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Industry Codes and Licensing  
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9 Millbank  
London  
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9 October 2009

Dear Jenny

### **Code Governance Review: Governance of charging methodologies: Initial Proposals**

EDF Energy is one of the UK's largest energy companies with activities throughout the energy chain. Our interests include nuclear, renewables, coal and gas-fired electricity generation, combined heat and power plants, electricity networks and energy supply and services to end users. We have over 5 million electricity and gas customer accounts in the UK, including both residential and business consumers.

EDF Energy welcomes the opportunity to respond to this consultation. We support the work that Ofgem has undertaken to review the governance of charging methodologies to ensure that an appropriate regime is developed. Of the options put forward by Ofgem to allow non-network owners to propose modifications, EDF Energy supports the implementation of Option 3 – Industry Codes Governance. Transferring the charging methodologies into the industry codes will be the most cost and resource efficient option and also has the added benefit of using a governance process that is already well established and understood. This option will also introduce greater independent accountability to the governance of the charging methodologies through the Competition Commission appeals mechanism. However, we would note that there are several issues that will need to be addressed to enact this change.

We believe that one of the successes of the Transmission Access CUSC Amendment Proposals was that the terms of reference of the working groups was expanded to include discussion of the appropriate charging methodology changes. Normally these would have occurred separately through the Electricity Transmission Charging Methodology Forum (TCMF). By discussing the CUSC proposal and associated charging methodology change in the same group, EDF Energy believes that the optimum change proposals were developed in a transparent and inclusive manner. We believe that this experience lends weight to formally incorporating the methodologies into the respective codes.

We support Ofgem's proposal to focus initially on the governance of the gas and electricity transmission charging methodologies. We believe that this is appropriate, given the level of investment and regulatory reform in these areas required to meet the Government's vision for a low carbon economy. However, while we support Gas Distribution charging methodologies following on from these methodologies, we believe

that a firm requirement should be introduced to incorporate these into the Uniform Network Code (UNC) in a timely manner.

For a domestic gas customer's bill, distribution costs are significantly larger than the costs for transportation. It would therefore appear that, if the full benefits of this review are to be gained, then the governance of the gas distribution methodologies has to be reformed.

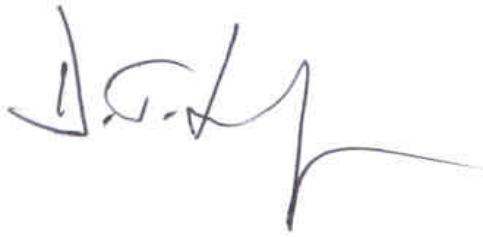
EDF Energy also supports Ofgem's proposal to incorporate an annual or bi-annual window for implementing change. We believe that this will introduce certainty to suppliers regarding charging changes and also map with the current licence and code requirements. However, we do not believe that a window for raising change should be implemented. In particular, we would question how this would operate for complex changes that can take a significant amount of time to develop and implement. It would appear that Ofgem's current proposals to require parties to raise a proposal within a certain window, for implementation in the next change window, would artificially constrain the development of these proposals, and potentially result in undeveloped proposals being submitted to Ofgem for a decision. We believe that it would be more appropriate to allow proposals to be raised at any time, with an expectation that any decision notice would align with the change notification timescales.

In addition to the high level issues raised above, EDF Energy believes that the following points need further development to ensure that the regime works appropriately and proportionately:

- While we recognise that a process for developing urgent proposals is required, we believe that further criteria are required. In particular we are concerned that without criteria this process will be abused by parties who have missed the deadline.
- Work needs to be undertaken on how the relevant objectives within the codes will be aligned /updated. In particular we note that the relevant objectives for code proposals are different from charging methodologies.
- We also question whether further work is required on the relevant objectives, so that the issues of security of supply and sustainability are also incorporated. We note that it appears that these considerations will be incorporated into Ofgem's statutory duties and so we would question whether they should be replicated into the relevant objectives for charging methodology changes.
- We note that incorporating the methodologies into the codes will interact with Ofgem's proposals regarding panel representation and voting rights. We therefore believe that work should be undertaken to ensure that there is appropriate representation and voting rights. In particular we believe that the voting regime should be open to all panel members.
- In electricity, work will be required to ascertain whether the charging methodologies should all sit under the CUSC, or whether they should be split between the CUSC and BSC.

Our detailed comments are contained in the attachment to this letter. If you have any queries on this response, please do not hesitate to contact Stefan Leedham on 020 3126 2312 or myself.

Yours sincerely

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

**Denis Linford**  
Corporate Policy and Regulation Director

## Attachment

### Code Governance Review: Governance of charging methodologies: Initial Proposals

#### EDF Energy's detailed response

#### CHAPTER: Three

##### **Question1: Do you agree with the output from the assumptions made within the quantitative analysis undertaken?**

In general the assumptions made by Ofgem regarding costs appear to be appropriate, although we recognise that it will be hard to identify the level of change proposals that will be raised under Options 2, 3 & 4. However we are not convinced regarding the assumptions made about the benefits. In particular we would note that the charging methodologies govern how revenues are collected. Therefore any change to the methodologies will merely re-distribute the costs between market participants or alter the profile of cost recovery during the year. Whilst the charging methodologies may provide some locational signals regarding siting decisions, we would note that this is one of many issues.

