codes Governance in the Distribution Commercial Sector*

Office of Gas and Electricity Markets

### **Forum meeting 28 April 2004**

- 1.7 The Issues and the Governance sub groups then met several times and both sub groups prepared detailed reports. The Issues sub group's report examined all of the issues identified by the Forum, and identified key factors for each of the issues which could be further explored by the Forum. The Governance sub group's report concluded that the overall structure of any new governance arrangements should contain a code as well as an ongoing distribution commercial forum. The report also identified some key aspects of governance which required further consideration such as membership of new arrangements and change management.
- 1.8 At the next meeting of the Forum on 28 April 2004, the chairmen of the sub groups presented these reports. The Distribution Commercial Group also prepared and circulated a report which showed the commonalities between existing arrangements, and made a presentation about their report. The Forum requested the sub groups to conduct some further work. The Governance subgroup was asked, in part, specifically to consider matters including the composition of any panel, change management, voting rights and funding. The Issues sub group was asked to do further work including prioritising the issues relating to this area, and identify which of these issues could readily be codified.

### **Forum Meeting 23 July 2004**

- 1.9 The Issues and Governance sub groups each then met several times and prepared further reports. At the next Forum meeting on 23 July 2004, the chairman of the Governance sub group, and the chairman and members of the Issue sub group, made presentations about these reports. The Governance sub group's report described key features of various aspects of governance and contained an outline of some of the group's preferred models. The Issues sub group's report grouped the relevant issues into four main categories: metering, connections, use of system and distributed generation. The report allocated a priority to each of the issues, and identified whether each issue was relatively simple and capable of a quick win, a difficult but important issue or one already under consideration by Ofgem. At the Forum meeting, the sub groups were requested to build on their reports and perform some further work. The Governance sub group was asked to, in part, explore all governance options in

detail, consider options for modifications and funding, and to perform a cost/benefit analysis for all governance options. The Issues sub group was asked, in part, to identify further the general areas of common ground between the issues, noting areas likely to change fundamentally over the next year.

#### **Forum meeting 8 October 2004**

- 1.10 The Governance sub group met several times, and the Issues group met once. Both groups prepared reports which were presented at the most recent Forum meeting on 8 October 2004. The content of the reports by Governance sub group is discussed in more detail earlier in this paper.
- 1.11 The Issues sub group's report noted that the interaction of issues within the electricity industry meant it was difficult to fulfil their terms of reference. The group's report identified the various externalities affecting key issues; and noted issues which were being driven by Ofgem work, and which issues were being driven by market change. The Issue sub group also listed issues which were already the subject of reasonably similar codes or agreements and where the creation of a single code could be readily easily achieved. These were seen as: issues flowing from the Metering Codes of Practice, specifications within the Codes of Metering practice (currently governed by Elexon), connection agreements and DUoSA terms.
- 1.12 The Governance sub group's report noted the need for any new governance to take account of the BRTF's guidelines for good governance<sup>5</sup>, and Ofgem's own guidelines for good governance. The report separately identified all of the features of governance for new arrangements (from parties to an agreement, to the role of a Panel, change management and funding). The report made an attempt to estimate running costs of a new agreement (estimated at £350,000 per annum for an 'intelligent secretariat') but stated that no attempt had been made to identify each party's direct costs because these are opaque, and that only each party can know their costs.
- 1.13 At the Forum meeting on 8 October, Ofgem advised that it would build on the work of the Issues and Governance sub groups to prepare a consultation paper

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<sup>5</sup> These can be found at the Better Regulation Task Force's webpage: [www.brtf.gov.uk](http://www.brtf.gov.uk)

on the subject, and that the consultation paper would be issued in December 2004, seeking responses by February 2005. This paper is that promised consultation document.