

DECC Consultation Co-ordinator

3 Whitehall Place

London

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29th January 2013

Dear Sir

Thank you for the opportunity to respond to this consultation. We have addressed the specific questions raised in the consultation in Annex 1 and have set out more detailed information on some of the points raised in our responses in Annexes 2 – 8.

DECC announced in December 2011 as part of its Technical Update to the Electricity Market Reform White Paper that National Grid Electricity Transmission plc (NGET), as the Great Britain System Operator (GBSO), would be the delivery body for the two key Electricity Market Reform (EMR) mechanisms, namely the Contracts for Difference (CfDs) and the Capacity Market (CM). Part of the rationale for this decision was the synergies between the existing System Operator (SO) role and the two EMR mechanisms namely:

- NGET's role and its work in balancing the system,
- the efficiencies that can be derived from a single EMR delivery vehicle; and
- the technical expertise, commercial and financial skills already present within the SO.

NGET supported this rationale and believes that there is a good alignment between the primary drivers for EMR and NGET's statutory and licence obligations to develop, maintain and operate the transmission system in an efficient, economic and co-ordinated manner and to facilitate competition in the supply and generation of electricity¹.

However, we recognise the view of some stakeholders that this new role may have the potential for conflicts of interest to arise. To date, while we do not believe that any credible examples of real or perceived conflicts have been identified, we recognise that there must be confidence that NGET's extended role is established and regulated in such a way that the potential for conflicts of interest arising is minimised and any identified conflicts mitigated.

As acknowledged in the Government's response to the ECC Committee's report into the draft Energy Bill, National Grid is, by virtue of existing legislation and licensing arrangements, already subject to numerous controls to ensure appropriate separation between its businesses. We believe that similar proportionate measures, combined with transparency around NGET's non policy making role and limits on its discretion are sufficient to manage any credible potential conflict of interest arising in

¹ Section 9 Electricity Act 1989 and Condition C16 of the NGET transmission licence

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the context of EMR delivery. These controls are fully described in Annex 2 but in summary they are:

- Legislation such as the Electricity Act 1989, Utilities Act 2000 and Competition Act 1998 which place duties on NGET and restrict its freedom to operate;
- Regulation through the Licence granted under the Electricity Act through which rules are set which constrain what NGET can do and the way in which it does it. This includes NGET's overarching obligation under Special Condition C1 to conduct its transmission business in a way that confers no unfair commercial advantage on either NGET itself or any other group company;
- Requirement for NGET to report annually to Ofgem on compliance with certain licence obligations including Special Condition C1; and
- Industry codes and contracts that are subject to Ofgem regulation.

In addition, the Energy Bill contains a provision under which the EMR delivery body role can be taken away from NGET if the Secretary of State considers that the EMR functions are not being carried out in an efficient and effective manner.

One specific concern that has been raised is the management of information. For EMR, our current understanding is that additional information that NGET will receive which it does not already get for the purpose of carrying on its SO and Transmission Owner (TO) roles will be quite limited. In most cases it will be the degree of detail which will be increased rather than the scope:

- Where EMR information is the same as information already received by NGET for other reasons (i.e. there is no incremental information) it must continue to be available for the TO/SO to use. There is no need for any additional safeguards since it is already appropriately protected;
- Where information is incremental to information already received (i.e. of the same type but provided in greater detail in the context of EMR), or where it is wholly new information we believe that this should be available only to the limited number of NGET employees who need it to carry out defined EMR functions and we would anticipate an appropriate condition to be added to NGET's licence to require this.

In conclusion, we do not believe that there are any conflicts arising from the proposed NGET EMR Delivery Body role that cannot be managed by existing controls bolstered by some incremental targeted and proportionate changes to NGET's licence in respect of the management of EMR specific information. We also believe that the synergies identified by DECC are real and of value to consumers and anything other than a proportionate response to any real, as opposed to perceived, conflicts of interest arising from this role would ultimately not be in the interests of consumers.

Should you have any questions on this response please contact me.

Yours faithfully



Mark Ripley
Project Director, Electricity Market Reform