EDF Energy therefore believes that the main benefit that could be attributed to opening the methodologies to 3<sup>rd</sup> party change is the fact that a larger and more varied pool of charging proposals will be presented to the Authority.

##### **Question2: Are there any factors that you believe should have been considered in this analysis?**

EDF Energy believes that Ofgem has covered most of the factors in its analysis.

#### CHAPTER: Four

##### **Question1: Which governance Option do you consider is the most appropriate for charging methodologies?**

EDF Energy supports implementation of Option 3 – including the charging methodologies under code governance and processes.

This Option allows the industry to utilise a well understood and developed change process which has the appropriate checks and balances in place to ensure that a fully developed proposal is submitted to Ofgem for a decision. This arrangement would also allow parties to utilise the right to appeal the decision to the Competition Commission if the required criteria are met, a benefit that is not present under Options 1 or 2.

##### **Question2: Do you agree that we should initially focus on gas and electricity transmission charges, with gas distribution potentially to follow as a second phase?**

Given the level of investment and reform associated with the transmission regimes, it appears appropriate to concentrate on these areas first. This will help to ensure that the Government's carbon emissions reduction targets are met by ensuring that the charging regime is suitable for the connection of low carbon power stations. However given the significance of distribution charges in domestic gas customers' bills, we believe that there should be a firm commitment to incorporate the distribution charging methodologies into the codes as soon as possible.

**Question3: Do you agree that annual/biannual change and implementation windows are the most appropriate mitigation measures to progress going forward for all the options?**

EDF Energy agrees that the annual and bi-annual change windows are appropriate. This will provide certainty to suppliers that charges are unlikely to change during the year. This should also be combined with the relevant notice periods for indicative charges, so that an implementation decision is reached prior to the indicative notices being issued. We would note that these notices are important to suppliers when setting their supply contracts. If decisions were to occur after the indicative notices, then suppliers would be required to build a risk premia into their tariffs in the event that a change proposal was implemented.

EDF Energy does not agree that a window for raising changes to be implemented for the next price change is appropriate. We believe that this will prevent the full development of charging methodologies for issues that are complex. For example we note that a fundamental reform of gas entry charging is currently being undertaken, with even an April 2011 implementation date looking optimistic given the extent of the review. A window for raising change would run the risk that any proposals were sufficiently developed when submitted to Ofgem. In addition a change window may discourage parties from raising change proposals if the timetable enforced upon them could only be achieved through significant resources.

We also note that by removing the artificial constraint that a change window would impose would also remove the requirement to have a process for “urgent” charging methodology changes. We believe that this would therefore remove regulatory and charging uncertainty for industry participants as they would not be exposed to the risk that a last minute change to the methodologies was implemented. However were Ofgem to believe that an urgent route is required, we believe that it would be beneficial for a clear set of criteria to be produced for ascertaining whether a proposal was urgent or not. This should help to ensure that proposals that are truly urgent are progressed through this route. This should also be coupled with appropriate checks and balances.

**Question4: Do you consider a 3 or 4 month window to be sufficient time to consider modification proposals? Please indicate your preference for either 3 or 4 months.**

EDF Energy does not support the introduction of a change window. A 3 or 4 month window may be sufficient for raising and developing minor, non-contentious change proposals, however even this timetable appears tight. In particular we note that the standard consultation period for any proposal is 28 days, with time for the Network Operators (NWOs) to consider the responses and draft a charging report for submission to Ofgem is likely to take 6 weeks – provided that no significant issues are raised which require further development/consultation. A 4 month window would only allow discussions at 2 Transmission Charging Methodology Forums (TCMFs) which meet monthly, providing that they were submitted in time for the meetings. This would require the submission of a reasonably well developed proposal at the onset. Given that proposals can be of varying complexity and development when submitted, it would appear more appropriate not to enforce an artificial window, but instead set out clear timetable for submission of proposal to the Authority to ensure that a decision is reached in time for the indicative notices to be issued.

**Question5: Do you agree with our approach to defining "affected parties" who would be entitled to raise modification proposals?**

EDF Energy supports Ofgem’s proposal under Option 3 that affected parties are those parties that are able to raise code modification proposals, including Consumer Focus. It is



our understanding that Consumer Focus' remit is to represent the interests of all consumers including industrial and commercial consumers. We therefore believe that the current arrangements for raising changes to the commercial contracts that are the codes, are appropriate. EDF Energy believes that the same rules should also be applied if Option 2 were implemented. Given Consumer Focus' remit we do not believe that any suitable arguments have been made to extend the right to raise changes to other organisations.

**EDF Energy**  
**October 2009**