

AW/PW/118

Hannah Nixon  
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Ofgem  
9 Millbank  
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Dear Hannah

**Re: Arrangements in the event that an energy company experiences deteriorating financial health**

I have pleasure in providing NGN's response to your consultation. We fully support and welcome Ofgem's review of the existing arrangements for monitoring and responding the financial health of energy network companies. It is good practice to periodically review all regulatory arrangements to ensure they continue to be necessary, effective and fit for purpose. We agree it is sensible to look at financial monitoring and administration arrangements now given the present financial and economic climate.

Note that a potential risk to energy networks is sustained deflation which would reduce revenues and reduce RAV values. This may make it challenging to raise finance and would increase gearing which could threaten companies with reduced credit ratings and/or breaches of bank covenants. It is noteworthy that three water companies have had to raise additional finance this year.

The attachment addresses the questions in your consultation. I would be happy to meet with you to discuss any of the content in more detail if that would be helpful.

Please note that this response can be regarded as non-confidential.

Yours sincerely



Alex Wiseman  
Regulation Director

## **Arrangements in the event that an energy company experiences deteriorating financial health**

### **Chapter Two**

**Question 1: What are respondent's views on the overall structure of the guidance document?**

The overall structure appears to be logical and covers the key issues for all stakeholders involved.

**Question 2: Do respondents consider that any other aspect of the response plane should be addressed in the guidance document?**

The guidance document is quite comprehensive and addresses all the key issues pertinent to circumstances of financial distress and energy administration.

### **Chapter Three**

**Question 1: Do respondents agree with the stated purpose of the guidance document as set out in chapter 1 of that document?**

We agree the purpose as stated is clear and sensible.

**Question 2: Do respondents have any comments to the background to energy administration as set out in chapter 2 that document?**

The background section is a helpful overview of the present energy administration arrangements.

### **Chapter Four**

**Question 1: Do respondents consider the guidance document accurately reflects the individual stages in the pre-administration process as set out Chapter 3? Are there any other stages that should be reflected?**

The document appropriately reflects the pre-administration process. It may be helpful to clarify exactly when in the process Ofgem/DECC would apply for Energy administration.

**Question 2: Do respondents have any views on Ofgem's existing arrangements for monitoring financial health set out in Chapter 3 and Appendix 5 of the guidance document? Do respondents consider these should be augmented and, if so, in what ways?**

We consider Ofgem's present financial monitoring arrangements for PEC to be very effective, proven in examples such as TXU where the monitoring arrangements enabled Ofgem to take effective proactive action to safeguard consumers connected to the Eastern electricity distribution network.

**Question 3: Do respondents have any comments on the existing financial ring-fencing provisions as summarised in Chapter 3 and Appendix 5 of the guidance document? Do respondents consider these are effective? Do respondents consider these arrangements should be augmented and, if so, in what ways?**

We regard Ofgem's present financial ring fence arrangements for PECs to be effective and in line with best practice in other regulated sectors such as water where the ring fence arrangements proven to be effective, for example in the case of Wessex Water. The document could, however, confirm the order that the stages will follow. For example we expect that Ofgem will evaluate all practical measures to ensure survival of the existing

company, for example reopening the price control, before proceeding to the more “nuclear” options of trade sale or administration.

**Question 4: Do respondents have any views on the proposed process and triggers for reopening/disapplying price control as set out in Chapter 4 of the guidance document? Do respondents have any views on potential improvements to these arrangements?**

We believe the present price control arrangements for re-openers, income adjusting events (IAEs) and disapplication for GDNs are appropriate. However, there may be additional re-openers or IAEs that it would be appropriate to consider at the next price control. For example, the reformed interruption arrangements leave NGN exposed to potentially over £30m of reinforcement cost and we have experienced difficulty during the current tender process encouraging end customers to bid for interruption rights even though we received some bids in the first year.

In addition to formal arrangements, Ofgem has demonstrated that it can take pragmatic action in response to financial risks to PECs that emerge mid price control, most notably the TIRG interim determination for the electricity transmission licensees.

#### **CHAPTER: Five**

**Question 1: Do respondents consider the guidance document accurately reflects the individual stages in the administration process as set out Chapter 5? Are there any other stages that should be reflected?**

The administration procedures and arrangements described in the guidance document appear to be accurate.

**Question 2: Do respondents consider that Chapter 6 of the guidance document provides an appropriate summary of the arrangements for appointing an energy administrator?**

Yes, it is an appropriate summary.

**Question 3: Do respondents consider that Chapter 7 provides an appropriate summary of the key elements of the core administration work?**

Yes, it is an appropriate summary.

**Question 4: Do respondents have any views on the legal, licensing and price control issues identified in relation to the restructuring/sale of a PEC in Chapter 8?**

All the key issues appear to be covered in the guidance.

**Question 5: Do respondents consider the arrangements set out in Chapter 9 of the guidance document would provide for the efficient end to an energy administration process?**

Yes, the arrangements are sufficiently clear to provide an efficient end to an energy administration process.

**Question 6: Do respondents consider that Chapter 10 of the guidance document accurately reflects the roles of Ofgem, the Department of Energy and Climate Change (DECC) and HSE in the administration process?**

Yes, it accurately reflects their roles.

**CHAPTER: Six**

**Question 1: Are there any other aspects of the legal framework which should be covered in Appendix 1 of the guidance document?**

All the key aspects of the legal framework are covered in the guidance document.

**Question 2: Do respondents have any views on the accuracy of the list of PECs and other network operators set out in Appendix 2 of the guidance document to whom it is proposed that document would apply?**

We have not identified any errors or omissions.

**CHAPTER: Seven**

**Question 1: Do respondents have any views on the proposed process for finalising the guidance document?**

Ofgem's proposed way forward seems sensible and appropriate.