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Dear Ikbal

APPLICATION REGULATIONS AND GUIDANCE DOCUMENT

I am replying on behalf of EDF Energy to your consultation papers, including the new draft Application Regulations and the Ofgem guidance document.

1. The key policy and procedural changes that Ofgem proposes to make, as reflected in the draft regulations and draft guidance, are sensible and we support them.
2. We welcome Ofgem's proposed review of its procedures for assessing applications for network licences (paragraph 1.14 of the guidance document). All other things being equal, one way of minimising insolvency risk (at source) is to increase the stringency of financial checks on new entrants in order to ensure that any prospective network licensees fully understand the financial commitment required and have the necessary financial backing to enter the business. This, however, is the reverse of Ofgem's current policy on licensing, set out in a decision document dated April 2003, under which the requirement for licence applicants to submit financial information has been removed because 'pre-licensing checks provide no additional protection for consumers'. In all the present circumstances of the energy sector, this is arguably an abdication of Ofgem's legal duty to exercise a proper discretion when considering whether to grant a licence.
3. We agree with the legal analysis in your separate consultation letter dated 4 May and support the proposed removal of paragraph 1 of part 1 of Schedule 2 (though it is shown as Schedule 1 in your letter's attachment) in respect of generation licence applications.

I hope that these comments are helpful.

Yours sincerely

Roger Barnard

Head of Regulatory Law