



**By email only**

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Dear Keith

**Forward Work Programme 2016-17**

We welcome the publication of Ofgem's Forward Work Programme and the opportunity to respond.

Our comments, which are not confidential, are set out in the attached annex under the headings used within the plan. I hope they will be helpful.

Please contact me if you need any further detail or clarification.

Yours sincerely,

Gerald Jago  
Regulation

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## **Npower's response**

### **Forward Work Programme 2016-17**

#### **General**

1. We welcome the opportunity to respond to Ofgem's draft programme for 2016-17. A dialogue of this nature is an important step in ensuring that the interests of customers and the industry are best served. Therefore, we hope that the comments below will be helpful and constructive.
2. The proposed scale and pace of change over the coming years is significant. It is crucial therefore that the work set out in Ofgem's plan is developed and introduced in a cost-effective manner within a manageable timeframe. It is also key that all changes across the industry are co-ordinated to reduce overload and risk to the programmes. This appears to us to be a gap that should be addressed and is a theme later in our response.
3. Change is often costly and complex change even more so; costs are generally passed on to customers. Therefore, if changes are to be introduced they should be the subject of detailed and robust impact assessments, that also take into account the impact of competing programmes, such that all costs and timings are appropriately assessed. As pointed out in our response to Ofgem's consultation on its Simplification Plan, at present this does not always happen.
4. Closer working will help this process. Npower through Energy UK has been party to the initiative to encourage DECC and Ofgem to work more closely together when considering new policies or changes to existing ones that will have impacts on and require changes to suppliers' processes and systems. We would hope that these considerations are implicit when Ofgem is in the process of policy formulation.

#### **Regulation of Network Companies and other Monopolies**

5. We welcomed Ofgem's work in the recent past to amend procedures for DUoS charges in order to make them more predictable for consumers and suppliers. Overall, however, we consider that the regulation of network charges needs to pay greater attention to the impact of increased charges on consumers and suppliers. Therefore, we would like to see the more joined up approach adopted for DUoS charges extended to other regulated charges such as TNUoS, BSUoS and FIT. We would be pleased to discuss this with Ofgem in further detail.
6. Similarly, whilst the need for a mid-period review of the Transmission and Gas Distribution price controls referred to in the plan is understood, it will be important for suppliers and customers to have adequate notice of any resulting price changes. This will enable suppliers to amend contract prices in a manner that has less impact on their existing customers and to adjust future contract prices appropriately.
7. Whilst we welcome Ofgem's oversight of the Data Communication Company's (DCC's) costs, similar points apply to the DCC's annual price control process and the proposed operational incentive.

## Setting the rules for markets

### Half-Hourly settlement

8. Npower supports the introduction of universal Half-Hourly (HH) settlement but the plan for moving to HH settlement and the timetable must be pragmatic, deliverable across the market and minimise costs, which will ultimately be borne by customers. In particular it will need to consider the scale of direct change that may be needed for overlapping projects such as smart metering, Next Day Switching and any CMA remedies. as well as the capacity of customers to accept such change and of the market to deliver it.
9. We note that the consultation on the draft Forward Work Programme also constitutes the prelaunch consultation for the associated Significant Code Review for mandatory half-hourly settlement. Npower's detailed views, covering both the elective and mandatory proposals, are set out in our response of 29 January 2016 to Ofgem's open letter 'Half-Hourly settlement: the way forward'. We therefore confine ourselves here to a few specific comments.
10. As an example of the potential issues, Ofgem has proposed that suppliers should be able to elect to settle any of their customers on a HH basis by early 2017 and has assumed that only suppliers who elect to settle in this way will be required to make the necessary changes to do so. This is an incorrect assumption, as in order to allow such customers to switch freely between all suppliers changes will need to be universal and these changes would need to be developed at the same time that suppliers are preparing for both the DCC and Project Nexus go live.
11. In addition, Ofgem has proposed that industry arrangements and central system changes to enable mandatory HH settlements must be in place by the first half of 2018, at which point they will decide on a date for mandatory migration. This will come at a time when suppliers should be focussing on Smart metering implementation and ensuring the customer's experience of it is a positive one. It is again a distraction. This is a cause for concern in terms of the current data access and privacy obligations and will require very careful messaging with customers. Currently suppliers must ask for explicit permission to access the HH data in a smart meter and can only use that data for a specific purpose. Under this proposal, access to HH data would become a statutory duty and, as such, would not require permission. This could serve to undermine customer trust and has the potential to de-rail the rollout.
12. We would argue therefore that the timing of the HH programme needs to be further considered in the context of other industry changes. Our view would be that the introduction of elective HH settlement is unnecessary and that mandatory HH settlement should wait until smart metering has been delivered successfully.
13. Ofgem recognises the scale of the project, which will involve substantial updates to IT systems and business processes (paragraph 2.6). It says that it will "try to ensure that the timing of the transition takes account of other industry changes." Ofgem must however absolutely ensure that the timing is

appropriate and that all suppliers are able to deliver this and other projects without undue risk.

