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### 14/06: Notice under section 11A (3) of the Electricity Act 1989

Dear Nick,

Thank you for the opportunity to respond to the above consultation. We note the proposal to include a clause within the Supply Licence that would require us to be a party to the DCUSA and comply with its provisions.

We are prepared to accept this clause within the Supply Licences of RWE npower in the short term providing that the DCUSA contains robust and equitable governance arrangements. It is particularly important for example that suitable voting arrangements are developed in order that Suppliers such as ourselves whose corporate group does not contain a distribution company are not disadvantaged.

In the longer term we would like to see the requirement for this clause considered under the Supply Licence Review. In our view there is an element of double jeopardy in the current regulatory framework as the provisions contained within the Codes can generally be enforced by other parties while at the same time the prospect of regulatory sanction remains.

A better long term approach is for each Code to contain a standardised mechanism for managing events of default based on an agreed process for resolving disputes, events of default, the application of appropriate sanctions and reference to the Code Panel where necessary. Licences would contain a generic obligation to comply with the Codes with Ofgem retaining enforcement powers only in relation to pre-determined areas of the Code. These powers would be exercised at the invitation of the Code Panels once self-governance arrangements had been exhausted.

This approach would be consistent with better regulation, remove the double jeopardy risk and result in a single, clear process with reduced complexity and risk for market participants.

If you wish to discuss any aspect of this response, please do not hesitate to contact me.

Yours sincerely

Terry Ballard  
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