

Wheatley



A S S O C I A T E S

James Veaney
Ofgem
9 Millbank
London
SW1P 3GE

4th January 2013

Dear James,

Consultation on ElectraLink's proposed expansion regarding electricity related activities.

I write in response to your consultation published 03rd December 2012.

By way of introduction Wheatley Associates are a software company specialising in applications for Meter Operators and Meter Asset Providers. The company was established at the start of competitive metering and has been providing applications since the mid 1990s and the introduction of the Electronic Registration System, ERS. Since the start of the Data Transfer service (DTS) and the Data Transfer catalogue (DTC), Wheatley Associates have been providing dataflow systems enabling interaction between the majority of energy suppliers and volume meter operators.

For many years the Wheatley MOP application has been synonymous with metering dataflow systems for Meter Operators. Our MOP system allows Meter Operators to generate, transmit, receive and deprogram DTC flows in line with industry requirements and timescales, providing a high degree of error checking and validation. In addition it allows our customers to build their own commercial processes around industry requirements and develop their own competitive advantage.

We therefore have a long and close relationship with the workings of the DTS and the operations of many of its participants. We have developed our business to support the growth in competitive activities and to support our customers in the development and innovation of commercial applications to drive growth and customer service.

We note the significant changes to the requirements, mechanisms and sharing of data by market participants likely to be created by the start and maturing of the Smart Metering roll-out programme and the establishment of the Data



Communications Company, DCC. We also note that the DTS and the DTC are mandated to continue, all be it with some changes in data requirements. In addition we are aware of the opportunities afforded to businesses by so-called "Big Data" and the combination of data from disparate sources to provide commercial insight.

We believe that smart metering could ultimately be a significant source of such data and access to such data, as already recognised by Ofgem, needs to be carefully managed and regulated. It is against this background we provide our comments on ElectraLink's proposals.

Comments on ElectraLink's response to Ofgem's four criteria;

1. DTS users should benefit from any diversification

Firstly we note that ElectraLink does not make clear the exact scope of the proposed new services but that Ofgem makes clear they may include several commercial opportunities linked to the Department of Energy and Climate Change (DECC) Smart Metering Implementation Programme (SMIP). Ofgem's consultation note also implies these may be of sufficient scope to be material to ElectraLink's overall operation.

We agree with ElectraLink that in the main their current commercial services are provided to users of its regulated DTS services and that those users would be critical of any dilution in the standards of service of the DTS.

We also agree with ElectraLink's own admission that its DTS role has the potential to create benefits, synergies and economies of scale that it can deliver to the broader industry through the use of shared infrastructure, assets and resources. Further, ElectraLink acknowledges that its in-depth expertise in the energy industry and its related data is a genuine competitive advantage.

We believe this advantage is achieved by its near monopoly position in the provision of Data Transfer services for the industry. By fulfilling its role as the DTS service provider it has a near guaranteed activity and income stream against which it can attract and retain industry experts with minimum commercial risk to itself. It also holds a privileged position with regard to the visibility it has of market activity.

We note that ElectraLink mentions that it has asked for and received permission from users to access data crossing the DTS, subject to certain conditions. We again note that this is an advantage ElectraLink gains from operating a regulated service, but it is then seeking to exploit this for commercial gain in a competitive market. We agree that these proposed services may benefit DTS users but are concerned that users will not be able to choose alternative providers for such services – without being in ElectraLink's industry position, others will not be able to develop them.

Whilst these attributes would initially seem to benefit users of the DTS by providing opportunities for new products and low risk expansion, this is at the expense of true competition for these and future services. We strongly believe that ElectraLink does enjoy an undue advantage in the development of non regulated activities and that this is a disadvantage to the users of the DTS as it inhibits competitors from developing competing service offerings and limits the opportunities for innovation and development.

2. The new arrangements should not place disproportionate risk on DTS users

As noted above we believe that ElectraLink enjoys several advantages derived from its position as a regulated service provider, both directly such as scope and scale, and indirectly from having a unique position to interrogate and utilise industry data. Whilst we believe that services developed on the back of such data and opportunity may benefit the industry at large and therefore customers indirectly, we are very concerned that if such a service were to be developed as a commercial offering this could potentially amount to abuse of a dominant position and, in particular, a position achieved by virtue of providing a regulated service.

It will not be in the best interests of DTS users to have just one supplier of these services, providing them from a virtual monopoly position. It would be much better for DTS users if ElectraLink could develop a process by which the data it utilises as the provider of a regulated service can be made available on a non-discriminatory basis to other parties, allowing them to develop alternative offerings to those offered by ElectraLink.

3. Standards of service under the DTS should be maintained

We do not have any concerns in this regard and congratulate ElectraLink on the quality of the service it provides.

4. ElectraLink's DTSA role should not give it any undue competitive advantage in a contestable activity.

ElectraLink attempts to address the position from a financial governance perspective. We remain unconvinced however that its position, operating a regulated although un-mandated service, does not convey certain commercial advantages. The very infrastructure it operates from for example, its property and data centres that are required to maintain its regulated services, are also utilised for its commercial operations.

Whilst the costs of this infrastructure may be apportioned across the organisation, a high level of transparency will be required to satisfy external parties that unfair advantage is not being afforded to its fledgling

commercial operations. For example would the organisation require the same size of building or support organisation if it did not employ any personnel in a commercial capacity, and on what basis are these costs apportioned? How is capital raised for commercial ventures? Is there any potential redress for lenders against the regulated organisation's balance sheet, or is its scale and relatively secure income stream used to secure funding for non-regulated activities? Even if costs are apportioned, this may still afford the commercial arm of the organisation an advantage if it leverages existing infrastructure to gain a foothold in the market without being exposed to the start-up cost of capital that a new entrant may incur.

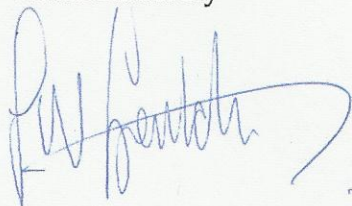
In addition, ElectraLink's privileged regulated position gives it access to knowledge and to policy makers, within government, industry and within potential customer organisations that commercial competitors are not able to enjoy.

In order for ElectraLink to expand its commercial activities as suggested we believe it would be necessary to totally ring-fence the commercial and regulated arms of the business, to separate people, office and data access and account for each business stream in its entirety. Firewalls would be necessary to ensure information and knowledge did not transfer between the regulated and commercial arms of the organisation. This might be handled in a similar manner as employed during the separation of regulated distribution and competitive supply activities during the introduction of competition into the electricity industry.

In summary we believe that there is real potential for the development of new services based on DTS data which will benefit the industry and indirectly end customers. However we also believe that ElectraLink gains significant competitive advantage from its unique position in the industry and its regulated activities. To allow true competition and increase the opportunities for innovation and advancement we believe that ElectraLink should be required to make any information it seeks to exploit commercially available to other potential service providers on a non-discriminating basis.

We recognise the potential cost of such a service and the difficulties of policing organisations seeking to use the data, and whilst it would not be our choice to do so, an alternative would be to take these activities outside the sphere of competition and the commercial world and for ElectraLink to develop such services as part of its regulated, non-profit generating activities.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Jeremy Goulding', with a large flourish at the end.

Jeremy Goulding, Chief Executive