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Direct Dial: 020 7901 7106
Email: Geoffrey.Randall@ofgem.gov.uk

Date: 18 July 2017

Consultation responses and Version 3.0 of the Network Innovation Allowance (NIA) Governance Documents

On 1 June 2017¹ we² published a consultation on draft version 3.0 of the NIA Governance Documents in relation to both gas and electricity ('the Governance Documents'). We provided the proposed revised text and our reasons for the proposed changes.

The Governance Documents explain the regulation, governance and administration of the electricity and gas NIAs. The amendments reflect our March 2017 policy decision on changes to the NIA governance arrangements³. We asked for comments, representations or objections to the proposed amendments to the Governance Documents to be made on or before 28 June 2017.

We received nine responses to the consultation, three of which were nil returns. We have carefully considered the responses and incorporated them into the Governance Documents, where appropriate. The consultation responses and our comments on these are summarised in the annex to this letter. We have made a number of minor amendments to version 3.0 of the NIA Governance Documents in response to the consultation responses.

Next steps

In accordance with the NIA licence conditions^{4,5,6,7} we have today published version 3.0 of the Governance Documents.

Yours faithfully,

Geoffrey Randall
Associate Partner, RIIO Networks
For and on behalf of the Gas and Electricity Markets Authority

¹ <https://www.ofgem.gov.uk/publications-and-updates/consultation-version-30-network-innovation-allowance-governance-documents>.

² The terms "we", "us" and "the Authority" are used to refer to the Gas and Electricity Markets Authority.

³ <https://www.ofgem.gov.uk/publications-and-updates/network-innovation-review-our-policy-decision>

⁴ Electricity Transmission Licence – Special Condition 3H.

⁵ Electricity Distribution Licence – Charge Restriction Condition 2H.

⁶ Gas Transporters Licence – NTS - Special Condition 2E.

⁷ Gas Transporters Licence – Distribution Network Operators – Special Condition 1H.

Annex – Summary of consultation responses and our comments

Overview

We received consultation responses from Northern Powergrid, Electricity North West, SGN, UK Power Networks, Wales & West Utilities, SSE Networks, Cadent, Western Power Distribution and Northern Gas Networks. None of the responses were marked as confidential. The responses from Western Power Distribution, Electricity North West and Northern Powergrid were nil returns.

The majority of the comments concerned non-substantive drafting and formatting issues. We have addressed these comments with minor drafting and formatting changes in the Governance Documents and we do not describe them further here.

Please note that the terms used in this Annex have the same meaning as in the NIA Governance Documents.

Review of the Low Carbon Networks Fund

SGN commented that it is unclear why the review of the Low Carbon Networks Fund (LCNF) provides a mandate for an amended approach to the NIA within the gas industry. As per our policy decision of 31 March 2017⁸, we proposed changes to the NIA based on our experience of operating the NIA, our December 2016 consultation⁹ and an independent evaluation of the LCNF. In developing our proposals, we have given full consideration to the feedback received from across industry and we are satisfied that the policy decision and amendments to the Governance Documents are equally applicable to the gas and electricity industries.

Sharing project data

Paragraph 2.13 of the Governance Documents requires Network Licensees to have in place a publicly available data sharing policy from 30 September 2017. UKPN questioned how paragraph 2.13 applies to Project Progress Information updates published before 31 July 2017.

Our response is that if Network Licensees already have a publicly available data sharing policy they can use this before 30 September 2017; those which do not should include information in the Project Progress Information which clearly explains how network or consumption data can be requested (as required by paragraph 2.13).

Wales & West Utilities (WWU) commented that the requirement to have a publicly available data sharing policy was not disclosed prior to the June 2017 consultation. It disagreed with this change because it had not previously been required to allow parties to access data gathered in the course of a project and because project data sharing is dealt with at an individual contract level for each project. It also commented that the General Data Protection Regulation (GDPR) is effective from May 2018 and makes the creation of separate policies unnecessary.

