

Andy MacFaul
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By email only to: enforcementguidelines@ofgem.gov.uk

23 May 2014

Dear Andy

Consultation on revised enforcement guidelines

Thank you for the opportunity to respond to the above consultation. This letter should be treated as a consolidated response on behalf of UK Power Networks' three distribution licence holding companies: Eastern Power Networks plc, London Power Networks plc, and South Eastern Power Networks plc.

The appendix to this letter contains our answers to the consultation questions plus some additional observations which we hope you will find helpful. Our response is not confidential and can be published via the Ofgem website.

We look forward to the publication of the final guidelines. In the meantime, if any aspect of our response requires further explanation or clarification, please do not hesitate to contact me.

Yours sincerely



Keith Hutton
Head of Regulation
UK Power Networks

Copy: Paul Measday, Regulatory Returns & Compliance Manager, UK Power Networks

Appendix

Consultation on revised enforcement guidelines – UK Power Networks' answers to the consultation questions

Opening investigations and alternative actions

Question 1: Do you agree with the proposed changes to our prioritisation criteria?

Yes. We believe that the proposed criteria will lend greater clarity to the prioritisation of compliance related activity.

Question 2: Is our approach to the range of alternative actions appropriate?

Yes. The range is not exhaustive and, clearly, each issue should be assessed on its own merits. It is our view that any alternative actions that remove the need to conduct an investigation in full (costing time and money) should always be considered.

Making cases public

Question 3: Do you agree with our proposals for making new cases public?

We note from paragraph 4.7 of the guidelines that there are caveats to publishing the details of new investigations. Mindful of the potential impact on a company that is investigated and subsequently found to be compliant, we would recommend that Ofgem liaise with the company prior to the case being made public, to agree what should be disclosed. This will allow the company to consider any confidentiality concerns in advance and discuss them with Ofgem.

Settlement procedures

Question 4: Do you agree with the proposed settlement process?

The proposed approach seems reasonable and will encourage parties to use this option.

Question 5: Do you agree with the proposed settlement windows?

We are supportive of Ofgem's approach and propose that Ofgem formally commit to a 'reasonable period' of no less than 28 calendar days.

Decision-making process

Question 6: Do you have any views on how we propose to implement the new decision-making framework?

We do not have any specific comments to make in this regard.

Accounting for our enforcement activities

Question 7: Are these proposals an effective way to allow stakeholders visibility of our timetables and performance?

We believe that these proposals will improve visibility of the overall industry approach to compliance, which is a positive step. However, Ofgem must be careful to ensure that the publication of key performance indicators and other statistics does not inadvertently result in a 'number chasing game' – the process should be outcome/solution driven, with the customer's interests and company compliance at its core.

We note that Ofgem propose to hold regular enforcement conferences and would appreciate clarity on the form and content of these.

Additional observations

We note from paragraph 3.4 of the guidelines (see page 26) that any company wishing to self-report a potential breach should contact the 'enforcement team'. It would be helpful if the document clarified that the team will consult with the appropriate department in Ofgem (on a topic specific basis) before deciding whether further investigation is appropriate.

We would suggest that paragraph 5.16 (see page 43) is reworded such that the company under investigation is always afforded an opportunity of meeting with Ofgem to discuss their views.

In the interests of clarity, we would suggest that the subheading 'What decisions can a Panel make?' is amended to 'What decisions can the **Appointed Case Panel** make?' (see page 58).