

October Innovation Working Group

Notes and issues from the October meeting of the Innovation Working Group.	From	Arun Pontin	24 October 2012
	Date and time of Meeting	1000-1400 12 th October 2012	
	Location	Ofgem 9 Millbank	

1. Present

Stewart Reid (On VC)	SSE
Roger Hey	WPD
Jenny Cooper	NG
Paul Fidler	ENA
Gaynor Jones	NG
Richard Pomeroy	WWU
Justin Fitzgerald	Murphy Group
Alec Breen	NGN
Rodney Brook	Sohn Associates
Angus McIntosh	SGN
Simon Brooke	ENWL
Martin Wilcox	UKPN
David Oram	NG
Jamie McWilliam	SPD
Liz Sidebotham	NPG
Denise Massey	EIC
Dora Guzeleva	Ofgem
John Wilson (pm only)	Ofgem
Sam Cope	Ofgem
Nicola Meheran	Ofgem
Neil Copeland	Ofgem
Arun Pontin	Ofgem

1. Introduction and Welcome

1.1. Dora Guzeleva (DG) welcomed the attendees and thanked members of the group for their attendance. She asked if any members of the group had comments on the previous meeting's minutes.

1.2. DG then explained that the purpose of the meeting was to:

- provide an update on the RIIIO price controls;
- draw attention to the consultation on the Network Innovation Competition (NIC) and Network Innovation Allowance (NIA) Governance Documents;
- discuss learning dissemination for the NIC and NIA, and, hear about the ENA portal; and
- discuss the proposed Intellectual Property Rights (IPR) arrangements for the NIC and NIA.

1.3. These notes aim to capture the key points of discussion. They do not indicate or imply Ofgem's agreement to points made by attendees.

2. Price Control Update

2.1. Sam Cope (SC) summarised slides two to five of the slide pack¹ providing an update on the progress of the three price controls (RIIO: T1, GD1 and ED1)². He noted that T1 Initial Proposals for non-fast tracked companies had been published and Final Proposals would be published in December. SC also noted that Ofgem has recently published its ED1 strategy consultation which closes on 28 November.

2.2. SC drew attention to the informal consultation on the NIC and NIA Governance Documents on 9 October which closes on 21 November. He added that we will be publishing a second informal consultation on the licence for T1 and GD1 before the end of October.

2.3. SC then asked the group if there were any questions around timetabling. Richard Pomroy (RP) asked when there would be a decision on the timing of the Gas NIC. SC explained that we should have clarity on the way forward by Final Proposals in December.

3. NIC and NIA Governance Documents

3.1. Nicola Meheran (NM) summarised slide six of the slide pack explaining current and upcoming consultations, format for feedback, the questions asked as part of the informal consultation and the areas where Ofgem was hoping to receive feedback.

3.2. David Oram (DO) asked which stakeholders the consultation was aimed at and specifically whether Ofgem was seeking responses from project partners. NM responded that it was a public consultation and potential partners were encouraged to respond.

3.3. NM summarised slide seven of the slide pack highlighting points to note in the latest iteration of the Governance Documents: namely that they have been split to Gas and Electricity specific documents; that the Gas NIC document contains references to a non-socialised competition in square brackets; and that the presentation of the NIA eligibility criteria had been changed so they were presented in a similar format to the criteria in the NIC document.

3.4. Alec Breen (AB) asked if there will be a NIC for Gas next year. NM answered that this was not necessarily the case. Stewart Reid (SR) queried whether it was possible to have a hybrid competition where the first year is not socialised and subsequent years were socialised. SC responded that it was.

3.5. NM then asked if there were any initial comments or questions on the current draft of the Governance Documents.

3.6. RP questioned whether Ofgem had engaged with academic organisations and research and development organisations when developing their proposal. DG asked if members of the IWG would highlight the consultation to partners. She added that she would use her closing remarks to the LCN Fund Conference to draw attention the consultation.

3.7. The group then discussed learning dissemination. Paul Fidler (PF) stated that the Energy Networks Association (ENA) portal for learning dissemination was not live yet. He asked members of the group what they expected from the portal. SR commented that it

¹ <http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=356&refer=NETWORKS/NIC/IWG>

² Transmission, Gas Distribution and Electricity Distribution.

could contain links to network licensees' websites as some contained a significant amount of information regarding innovation projects. DG raised a concern that not all licensees' websites were equally informative. She also noted that some stakeholders had commented in the past that it was not transparent what learning was being shared from Innovation Funding Incentive (IFI) projects and how.

3.8. DO asked whether projects can start if not registered on portal. Neil Copeland (NC) explained that until the ENA portal goes live licensees can register projects by publishing registration information on their own websites.

