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Proposed revised guidance on impact assessments (Ref 301/07)

Dear Andy,

We welcome the opportunity to respond to the consultation on the "Proposed revised guidance on impact assessments". This response is on behalf of National Grid Electricity Transmission (NGET) and National Grid Gas (NGG). NGET owns the electricity transmission system in England and Wales and is the GB System Operator. NGG owns and operates the Gas Transmission System and also owns and operates four of the Gas Distribution Networks.

Ofgem has a key role to play in the development and assessment of proposals in the industry codes and charging methodology modification process and impact assessments (IAs) are an important tool in the decision making process. We believe that increased transparency surrounding IAs will provide industry participants with a better insight into the reasoning behind decisions and should subsequently lead to the provision of supporting evidence that better aligns with Ofgem's requirements.

Please find below our response to the questions raised within the consultation.

Question 1: Do you agree that the proposed changes are sensible?

In our recent response to the Ofgem open letter "Industry Codes Governance Review" (ICGR) we indicated that we believed that this consultation on IAs should be included within the scope of the ICGR, as the guidance document is seeking views on similar issues to those raised within the open letter, such as adopting best regulatory practice and cost-benefit analysis (including the valuing of carbon emissions). We agree with Ofgem that IAs are an integral part of the policy development and the decision making process and therefore they need to be consistent with earlier aspects of the change process.

Cost Benefit Analysis

Again, as part of our recent response to the Ofgem open letter, ICGR National Grid has indicated that the critical analysis of modification proposals should form a major component of any review of the industry governance and change management processes since quality detailed analysis is beneficial to the decision making process.

Ideally, we would expect that modification proposals will contain an assessment of the impacts, costs and benefits of the proposal and any IA performed by Ofgem in respect of the proposal should build on the evidence and analysis provided within the reports submitted to Ofgem. However, we also understand the value of performing additional independent analysis, particularly where there is considerable uncertainty about the costs or benefits of a proposal.

We appreciate that Ofgem are keen to address the findings of the Competition Commission (CC) that resulted from the appeal of an Ofgem decision on an industry code modification proposal. However, we believe that the ICGR is best placed to ensure that the framework for proposing, developing and assessing modifications, allows Ofgem to make informed decisions.

Scope of Impact Assessments

We believe the examples cited by Ofgem adequately illustrate how proposals may meet the criteria of Section 5A of the Utilities Act and are classed as “important”. We also support Ofgem’s plan to summarise the impacts of proposals not classed as important in any related consultation or decision document.

We believe that it may also be appropriate for Ofgem to undertake IAs where it is not required to by section 5A, especially in cases where Ofgem wishes to assess the impacts of various policy options or policies that are in the early stages of development. We believe it would be helpful for Ofgem to develop criteria for determining when IAs would be produced other than under section 5A of the Utilities Act, as this may help Ofgem adopt a consistent and justifiable approach for selecting policy proposals and provide transparency to industry participants, particularly with regards to expected timescales.

Framework for Ofgem IAs

In terms of structure, we believe that the proposed framework for Ofgem IAs is appropriate and should be common to all:

- Summary
- Key issues and objectives
- Options
- Impacts on consumers
- Impacts on competition
- Impacts on sustainable development
- Impacts on health and safety
- Post-implementation review
- Conclusion

A review of the industry code objectives is being undertaken as part of the ICGR and should take into account the proposed IA structure, particularly for elements such as sustainable development which do not currently appear as explicit code objectives. We agree with Ofgem that the IA (as part of the section on impacts on sustainable development) should consider whether the proposal will ensure a secure and reliable gas and electricity supply.

With regard to the IA framework, we believe that an additional section is required to cover the impact on existing gas and electricity market participants. We note that the criteria for determining importance includes those proposals that have a significant impact on persons engaged in the physical or commercial activities connected to “shipping, transportation or supply of gas conveyed through pipes or in the generation, transmission, distribution or supply of electricity”. As such, the IA should fully assess any significant impacts on these parties. This approach would then enable the “impacts on competition” section to clearly assess how proposals affect the overall competitiveness of gas and electricity markets and the impacts on potential new entrants.

Question 2: Are there any other changes you would like to see?

At this stage we have not identified any additional changes that we would wish to include within the guidance document. As mentioned earlier there are a number of areas covered by this consultation that are likely to be covered by the ICGR and therefore we believe that the Revised Guidance on IAs should be included within that review.

If you wish to discuss this further or have any queries please contact Chris Shanley on 01926 656251 or Emma Carr on 01926 655843.

Yours sincerely,

Paul Whittaker
UK Director of Regulation