

## Supply Licence Review (SLR) Steering Group minutes Meeting 3, 23 November 2005

| <b>Attendee</b>         | <b>Organisation</b>                                    |
|-------------------------|--|
| Tahir Majid (TM)        | Centrica   |
| Nigel Cornwall (NC)     | Cornwall Energy Services                               |
| Roger Barnard (RB)      | EDF Energy   |
| Carole Pitkeathley (CP) | Energywatch  |
| Graham Kirby (GK)       | E.on   |
| Mark Watson (MW)        | ERA  |
| Jill Ashby (JA)         | Gemserv  |
| Julie Voce-Pascoe (JVP) | HSE  |
| James O'Connell         | HSE  |
| Laurence Poel (LP)      | npower   |
| Nigel Nash (NN)         | Ofgem (Chair)  |
| Andrew Wallace (AW)     | Ofgem  |
| Angela Green (AG)       | Ofgem (Secretariat)                                    |
| Michael Knowles (MK)    | Ofgem  |
| Stephanie Tobyn (ST)    | Scottish Power   |
| Rhona McLaren (RM)      | SSE  |
| Lisa Waters (LW)        | Waters Wye Associates (representing Corona Energy Ltd) |
| Maxine Frerk (MF)       | Ofgem (part)   |

Apologies were received from Tony Herbert (Citizens Advice), Nick Ansbro (Corona Energy), Duncan Sedgwick (ERA), Mike Gibbons (BRTF), Philip Davies (Ofgem).

### **1. Minutes and actions of the last meeting**

In relation to a query raised by RB on the Slaughter and May paper referred to in the previous minutes, NC advised that this was in fact a Department of Energy guide written by Chris Wright who is now employed by Slaughter and May. It was asked whether the group would be able to obtain a copy of the document and update it to show the changes and policy developments since it was produced. RB agreed to see whether EDF Energy had a copy of the original document.

**Action: EDF Energy**

RB raised a query regarding paragraph 2 of section 5.2 of the minutes on the distributional impact of neutrality mechanisms. NN clarified the intent of the paragraph and agreed that the minutes would be amended to reflect this.

**Action: Ofgem**

Subject to the amendment requested by RB, the minutes of the meeting of 26 October 2005 were agreed.

### **2. Proposed amendments to Workgroup terms of reference**

energywatch had previously proposed amendments to the terms of reference for workgroups. energywatch stated that, as the intent of the amendments was already being carried out by the workgroups, the proposed changes need not be formally added to the terms of reference.

### **3. Updates from Workgroups**

Ofgem tabled a headline report detailing updates on the workgroups. Apologies were given by Ofgem for not circulating the report in advance of the meeting.

#### **3.1 Vulnerable Customers and Codes of Practice (VCCOP)**

MF provided the update. The discussion at the most recent meeting had focussed on debt and disconnection.

There had also been a discussion on the alternatives to the current code of practice structure. One suggestion was to bring together the requirements which are currently in various formats into a single standard code of practice and require suppliers to sign up to this standard code. MF stated that Ofgem could produce a standard template code but that other alternatives of an equal standard could be accepted. The workgroup will return to this discussion at future meetings.

RB suggested that a single code could be extended to include duty to supply issues.

CP questioned how to provide incentives to the industry to go further than the minimum standards set out in the codes and questioned how a single code would be managed in terms of enforcement, agreement and amendment. RB made reference to the recent speech by Alan Asher in which all of the innovations that were referred to by him were over and above the requirements of the licence. He said that it was a matter for suppliers whether they went further than minimum requirements. He noted that suppliers were often under political pressure to exceed the current licence requirements. TM said that not all customers necessarily wanted more innovation, some wanted a basic, cheap supply.

MF said that Ofgem were aiming to publish a consultation in February to bring together the thoughts of the workgroup, and that this timescale will allow recommendations to be put to the Steering Group in line with the proposed timetable.

CP indicated that she would check the date of the PSR research commissioned by energywatch and confirm that this would be available for the next VCCOP meeting on 12 December.

#### **3.2 Industry codes**

NN provided an update of the work of the group, as set out in the headline report. NN indicated that the dominant view of the workgroup was that Ofgem should have a role in compliance but that this enforcement role should be tempered. RB noted his view that the consensus in the industry codes workgroup was that Ofgem should be the last resort enforcer of compliance.

LW queried the last line of the industry codes section of the headline report regarding self governance. In relation to the BSC, not all parties are licensed, and it was questioned how this would apply. NN indicated that these parties could be ejected from the Code.

RB said that the City Takeover Panel enforcement model might be appropriate. For example Ofgem could be asked to step in where self governance had been unsuccessful.

NN noted that one member of the Industry Codes workgroup had agreed to provide their internal guidance on the ability of industry agreements to fine participants for poor behaviour.

LW noted that where licensees were required to sign bilateral agreements under their licence, for example the DUoS agreement, Ofgem typically had powers to determine disputes. It was suggested that this was out of scope. TM said that this appeared to concern the body and detail of the code rather than being an enforcement issue. NN stated that it had not been raised as an issue at the Industry Codes workgroup and he did not believe it was an SLR issue. LW said that it would need to be considered to ensure that it still worked alongside any revised governance structures. LP noted the terms of reference of the workgroup was to consider impact of proposed changes on other licence types.

