

Phone: 020 7752 2200
Fax: 020 7752 2128

Andy MacFaul
Head of Better Regulation and Co-ordination
Office of Gas and Electricity Markets
9 Millbank
London SW1P 3GE



27 February 2006

Dear Andy

OFGEM CORPORATE STRATEGY AND PLAN

EDF Energy is pleased to have a further opportunity to contribute to developing Ofgem's strategy for the next five years and offers the following comments on the final consultation draft of the corporate strategy and plan.

1. Creating and sustaining competition

Effective competition continues to remain a valid theme within our industry and we welcome any Ofgem initiatives that will genuinely further improve the customer experience. We fully endorse Ofgem's view that there may be scope to rely more on competition rather than regulation, so that wholesale and retail markets can become increasingly like normal commodity and service industry markets.

A first step towards delivering that lighter-touch regime would be to place greater weight on the majority view expressed by market participants when assessing industry code modification proposals. Similarly, Ofgem should cease to bring forward radical changes to market structure when there is no support from market participants, either existing or potential. Introducing increased complexity into the energy market arrangements, an inevitable by-product of continual change, in itself creates a substantial barrier to entry.

We support the focus on transparency, European market liberalisation, and more efficient system balancing. As regards the last, it is important that in future a more appropriate level of resource is put into this aspect of monopoly regulation, an area that is core to Ofgem's remit. We also fully support Ofgem's proposal to continue to monitor competition with a view to self-regulation in future.

EDF Energy plc
Registered in England and Wales
Registered No. 2366852
Registered Office:
40 Grosvenor Place Victoria
London SW1X 7EN

www.edfenergy.com

2. Regulating network monopolies

We note Ofgem's comment that, alongside its work on the gas and the electricity transmission price control reviews, there will be important issues to consider in relation to the structure of charges and the development of arrangements that allow network users to signal their demand for capacity by making medium and long-term commitments.

Here again, as already noted above, it is essential that Ofgem listens to the view of market participants. When making investments of hundreds of millions of pounds in new generation, investors require certainty that they can access the system for a period of time that is sufficient to enable them to recover their investment. The current electricity transmission access regime provides that certainty. The introduction of radically different mechanisms could reduce that certainty and therefore provide a disincentive to invest.

We also remain concerned that Ofgem's ambition to seek to implement further elements of competition in monopoly network activities does not appear to be formulated primarily in relation to benefits for the customer. It is difficult to know what customer benefits have been derived from Ofgem's distracting emphasis over the past five years on such peripheral areas as competition in metering and competition in connections. Competition is not, post-Utilities Act 2000, to be regarded as a regulatory objective in itself, but only as a preferred means to achieve the over-arching objective of consumer protection.

We will expect Ofgem to learn from the errors of its handling of metering policy in the past when considering how best to formulate a strategy for facilitating smarter metering that is in both customers' interests and the public interest.

3. Helping to protect the security of Britain's energy supplies

This theme is increasingly valid, given the special concerns that have arisen in the UK and elsewhere regarding imported gas supplies and related issues. We have seen gas supplies from Russia, in particular, interrupted for a range of reasons during January and February 2006 to Italy, Finland, Georgia, and the Ukraine, and this pattern may be repeated in future. North Sea gas reserves are diminishing and so we must make provision for alternatives.

A lesson learnt this winter is that having gas import infrastructure in place does not guarantee availability of actual gas deliveries, both for demand reasons (because of world competition for liquefied natural gas and piped gas supplies) and for structural reasons (regarding, for example, access to LNG terminals such as the one at Grain). We note Ofgem's wish to regulate with a light touch in order to encourage investment "where this approach continues to promote competition and customers' interests".

That caveat needs to be particularly borne in mind where, for example, use-it-or-lose-it arrangements do not work in practice as well as they might.

Finally, on the basis of the corporate plan and strategy, it seems clear to us that Ofgem and the DTI are pursuing somewhat divergent strategies with regard to the development of renewable generation in the UK, with Ofgem looking for cost-reflective solutions to issues such as transmission charging while the DTI seeks to apply adjustments to such mechanisms to deliver government policy aspirations regarding generation-build rates.

In such areas of conflict, it would be more efficient, for the market, for Ofgem and the DTI to agree and deliver a single policy rather than multiple conflicting policies. Our own view is that cost-reflective mechanisms are generally the most appropriate. The application of such mechanisms without in-built distortions accurately signals the cost of any additional separate support mechanisms that may be required to deliver government aspirations regarding generation mix.

