



Electricity North West

304 Bridgewater Place, Birchwood Park
Warrington, Cheshire WA3 6XG

Telephone: +44(0) 1925 846999

Fax: +44(0) 1925 846991

Email: enquiries@enwl.co.uk

Web: www.enwl.co.uk

Paul Darby
Senior Financial Manager
Regulatory Finance
Ofgem
9 Millbank
London
SW1P 3GE

Direct line: 01925 846863

Email: paul.bircham@enwl.co.uk

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Dear Paul

Changes to the Ring Fence Conditions in Network Operator Licenses

Thank you for the opportunity to respond to this consultation. We acknowledge that Ofgem's proposals are reflective of the concerns held by many regulators at the time of the financial crisis and accept that some modifications are needed to ensure that the ringfence adapts to changing commercial ownership structures. In making changes Ofgem should take into account the additional requirements it places on network companies relative to the size of the potential benefits the changes may secure.

For the majority of the proposals in the consultation, the additional requirements are logical extensions of the existing framework and could have a significant benefit without placing any substantial additional burden on the network companies. We welcome targeted, effective measures to the regulatory framework and believe that most of the proposals achieve this. Our only concern with the proposals relates to the detailed licence drafting for the requirement for appointment of two sufficiently independent directors (SIDs).

We support Ofgem's intention to improve the protection for customers through strengthened corporate governance and agree that independent directors have a key role in the governance of DNOs. Our group's sole business is the ownership of an electricity distribution business. The boards of the companies in the group already contain non-executive directors to ensure good corporate governance. The board of Electricity North West Board is committed to maintaining the position where the board comprises two independent non-executive directors. However, the detailed drafting of the condition relating to SIDs is unduly restrictive. In particular, the current drafting of the definition of a qualifying group company would prevent independent non-executive directors of a DNO from also sitting on the board of associated group companies. In our specific case, this would prevent the SIDs from sitting on the boards of special purpose financing companies at the same hierarchical or a higher level in the group. This might prevent the SIDs from being aware of decisions elsewhere in the group that might affect the DNO and hence potentially dilute the influence of those SIDs generally. In addition this could require the appointment of additional directors on the holding companies of the licensee to ensure banking and other governance requirements continue to be met, incurring extra costs and administration.

To ensure that SIDs are able to perform their role in a way that is of maximum benefit to customers of the distribution business, Ofgem should amend the current drafting of the ringfence condition to allow the SIDs to also sit on the boards of associated group companies where those

companies are not involved in any business activities unrelated to the operation or ownership of a DNO.

Alternatively, if the form of words defining qualifying group company cannot be relaxed we would, on balance, prefer that the requirement for two SIDs be reduced to one, where other group companies contain other independent directors rather than subjecting customers to the costs of multiple groups of different independent directors. This will greatly reduce the need to have larger Boards and avoid the need to create unnecessarily complicated and inefficient group structures. We would be happy to discuss this issue with you in detail.

If you have any questions, please feel free to contact me or any of my team.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'PB', with a stylized flourish at the end.

Paul Bircham
Regulation Director