

## **Minutes of a Meeting of the Gas and Electricity Markets Authority**

**Thursday, 12 November 2015 at 8.15 am**

**Edinburgh**

### **Minutes of the Authority Meeting held in October 2015**

1. The minutes of the meeting held on 15 October 2015 were agreed.

#### **Introductory remarks by the Chairman**

2. The Chairman noted that declarations of interest were recorded from a Member whose institution was in receipt of some funding from the energy industry; and from another Member who was a non-executive director of the Low Carbon Contracts Company.
3. The Chairman reported on recent meetings with US investors in British energy companies.

#### **Reports by the Chief Executive and the Group Finance Director**

4. The Chief Executive reported on meetings and correspondence with the Energy and Climate Change Committee, Ministers and senior civil servants.
5. The Chief Executive noted that the results of the recent People Survey would be published the following week as part of the overall Civil Service People Survey 2015. There had unfortunately been some deterioration in some measures since the previous year. While these might be attributed in part to uncertainties over the forthcoming re-organisation and office move, they were a cause for some concern and he would be increasing his direct contacts with staff over the coming months.
6. The Group Finance Director reported on financial performance for the year to date. Both regulatory activities and E-Serve continued to be well below budgeted cost levels. Overall headcount continued to be significantly below budget. The latest forecast of expenditure for the year as a whole once again projected continuing good performance.
7. The Group Finance Director reported on continuing discussions with HM Treasury on the Authority's medium-term financial settlement.
8. It was intended that the governance changes arising from the Strategic Transformation Programme (STP) would be implemented by the end of the financial year. Other recommended changes would be embedded in processes and methods of working. Day to day oversight of STP implementation had now been passed to the Project Management Group but the STP Board would review progress periodically to ensure that all

agreed actions were implemented. There was also a further update on progress on developing options for future office accommodation for the Authority in London.

### **RIIO ED1 appeal: whether Northern Powergrid's Smart Grids Benefits remedy should apply to other Distribution Network Operators (DNOs)**

9. The Authority considered a paper reporting that a DNO had written formally to the Authority requesting that the treatment of Smart Grid Benefits awarded to Northern Powergrid (NPg) by the Competition and Markets Authority in their determination of NPg's appeals against the RIIO-ED1 final determination should be extended also to it.
10. The Authority considered the arguments put forward by the DNO but noted that it had not taken advantage of the statutory route that was available to appeal against the RIIO-ED1 final determination and agreed that it would not be in consumers' interests to accede to the DNO's request.
11. Subject to no material new arguments being raised by the DNO, the Authority delegated to the Chief Executive, consulting the Chairman, approval of the final terms of a letter to the company setting out this decision.

### **Electricity Transmission Division update**

12. The Authority received a presentation on Transmission Division's activities over the past four months and the challenges and key Transmission issues which would need to be addressed over the next four months.
13. There was a discussion of lessons learned from reviews of experience in operating the Strategic Wider Works, Offshore Transmission and Interconnector regulatory evaluation processes. Improvements to processes would include arranging earlier contacts with the transmission operators on Strategic Wider Works projects so that any concerns over the option being considered could be expressed before choice was effectively pre-empted by the granting of planning permission. In relation to interconnector projects, greater transparency on progress would be sought through requiring more frequent reports from interconnector developers. Lessons learned on offshore transmission included removing one stage from the process and timing the tender so that so that construction was largely completed by the point at which OFTOs were bidding for the transmission asset. More broadly, here would also be some optimisation of project control processes through adoption of best practice from each of the three areas of activity.
14. There was an update on progress in discussions with National Grid on use of revenues from the IFA interconnector, a final decision on which would be taken by the relevant senior partner under delegated authority. It was also

noted that, under RIIO, transmission companies were reporting potentially abortive expenditure on transmission connections for proposed generation projects that had subsequently been cancelled.

15. The Authority noted Transmission Division's activities over the past four months and endorsed its priorities for the period until the new organisation of Ofgem became effective.

### **SGG Division update**

16. The Authority received a presentation on SGG Division's activities over the past four months and the challenges and key issues which would need to be addressed over the period until implementation of Ofgem's new internal organisation.
17. There was a discussion on feedback from the industry on the effects of the RIIO statutory appeal regime and on discussions with other regulators on the merits and demerits of their respective statutory appeal processes. Any decision on changes to the regime was ultimately a matter for Government.
18. It was noted that discussions with the Industry Code bodies on some short-term streamlining of modification processes (in advance of any potentially more wide-ranging changes resulting from the Competition and Markets Authority Energy Markets investigation) were proceeding well. Work was also moving forward on defining terms of reference, and respective areas of responsibility, on a project on increased flexibility in transmission and distribution system management to accommodate higher levels of distributed generation and storage to be undertaken jointly with DECC.
19. Various challenges in securing new connections were being addressed with users and Distribution Network Operators, with consideration being given to the balance between promoting strategic investment and risking stranded assets. The problems in South West England were receiving particular attention, including providing better information to the Transmission System Operator on distributed generation actually connected to the distribution system.
20. The Authority noted SGG Division's activities over the past four months and endorsed its priorities for the period until the new organisation of Ofgem became effective.

