

Minutes of a Meeting of the Gas and Electricity Markets Authority

Thursday, 18 May 2017 at 8.15 am

9 Millbank, London

Apologies for absence

1. No apologies were received.

Minutes of the Authority meeting held in April 2017

2. The minutes of the meeting held on 13 April 2017 were agreed subject to a small amendment.

Introductory remarks by the Chairman

3. The Chairman noted that declarations of interest were recorded from a Member who was a non-executive director of the Low Carbon Contracts Company; a Member whose institution was in receipt of some funding from the energy industry; himself as a previous Director of Halite and the Senior Partner Networks who had previously worked for Atlantic Superconnection Corporation, Global Interconnection Group, that sought to develop interconnectors. He has not worked for any of the projects listed in the Interconnectors paper, but, prior to Ofgem has met some of the development teams.
4. The Chairman reported on meetings since the last meeting, including meetings with senior industry representatives, visits from some European regulators and his appearance at a Regulators panel in Vancouver.

Report by the Chief Executive

5. The Chief Executive reported on discussions and correspondence with Ministers, senior civil servants and other senior stakeholders and gave an update on the energy switch guarantee round table.
6. The CEO updated the board on some trends and developments in the industry including the introduction of some new tariffs that allow customers take advantage of battery storage technology. He also reported on some new offshore projects in Germany that would not receive any government support.
7. He also updated the board on some of the work of the UK regulators network which he currently chairs, shared the UKRN quarterly newsletter with them and highlighted some upcoming UKRN conferences.

Report by the Chief Operating Officer

8. The Head of Finance reported on behalf of the Chief Operating Officer. He said that the overall headcount had reduced since the previous meeting due to a number of fixed term contracts coming to an end and the rebalancing of some posts to Glasgow was progressing.
9. The Authority discussed diversity in the workplace and while Ofgem compared favourably with the civil service average, more needed to be done to improve the levels of diversity at more senior levels. This would be taken further through REMCO and discussed again at GEMA in July.
10. The Head of Finance reported that there are more frequent and smaller staff surveys taking place between the main annual staff survey and that once a few had taken place the team would try to unpick the results and take action accordingly.
11. He also reported that in the recent malware cyber-attacks, Ofgem systems were unaffected as security patches were up to date but the team remain vigilant of this ever present risk. The Authority requested regular reporting on IT security issues as part of the COO report.

An update on the RHI Inquiry

12. The Authority was given an update on the Inquiry in Northern Ireland which included the detailed process from evidence gathering to the publication of the final report. They were told that Ofgem was one of three core participants in the Inquiry and that the team had put a significant amount of time and resource into identifying and gathering tens of thousands of documents to respond to information requests from the Inquiry.
13. The Authority members discussed the implications for Ofgem and the importance of co-operation with the Inquiry. They also discussed the need to learn any lessons for the future.
14. It was agreed that the Authority should receive regular updates on the Inquiry and the timing and nature of these would be confirmed at the next meeting.
15. The Authority requested more information on what had happened on the NI RHI scheme and the lessons to be learned from it. The CEO agreed to provide an update to the next meeting on the scope and extent of the internal and external investigations and reviews that had already taken place.

Annual Report and Accounts

16. The Authority considered and discussed the draft Annual Report and Accounts. There were various minor suggestions made and Authority members agreed to send further comments within a week.
17. The Authority approved the Annual Report and Accounts subject to minor drafting points and agreed to delegate the approval of the final version to the Chair of the Audit and Risk Assurance Committee in liaison with the Chair of GEMA. The accounts would then be signed by the Chief Executive as Accounting Officer.

RIIO 2 Strategy

18. The Authority considered a paper which set out an approach to the first phase of work on the RIIO 2 price controls.
19. The Authority discussed the overarching objectives for RIIO 2 and considered the key elements that should be included within it. The Authority wanted the consumer to be at the heart of the objective and also wanted to ensure that flexibility and a safe and secure network were included. The importance of price to the consumer was discussed alongside the need to balance that with the other outputs and benefits for consumers.
20. The Authority discussed the governance of the first phase and considered it important that there be a sub-committee of GEMA to cover a lot of the detail of the work across consumer issues, finance and engineering. It was agreed that the main decisions should be retained by GEMA and that it was important to keep the members of GEMA not on the sub-committee up to speed with key developments to support those decisions.
21. Other elements of the governance structure were discussed, including expert panels which should involve academics and some non-traditional players and panels to ensure that the consumer voice was effectively heard. It was also agreed to discuss with other regulators undertaking price controls to learn lessons on issues such as the cost of capital.
22. There was a discussion on the open letter to be published in June and the Authority considered it important to raise a question in it about how to ensure that other voices, including consumers, are effectively incorporated into the business planning phase and the asymmetry of information between the regulator and the network companies. The open letter should also ask about the relative benefits and risks of aligning the timing of the Electricity Transmission and Electricity Distribution price controls. Finding ways of helping consumers scrutinise the business plans was also discussed.

