

Mr Andy MacFaul
Head of Government Affairs
Ofgem
9 Millbank
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4th March 2005

■ Ofgem Proposed Corporate Strategy and Plan 2005-10

Dear Mr MacFaul

RWE npower welcomes the opportunity to contribute to the development of Ofgem's strategy and plan.

This response should be read in conjunction with our response to your initial letter in October of last year.

Before we get into specifics it is worthwhile noting that we are encouraged that Ofgem are engaging in a more positive manner with interested parties. There are a number of examples which support this, namely, the ongoing cash out review process, the recently announced supply licence review and the Ofgem seminar of the 3rd March. We look forward to more of this positive dialogue between the regulator and those that are regulated.

We have the following comments;

- We agree that it is appropriate to retain the same seven themes which continue to be relevant. Continuity and predictability within the regulatory framework are particularly helpful characteristics that should facilitate fulfilment of a coherent energy policy.
- Our earlier response made reference to the maturing of the gas and electricity markets such that it would be an opportune time for the Authority to consider the nature of its involvement in the day to day management of these markets. Our response asked whether the Authority might best fulfil its statutory objectives by focussing on public policy issues both within the UK and Europe.

In this context we were encouraged by the statement under section 3.29 headed "review of supply licences" where you state, "given that competition is increasingly established in retail markets, Ofgem agrees with respondents who stated that it is appropriate now to consider the extent to which it is desirable for Ofgem to withdraw from regulating those markets, above and beyond the provision of general consumer law."

Unfortunately, Ofgem did not consider that the time was right to pull back from its role in the code modification process (see section 3.17 “governance”). We regard the review of supply licences as a favourable development and we hope that in time Ofgem will consider a lesser role for itself in the code modification process, perhaps by amending governance arrangements to alleviate any residual concerns it might have.

- We are encouraged that the European Commission has taken the stance that for this year it will draw breath and consider the effects of the directives that are in force, before considering any further initiatives. Given the amount of change that the England and Wales market has been subject to and the extension to a GB market, perhaps now would be a good time to follow suit.

We recognise that there are a number of reviews that are unavoidable, but there remain some initiatives that Ofgem insist on pursuing regardless of stakeholders relative indifference. Prime examples are the review of gas exit arrangements and the extension of the gas entry arrangements to electricity (see 2.13).

- Furthermore, we do not agree with the need for a quality of service incentive scheme for electricity transmission network owners. It is hard to see how it will “substantially enhance the protection of customers’ interests” as claimed under 4.24 especially when under 5.3 you admit that “the reliability of networks remains high”.
- As we said in our earlier response we support Ofgem in its stance and involvement in Europe and look forward to the continuing discussions facilitated by the AEP.
- On the environment we believe that Ofgem can best serve the interests of consumers by engaging fully in the process of translating policy into practical market-based solutions. Particularly in the context of ROCs, however, Ofgem seems to have adopted such a literal interpretation of its duties as administrator that it appears to have neglected to seek out the most efficient approach. We note that under 7.19 and 7.20 that you consider there are benefits from continuing and extending the role of administrator. We hope you are able to find a way of resolving this conflict such that we can concentrate collectively on translating policy into practical market-based solutions.

If you require further information regarding our response, do not hesitate to get in touch.

Yours sincerely,

Alan Mcadam
Economic Regulation Manager