

David McCrone  
The Office of Gas and Electricity Markets  
10 South Colonnade,  
Canary Wharf,  
London,  
E14 4PU

13th March 2019

Dear David

**Re: Informal consultation on proposed modifications to the Electricity Distribution Licence**

I am writing on behalf of Energy Assets Networks Limited (EANL) in relation to the above referenced consultation.

EANL is an active IDNO and we are grateful for the opportunity to address the issues regarding Affiliated IDNOs. We agree that the granting of further distributions licences will result in increased competition in the distribution sector. We further agree that where those licences are AIDNO licences then protective measures will be required to ensure that the competition is effective and does not distort competition.

Clearly there is potential for any AIDNO working within the Distribution Services Area of the affiliated DNO having a competitive advantage if the AIDNO is able to leverage benefits from the DNO which are not available to the AIDNO's competitors. However, given that all DNO businesses are regulated and obliged to comply with certain obligations regarding pricing and their activities generally, this potential for a competitive advantage could extend beyond the relevant DSA if knowledge and resources from the DNO are used to give insights about pricing and activities common to all DNOs.

We believe therefore that while SLC4 and SLC42 (amended as proposed) and competition law generally do provide an element of protection they do not go far enough when dealing with the specific issue of AIDNOs and DNOs. In order to be sure that competition is maintained fairly it would be require a greater degree of separation between the AIDNO and DNO to avoid both deliberate and inadvertent advantages arising.

The only way therefore to ensure that there is sufficient protective measures is for the licence conditions to reflect the following measures:

1. Confidentiality of Information – it would be inappropriate for any confidential information to be shared between the AIDNO and DNO. In order to be sure this did not happen deliberately or inadvertently there would need to be:
  - a. physical separation of the operational teams. The physical separation would have to extend to shared common areas so that staff of either entity could not be overheard discussing business with colleagues even during downtime such as in staff canteens and other common areas.
  - b. physical separation of IT systems so that staff at either entity did not have access to data or information related to the other. While information barriers can play a part there is always scope for mistakes to be made or determined staff to overcome them. No system will ever be entirely safe but physical separation with appropriate best practice security measures will always provide the greatest level of protection.

2. Shared resources generally – it would be inappropriate for the AIDNO to share resources with DNO generally. The AIDNO could obtain cost advantages by utilising shared resources from DNO. Underlying cost advantages can lead to pricing advantages thus leading to competition distortions
3. Transparency of Information – it would be perverse to dictate that an AIDNO could not work with the affiliated DNO. However, both parties should be under appropriate obligations to only interact with each other in a manner which is transparent and on an equal footing as to how they would interact with others in the market place.
4. Staff knowledge – we acknowledge that the vast majority of players in any market will act appropriately but also acknowledge even the best set up entities can have trouble with rogue elements who breach policies. However, there is also a concern that without adequate training from board level to junior operational staff breaches of policies and rules are more likely to be inadvertent than deliberate. It would therefore be necessary to train all levels of staff to ensure they understood in relation to the specific positions and roles the boundaries relating to their interactions internally and externally.
5. Regulatory Issues - consideration should be given to the presence of an AIDNO and DNO being represented in code panels and other industry bodies where they might be expected to express common views. Separation is important currently because it allows IDNOs the ability to express their own views and influence matters of importance rather than just be subjected to the collective views of the DNOs. If this separation was blurred competition could be severely restricted.

While we accept that there is a Compliance Statement requirement we do not think that this would be sufficient to address the concerns above. We believe the only way the market could be sure is for there to be a rigorous monitoring system. Such a system would provide certainty to the market but also give the industry players an opportunity to address whether the licence conditions were effective and whether they could be enhanced or relaxed in the future. This is similar to the stance adopted by OFGEM when granting the EDF Energy (IDNO) Ltd licence in 2008 where OFGEM acknowledged that matters would be kept under active review.

If you wish to discuss any aspect of this matter please do not hesitate to contact me.

Yours sincerely



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