Minutes of a Meeting of the Gas and Electricity Markets Authority

Thursday, 10 December 2015 at 8.15 am

9 Millbank, London SW1P 3GE

Minutes of the Authority Meeting held in November 2015

1. The minutes of the meeting held on 12 November 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; from another Member who was a non-executive director of the Low Carbon Contracts Company; and from the Secretary, who was connected with a body that was negotiating to provide a site and technical support to a service provider tendering to provide enhanced frequency response to National Grid

3. The Chairman reported on recent meetings with the Chair of the National Infrastructure Commission (preceding a meeting with the full Commission the following week), senior civil servants and the Chairs of two other economic regulators. There was also a brief discussion on the progress of the current non-executive director appointment process.

Reports by the Chief Executive and the Group Finance Director

4. The Chief Executive reported on correspondence and recent and forthcoming meetings with Ministers and the Chair of the Energy and Climate Change Committee.

5. The Chief Executive noted the outcome of National Grid's tender for Supplemental Balancing Reserve and Demand Side Balancing Reserve, which had achieved the desired outcome at a cost which represented good value for consumers having regard to all the circumstances.

6. There was a discussion of issues relating to the proposed sale by National Grid of its gas distribution network businesses. It was agreed that there would be a further discussion of the regulatory implications of the sale in January 2016.

7. It was noted that expenditure on flood protection measures undertaken by Electricity North West in accordance with the full allowances made under DPCR5 price control appeared to have mitigated the impact of the recent flooding, which would otherwise have been much more severe. One major substation had nevertheless been flooded despite protection having been constructed to the full standard deemed as necessary in the light of

Environment Agency guidance. All distribution network operators would be asked to review their flood risk assessments and mitigation plans in the light of the events in Cumbria and any revised guidance from the Environment Agency.

8. It was noted that a further member was to be appointed to the Enforcement Decision Panel following recent interviews.

9. 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.

10. The Group Finance Director reported on the outcome of discussions with HM Treasury on the Authority's medium-term financial settlement. The Authority had committed to secure a 15 per cent. saving in total expenditure from the 2015/16 budgeted level (in real terms) over the five year period of the settlement but good progress had already been made in securing underlying cost savings that would contribute to achieving the objective. The Authority's proposed capital budget, including provision for the capital costs of the move to new office accommodation, had also been substantially agreed.

New enforcement powers

11. The Authority considered a paper reporting on proposed new enforcement powers to be included in a consultation to be launched by the Department of Energy and Climate Change (DECC) later that month. These included extending the timescales for provisional and final orders, a power to issue information requests to non-licensed businesses suspected of unlicensed supply, a power allowing The Authority to commission a third party to carry out investigatory work on its behalf at the expense of the energy company, the ability to levy a penalty on a business with no turnover and two powers designed to increase the effectiveness of Ofgem's Remit work.

12. After brief discussion, the Authority noted that these proposals would be included in the consultation to be launched by DECC.

Draft Forward Work Programme and budget 2016-17

13. The Authority considered a paper attaching a draft of the Authority Forward Work Programme (FWP) to be published by the end of the current financial year, as required by the Utilities Act 2000, which included a draft summary budget for 2016-17.

14. There was a detailed discussion of the draft, which was structured to show how the Authority planned to deliver the six key outputs identified in its

2015 Strategy. It was agreed that the Chairman's foreword should emphasise that all areas of activity were ultimately intended to contribute towards securing better outcomes for consumers.

15. It was noted that a substantial proportion of the workstreams identified in the draft Plan originated from commitments made to Government, or from undertakings given by the Authority in past regulatory processes. It was agreed that future proposals to the Authority should identify clearly the extent to which the decision sought would result in consequential activity over an extended period.

16. The Authority agreed the proposed content of the FWP subject to points raised in discussion and delegated to the Chairman and Chief Executive responsibility for approving the final text of the draft document to be published for consultation. The summary draft budget included in the draft FWP was noted.

