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Ofgem  
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Dear Ms Fletcher

## **Open Letter Consultation: Potential Expansion of the role of Elexon**

Eggborough Power Limited (EPL) is an independent generator which owns and operates Eggborough Power Station (EPS), a 2,000 MW coal fired power station situated in the Aire Valley in North Yorkshire. EPS was previously owned and operated by British Energy (and latterly EDF) to provide flexible and reliable mid merit support to the “baseload” nuclear portfolio. EPL is now owned by two substantial private shareholders, SVP and Bluebay and is operating as an essentially merchant power plant in the wholesale market.

### **Overview**

EPL welcomes the opportunity to contribute to Ofgem’s consideration of an expanded role to Elexon. We are aware that the senior staff in Elexon have been pushing this hard, while views amongst the industry appear to remain divided. EPL has taken an active interest in the Issue 40 group and has considered the Elexon models in some detail.

On balance we do not support any change to the role of Elexon. We believe it has been effective and efficient in delivering the BSC and that it would be risky, given the current level of change in the industry, to change its remit at the present time. It will be vital to the implementation of EMR, cash-out reviews, etc. that Elexon staff remain focussed on their core activities. We do not believe that this will be achieved if the staff are busy trying to create new businesses and act in a more commercial manner.

As a merchant generator we also have no interest in any of the projects that we would envisage Elexon trying to win business from. We will not be part of smart metering, Green Deal, Warm Homes, etc. and therefore see no benefit, but potential downside from allowing Elexon to expand its remit. We do not believe that the two models put forward will adequately protect BSC parties, such as ourselves, from the risks associated with new project ventures. Even if our shareholders wished to be party to such a start up business, they would want to make an informed choice about investment and not be landed with an interest (and thus an exposure) to a business.

This is not to say that Elexon should not remain flexible, adjusting its role and behaviour as the wider market develops. However, there are already numerous companies in the competitive markets that are capable of carrying out these roles, with shareholders willing and able to stomach the associated risks, and they should be left to compete for the jobs.

### **Potential role expansion**

EPL sees Elexon as a low risk business, but one that we do have exposure to as we pay for funding shares, etc. Its role is very limited, but it does not make a profit and its activities are well defined and highly targeted to delivering a core, monopoly service to a vital GB sector. As a generator EPL needs Elexon to remain as efficient and focussed as possible, with their expertise and system developments all geared towards delivering the roles set out in the relevant legislation.

EPL does believe that the current governance arrangements could be improved, for example the Elexon Board does not see the BSC parties carry the majority votes. The current Elexon Business Strategy for 2011/2012 is lacking in any detail, but proposing to spend £3m on developing businesses we simply do not see as "needing" to be developed. With the Elexon Board discussions being opaque EPL cannot tell what this money is being spent on, how and where savings are made, etc. Generally costs have fallen, but with current and proposed market changes, having greater visibility and control of spending would be to the benefit of all BSC parties.

As energy policy develops there are some things that Elexon will have to do, for example changes to the BSC to facilitate the capacity mechanism payments. EPL is concerned that undertaking new business development is likely to distract the managements' time and attention from the job in hand. We are not aware of any Government projects that will stall if Elexon is not allowed to change its remit.

EPL is further concerned that Elexon will actually have an unfair advantage in bidding for some project work given the systems and knowledge that it has developed. It is unclear to us how this intellectual property can be protected or leveraged to provide money back to parties who have invested in it. It would also be anti-competitive to other service providers to have to offer services against Elexon when Elexon are the only party that have the systems that have been developed at the expense of the market, not private investors.

EPL also have competition concerns in the event that the NewCo ends up providing say metering services, being owned only by the Big 6 and then a perception of undue discrimination can arise (as we understand happened in metering competition in gas). Ownership of any company providing services in a centrally organised market such as energy needs careful consideration. Xoserve being owned by the DN's lead gas shippers to complain it was not fast enough at making changes that they wanted. This then leads on the issues of regulation, service levels, etc., all of which can be resolved, but will take time and effort when the market participants are very busy with other developments.

### **Models under consideration**

Recognising that we may not be able to stop a change to Elexon's remit we would want to see our rights fully protected. As a small private company we simply cannot carry the risks associated with unlimited liabilities in new business ventures. At a minimum any model adopted must ensure:

1. BSC parties face no exposure – this includes in the event that the business goes bad, and has access to or control of, BSC systems associated with it.
2. BSC parties who want to be party to any new business are free to do so – so that the new business is open to all shareholders and interested parties not a select few.
3. Not create a barrier to entry, perceived or real, in that the risks, structure, fees, etc. are prohibitive.
4. Ring fence all key systems, staff, business support functions, etc. to ensure that current services are maintained.
5. Allow any benefits arising from use of systems, intellectual property, etc. that BSC parties have funded to return to them (possibly by reducing BSC costs).


EPL believe that it is possible for Elexon to continue to develop in a more organic way, as it has to date delivering BETTA and Warm Homes. Such a structure keeps all of the core activities under one umbrella, but with code governance arrangements to ensure transparency, service levels, non-profit making prices, etc. EPL is surprised that Ofgem would want the industry to lose control of the way it develops, as well as the systems and people who make that happen. Early experience with the Logica contract under NETA gave a good indication of the slow pace of change and huge costs that can go with "contracted out" services.

Of the two options on the table we marginally favour the contract model as we believe it is best able to protect our interests. We would like to see far more detail on how the membership or how the contract (or subsidiary business) would be funded, what measures would be put in place to protect parties, etc. before this moves ahead any further. In fact we would propose that Elexon goes out for financing to see what, if any, money is available for such a business start-up in the current climate before more time is spent on this.

EPL feels that we are already being forced to fund a business start-up that we do not wish to be party to. We can understand the need to fund development of the market in which we operate, but we do not wish to finance activities that are not core business functions.

We hope that these comments are helpful.

Yours sincerely



Michelle Dixon  
Commercial Director