LW said that, were the review to propose changing the governance and enforcement of codes, Ofgem would need to consider the impact of the enforcement regime on other code signatories and any code subsidiary documents.

NC said that self governance may favour those larger suppliers who had more time to participate in these structures. He noted that a clear appeals framework would be required for all parties.

### **3.3 Metering**

NN provided an update of the work of the group as set out in the headline report. The discussion focused around the obligation in SLC 17 for two-yearly meter reads and inspections.

In relation to safety, NN said that as the monitoring and enforcement body, Ofgem may not be the most appropriate organisation to deal with safety issues. In relation to theft, the workgroup had requested a presentation by the ERA/ENA theft group. TM advised that ERA/ENA theft workgroups were open to other parties to attend.

LW queried whether the two-year rule applied only if you held the customer for that length of time. RB confirmed that this is the case in electricity so that, where a customer was a frequent switcher, the two-year inspection requirement may never apply, but not in gas.

The Steering Group were asked to note that there had been a discussion concerning whether suppliers should have obligations for metering or whether this sat better with the DNO and DNs. It is not within the scope of the SLR to address these structural questions, therefore the groups will proceed on the understanding that suppliers have obligations to secure the metering for their customers.

Some group members expressed concern that the larger question of metering competition was not being addressed. RB added that, whether or not this workgroup was permitted to address structural questions, it was obvious that conclusions reached by it could well have wider implications for the metering policies pursued by Ofgem

and that in this event such implications would need to be considered and evaluated by the Steering Group with an open mind.

JP said that the HSE would be providing input into the metering workgroup. They had agreed to provide a written response.

### **3.4 Duty to Supply, Contracts and Information**

NN provided an update of the work of the group which focused mainly on the duty to offer terms to domestic customers, methods of payment, publication of prices and security deposits.

MK said that the group would also be looking at relevant EU Directives. NN raised a concern about the removal of an obligation and whether the government would require it to be placed somewhere else in order to comply with EU Directives. A meeting had been set up between Ofgem and DTI to discuss.

GK raised a query regarding paragraph 3 of the duty to supply update concerning payment methods. He queried whether the obligations on methods of payment been taken out of the Duty to Supply group and passed to the Vulnerable Customers group for consideration. It was suggested that this would be discussed at the next Duty to Supply workgroup.

It was noted that there did not appear to be a full substitute in consumer law for the obligations set out in SLC45 regarding security deposits.

## **4. SLR timetable update**

The purpose of the legal workgroup was questioned. In response NN confirmed that it would review the structural mechanisms in the licence (e.g. its separation into different sections), definitions and would also consider revised legal drafting.

RB asked the group whether it would find presentations on legal drafting and the Regulatory Reform Act 2001 beneficial. The group agreed it would.

**Action: EDF Energy**

GK asked whether the Steering Group were happy with the timetable that the workgroups are working to. NN noted that the Industry Codes workgroup now have a defined question to answer. The Metering workgroup have reined in the boundaries of the group which has led to a better understanding of the issues. The Duty to Supply group is the biggest group but has some flexibility in its timetable. The Vulnerable Customers and Codes workgroup is on track and plans to publish a consultation in February which will give wider exposure to some of the issues. Ofgem agreed to post updated version of workgroup timetables on its website.

**Action: Ofgem**

RB said that the minutes of the workgroups do not appear to show clear agreement on some matters. NN replied that the aim of the workgroups is to tease out issues but not necessarily to reach firm agreement. The idea is to assemble ideas and then to consult on them. RB felt that this would result in a lengthening of the timetable and that workgroups should be able to reach conclusions. MW said that there should be no surprises at the end of the process. NC said that the appropriate issues will be debated

and will have a degree of legitimacy. However, just because the workgroups come forward with suggestions does not mean that that will be the final decision.

## **5. Issues register**

It was noted that there are two new issues on the issues register, one relating to theft of energy, the other on supply licence exemptions.

In relation to the issue concerning guaranteed standards, the ERA agreed to table a paper at the next Steering Group.

**Action: ERA**

AW noted that Ofgem were meeting with the DTI later that week to discuss the implications of the IMED and IMGD EU Directives and that this would be added to the issues register.

**Action: Ofgem**

There was a general discussion about the purpose of the issues register, and members of the group felt that the issues should be discussed in depth and not just added to the register and left. AW advised that if people wanted to discuss particular issues they should raise them prior to the next meeting to enable them to be put on the agenda.

It was agreed that Ofgem would review and update the issues register and re-circulate it. Group members were asked to notify Ofgem in advance of the next meeting of any particular items that they would like to be added to the agenda for further discussion

**Action: Ofgem / Steering Group**

## **6. Any other business**

RM sought confirmation that the marketing licence condition is not being considered as part of the review. NN stated that Ofgem would be issuing a separate consultation letter proposing to extend the marketing licence condition.

The date of the next meeting is 21 December 2005.