### **Innovation space**

14. We have also covered this issue briefly in our response to Ofgem's letter on its Simplification Plan, but it would be appropriate to deal with it again here. Broadly, we agree that innovation is to be welcomed and support developments in that direction, because handled in the right way it could bring benefits to competition and consumers.
15. Npower supports further examination of the potential of the Sand Box concept as a safe environment for new businesses; and Ofgem's proposal for an Innovation Hub (similar to that already operated by the FCA) to provide a safe environment for businesses, of all shapes and sizes, to engage with Ofgem on new and innovative concepts, provided Ofgem is flexible and sufficiently open to allow it to operate effectively. These would be interesting departures for the energy industry and we look forward very much to seeing how they develop.
16. Our support is subject to the caveats on timing referred to above and therefore Ofgem's expected Innovation Plan should take into account, when setting out its timetable, the wider industry context and the capability of suppliers to take on an expanding set of priorities.

### **Code Governance Review Phase Three**

17. Again, npower's full response to the code governance review is set out in our letter of 4 December 2015. The key points are reiterated briefly here.
18. We welcome this review, as although recent changes have already improved matters, npower considers that industry code governance can be made more efficient, and needs to become so, to deal appropriately with impending widespread and significant industry changes and to be better suited to the future landscape. Npower has advocated the creation of a single, over-arching code administrator, together with high-level, uniform governance arrangements across all codes. We believe that such arrangements could ensure a joined-up approach to developing and implementing industry change and have made similar points in our responses to the Competition and Markets Authority.
19. However, we do not believe that Ofgem should lead the end-to-end Significant Code review (SCR) process. Whilst it obviously has significant regulatory experience, from an industry perspective it does not have the appropriate level of experience required to understand the full impacts of large scale industry change, including how suppliers contract with their customers. We consider that such complex changes require an experienced centralised project management function that would focus on delivering design and implementation within the wider landscape of industry change.
20. Within and outside of this framework there would be scope for Ofgem to play a more proactive role in industry groups, particularly in offering guidance and working constructively with the industry generally.

21. Similarly, we do not consider that Ofgem should be setting the timetable for the code changes necessary under the SCR. At present, neither the governing panels nor Ofgem appear to take fully into account the extent of system change or the impact on business resource required to make changes. Further, decisions are in many cases made taking little account of the wider change context, leading to examples of poor implementation planning, such as the overlapping dates for Nexus and the launch of the Data Communications Company (DCC).
22. Npower therefore has proposed a Change Overview Board (COB) to provide a central function making recommendations about implementation dates to an independent Industry Code Adjudicator who would decide whether to approve. Only by looking across the full landscape can cross-industry coordination and optimal delivery dates be achieved with least impact on customers.
23. We do not think that Ofgem should be able to raise modifications directly under the standard process. In our view it is inappropriate for Ofgem to both raise modifications and then approve them: first, Ofgem would be making decisions on changes they themselves have raised; and second, this would reduce the scope for parties to appeal if they disagree with the decision made.
24. On a more general point of process, there must be clarity about when and why a Significant Code Review is required. At present, the selection of issues for the process appears to be somewhat arbitrary.

## **Objections**

25. We note Ofgem's intention to finalise its assessment of the objections regime and if it considers removal of a supplier's right to object to be the best way forward will implement the changes in 2016.
26. To reiterate npower's stance on this, as previously communicated in its detailed response to last year's call for evidence, we see objections as a fundamental part of the market, protecting both consumers and suppliers; and therefore our strong view is that suppliers must retain the right to object for both contractual and debt reasons.
27. If the right is removed, customer experience will be adversely impacted because suppliers will have no option but to chase debts through debt collection agencies and bailiffs. It will also result in a loss of certainty over costs for suppliers, including smaller suppliers, and ultimately increase costs for customers. Although customers might be able to switch more easily when in debt or contract, the prices will include higher risk premia than in a market that allowed objections. This would we consider be particularly so in the non-domestic market where we anticipate that fixed-term, fixed price contracts are likely to be less available.
28. Debt objections also provide protection to the consumer by helping them address the issue at hand and Ofgem's research indicates that customers do not consider it to be unfair to object on the grounds of outstanding debt..

29. Ofgem should also consider difficulties arising out of any proposed future changes, as some of the options outlined in last year's call for evidence are not compatible with changes such as next day switching, since suppliers would not have time for credit vetting, Debt Assignment Protocol checks, security deposits etc.
30. If Ofgem does decide to go ahead with this proposal, a 2016 implementation date will give suppliers little time to introduce system or contractual changes to accommodate what is a significant industry change. This is especially so given the many other changes and therefore the timing should be reconsidered.