3.9. There was then some discussion amongst the group about registering legacy projects. NC stated that licensees need to register projects that were started under the IFI but will use NIA funds. This process will not generally require approval from Ofgem. However, where projects do not conform to the default IPR arrangements in the Governance Document or involve making payments to related undertakings they will require permission from Ofgem before registration.

3.10. Some concerns were raised that the text of the documents did not reflect discussions of the group. DG stated that the text is still in draft and that now is the time to highlight parts of text that members are not happy with.

3.11. The discussion moved to registering NIA projects. Jenny Cooper (JC) commented that it would be difficult to split the costs of projects funded through the Electric Power Research Institute (EPRI) as companies agree to a programme of work and it is difficult to identify the cost of individual projects.

3.12. The group then discussed value for money. Denise Massey (DM) noted that 3rd parties have to negotiate hard with distribution network operators (DNOs) to establish contracts and that DNOs' inception documents are extremely detailed. She asked what Ofgem would like to see from smaller projects. DG responded that licensees need to properly articulate the benefits of projects. She also stated that close down reports can improve transparency and allows licensees to demonstrate value for money and how learning is being shared.

3.13. Gaynor Jones (GJ) questioned the incentive on companies to carry out innovative projects if all the learning they generate is shared. Martin Wilcox (MW) responded that if you have completed the project your team has knowledge to roll out the solution first, and gain a first mover advantage.

3.14. There was further discussion around the transparency and clarity of learning. Some members stated that the ENA working groups were helpful for dissemination but stakeholders, including Ofgem may not be aware of them. SR stated that sharing was somewhat self regulating and that Ofgem can have a light touch approach in this area. This sentiment was echoed by others stating that they believe dissemination under the IFI was working. DG noted that if licensees are disseminating learning already then they would not carry a heavier burden if the Governance Document formalised these activities. This would also have the advantage of making it clear to stakeholders that learning is being shared.

3.15. RP commented that the name of the consultation on the Ofgem website may give the wrong impression regarding the seriousness of the consultation. DG explained that the consultation was named 'informal' to distinguish it from the legally required 'statutory' consultation. SC said that Ofgem would consider changing the title of the document on the Ofgem webpage.

3.16. There was a brief discussion amongst the group regarding definitions in the NIC and NIA Governance Documents. NM stated that this is the kind of feedback Ofgem would like to the consultation.

Action

Members of IWG to publish links to IFI annual reports on ENA portal when it goes live (31 October 2013).

Action

Members of the IWG to provide case studies setting out how legacy IFI projects would fit with the different aspects (registration, criteria, IPR requirements etc) of the NIA Governance Document either as part of consultation responses or before the consultation closes - 21 November 2012.

Action

Ofgem to change name of consultation to "non-statutory" - 19 October 2012.

RIIO – ED1 Proposals

3.17. NM then summarised slides eight to ten of the slide pack highlighting the innovation aspects of the ED1 consultation. NM then asked for questions from the group.

3.18. Rodney Brook (RB) asked about the relationship between the LCN Fund criteria regarding timeliness and readiness and the IRM. NM commented that not all successful projects will require the IRM to be rolled out. NC added that they were separate mechanisms with separate criteria, and that in instances of a project going through the competition then another assessment would take place if funding was sought under the IRM. DG reminded the group of the eligibility criteria for the IRM:

- that the solution must deliver carbon and/or environmental benefits;
- not provide a financial benefit to the licensee during the price control; and
- provide long term value for money to consumers.

3.19. DO asked whether the last round of T1 NIC projects will be funded during the next price control period. SC responded that the funds for these projects would be raised in the first year of the T2 period.

3.20. MW asked whether there were any lessons licensees could learn from the Energy Demand Research Project (EDRP). DG said that Ofgem would consider how learning could be shared.

3.21. Roger Hey (RH) asked about the transition arrangements from LCN Fund First Tier to NIA and the difference between arrangements for IFI and First Tier projects. DG stated Ofgem's expectation that projects that were begun as a First Tier project would not need to re-register for the NIA as they are already registered under the LCN Fund Governance arrangements³.

3.22. JC questioned the fairness of Ofgem changing requirements for innovation strategies for the ED1 price control. Noting that this may mean a different treatment for DNOs from that which was in place for TOs and GDNs⁴.

³ Post Meeting Note: the LCN Fund Governance document is clear that DNOs cannot recover expenditure that is incurred on a First Tier Project after 31 March 2015.