23. After discussion the Authority:

- Agreed that the overarching objectives should have consumer outcomes at their heart and also ensure a flexible, safe and secure network;
- Agreed the governance structure as set out including a Committee of the Authority, Chaired by a Non-Executive Director and attended by the Chair of the Authority which should report into GEMA; and
- Agreed the overall tone and content of the open letter to be published in June.

Electricity Interconnectors

24. The Authority considered a paper which set out the recommendation to grant a cap and floor in principle following the initial project assessment (IPA) conducted by the Ofgem commercial networks team and to request an exemption from certain aspects of EU legislation for one other interconnector project.
25. The Authority discussed the proposals and the evidence that had been presented, including cost benefit analysis and the evidence on social economic welfare resulting from the four projects.
26. Following discussion the Authority agreed to approve the award of a cap and floor regime in principle to the NorthConnect interconnector to Norway, the GridLink interconnector to France and the NeuConnect interconnector to Germany, subject to consultation. **[This sentence has been redacted because it contains market sensitive information]**
27. The Authority delegated responsibility to the Partner for Commercial Networks in consultation with the CEO and the Senior Partner for Networks for decisions on the final details of the IPA and the partial exemptions. Ofgem will consult on the IPA, and will jointly consult on the exemption request with CRE, the French regulator, before making final decisions on the projects.

Future Retail Regulation: Rulebook Reforms

28. The Authority considered a paper on progress towards a more principles based approach to retail regulation including the consideration of removing the 'All Reasonable Steps' clause from Standard Licence Condition 25C, the Standards of Conduct, which ensures that energy suppliers must treat their customers fairly. They also considered the future changes to the prescriptive customer communications rules.

29. The Authority discussed the views of respondents to the consultation on principles and the importance of achieving the right balance between absolute requirements and achieving the right aspirations for supplier behaviour. They noted concerns from some suppliers about the enforcement of the standards, and stressed the importance of doing so in a proportionate way, consistent with our enforcement guidelines. The Authority discussed the importance of focusing on good outcomes for consumers.
30. They also discussed how the team might measure the success of the changes and the challenges inherent in this. The team had considered this issue and had identified and assessed a variety of metrics that could help. The Authority asked to be kept updated through the appropriate reporting mechanisms.
31. The Authority also discussed the importance of behavioural changes both with the suppliers and at Ofgem to support better outcomes for consumers, and that Ofgem should build on recent developments and continue to challenge itself to share more lessons learned and best practice as well as giving more visibility to the compliance work that takes place.
32. After discussion, the Authority:
 - approved the proposal to remove 'All reasonable steps' from the standards of conduct;
 - noted the default position to rely on principles and only keep prescription if a one-size-fits-all approach is needed for changes to the prescriptive customer communications rules; and
 - agreed that this project should progress to 'business as usual' and only return to GEMA for decisions if significant issues or risks emerge.

Smart Metering update

33. The Authority considered a paper providing an update on the Smart Meter roll out, a process which is led by the Government.
34. The Authority discussed the role of the regulator in this project which centres on oversight of the regulatory framework with a focus on driving suppliers to deliver the roll-out and protecting the consumer interest.
35. The Authority was updated on some roles that would be transferred from BEIS to GEMA including the authority role for the Smart Energy Code and Cyber security. The Authority wanted to be certain that there is sufficient assurance for Smart Meters and contractual arrangements in place to support the Cyber security work.

36. The Authority noted the critical importance of smart metering in delivering transformation of energy markets and a better experience for customers, and the interactions between smart metering and other change programmes such as Half Hourly Settlement and the Switching programme. The Authority noted that these interactions should be discussed with the new Secretary of State.
37. The Authority also noted the progress that suppliers had made in installing smart meters during 2016, the plans they had submitted to Ofgem for the period through to 2020 and the cost escalations of these.
38. The Authority emphasised the importance of resolving the interoperability challenge with SMETS1 meters, so that meters continue to operate in smart mode after switching, and noted the recently proposed plan from DCC that would see enrolment for SMETS2 meters starting from April 2018.

