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Dear Mark

Industry Code Governance

I refer to your twin consultations on the above and appreciate the chance to comment.

As you may recall, we have commented extensively in the past on the issues of code governance. We believe that governance arrangements should be fit for purpose and should keep costs to a minimum. The model that has been adopted for DCUSA has much to recommend it and could be considered by other codes where considerable costs can flow from the Panels recommendations. In the DCUSA model, where there are independent administrators with costs funded through all users, everyone has an interest in controlling costs. This model also allows for the views of participants of all sizes to make their views known and vote on proposals. For the avoidance of doubt we do not see a current need to suggest that the DCUSA model is adopted for the Grid and Distribution Codes.

There should be a review of the issues that Ofgem must decide with a much as possible being agreed by the industry, with Ofgem being used in an appeal capacity. The role of the administrators should be that of a 'critical friend' who will ensure that modification reports are of sufficient a quality, but not producing these reports themselves. It is important that the justification for making changes is matched to the potential impacts in order to minimise the bureaucratic burden on market participants. With regard to proposals to separate systems from code administrations, we would not support change for change sake and any such proposals need a full justification.

However, when it comes to major policy issues we can see no alternative but to agree with Ofgem when the importance of an issue makes it impossible for a single code panel to act in a coherent way. Issues such as Transmission Access Distributed Generation have shown the need for Ofgem to retain an active and high level involvement if any meaningful progress is to be made where there are numerous parties with a stake in any potential decision. We would add though, that in relation to an occasion where a major policy review is required, we believe there should be appropriate, transparent safeguards to allow a licensee or any other affected

industry participant to be able to challenge Ofgem's view before it became a legally binding conclusion.

In relation to smaller player participation, we are aware that smaller players do have difficulty in getting their views aired. However, the varied and often conflicting nature of their views would make any decision making process more problematic than it currently is. Therefore, we would not support again changing the governance arrangements at this time.

I hope our comments are of assistance.

Yours sincerely,

Paul Bircham
Regulation Director
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