4. Ofgem as a leading voice in Europe

We welcome this theme and value the role that Ofgem can clearly play in the European energy market, in particular to further the creation of a single energy market. A strong voice and position in Europe can only be beneficial for the energy industry in the United Kingdom. We believe that the proactive approach as currently demonstrated by Ofgem is the most effective way to influence the development of EU regulatory and competition policy.

We also welcome Ofgem's proposal to explore the most effective methods of communicating relevant information relating to emerging EU issues.

5. Helping to protect the environment

This theme remains valid and the corporate strategy seems to have identified most of the relevant issues. We welcome the current proposals in the plan and believe that a joint industry forum would be beneficial to progress new and innovative methods of energy generation and energy efficiency. Continued emphasis on energy efficiency and the reduction of energy consumption will help to alleviate the problem of depleting gas reserves.

A particularly helpful way for Ofgem, as an economic regulator with respected expertise in energy policy, to exercise its environmental duties in practice would be to encourage an equitable valuation framework for carbon, advising all key stakeholders including the government, so that future carbon emissions can be consistently reduced in a least-cost, technology-neutral way.

We believe that such a role is the logical implication of the words set out at the top of page 20 of the strategy document, where Ofgem speaks of influencing the implementation of environmental policy in a way that achieves maximum carbon emissions reductions at least cost to consumers while recognising that setting the targets is something for government and the EU.

We applaud those words and urge Ofgem to remain mindful of them during the period of the plan.

6. Helping to tackle fuel poverty

This theme will remain valid for as long as there are customers who are living in fuel poverty. The government target of no fuel-poor households by 2010 will be an extremely challenging target to meet and we agree that Ofgem should keep this theme at the forefront of its planning.

Since April 2001, we have been working in partnership with the London Borough of Newham to develop a sustainable model of tackling fuel poverty on an individual household basis. This work has shown that fuel poverty is an issue that cuts across health, housing, and income issues. We believe that strong government leadership is required to co-ordinate a programme of initiatives from the central and local administrations, energy companies and support agencies to tackle the issue of fuel poverty effectively and sustainably.

It is also important to recognise that central policy instruments designed to deal with multiple objectives, such as the needs of vulnerable customers and the fuel-poor, do not always achieve those objectives in the most efficient and effective manner. For example, EEC requires at least 50% of energy savings to be focussed on a priority group of low-income consumers in receipt of certain benefits. Defra believes this to be the best way for EEC to contribute to the alleviation of fuel poverty.

However, Ofgem (and Defra) should note that those who are in the category of the fuel-poor are not the same as those in the EEC priority group. The most efficient and effective way of addressing the needs of each group is not the same across both groups. Ofgem should therefore be rigorous in advising the policy-makers of the impact on the fuel-poor of their policies.

Ofgem's approach is correct to stress improved working between government, industry, and consumer agencies. An integrated approach to tackling fuel poverty will be the only way we will be successful in meeting the government's targets. Acting on that belief, we are currently participating in an industry working group which is investigating new ways of tackling fuel poverty that could potentially include revenue investment (for example, in benefits health checks) alongside mainstream energy efficiency measures.

7. Better regulation

In our previous comments last September, we questioned whether the RPI-3 cost reduction target would be sufficiently demanding for Ofgem's managers. Appendix 4 of the plan, containing Ofgem's budget targets and assumptions for the period, is more reassuring in this respect and we particularly welcome the estimated savings of around £5 million by the end of 2010. However, the upwards trend in the amount of the contingency allowance during the period is worrying. We will also expect Ofgem to keep its promise to reduce its dependence on external consultants, given the recent adverse comments of the National Audit Office in its gas DN sales report.

The key message we draw from all our comments above is that Ofgem must continue to focus at all levels on maintaining a high quality and reasonable process of regulation which meets the statutory principles of good regulatory practice for the energy industry and contributes more generally to a real and sustainable reduction in the burdens faced by British industry. We therefore urge Ofgem to take account of this response in settling its strategy, so that we can be even more confident than we are already that the organisation will be moving forward on the right tracks.

We hope that this response is helpful and would be pleased to discuss any aspect of it with you if you think that would be helpful.

Yours sincerely

A handwritten signature in black ink, appearing to read 'D. Linford', with a long, sweeping flourish extending to the right.

Denis Linford
Director of Regulation