### **Health and safety update**

21. The Authority noted that there had been no reportable health and safety incidents over the period since the last update to the Authority.

### **New balancing services**

22. The Authority received a paper and presentation reviewing discussions with National Grid relating to the capacity ceiling for possible extension of the Supplemental Balancing Reserve and Demand Side Balancing Reserve Schemes for 2016/17 and 2017/18, noting that it was not yet possible to take into account views expressed in response to the consultation on extension of funding arrangements to these two years as the consultation had not yet closed. It was also noted that the System Operator had been informed that closure decisions in relation to certain major assets might be taken around the end of the calendar year; National Grid therefore wished to conduct the tenders for the balancing services on a short timetable.
23. There was a discussion of alternative approaches to determining the ceiling for the tender and it was noted that the terms of the Schemes allowed only one change in methodology. Any subsequent change could only be achieved by a licence modification.
24. Following a discussion of the costs and risks relating to the alternative approaches, the Authority agreed that it was likely to be in consumers' overall interests to accept an increase in the cap to reflect increased intermittency of demand and delegated to the Chief Executive or the Senior Partner, Markets the final decisions on the new Schemes for 2016/17 and 2017/18 (such decisions to take into account any material issues arising from the consultation on extension of funding arrangements) and the decision on whether or not to accept the volume methodologies subsequently proposed by National Grid.

### **Government deregulation agenda**

25. The Authority considered a paper summarising interactions between various strands of the Government's deregulation agenda and areas of Ofgem's work.
26. It was noted that the Regulatory Policy Committee would assess the costs of any change in regulation to industry, as set out in the Impact Assessment for such change. These assessments would be retrospective to the beginning of the current Parliament. It was understood that the current intention of Government was that the costs of regulation of monopolies, measures to promote competition (yet to be defined) and of modifications to network codes (other than modifications initiated by Ofgem) would not be within the scope of the assessments.
27. After discussion, the Authority agreed that a number of strands of their planned activity were geared towards reducing regulatory burdens and promoting innovation and were therefore consistent with the thrust of the

Government's initiatives. The Authority noted the paper and endorsed the activities described in it.

### **The future of retail market regulation**

28. The Authority considered a paper summarising work carried out to date on potential changes to the approach to retail market regulation and seeking guidance on the next steps.
29. It was noted that the key driver for the proposed change to a less prescriptive structure for retail market regulation was the belief that this would protect consumers more effectively. The proposed approach would also reduce barriers to entry and allow substantially greater flexibility for innovation, against the background of the rapidly changing structure of the energy markets. This would be in consumers' interests, provided suppliers embraced the spirit of the approach and enforcement processes were sufficiently agile to act decisively where there was evidence of breach of the principles. The changed approach would also be consistent with the way in which Ofgem was seeking to operate following agreement of the corporate strategy and implementation of the Strategic Transformation Programme.
30. It was agreed that the structure of SLC 25 on retail marketing, which started with a set of principles but continued with extensive prescriptive provisions, could provide a good prototype for evaluating the impact of removal of some prescriptive provisions in the Supply Licence.
31. After lengthy discussion, the Authority agreed in principle that it would be desirable to start a transition to greater reliance on principles as soon as possible across the Supply Licence and noted that the Authority would indicate publicly that it did not propose to pursue new powers in respect of executive accountability at this stage. The Authority noted that it was intended to publish a consultation document on removal of some of the prescriptive provisions of SLC 25 and on how best to implement the new approach to retail regulation in practice, requested that a brief update be provided to their next meeting and delegated to the Senior Partner, Markets the decision on detailed content and timing of issue of the consultation document after internal consultation as agreed in discussion.

### **STP – regulatory stances**

32. The Authority considered a paper setting out five stances on key regulatory areas of activity that had been developed as part of the Strategic Transformation Programme, with draft guidance on how the stances should be applied in practice. The stances were a further development of principles set out in the Authority's 2015 Corporate Strategy document. It was intended that application of the guidance against the background of the stances would align the Authority's regulatory activities more closely with

the objectives of the Corporate Strategy and would also improve the consistency and rigour of these activities.

