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**24 July 2014**

Dear Martin

### **Electricity Market Reform dispute resolution guidance**

SSE welcomes the opportunity to provide comment on Ofgem's draft EMR dispute resolution guidance. We believe the guidance accurately reflects the dispute resolution process as outlined in the relevant statutory documents.

We understand that the relevant legislation restricts Ofgem from varying the timeframes to carry out the dispute resolution process. Whilst Ofgem cannot be flexible in this area, we are keen to work with Ofgem to make the process easy to administer and to ensure appellants are given appropriate opportunity to complete a request for dispute resolution. We have detailed some of the areas which we believe require further clarity and which should be reflected in Ofgem's guidance.

#### Request for dispute resolution – submission of evidence

We would like to seek some clarity around what evidence Ofgem will require an appellant to submit to enable Ofgem to undertake a complete review of the appeal. The guidance indicates that the appellant does not need to include copies of their original application (2.20 and 3.6), however the guidance also advises that an appellant's appeal notice must be accompanied by any other documentary evidence which the appellant wishes to rely on in support of its appeal which was provided to NGET before the Tier 1 Review was made (2.19). Ofgem also states that its review of the appeal will take into account both the original application information as well as any information provided in support of the request of NGET review (2.27 and 3.13).

Following a request from Ofgem, NGET are required to provide any information relating to the disputed decision within five working days of receiving Ofgem's request. We would like to understand whether failure by NGET to provide this information within the specified timeframe will affect the appeal and what action will be taken by Ofgem if this situation were to arise.

Ofgem's guidance states that the procedure for resolving disputes about CfD qualification decisions includes requiring the appellant to submit the appeal notice to NGET at the same time it is sent to Ofgem. The guidance indicates a dedicated online portal will be made available for the submission of appeals to Ofgem but there is no guidance on how the appeal notice should be submitted to NGET. We would like to gain assurance that a similar tool for the submission of appeal notices will be made available by NGET.

In the event that these online portals are not available for any set period of time, we are seeking guidance on the process appellants will be expected to follow in order to submit their appeal and how this will affect the five day timeframe as set out in the legislation.

#### Timeline for determining dispute resolution: Contracts for Difference

Paragraph 3.18 of the guidance indicates that Ofgem will seek to make its determination within 20 working days of either receiving all information required or of the deadline for receipt of the dispute (whichever is the latter). However, the timeline overview, displayed as Figure 2 on page 19 of the guidance, states that Ofgem will make its decision within 30 working days. We would like to seek clarity on which timeline Ofgem intends to follow when administering the process.

#### Dispute resolution decision

We welcome Ofgem's intent to keep all parties informed of progress during the appeals process. We believe appellants should be given the opportunity to engage with their allocated case worker during the appeals process where it is believed that further engagement would assist Ofgem's review.

We hope the above information will be of use to Ofgem when drafting the final version of the EMR dispute resolution guidance. If you would like to discuss the content of our response in more detail or have any questions please do not hesitate to contact me.

Yours sincerely

Lois Wares  
**Regulation**