

James Thomson  
Ofgem  
Regents Court  
70 West Regent Street  
Glasgow  
G2 2QZ



27 April 2009

Dear James

**Proposal to modify Standard Licence Conditions C5 (“Use of system charging methodology”) and C6 (“Connection charging methodology”) of the electricity transmission licence**

EDF Energy welcomes the opportunity to respond to this consultation.

We note that the consultation proposes to amend the period Ofgem has to consider modification proposals under SLC C5 and SLC C6 so that the impact assessment period starts from the date Ofgem notifies the licensee of its intention to undertake an impact assessment consultation. This would extend the available assessment period by a maximum of 28 days relative to the current timescales.

We have no objection to these proposals. We do however wish to make some points regarding the consultation periods around changes to electricity and gas arrangements, including but not limited to consultations concerning impact assessments. A range of bodies have consistently called for industry and other stakeholders to be given 12 weeks to respond to consultations issued by economic regulators – we refer to some of them below - but this is not what is happening. We are content for Ofgem to have three months for its own impact assessments, as per today’s consultation, but we urge that industry is given the recommended 12 week consultation period for Ofgem consultations.

We note from <http://www.berr.gov.uk/whatwedo/bre/consultation-guidance/page44458.html>

“Code of Practice on Consultation”, that Stakeholders should be given at least 12 weeks, and sufficient information, to respond to consultation documents.

The Better Regulation Task Force also published advice on RIAs, arguing that Stakeholders should be given at least 12 weeks, and sufficient information, to respond to consultation documents.

[http://www.cabinetoffice.gov.uk/newsroom/news\\_releases/2004/040120\\_code.aspx](http://www.cabinetoffice.gov.uk/newsroom/news_releases/2004/040120_code.aspx) tells us that regulators such as Ofgem should “Consult widely throughout the [change] process, allowing a minimum of 12 weeks for written consultation at least once”

The cabinet office's document "BETTER POLICY MAKING: A GUIDE TO REGULATORY IMPACT ASSESSMENT" available at:

[onderwijs.vlaanderen.be/vereenvoudiging/pdf/BritseRiaGids.pdf](http://onderwijs.vlaanderen.be/vereenvoudiging/pdf/BritseRiaGids.pdf)

says :

3.43 You must include a partial RIA with your consultation document. Allow enough time by building consultation into the planning process. The minimum consultation period you must consider is 12 weeks. Try to avoid consulting during holiday periods, but if you do so, consider extending your consultation beyond 12 weeks. If you engage a third party to run your consultation exercise you must ensure they adhere to the Cabinet Office Code of Practice and the guidance.

When the House of Lords' Select Committee on Regulators was undertaking its review of economic regulators' impact assessments, it took evidence from the National Audit Office (NAP).

In its evidence <sup>1</sup>, the NAP said: "Although the regulators are not bound by the Cabinet Office guidelines on consultation issued for government departments, we used this as a 'good practice' comparison. The guidance stipulates that all new policy proposals should have written consultation which allows 12 weeks for response, and that consultation responses are published on their websites. We also considered other work undertaken by the regulators to obtain the views of stakeholders...Each of the ten policy teams we interviewed was aware of Better Regulation Executive guidance. There is also an indication from policy officials that the Cabinet Office's Guidelines on consultation, at least the 12 weeks stipulation, has been taken on board, although regulators often preferred to adopt an iterative approach with several slightly shorter consultations". The table nearby refers to four economic regulators having been contacted by the NAO, including Ofgem.

This quote from the NAO strongly implies that Ofgem gave the NAO to believe that it is working to 12 weeks for consultations generally, and that, when it may on rare occasions deviate from that with several slightly shorter consultations, consultees will still get at least a cumulative total of 12 weeks. This is not in fact consistently, or even usually, the case.

The resulting report from the House of Lords<sup>2</sup> Select Committee on Regulators, again recommended at least a 12 week consultation period to give industry a reasonable amount of time to respond.

Since the consensus is clearly that 12 weeks should be allowed for consultations we urge that Ofgem observes this timescale at all times.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "D. Linford".

**Denis Linford**  
**Corporate Policy and Regulation Director**

<sup>1</sup> [http://www.nao.org.uk/publications/0607/impact\\_assessments\\_review.aspx](http://www.nao.org.uk/publications/0607/impact_assessments_review.aspx)

<sup>2</sup> <http://www.publications.parliament.uk/pa/ld/ldrgltrs.htm>