UK Regulators Network – six monthly report on activity

17. The Authority considered a paper reviewing the activities and outputs of the UK Regulators Network (UKRN) over the six months May-November 2015 and Ofgem's input to these activities and outputs. It was noted that the Chairman would become chairman of the Regulatory Chairs' Group from January 2016 and that the Chief Executive would become chair of the UKRN Chief Executives' Group from April 2016.

18. It was noted that, while the published outputs from UKRN work so far had secured a good reaction from stakeholders, more could be done to realise the potential of the UKRN. The network enabled useful interchanges of information on a number of issues but it would be necessary to define objectives for future work carefully. These would need to take into account the challenges in securing consensus on major issues because of the wide variety of regulatory and structural environments within which the members operated.

19. There was a discussion of UKRN's commitment to produce plans by Spring 2016 to identify opportunities to share expertise and specialist skills. It was noted that there was considerable pressure from Government to secure tangible outcomes from this work.

20. After discussion, the Authority noted the report and agreed to have a more detailed discussion in six months, taking into account the direction of travel being promoted by the Chairman and Chief Executive in their respective roles.

Update on HM Government Better Regulation initiative

21. The Authority received a presentation summarising key aspects of the Government's Better Regulation initiative and the ways in which the Authority would be contributing to the initiative.

22. It was noted that promoting space for innovation was a significant strand of the initiative. A number of the Authority's initiatives, including horizon scanning, work on flexibility, engagement with non-traditional business models, the Network Innovation Competitions and the approach to future retail regulation, were geared towards this objective while maintaining appropriate protections for consumers. An Innovation Plan was to be produced for submission to Government prior to the 2016 Budget which would reflect some of these initiatives.

23. After discussion, the Authority noted the priority being afforded by Government departments to the various strands of the Better Regulation initiative, the activities that were in hand to contribute towards them and the timetable for responses and key meetings and agreed that interaction with Government's initiatives should be along lines that were consistent with the Authority's strategy.

Smart meter roll-out: progress update and suppliers' roll-out plans

24. The Authority received a presentation providing an update on latest developments in the smart meter roll-out programme and risks to the achievement of the desired consumer benefits.

25. There was a discussion of the implications for customers of installation of a much higher proportion of the less advanced SMETS-1 meters than had originally been envisaged as a result of the delays in getting to "Go Live". It was noted that the facilities available to consumers, including rapid switching of supplier, would be essentially the same with the SMETS-1 meter, once it had been enrolled onto the Data and Communications Company's (DCC's) system, as would be the case for the SMETS-2 meter, although less information would be available to the distribution network operators. In the short term, however, before the DCC system was available, suppliers needed to be strongly encouraged to agree bilateral commercial and technical arrangements to allow smart functions to be retained after a switch of supplier.

26. It was noted that actions were being taken to address resourcing and project management issues at DCC. Regular senior level meetings were being held with DCC's parent company and Ofgem was providing assistance and guidance wherever this was felt to be appropriate. The risks to many aspects of the programme remained significant, however, and the delays to the programme meant that very high levels of meter installation activity would be required in the later years in order to meet the Government's objectives.

27. Ofgem had carried out detailed reviews of supplier implementation plans. These included scrutiny of plans to recruit and train substantially increased numbers of meter installers, activities which would have a significant lead time. The state of maturity of plans varied between suppliers. Most suppliers seemed to be well prepared to meet the challenge, but the scale of activity that would be required, and the interdependencies with project streams that were outside the suppliers' control, inevitably meant that significant implementation risks would remain.

28. After discussion, the Authority noted the presentation and agreed priorities for interaction with DCC, the industry and Government with a view to reducing the risks of failure to achieve the desired consumer benefits from the programme.