Innovation link: a review of our trial

39. The Authority considered a paper providing an update on work to date on two services within the Innovation Link. These are the provision of fast, frank feedback on a confidential and non-binding basis to help businesses understand the implications of regulation on their innovative propositions, and the Regulatory Sandbox which will give innovators a chance to trial new products with certain regulatory requirements reduced, subject to controls to protect consumers.
40. The Authority were updated on a number of the projects that had participated in the trial so far and were very supportive of the initiative, both as a way of encouraging and enabling innovation and of a way of ensuring Ofgem is on the front foot in understanding the nature of changes in the market to support better regulation overall.
41. The Authority discussed proposed principles for granting a 'sandbox': any potential for consumer risk should be identified and mitigated; competition in the market must not be distorted; the sandbox must be an appropriate means by which to support the initiative; and where sandbox applications relate to aspects of ongoing policy development by Ofgem, we should be open to engagement but ensure that trials are undertaken at the right time. The fourth principle was discussed and the Authority was keen to ensure that this should not prevent the innovation happening and in fact could be used to support policy development.
42. After discussion, the Authority noted progress on the project, supported the principles for the sandbox and supported sharing information across Ofgem to support our regulatory work and externally where appropriate respecting the issues around confidentiality.

Energy Systems Divisional Report

43. The Authority was given an update on developments in the Energy Systems Division.
44. There are a number of significant projects underway in the division which are broadly on track. Some have been delayed by restrictions surrounding the election.
45. There have been changes in the Division's structure to meet the work demands for the coming year more flexibly, though there had been some resourcing challenges due to work on the Northern Ireland RHI inquiry and preparing for Brexit.
46. The Authority were given an update on the security of supply over the winter. It showed that the first half of the winter had high and volatile prices and tight generation margins, but the second half of the winter was more comfortable with more stable prices.
47. The Authority endorsed the work of the division.

Legal Annual Report

48. The Legal partners informed the Authority of progress in a number of legal matters from the last year including the ongoing work relating to the Northern Ireland Inquiry into the RHI scheme and the successful operation of the Supplier of Last Resort mechanism in December.
49. The Authority discussed recent legal decisions elsewhere that might have implications for the work of Ofgem including the case of Energy Solutions EU Limited v the Nuclear Decommissioning Authority in 2016. The importance of clear audit trails of decisions in large procurement exercises was highlighted by this case.

Clean Energy for All package

50. The Authority noted the paper.

Project Nexus

51. The Authority noted the paper.

Half Hourly settlement

52. The Authority noted the paper.

Information paper – Decision Log update

53. The Authority noted the paper.

Date of next meeting

54. The next meeting of the Authority would be on **Thursday, 15 June 2017** at 9 Millbank. It would be preceded by informal briefing sessions on 14 June.

Those present

David Gray
Dermot Nolan
Nicola Hodson
Christine Farnish
David Fisk
Rachel Fletcher
Paul Grout
Jim Keohane
Keith Lough
Andrew Wright

Those attending

Jonathan Brearley
Martin Crouch
Chris Poulton
Paul Heseltine

Others present

David Ashbourne (Legal Adviser to the Authority)
Wendy Watson (Secretary to the Authority)
Mark Wiltsher (Associate Director, Communications)
Ben Woodham (Executive Adviser to Chief Executive)
James Kilmartin (Head of External Relations) Paragraphs 1 – 17 & 43 - 54
Anna Saksanov (Assistant legal adviser to the Authority) Paragraphs 16-54

For specific agenda items

<i>Name</i>	<i>Subject</i>	<i>Paragraphs</i>
Mark Mills	Update on RHI Inquiry	12-15
James Robinson	" "	" "
Katie Cooke	Annual Report and Accounts	16-17
Akshay Kaul	RIIO 2 Strategy	18-23
Marcia Poletti	" "	" "
Marcia King	" "	" "
Akshay Kaul	Electricity Interconnectors	24-27
Scott Laczay	" "	" "
Stuart Borland	" "	" "
Neil Barnes	Future Retail Regulation	28-32
Kiera Schoenemann	" "	" "
Andrew Thomsen	" "	" "
Rob Salter-Church	Smart Metering	33-38
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Carola Geist-Divver	Legal Annual Update		48-49
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