

Minutes of a Meeting of the Gas and Electricity Markets Authority

Thursday, 13 July 2017 at 9.15 am

9 Millbank, London

Apologies for absence

1. There were no apologies. Prior to the meeting, Nicola Hodson notified the Chairman of her decision to resign from the Authority with immediate effect and was therefore not present.

Minutes of the Authority meeting held in June 2017

2. The minutes of the meeting held on 14 June 2017 were agreed.

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, and himself who had formerly been a director of Halite Energy.
4. The Chairman reported on meetings since the last meeting, including meetings with senior Government and industry representatives.
5. He noted that the GEMA away day had been very successful and thanked everyone who had contributed to this success.

Report by the Chief Executive

6. The Chief Executive reported on discussions and correspondence with Ministers, senior civil servants and other senior stakeholders.
7. The CEO updated the board on developments across Ofgem including several announcements and press releases on key areas of work including the recent announcement of GEMA's decision on embedded benefits and plans to deliver a fairer, more competitive market. He reported that the elective half hourly settlement arrangements came into effect at the end of June and that a series of Future Retail Regulation documents had been issued. The RIIO 2 open letter had been published and the tender process for power generation in Shetland had been completed, saving consumers £110-£180 million.
8. The CEO gave an update on the Northern Ireland RHI Inquiry including reporting on the likely timing of the oral sessions and the structure of issues considered by the Inquiry which will be ordered in four blocks: Establishment; Administration; Cost controls; and Closure.

Report by the Chief Operating Officer

9. The COO reported on human resources, finance, IT and the portfolio of work, providing a full overview of the running of Ofgem for the Authority.
10. The COO reported that the SLT level Boards were being restructured, strengthening the focus on performance and delivery.
11. The Authority discussed diversity issues and noted a gender pay gap in Ofgem and an under representation of people from Black, Asian and Ethnic Minority backgrounds, particularly at higher levels within the organisation – including GEMA itself. It was noted that although these are issues shared in many workplaces, more action was needed to address them.
12. The CEO reported on his attendance at an event run by 'Powerful Women' in which he had committed senior staff in Ofgem to raising the issue of diversity with senior staff of companies in the energy sector. This issue is widespread in the energy sector and the Authority discussed a collective responsibility to challenge for improvement. A more diverse workforce is both morally beneficial and fundamentally important to the ability of energy businesses to deal with the rapid changes taking place in the sector and to create more trust in the sector.
13. The Authority supported this approach and urged the senior management team to get on the front foot to tackle this issue.

Extension of RHI audit contract to a value over £2m

14. The Authority considered a paper requesting authority to extend a contract with the company providing site audits of installations under the domestic and non-domestic RHI schemes. This extension was expected to take the value of the contract over the delegated limit.
15. The Authority discussed the paper and in particular work being undertaken to ensure these audits are of sufficient quality, such as regular reporting.
16. Following discussion the Authority approved the extension of the contract.

Enforcement and compliance priorities and revised approach

17. The Authority considered a number of suggested changes to improve and update the Enforcement Guidelines.
18. The Authority discussed the principal change which was to streamline the criteria for case opening decisions from 13 separate criteria to 3 with a strong focus on the seriousness of the breach and, in particular, harm to consumers. This change would remove the need for annual enforcement priorities.
19. The Authority discussed the importance of the changes to align with the increased reliance on principles based regulations and considered the

suggestions to adequately ensure a proportionate response to behaviour in the market.

20. The Authority gave a strong steer that the messaging around any changes should be clear that this was not weakening the stance on enforcement and that harmful behaviour would be met with strong enforcement action.
21. Following discussion the Authority agreed:
 - to streamline the enforcement case opening criteria to three criteria;
 - to make a series of minor changes including aligning the guidelines to better support the move to principles based regulation, publishing when Alternative Action has been agreed in lieu of an Enforcement investigation and clarifying the extent of Ofgem's enforcement jurisdiction; and
 - to amend the Terms of Reference for the EDP and Settlement Committees to enable decisions to be taken on the basis of consideration of the papers when appropriate.