33. After discussion, the Authority welcomed the preparation of the regulatory stances and guidance, agreed to provide detailed comments in correspondence and agreed to the stances being trialled internally in the first instance.
34. The Authority noted plans for subsequent publication and stakeholder engagement and agreed to review the stances and guidance again once feedback from the stakeholder events had been taken into account.

### **Prepayment meters installed under warrant**

35. The Authority considered a paper summarising issues and balances of interest between groups in relation to charges to consumers for whom prepayment meters were installed under warrant.
36. It was noted that, while there were social policy arguments why consumers who were genuinely unable to pay, and might have many other social problems, should not bear further cost if a prepayment meter was issued under warrant, it was often very difficult in practice to determine whether an individual consumer in debt fell into this category. While removing or restricting the supplier's right to recover costs would give the supplier the incentive to try all other approaches before resorting to warrant installation, it was currently the case that the supplier was statutorily entitled to recover such costs. Careful consideration would therefore need to be given to the scope of the Authority's powers and duties in this area.
37. After discussion, the Authority requested that further consideration be given to how best to protect the interests of the most vulnerable customers in this area of activity, taking into account points raised in discussion and any views expressed by Government, and noted that a consultation document would be issued in due course.

### **Network innovation competitions – outcomes of 2015 competitions**

38. The Authority considered a paper summarising the likely outcomes of the 2015 Network Innovation Competitions, final decisions on which would be taken under existing delegated authority and noting that a review of the competitions was to be undertaken.
39. The paper noted that additional conditions were to be imposed on certain successful applications with a view to securing maximum benefit for consumers and that funding for one application under the gas scheme was to be awarded at a lower level than applied for because it was considered that the potential benefits from the scheme could be realised by applying the proposed approach to a smaller project.

40. After discussion, the Authority noted the outcomes of the 2015 network innovation competitions, which would be published shortly, agreed that careful consideration needed to be given to the terms of reference and scope of the proposed review of the competitions and requested that an information paper be tabled at their next meeting setting out the terms of reference and scope as agreed following internal consultation.

### **Milford Haven pipeline project: ex-post efficiency review - update**

41. The Authority considered a paper summarising the results of consultation on the proposed treatment of costs following the Milford Haven pipeline project ex-post efficiency review.
42. After discussion, the Authority noted that no material new arguments or information had emerged from consultation and delegated to the relevant Senior Partner the final decision on the treatment of costs.

### **Date of next meeting**

43. The next Authority meeting would be on **Thursday, 10 December** at Millbank. It would be preceded by informal briefings on 9 December.

### **Those present**

David Gray  
 Dermot Nolan  
 David Fisk  
 Paul Grout  
 Nicola Hodson (For items 1 - 37)  
 Jim Keohane  
 Keith Lough  
 Andrew Wright

### **Those attending**

Martin Crouch  
 Rachel Fletcher  
 Maxine Frerk  
 Chris Poulton  
 Anthony Pygram

### **Others present**

David Ashbourne (Legal Adviser to the Authority)  
 Peter Jones (Secretary to the Authority)  
 Simon Crine (Director of Communications)  
 Kersti Berge (Senior Authority representative in Scotland)

**For specific agenda items (in person or by telephone link with 9 Millbank)**

<b>Name</b>	<b>Subject</b>	<b>Paragraphs</b>
Jane Jellis	RIIO-ED1 appeal	9- 11
Anna Rossington	" "	" "
Stephen Becker	New balancing services	22 - 24
Lorna Clarke	" "	" "
Leonardo de Costa	" "	" "
Matthew Craddock	" "	" "
Emma Kelso	" "	" "
Sukhinder Lalli	" "	" "
Kristian Marr	" "	" "
Amy O'Mahoney	" "	" "
David O'Neill	" "	" "
Philippa Pickford	" "	" "
Arina Cosac	Government deregulation agenda	25 - 27
Carola Geist-Divver	" "	" "
Adhir Ramdarshan	" "	" "
Mark Wagstaff	" "	" "
Neil Barnes	Future of retail market deregulation	28 - 31
Carola Geist-Divver	" "	" "
Paul Huffer	" "	" "
Stephanie Lomax	" "	" "
Adhir Ramdarshan	" "	" "
Kiera Schoenemann	" "	" "
Jonathan Spence	" "	" "
Anna Stacey	" "	" "
Charles Troughton	" "	" "
Wendy Watson	" "	" "
Sukhinder Lalli	STP – regulatory stances	32 - 34
Jon Parker	" "	" "
Carola Geist-Divver	Prepayment meters installed under warrant	35 - 37
Emma Gibson	" "	" "
Stewart Horne	" "	" "
Josh Wilson	" "	" "
Andy Burgess	Network innovation competitions	38 - 40
Judith Ross	" "	" "