⁴ Post Meeting Note: While Ofgem recognise the concerns raised in the meeting regarding consistency of treatment we note that the minimum requirements that were set for the T1 and GD price controls were consulted on before making a decision. We are now following the same process for ED1 where we proposed the same criteria as were in place for T1 and GD1 and asked stakeholders whether these were appropriate. The T1 and GD1 price controls were the first time we used this process and we would expect to learn lessons from this experience. While DNOs may, following this consultation need to conform to a different set of criteria to the GDNs/TOs all DNOs will be assessed consistently against the criteria that are decided upon for ED1 in the same way as all GDNs and TOs were assessed consistently against the criteria that were in place for the T1 and GD1 price controls.

Action

Roger Hey to consider whether there are any charging issues for projects funded in the final year of the LCN Fund competition 21 November.

Action

Ofgem to consider how learning from EDRP could be shared – November 2012

4. Dissemination of Learning and Annual Conference

4.1. NC summarised slide 13 of the slide pack setting out the measures to ensure learning under the NIA is shared. This included publication by the licensee of project information, the annual NIA conference and the treatment of IPR.

4.2. There was discussion amongst the group regarding the popularity of the LCN Fund conference this year which is oversubscribed. There was consensus amongst the licensees that in future a registration fee should be applicable to discourage non-attendance. Ofgem agreed to consider revising these aspects of the Governance Document.

4.3. Discussion took place regarding whether it would be useful to hold a conference in 2013 given when the price control starts. Consensus amongst the group was that a conference would not be useful until 2014. Ofgem agreed to change the drafting of the NIC and NIA Governance Documents so that a conference would not be required to take place until the 2014/15 financial year.

Action

Ofgem to consider charging for admittance to future conferences - December 2012.

5. Intellectual Property and the Governance Framework

5.1. SC began the afternoon session by summarising slides 16 – 22 of the slide pack. The slides set out Ofgem's aims and concerns regarding the treatment of IPR within the NIC and NIA and asked specific questions of the group relating to paragraphs 7.10, 7.11 and 7.12 of the current IPR⁵ section that was handed out.

5.2. Some members of the group commented on the difficulty faced by one licensee negotiating upfront the future commercial arrangements for the whole industry. DG stated that she was concerned the licensee undertaking a project would negotiate a preferable deal for themselves and that licensees seeking to repeat a project or rollout a solution would face a substantially higher price. This could result in consumers paying twice for innovations they have funded.

5.3. DO asked if Ofgem expected customers to receive a financial return on the investment made or a reduction in their network costs from the use of the innovation funded through the NIC or NIA. He suggested that releasing IPR may result in broader benefits for customers. SR suggested a light touch approach to prevent licensees being held to ransom over IP developed by NIC or NIA projects. DG stated that the funding is to encourage innovation by licensees but that Ofgem doesn't want the NIC or NIA to be a proxy for established technology providers own research and development spend.

⁵ This has since been updated and a new draft of these sections of the NIC and NIA documents are available on the Ofgem webpage.

5.4. Several DNO representatives stated that the current IPR arrangements for the LCN Fund were fit for purpose and that they rarely had an issue.

5.5. SC moved the discussion on to the NIC and IPR and asked the group if they felt clause 7.12 deterred collaboration.

5.6. There was discussion amongst the group about previous IPR experiences. RH noted that licensees are unlikely to enter into an agreement that would see them liable to higher costs following a project. DG stated that Ofgem also wishes to ensure reasonable access to IP for licensees not involved in the project.

5.7. There was further discussion regarding the difficulty of negotiating commercial terms for all licensees' future use of IP, particularly for partly developed products. DG stated Ofgem's desire to protect customers interests 'further down the line'.

5.8. RH commented that a review of IPR arrangements and ensuring a good deal for other licensees could be part of the evaluation of NIC projects and be a factor in securing funding. SC said that this was something Ofgem could consider

5.9. DO asked why value for money (VFM) appeared twice as NIC evaluation criteria. DG responded that one criterion relates to VFM of the solution when it is rolled out and the other to VFM from the licensees' running of the project.

5.10. In general the group agreed that it would be appropriate to have different IPR arrangements for the NIC and NIA. For the NIA "lighter touch" IPR arrangements, to reflect the volume and diversity of projects was suggested. For the NIC it was agreed the arrangements would remain broadly similar to the default IPR arrangements for LCN fund with limited changes to include the ability to charge a reasonable amount for the use of background IPR and the need to include a definition of what constitutes a commercial product.

5.11. SC summarised the conclusions reached by the group that the default arrangements for the NIC and NIA will vary, that there should not be protection of the background IP and that Ofgem would evaluate licensees proposed treatment of IPR during the NIC assessment.

5.12. DG thanked the group for attending the IWG and requested that all members provide comments on the consultation.

Action

Ofgem to provide examples of where LCN Fund has funded the development of a commercial product – November 2012