## **Effective Competition**

### **Future Retail Regulation**

31. Npower is in the process of considering Ofgem's consultation on the Future of Retail Energy Market Regulation and will respond in detail. We look forward to participating in the further work during 2016-17. Broadly, we are in favour of such a change as being a positive development for consumers; we have already embraced the introduction of the Standards of Conduct, embedding them into both our domestic and non-domestic businesses.
32. The Forward Work Programme notes that suppliers will benefit from fewer prescriptive rules, but that Ofgem will expect them to comply with both the letter and the spirit of the regulations. Suppliers understand the need to comply with licence conditions but the introduction of principles based regulation could create greater uncertainty. The new arrangements will require culture change within Ofgem and the companies to develop a greater trust, together with openness and discussion about products and compliance rather than an immediate move to enforcement.
33. The present system of enforcement is also problematic to a principles based approach to regulation because it lacks sufficient checks and balances. A major advantage of the principles based approach is that there may be more than one way of delivering improvement for customers. Therefore, to have Ofgem, as at present, investigating, adjudicating on and enforcing suspected breaches is unhelpful in such a system. We believe that appeals should be capable of being made on the grounds of reasonableness, interpreted in lay terms understood by 'the man on the Clapham omnibus'; and on the basis of merit.

### **Switching Programme**

34. Npower has fully supported the progress of Ofgem's work on switching and is actively engaging in the blueprint stage of the programme. However, we still believe that switching customers during the cooling off period is not the most appropriate solution and places the industry at unnecessary risk.
35. As we have pointed out throughout the switching programme and consultations, next day or quicker switching without lock-in periods will encourage serial switching to prevent paying bills, causing bad debt to rise and higher bills for customers.

Placing this in the context of the possible removal of debt and contract objections, we are concerned that the market would be at increased risk.

### **Consumer vulnerability strategy**

36. We generally support the aims set out as part of the review of the Priority Services Register. However, the changes required to implement the data sharing element of the review will be affected by a number of factors, including existing ongoing regulatory initiatives, which are in the crucial stages of being delivered; and relevant regulatory requirements and timescales related to these that impact on taking matters forward. Ofgem should recognise this in setting realistic timetables for implementation.

### **Company performance monitoring**

37. Consumers can find it confusing when Ofgem, the Energy Ombudsman and Citizens Advice publish different supplier performance metrics at different times of the year and at different frequencies. We therefore support Ofgem's proposals to ensure that information is relevant, comparable and consistent; and that it will look to co-ordinate publication where it can. However, in addition to this, Ofgem should also ensure that the data complement each other and wherever possible are not replicated.

### **High Standards of Outputs and Protection**

38. Npower will respond to Ofgem's 'dry run' RFI reporting progress by the required April date. With regard to the Smart Metering Installation Code of Practice we welcome Ofgem's oversight in ensuring that the provisions within the Code are correctly determined and comply with the objectives of the licence condition.
39. Although not specifically covered in the draft, it would be worth mentioning in the final plan one of the key smart developments that Ofgem will be overseeing in 2016: that is, the first major DCC release which will be managed via full SEC governance and with Ofgem's oversight.
40. It is important to note the joint commitment by DECC and Ofgem to a deep dive review of the implementation plans and the associated risks for the Nexus programme against DCC implementation. This should be completed quickly.
41. We have been closely involved in Ofgem's work on Consumer Empowerment and Protection and look forward to continuing with that when the CMA has reported.

### **Third Party Intermediary (TPI) regulation**

42. We note the reference in paragraph 4.13 concerning Ofgem's intention to implement a robust and flexible regulatory framework for intermediaries, to protect consumers and promote competition, consistent with Ofgem's approach to future retail regulation.
43. We consider that TPIs can have an important role to play in the market both in relation to consumers and suppliers. The regulatory regime must ensure that customers are treated fairly and transparently whatever route to market they choose. Therefore the level of regulatory protection must be consistent across suppliers and TPIs. We have been fully involved in the discussions facilitated

by Ofgem so far to discuss the way forward in relation to non-domestic TPIs, including a Code of Practice, and wish to continue that involvement when CMA remedies are known. It may also be worthwhile ensuring that all types of third party are covered by the provisions, such as metering agents who are now beginning to tender directly with consumers.

### **Partnership with Government and Stakeholders**

44. In relation to the UK Regulators Network (UKRN), one of the first concrete elements of its work has been for suppliers to promote water companies' priority services in the former's literature and websites in order to extract the synergies between both utilities' sectors. While this is a voluntary initiative, which we support, it has a quasi-formal regulatory bent to it. Ofgem must ensure that as resources will be utilised in meeting any of these commitments, the normal process for the introduction of regulatory requirements should be followed, including an impact assessment.
45. We have referred elsewhere to the need for manageable planning as being essential for successful delivery. Our concerns about planning also extend to the ACER proposal to harmonise EU Member States by moving all to a 15 minute Imbalance Settlement Period (ISP). This could see the industry implement half hourly settlement then move to 15 minute settlement to accommodate a 15 minute ISP whilst also dealing with numerous other changes. We would welcome assurance from Ofgem that should the UK be required to implement a 15 minute ISP that the change landscape will be reviewed and timings adjusted accordingly.

### **Efficiency and Reduced Regulatory Burdens**

46. Npower's response to Ofgem's consultation on its Simplification Plan has dealt with the issue and burdens of information requests. In that response we asked Ofgem to consider how it could improve a process that at present produces significant numbers of requests, often with short and overlapping timescales.
47. We would also recommend a review of the regulatory reporting requirements to ensure that the significant quantity of information suppliers provide is used, avoids duplication and is cost effective. Ofgem should also as part of any information requirements related to new principles based regulation request only information that is proportionate and absolutely necessary.

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