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Mark Feather
Ofgem
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Dear Mr Feather

Regarding the “timing-out” of Authority decisions on modification timescales.

Welsh Power, owners of Uskmouth Power, Severn Power and Haven Power, does not support the principle of allowing the Authority to extend or alter the decision timetable for modifications after they have been submitted to the Authority.

- **Ofgem forewarns the Panel of risks.** We welcome the fact that Ofgem does communicate with Panels the likelihood of the timetable it may be able to work to. We do not believe that the purpose of the implementation deadline is to compel the Authority to make a decision, but rather a view by the Panel of when a decision *must* be made. It is our view that such deadlines ensure that the Authority makes decisions with current, valid data. Any significant delay in implementation, beyond the current deadlines may make such judgements invalid and not necessarily representative. If the Authority feels that the data does not exist for it to make an informed decision, then the Authority must not make one, but communicate its concerns to the proposer and the relevant Panel to allow re-raising.
- **An incentive for timely decisions.** As alluded to above, we do not see the implementation deadline as an absolute requirement on the Authority, but rather a “best before” to ensure that any decision is made with current, relevant information provided by the industry and in the same market landscape as the modification was raised and considered by the relevant Panel. This is particularly pertinent to the transmission losses changes, whereby developments in Government policy towards renewable generation after the raising of the modification, but before the subsequent Authority Decision, would have changed our view of the modification. Energy markets are now developing very quickly and the modification process (with the ability to have urgent mods) recognises that the change needs to be timely and designed around the market as it stands at a point in time.

- **Industry uncertainty.** The removal of definitive implementation dates would add *significant* uncertainty to the activities of all players in the market, including customers. If a decision deadline is included by the Panel, then this is to allow the code signatories to plan appropriately. As Ofgem has noted, some modifications do not require such a deadline, and we believe that is because that type of change will not require significantly forward preparation. To effectively remove the ability for Panels to provide such milestones will result in significant costs to signatories as they would have to guess the possible implementation timescales. For customers, if suppliers expect costs may alter, or risks are increasing, the costs will be passed to the customers. A more stable regime allows suppliers to price more keenly.
- **The validity of the analysis.** We do not agree with Ofgem's views that modifications should be held to allow additional analysis to be undertaken. As has been seen over the last 12 months in the financial markets and historically in the Energy markets with Enron and TXU, significant, market altering events can occur rapidly. Hence *industry* analysis is only valid for a certain period of time and to compare industry views with market analysis undertaken a significant period later will undermine its validity. This is of critical importance with contentious modifications as any industry recommendation will form the basis of any appeals process. It would be more efficient if Ofgem fully engaged in the process from an early stage, asking the modification groups to undertake the analysis they consider necessary as part of the modification process.

It is therefore preferable for modifications to lapse without decision, and subsequently be raised again by the proposer. We do not agree with Ofgem's views that such a course of action will result in significant costs being incurred. If the modification was originally sufficiently developed to go to the Authority for decision, the additional work caused by re-raising the modification will be limited to checking that current analysis and representation are still valid. Crucially, re-raising will provide the relevant industry participants to consider whether their view of the modification may have changed in light of any market developments. This ensures that recommendations will be representative, minimising the need for legal challenge to Authority decisions.

If you wish to discuss any of the issues raised in this paper please do not hesitate to contact me.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Rebecca Williams'. The signature is fluid and cursive, with the first letter 'R' being particularly large and stylized.

Rebecca Williams
Head of Trading