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Gas Distribution Price Control
Ofgem
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03 June 2008

Dear Rachel

EDF Energy response to Ofgem consultation: “Gas Distribution Price Control Review – Review of Process”.

EDF Energy welcomes the opportunity to respond to this consultation and provide our view on the GDPCR process. We have attached our responses to the specific questions asked as an appendix to this letter.

In general EDF Energy believes that the GDPCR marked a significant improvement compared to the TPCR. Overall it would appear that this review was conducted in a timely manner, with limited changes in policy and procedure during the review process. We particularly welcomed the ad hoc consultations that Ofgem undertook to ensure that the industry was adequately consulted on prior to any changes in procedure. However we also believe more could be done to improve the timing allowed for the implementation of the GDPCR.

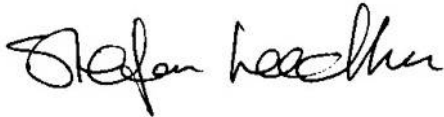
In particular we would note that the implementation timetable associated with User Pays was very challenging. Whilst the process was not aided by the management of this regime change by xoserve, we would note that the timetables involved did not aid matters. In particular this reform required National Grid Distribution (NGD) on behalf of the other Transporters to raise a UNC Modification proposal to reflect a Licence Condition Change that had not been consulted upon. This resulted in the UNC panel delaying its decision and re-consulting on the UNC Mod as it was unclear what the potential Licence Condition would look like, and whether the proposal therefore met the relevant objectives. In addition due to the challenging deadline associated with User Pays this required the industry to start developing complex models and arrangements during the Price Control, when the concept of User Pays was being consulted upon as part of the process. This could expose Ofgem to the criticism of pre-judgement, however in reality it required industry to develop arrangements to reflect a regulatory regime that was liable to change.

The impact of this was that Ofgem was required to implement a charging statement: the ACS (Agency Charging Statement) that they recognised in their decision letter would require further development. The Licence Condition required to support User Pays (Standard Special Condition A15) was implemented on 1 April 2008, but the supporting UNC Mod proposal was not implemented until 9 April 2008, as a result of which the GDNs were unable to charge for Shipper Agreed Reads or must reads, but had not had any revenue allowed for this 9 day period. Shippers were faced with a supporting contract that was not fit for purpose and the vast majority were unable to sign, and so faced the threat that essential services would be

withdrawn. Currently industry resources are still required to develop a contract that is fit for purpose. EDF Energy recognises that the main cause for some of these problems can be placed on the project management of this regime; however we believe Ofgem could have further helped this process by enacting Licence Condition changes with sufficient time to develop and implement associated industry changes. Whilst we recognise the benefit to the industry of providing early sight of the proposed Licence Changes, it is very hard to develop regimes until these have been finalised. We would note that this is a concept that Ofgem has employed when setting the Shrinkage Incentive which is not due to be enacted until October 2008 to allow the industry to progress the required changes, and so it would appear beneficial to extend this to other changes.

I hope you find these comments useful, however please contact me should you wish to discuss these comments further.

Yours sincerely

A handwritten signature in black ink that reads "Stefan Leedham".

Stefan Leedham
Energy Regulation Executive
Energy Branch

Appendix 1 Consultation Questions Response

Consultation Documents

- **Was the overall consultation process too lengthy, about right or too short?**

Due to the wide ranging issues that Ofgem were consulting upon, and the fact that this was the first time that a full GDPCR had been set, we believe that there may have been a benefit in having a longer consultative process. We also believe that it may have been beneficial to hold additional workgroups, or seminars to support these consultations to allow Ofgem to provide an overview of how the main areas were developing, with the opportunity for the GDNs to provide their view if desired.
- **Were there too many/too few consultation documents? Were all relevant issues consulted upon?**

Overall the number of consultation documents appeared appropriate. EDF Energy particularly welcomed the additional “ad hoc” consultations that Ofgem undertook on the shrinkage incentives and capacity outputs incentive. We believe that this allowed the industry to provide their views on these developments, and helped to ensure that there were not too many unexpected changes in policy between the updated consultation and final decision documents.

Regulatory Consistency

- **Were there any unexplained changes in regulatory policy during the course of GDPCR?**

As noted above we believe that the ad hoc consultations that Ofgem undertook ensured that the number of unexpected changes in regulatory policy were limited, which represents a significant improvement on the TPCR. The only issue of contention has been Ofgem’s decision on the shrinkage incentive. In the updated consultation document, and ad hoc consultation Ofgem proposed setting the shrinkage incentive based on a fixed volume for certain elements of shrinkage and a throughput factor for the other elements. EDF Energy supported this proposal; however it was changed to an entirely fixed volume incentive in the final decision document. This is having a knock on impact on the UNC, and it is unclear what the driver for this is. It would have therefore been beneficial were Ofgem to provide a further explanation of how they reached this decision, how they derived their volumetric figures and what if any consequential impacts Ofgem may expect on the other industry codes.
- **Was the process followed during GDPCR consistent with your expectations?**

At a general level the process was entirely consistent with our expectations, although it would be beneficial to have a precise publication date for the consultation documents to enable participants to plan workloads.

Process Delivery

- **Overall did the process work?**

At a high level the process appeared to work well, delivering a final GDPCR Decision Document. However more work needs to be done to enable the industry to deliver these final decisions. As noted previously this can be seen most clearly in the delivery of User Pays. Due to the implementation timetable this required the industry to develop arrangements when the principle was being consulted upon. However it is recognised that this was the exception to the rule.

Positive Points

- **What parts of the process worked well?**
 - Ad hoc consultations ensured that the industry was fully consulted on most policy changes.
 - Early start to GT Licence Consultations ensured that the industry was aware of the direction that the licences were heading.

- Clear communication at the start and throughout the process to ensure the industry knew what to expect and when.
 - Clear identification of potential re-openers and the circumstances when they would be enacted ensures that the detrimental effects of these are minimised.
- **Which elements added the most value to the process? What aspects should be retained for future reviews?**

Of particular value were the ad hoc consultations and the early start to the GT licence consultations which we believe should be retained.

Potential Improvements

- **How could the overall process be improved?**

The main area for improvement is the time allowed by Ofgem for the implementation of industry changes to support the conclusions of the GDPCR. In particular it is important that Licence Condition changes are enacted with sufficient lead times to enable supporting industry changes.
- **What were the biggest problems with the GDPCR process?**

The biggest problem/challenge was the implementation of the User Pays regime for 1 April 2008. This required the industry to develop arrangements during the GDPCR Process when the concept was still being consulted upon and finalised.
- **What changes should be made to the process to avoid repetition of these problems?**

The early start to the GT Licence conditions should be built upon to combine with an earlier finish than was present. In particular it may be beneficial to combine the GDPCR conclusions document with the statutory 28 day consultation for the proposed GT Licence Changes – i.e. GDPCR conclusions document should include the final proposed GT Licence changes. Sufficient lead time should be included when enacting GT Licence changes to allow the industry to develop supporting changes. In particular once the GT Licence change has been accepted there should be sufficient time for a UNC mod to be raised, consulted upon, and opined upon by Ofgem before the Licence Condition takes effect. If arrangements also need to be developed then this should be reflected in the GT Licence lead time. This will ensure that the rules and principles of the reform are clear to the industry when developing arrangements and responding to consultations and are not open to change.