



**Legal, Regulation and
Compliance**

Centrica Energy

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Friday, 26 June 2009

Mark Feather
Director, Industry Codes and Licensing
Ofgem
9 Millbank
London SW1P 9GE

By E-mail: mark.feather@ofgem.gov.uk

Dear Mark,

Re: Open letter, the “timing out” of Authority decisions on modification proposals

Thank you for the opportunity to comment on the open letter detailed above. This non-confidential response is on behalf of the Centrica group of companies excluding Centrica Storage Ltd and may be placed on the Ofgem website and in the Ofgem library.

Centrica notes Ofgem’s revised proposal for the Authority to amend implementation/”decide by” timescales under the industry codes.

As stated in our previous response, Centrica continues to have serious concerns with the proposal to allow the Authority to require changes to the Decide by Dates under the industry codes. These concerns have not been alleviated by the revised proposal.

- We believe that the proposal would still extend regulatory risk and adversely impact industry’s commercial rights (in respect of modification proposals) to an unacceptable degree.
- Where Authority decisions are delayed, there are high risks that analysis will become outdated and provisions enabling updating are not sufficient
- Not all panels currently set implementation or decide by dates.

We believe that there is in principle sufficient flexibility in the existing procedures such that, with good communication between the industry and Ofgem, issues should be capable of being managed effectively. While Ofgem suggests timing out could delay benefits (or indeed costs), again, with good communication, the situation could be managed.

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However, if Ofgem continues to propose that change is required, Centrica believes that safeguards are essential and that there are more appropriate ways to proceed. Our views have not changed from our previous response.

In terms of the proposed licence drafting, a number of specific amendments are needed:

- Paragraph 4A (c)(i) should set out that the Authority shall include the expected revised timeline for the decision as well as the minimum period by which the dates are to be extended
- Paragraph 4B (a) should require that the licensee shall consult on the proposed extension to the timelines as well as on any updated analysis
- Additional provisions are required as follows:
 - To make provision for the setting of a backstop date such that if the Authority has not made a decision by the new Decide by Date, then the modification lapses, i.e. the timetable should only be extended once per proposal
 - To enable the panel/industry to initiate the updating of analysis if there is reasonable evidence to suppose this is necessary without requiring an instruction under 4A(c)(ii). At present it is not clear that this would be possible
 - To enable the panel to update its recommendation based on the new analysis if the updated analysis shows a materially different result (to not permit this may impact on the efficacy of the appeal mechanism)

We trust these comments have been helpful, and I would be happy to discuss any points in more detail.

Kind regards,

Yours sincerely,

By e-mail

Alison Russell
Senior Regulation Manager, Upstream Energy