

Industry Codes and Licensing
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25th June 2009.

Dear Mark,

The “timing-out” of code modification proposals

RWE npower is pleased to be given the opportunity to comment on your proposals regarding the “timing out” of proposed Industry Modifications set out in your letter of 13th May 2009. We note that following the first consultation, revisions have been made to the proposals. RWE npower appreciates the balance that needs to be maintained to achieve a flexible and timely process in which to make decisions, however Regulatory risk needs to be minimized to provide value to consumers.

Before referring a modification back to a Code Panel with the aim of extending dates, there must be a process to ensure that every effort has been made to achieve the original time frame; otherwise there is a danger of increasing uncertainty and confusion. On balance we believe that the existing process has worked well and Ofgem has not demonstrated that it needs the proposed powers.

RWE npower considers that the Code Panels would need to consult with industry parties and experts before recommending revised dates.

Referring Modifications back to a Code Panel does not solve the issue of “time sensitive” analysis; we recognise that Ofgem has said that it could request that the analysis be updated. We appreciate that the times when this will be necessary will be very few, but also consider that the effort and cost made by industry to get the modification to the stage where it can be considered by the Authority should be recognised. Again we are not convinced that Ofgem has made the case for change.

We welcome the publication of an “indicative timetable” for Ofgem decisions, but equally recognise that this can be changed.

Participation in the Industry Change Process is costly and time consuming process for all concerned. We are still of the opinion that Ofgem’s more active involvement in the change process would better facilitate the decision process in a cost effective way. This would give Ofgem the chance to steer the required analysis and with agreement of the group and Panel extend the assessment phase of the processes before any decision is required.

To maintain efficient codes governance requires firm decisions from the Regulator within a reasonable period preventing costly reworking and passing through benefits to consumers as soon as is practicable. With the ongoing review of Codes Governance we would like to see best practice models of governance adopted throughout the industry’s codes and agreements.

Yours sincerely

Alan McAdam
Wholesale Economic Regulation Manager