Data and Communications Company operational incentives

29. The Authority received a paper setting out the proposed initial scope of the Operational Performance Regime (OPR) to apply as a basis for the price control for the Data and Communications Company (DCC) following completion of the initial Implementation Milestones, and related issues.

30. After brief discussion, the Authority agreed the proposed initial scope of the OPR, delegated further decisions on the detailed design and operation of the OPR to the Senior Partner, Consumers and Competition and noted the intention to consult on changes to DCC's licence to enable it to recover the costs for its role procuring a centralised registration service under the faster switching programme.

Information paper: Ofgem's position in the competition landscape

31. After brief discussion, the Authority noted the paper.

Information paper: the future of retail market regulation – update

32. After brief discussion, the Authority noted the paper, which included the draft foreword and executive summary of the consultation document which was to be published shortly.

Flexibility – approach to electricity storage

33. The Authority considered a paper setting out issues to be considered in relation to the regulatory treatment of electricity storage and seeking guidance on the lines to be pursued moving forward.

34. It was noted that electrical energy could be "stored" by various mechanisms and that the resulting stored energy could be used for various purposes when converted back into electricity. These included aiding system stability and reducing peak generation demand. An electricity storage installation, of whatever type, acted as a load when it was storing

energy and could be viewed as a generator when it was returning it. This dual capacity could result in treatment of storage under existing network charging structures that did not recognise its potential value to the system, which could be a disincentive to the deployment of storage. There were also potential issues under domestic and European legislation that could, if they were not clarified, prevent storage being deployed in ways that might ultimately benefit consumers.

35. There was a global market for battery storage and costs were falling rapidly. There was therefore a strong case for considering how best to treat battery storage within the regulatory system so that those who wished to use it in innovative ways, both on a small and large scale, had a clear basis on which to invest which would also be potentially advantageous to consumers.

36. After discussion, the Authority noted that clarification of the role and treatment of storage was a priority area of work for DECC, agreed in principle that the objective should be to put in place economic structures that reflected appropriately the overall services being provided to the energy system, rather than being based on disaggregated technical steps in the provision of those services, and noted plans for stakeholder engagement.

Information paper: terms of reference for RIIO innovation reviews and independent evaluation of the Low Carbon Networks Fund

37. The Authority noted the paper.

Information paper: adaptation to climate change: second Ofgem report to Defra

38. The Authority noted the paper.

Report from the October meeting of the Europe Committee

39. The Authority noted the report.

Date of next meeting

40. The next Authority meeting would be on **Thursday, 21 January 2016** at Millbank. It would be preceded by informal briefings on 20 January.

Those present

David Gray	
Dermot Nolan	
David Fisk	(for items 1- 33)
Paul Grout	(for items 17 - 40)
Nicola Hodson	
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)
Mark Wiltsher	(Associate Director of Communications)

For specific agenda items

Name	***Subject***	***Paragraphs***
Emma Gibson	Proposed enforcement powers	11- 12
Anna Stacey	" "	" "
Keith Avis	Draft forward Work Plan and budget 2016-17	13- 16
Julie Black	" "	" "
Paul Heseltine	" "	" "
Lisa Symes	" "	" "
Andrew Venn	" "	" "
Arina Cosac	UK Regulators Network: six monthly update and Better Regulation initiatives: update	17 - 20
Mark Wagstaff	" "	" "
Chris Ashbourne	Smart meter roll-out update and DCC operational incentives	24 - 30
Rob Salter-Church	" "	" "
Robyn Daniell	" "	" "
Colin Down	" "	" "
Paul Fuller	" "	" "
Tom Handysides	" "	" "
Gillian Lorimer	" "	" "
Laura Nell	" "	" "
Maureen Paul	" "	" "
Tricia Quinn	" "	" "
Dena Barasi	Flexibility - storage	33 - 36
Andy Burgess	" "	" "
Rory McCarthy	" "	" "
Martin Queen	" "	" "
Judith Ross	" "	" "
Frances Warburton	" "	" "