Our December 2016 consultation proposed a change to ensure that data from projects is accessible to interested parties. We proposed requiring network companies to have systems in place to be able to share data collected from trials, anonymised where necessary. Further to stakeholder feedback during the informal consultation process, we decided this was best achieved by requiring Network Licensees to maintain a publicly available data-sharing policy. This need not prevent Network Licensees from dealing with project data at an individual contract level but they must now have a policy which explains the terms on which data will be provided to interested parties. We do not agree that the GDPR (which is principally concerned with personal data) renders such policies obsolete.

⁸ https://www.ofgem.gov.uk/system/files/docs/2017/03/the_network_innovation_review_our_policy_decision.pdf

⁹ https://www.ofgem.gov.uk/system/files/docs/2016/12/innovation_review_consultation_final.pdf

NIA project requirements

WWU noted that we had not amended the NIA project requirements in section 3 to reflect the clarification we made in our decision¹⁰ following the innovation reviews. The NIA (and NIC) are intended to fund licensees to trial projects to address challenges the networks face and to share that learning with other licensees. NIA (and NIC) can be used to develop solutions for connecting novel sources of gas or electricity generation. However, they should not be used to develop new means of gas production or electricity generation. We have not amended the drafting because our policy has not changed.

In addition, while there is the Innovation Roll-out Mechanism to fund the transfer of learning or new technologies into day-to-day use on the network, we expect licensees to be taking forward any consequential changes to support the adoption of the innovation under business as usual where they have obligations to do certain things. For example, licensees shouldn't be using its NIA (or NIC) to fund the development of industry codes or standards – we consider such development to be a core business-as-usual activity to ensure they are kept up to date.

Project Eligibility Assessment template

Cadent commented that change is required to the Project Eligibility Assessment (PEA) template to capture the additional details that are now required under section 3. However, it is not necessary for Ofgem to amend the PEA template. The template was created by Network Licensees in conjunction with the Energy Networks Association. It is open to Network Licensees to amend their industry template or, failing that, to create their own templates which cater for the requirements of the Governance Documents.

Requirement that Projects are innovative

Paragraph 3.16 of the Governance Documents requires Network Licensees to provide information explaining why a Project is innovative and has not been tried before. UK Power Networks queried whether Network Licensees would always be in a position to know why a Project has not been tried before.

Whilst we acknowledge that Network Licensees may not always know if/why a Project has not been tried before, on such occasions we would expect Network Licensees to explain the steps they have taken to confirm whether a Project has been tried before. We do not consider it is necessary to make an amendment to the Governance Documents to that effect. The same requirement is found in the NIC Governance Documents and it has caused no issue to date.

Use of electronic signatures

Cadent noted that Ofgem has confirmed that use of electronic signatures is acceptable in relation to paragraph 3.19 (Project Eligibility Assessment), which requires the PEA to be signed by the senior person responsible for implementing NIA Projects. Cadent queried whether it should use a scanned signature or an e-mail confirmation to achieve this. On the basis that the PEA is a published document, we consider that an electronic signature is the best way of providing this sign-off.

Eligible NIA Internal Expenditure

Wales & West Utilities commented that the clarifications made to paragraph 4.15 of the Governance Documents narrowly define Eligible NIA Internal Expenditure to include salaries and provision of the learning and collaboration portal, suggesting that inclusion of fees of partnering organisations such as the Energy Innovation Centre (EIC) may not be included. It requested clarification.

¹⁰ <https://www.ofgem.gov.uk/publications-and-updates/network-innovation-review-our-policy-decision>

We do not agree that the clarifications to this section have the effect of narrowing the definition. The definition of Eligible NIA Internal Expenditure is found in Appendix 1 and clearly states: 'The proportion of NIA Expenditure the Network Licensee can spend on their own internal resources'. Paragraph 4.15 provides, by way of examples, that salaries may be part of internal expenditure, as may efficiently incurred costs associated with implementing and maintaining the Learning and Collaboration Portals. These are non-exhaustive examples which do not alter the definition in Appendix 1.

We have previously made it clear to parties that companies cannot register funding the EIC as an innovation project in its own right. This would not comply with the specific requirements for NIA projects. However, where there are costs attributable to the EIC for a specific project, a licensee may put the EIC costs into the internal cost category where it covers qualifying costs of the EIC on a project (and not costs that the EIC is paying to 3rd parties).