



Charles House

5-11 Regent Street

London

SW1Y 4LR

Tel: 020 7930 9390

Fax: 020 7930 9391

enquiries@aepuk.com

www.aepuk.com

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Ian Marlee
Director, Trading Arrangements
Ofgem
9 Millbank
London
SW1P 3GE

Dear Ian

Addressing Market Power Concerns in the Electricity Wholesale Sector – Initial Policy Proposals

Thank you for inviting our comments on your proposal for a 'Market Power Licence Condition'. In essence, the proposal looks very similar to Ofgem's two previous proposals for a 'Market Abuse Licence Condition' which were rejected by the Competition Commission and the Secretary of State for Trade and Industry respectively. You will be aware that the Association opposed those two proposals, because they threatened to increase considerably the regulatory risk for the generating businesses that we represent. I recall that, on neither occasion, was Ofgem able to explain adequately how it would distinguish between companies' normal commercial behaviour in a competitive market and what it considered to be 'abuse'. Arising from that, we saw,

among other things, the prospect that companies might be penalised unjustly, important price signals could be suppressed and investors discouraged.

Our views about the possible consequences of introducing such a condition are broadly the same as they were before, but, we respect the fact that Ofgem itself has concerns which it is trying to address and in view of the history of these proposals, you may have developed ideas which would address the issues that I mentioned above. If so, I wonder whether Ofgem would like to meet a team from the Association to explain your concerns and discuss the current proposal further?

Yours sincerely

By email

David Porter OBE

Chief Executive

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