



First Hydro Company is part of a joint venture between
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Mark Feather
Director, Industry Codes and Licensing
Ofgem
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21 January 2008

Dear Mark

Review of Industry Codes Governance

I am writing to you on behalf of International Power's UK generation assets (Deeside Power Development Co Ltd., First Hydro Company, Rugeley Power Generation Ltd., Saltend Cogeneration Ltd., and Indian Queens Power Ltd.) with regard to Ofgem's governance review.

We agree with the broad objectives for a governance regime set out by Ofgem. These objectives apply equally to Ofgem (and the Authority) and to BSC Parties. In particular we agree that regime should be administered in an independent and objective fashion and support the need for rigorous and high quality analysis, as well as open and transparent processes. Ofgem is quick to highlight apparent shortcomings of existing modifications processes in some of these areas but the examples given need to be put into context. Hundreds of modifications across the various codes have been processed in recent years, reliant on constructive expert input from industry, and tackling a wide range of notably complex issues. We are not convinced that Ofgem's dissatisfaction with analysis in a small handful of cases is necessarily a strong driver for process change.

We are also concerned that Ofgem believes that the current governance arrangements can "impede" its ability to make "an optimal decision". In our view, Ofgem is typically involved throughout the modifications process (having representatives at key meetings) and is therefore in a position to "guide" the industry at every stage in order that sufficient information is provided and analysis undertaken in order that it can ultimately make decisions in an effective and informed manner. It would be useful as part of this review to consider and clarify Ofgem's role in these areas.

It is also important to ensure that rigorous standards for analysis apply to Ofgem's own work in decision documents and impact assessments (e.g. Gas Exit Reform impact assessment).

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We also note that assessment against code objectives is not a straightforward, “black and white” exercise, and diversity of opinion is a valuable part of the process (predicated on sound analysis and understanding of the issues). Better alignment of governance objectives should help perhaps to reduce any inherent inefficiencies in the decision-making process, but there will always be and should be room for industry to express its views, which may differ from that of Ofgem.

On the more detailed aspects of the review, we have the following comments:

- We agree that market participants should be allowed to propose changes to the Charging Methodologies and that consideration should be given to independent governance of charging. Currently only the Transmission Operator can propose change, and this precludes others from coming forward with sensible developments. Allowing CUSC signatories to make changes would also aid transparency. However, given the commercial sensitivities involved, the mechanics need to be carefully considered, for example, to avoid single company issue proposals being raised, broader industry support for the proposal might be required.
- We agree that a more holistic approach is required where modifications cross governance areas; for example changes to the BSC that also require changes to the Transmission Licence C16 Statements. To address this, C16 statements could for example be brought within the BSC.
- Whilst there is merit in additional applicable objectives which take account of security of supply, sustainable development, and better regulation principles, given the increased complexity involved at a working level (and the greater potential for tensions between individual objectives), it might be worth applying weightings so that modification groups and governance Panels understand their relative importance. If for example a change promoted sustainability but at the expense of efficiency or economy, the Panel could be guided in its recommendation.

I hope you have found these comments useful. We look forward to participating further in the governance review.

Yours sincerely

Libby Glazebrook
Manager, Market Development