Gas entry capacity

22. The Chairman left the room to avoid any conflict of interest given his prior directorship at Halite Energy. The session was chaired by Jim Keohane.
23. The Authority considered a paper setting out a recommended approach to entry capacity and price control funding at Fleetwood. The paper proposed a suggested change in approach following a consultation on the Authority's initial position reached in February 2017.
24. The initial position had been to remove both the funding and the capacity obligation from NGGT. New information received during the consultation demonstrated that NGGT did not expect to need to invest in the network if part of the capacity was left in place, i.e. the cost risk to consumers was low. In addition, the impact of removing the capacity completely would likely cause damaging delays to a project being developed at Fleetwood by Halite.
25. The Authority considered the principles of cost reflectivity and proportionality in reaching a final decision. The Authority asked about confidence in the underlying analysis and was reassured that NGGT still didn't expect to need to invest even though the analysis was from 2012.
26. Following discussion the Authority:
 - confirmed its initial position and decided to remove the £278 million funding from NGGT at the earliest opportunity; and

- agreed to reduce the level of entry capacity at the Fleetwood entry point to 350 GWh/day.

Hinkley Seabank (HSB) project

27. The Authority considered a paper setting out options for a consultation on the Hinkley-Seabank electricity transmission investment proposed by National Grid (NGET) to connect EDF's Hinkley Point C nuclear development.
28. The Authority discussed the economic case for the HSB project, noting that there was a clear case that it would be beneficial to consumers. Some of the elements of the economic case were questioned, particularly the costs involved in the use of T-pylons and the risk funding for extreme weather. Clarity around costs that should be attributed to this project was considered essential in achieving value for money for consumers.
29. The Authority discussed the potential regulatory options for getting value for consumers in funding the delivery of the project. A number of options were discussed and the Authority was mindful of the importance of the cost of capital and the interdependencies with the work on RIIO 2.
30. The Authority considered the Competitively Appointed Transmission Owner (CATO) scheme and noted that there was unlikely to be legislation to underpin this regime at this point in time. However, it was considered appropriate to consult on potential alternatives to the CATO scheme for introducing the benefits of competition into the delivery of the project, as a better deal for consumers than the Strategic Wider Works process which represents the status quo.
31. After discussion, the Authority agreed to consult on four options with a strong signal in favour of the benefits to consumers from options that will either open a competition for a special purpose vehicle to deliver HSB on behalf of NGET; or use a proxy for competition and set the revenue allowance for NGET based on assumed costs of financing, construction and operation that would have resulted from competition.
32. Subject to consultation, this matter is due to come back to the Authority for a minded-to decision in November 2017.

Election of the ACER Board of Regulators (BoR) Chair and CEER General Assembly (GA) President

33. The Authority was updated on the rules and process of the upcoming election to replace Lord John Mogg as the chair of the ACER BoR and the President of the GA of CEER.

UKRN update

34. The CEO provided an update on the UK Regulators Network and confirmed that he had extended his term as its head for an extra year. The recent UKRN conference had been well received and the CEO reported on several UKRN projects in which Ofgem were active participants and on the success of the various professional networks across the UKRN members which had proved valuable to sharing ideas and common issues.
35. The Authority agreed that the UKRN was a valuable use of time and members expressed interest in attending future conferences.

Our approach to supplier licensing, monitoring and engagement

36. The Authority noted the paper, which reported a decision taken to postpone the formal review of financial criteria for licensing.

Shetland: New Energy Solution

37. The Authority noted the paper.

Vulnerability Compliance Review

38. The Authority considered the outcome of a compliance assessment into suppliers' obligations to vulnerable customers on the debt path, including obligations relating to the installation of PPMs.
39. The Authority discussed the findings which suggested that the practices of the suppliers sampled did not match their stated policies and appeared to show that customers were not being treated fairly in a number of ways.
40. The Authority gave a clear steer that this type of behaviour is especially egregious and that the team should determine appropriate action to ascertain its scale, ensure that it stops as soon as possible and provide a clear signal that it will not be tolerated.

Information paper – Decision Log update

41. The Authority noted the paper.

Date of next meeting

42. The next meeting of the Authority would be on **Thursday, 14 September 2017** at 9 Millbank. It would be preceded by an informal briefing session on 13 September.

Those present

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

Those attending

Sarah Cox
Jonathan Brearley
Martin Crouch

Others present

David Ashbourne (Legal Adviser to the Authority)
Wendy Watson (Secretary to the Authority)
Mark Wiltsher (Associate Director, Communications) Paragraphs 1 - 26
Ben Woodham (Executive Adviser to Chief Executive)
James Kilmartin (Head of External Relations) Paragraphs 1 – 42
Anna Saksonov (Assistant legal adviser to the Authority) Paragraphs
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For specific agenda items

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Bruno Sheldon	" "	
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