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Dear Mark

Review of Industry Code Governance – Environment and Code Objectives

Thank you for the opportunity to respond to the Open Letter regarding the Environment and Code Objectives. 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. It is responsible for administering the electricity Connection and Use of System Code (CUSC), the Grid Code and the System Operator – Transmission Owner Code (STC). NGG owns and operates the Gas Transmission System and also owns four of the gas Distribution Networks. In association with the three other gas Distribution Network Operators it also jointly provides for the administration of the Uniform Network Code (UNC) Governance arrangements via the Joint Office of Gas Transporters.

Existing Framework

National Grid considers that the existing legal framework is wide enough to enable industry and code panels to assess and take account of the impact of modification proposals in relation to issues such as carbon impacts where there is a clear mechanism for identifying the costs.

However, we take the view that the existing licence requirements are not precise enough to assist licensees, industry and panels to interpret licences provisions consistently. Similarly, while the existing rules *may* be capable of being construed so as to require licensees, when assessing code modification proposals, to consider not only the impact on a particular licensee, but also on others this is not clearly brought out by the existing provisions.

In this light, we agree with the CUSC Standing Group's findings that a broader assessment than that envisaged by Ofgem under the 'network operation' code objective may be possible in relation to certain developments of some of the codes. However, it should be noted that not all the relevant licence conditions contain a general objective referring to the efficient discharge of the licensee's obligations which might facilitate this (for example, Condition C14 of Grid Code).

That said, while it is *possible*, under the existing licence provisions, for these wider issues to be considered when the costs of the same can be objectively assessed, we do not believe that the relevant licence provisions naturally impose a clear *requirement* on the code panels to undertake such an assessment. Rather, the guidance issued by Ofgem should be used (as at present) to ensure that both the code panels and the industry are mindful of the issues they should consider. In our opinion, the use of this guidance provides a more flexible and effective approach (compared to reliance on existing licence provisions) given the possibility of changes to environmental policy and the ability to:

- objectively “cost” such matters over time; and
- provide the industry with more detail than would be possible in licence drafting.

In addition, the issue of guidance would appear to be in conformity with the changes to the prioritisation of GEMA's objectives affected by the Energy Act 2008 (especially in relation to sustainable development). It would also align with the use of guidance by DECC to GEMA on social and environmental matters. Finally, we consider that the use of guidance ensures that these issues can be given appropriate consideration without imposing a general "policing" role on licensees.

As a result, National Grid does not believe the introduction of new licence provisions which expressly require carbon impacts to be considered is necessary or that the code panels should automatically be obliged to undertake such assessments. We believe that the code panels should be given the flexibility to consider the impacts a modification may have on carbon costs, and undertake such assessment as is appropriate and proportionate for that particular issue, taking into account the Ofgem guidance.

Scope of the assessment

In relation to the broader environmental issues, we consider all possible issues have been identified within the consultation document and that there are no additional considerations. However, we have concerns regarding widening of issues beyond the natural scope of the assessment of code modifications (including the cost of carbon).

In particular, the broader issues referred to in the consultation, such as the impacts on visual amenity, air quality and the natural landscape etc., will almost always relate to the physical consequences of the implementation of the code changes and not the code modification itself. As a consequence, we do not believe it is appropriate for code panels and the industry to undertake assessments of the physical impacts of code modifications. Rather than being issues naturally raised in the development of the commercial regimes, these are issues surrounding how those regimes are delivered. As such, they appear to be more logically dealt with through other legal rules which already exist (such as the rules in planning law and the clean air acts, as well as the rules in the Electricity Act referred to in the consultation).

National Grid considers broadening the scope of environmental issues for the assessment of modifications would not be proportionate as the circumstances in which it may be relevant are considerably limited. This is particularly so because, at present, there is no financial value which can be attributed to broader issues. As such, it is difficult to envisage how code panels would be able to include such impacts within the wider cost benefit analysis of a modification assessment.

In summary, National Grid considers that:

1. the existing framework and Ofgem guidance is appropriate for the code panels and the industry to undertake carbon costs assessments and should not be made obligatory through specific licence provisions;
2. licence changes are not necessary, but Ofgem's environmental guidance (Ofgem Final Clarification and Guidance on the treatment of carbon costs under the current industry code objectives) should be reviewed at regular intervals; and
3. the scope of the assessment should not be extended to include issues which affect society at large or impacts on visual amenity, local air quality, the natural landscape, noise pollution and flora and fauna.

If you wish to discuss this further, or have any queries regarding this response, please contact me, Mark Ripley on 01926 654928 (mark.ripley@uk.ngrid.com) or Richard Court on 01926 656146 (Richard.court@uk.ngrid.com).

Yours sincerely

[By e-mail]

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