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31 January 2011

Dear Lia,

National Grid's response to Ofgem's consultation on cost recovery approaches for determinations

National Grid welcomes the opportunity to respond to Ofgem's consultation on cost recovery approaches for determinations. National Grid takes customer service very seriously and we are always aiming to achieve excellence in any service we deliver.

National Grid does not object to the cost recovery approaches proposed by Ofgem. We do have a number of suggestions that we feel would enhance the process for recovering costs in relation to the determination process, which we ask Ofgem to take into consideration. These points are set out in relation to particular questions enclosed within the response.

Please find below National Grid's response to the specific questions raised in the consultation document.

Chapter: Two

1. Should the circumstances listed below constitute the basis for recovering costs from a party?

National Grid agrees with the circumstances listed in the consultation as the basis for recovering costs from a party.

In addition to the circumstances listed, one area that National Grid would like Ofgem to give further consideration to is in the area of new or evolving policy. National Grid believes that the licensee should not be held liable for costs in these circumstances, where the licensee has been directed by the Regulator, for example, areas such as Offshore Wind farms and Connect & Manage. Ordinarily, we would not expect such areas to be dealt with through the determination process, rather through other established mechanisms for resolving such issues.

2. Are there any other circumstances in which cost recovery should be considered?

In Ofgem's 2009 open letter consultation concerning disputes, Ofgem made reference to the fact that they were considering potential cost recovery where Ofgem has previously determined a similar dispute and had already made clear its policy position. Although not explicit in this

consultation, National Grid would like to reiterate that licensees could be exposed to costs for which they have no immediate remedy other than to change the relevant policy. In most cases this would be impractical, as it could impact on wider engineering considerations, operating procedures, contractor rates and charging policies. While a determination of this nature may benefit the complainant, amending licensees' policies could be to the detriment of customers as a whole through increased cost of operation and re-allocated charges. National Grid therefore believes that where a similar determination has arisen before, it may be reasonable for Ofgem to consider applying costs but, this should not be the case where there are clear implications for engineering and charging methodology policies.

3. Is it appropriate for us to recover costs in circumstances detailed in this chapter?

Where Ofgem intend to recover additional external costs, National Grid would suggest that the circumstances in which such external advice is sought should be clear. For example, it would be inappropriate for Ofgem to employ external advisors where the skills required were already available within Ofgem, even if that meant a temporary delay to a particular determination.

4. Do you think the cost recovery approaches are appropriate given the circumstances set out in this chapter?

National Grid believes that those parties responsible should be exposed to the costs of the determination in circumstances where the costs might otherwise have been low or avoidable.

In considering the caps for any costs and expenses incurred by Ofgem, it should be mindful of the provisions of paragraph (10) of section 27A of the Gas Act in regard to the means of the party concerned.

Whilst the £5,000 cap for domestic customers may be seen as arbitrary, National Grid believes that it is reasonable to apply a cap and does not object to Ofgem applying this figure. We also note that there is no reference to a cap for network companies in relation to time related costs covering internal staff time due to delays; and the amount is uncapped for additional external costs. Whilst National Grid appreciates the potential difficulty in applying a pre-determined cap in such situations, it would be advantageous to the dispute process if an indicative level of cost to be recovered was identified.

Paragraph 2.35 of the consultation states that Ofgem reserve the right to charge a higher amount where the true cost of the determination far exceeds the rates stated in the consultation. National Grid believes that there would be a benefit in Ofgem setting out what an acceptable figure would be before a higher charge is applied.

Chapter: Three

1. Do the factors set out in this chapter fairly assess when we should recover costs?

National Grid believes that the approach Ofgem is suggesting as to when costs should be recovered is fair. However, in order to avoid confusion, National Grid believes that Ofgem's classification of 'vulnerable' customers should be consistent with existing definitions, such as those set out in the current Licences. For example, Standard Special Condition D13. Provision of services for specific domestic customer groups in the Gas Transporter Licence. This would

ensure clarity for all parties and avoid potential challenges as to whether a customer would be classed as 'vulnerable' under the cost recovery mechanism.

2. Are there any additional factors that should be taken into account?

National Grid does not believe that there are any additional factors.

3. Are the implementation procedures comprehensive?

Parties involved need to clearly understand the process to be followed, including the determination timeline for each circumstance listed in chapter 2, the quality of the submission required and an explanation of potential costs that could be incurred throughout the process. This should be available before a party decides to enter into the determination process.

During the determination process, National Grid notes that the case officer will provide written notice to parties before the deadline in which to provide information; and that this would include a reminder that behaviours may trigger a charge. Clarity is required as to what Ofgem believe such behaviours to be.

National Grid also notes that parties have the opportunity to request an extension to the deadline outlining reasons for the request. National Grid believes that guidance is required as to what reasons are classed as acceptable in order to extend the deadline.

Parties should be notified of the estimated total costs throughout the process, especially where there is a change to costs incurred and the reasons why.

Finally, National Grid is concerned that, as currently drafted, there is no basis to challenge either the reasonableness or proportionality of the costs incurred. This concern is not in relation to the fact that Ofgem has determined that it will recover costs in the first instance but rather that there is no ability to request that it justifies those costs that it is seeking to recover. This is particularly the case in circumstances where there is no cap on the level of costs that can be recovered.

4. We welcome views regarding additional procedures that would facilitate the determination process.

One mechanism that might assist the determination process would be to refer determination requests upon receipt to nominated senior contacts within the relevant licensee with a deadline of, for instance, ten working days, to resolve the dispute with the customer. By highlighting potential determinations to the relevant licensee before the formal process commences, it is likely that a number could be resolved to the satisfaction of the customer, and unnecessary costs could therefore be avoided for all parties involved.

If you require any further information please do not hesitate to contact me.

Yours sincerely

By Email,

Sally Brown.

