

Ofgem Draft 2017-18 Forward Work Programme

Energy UK response

February 2018

Introduction

Energy UK is the trade association for the GB energy industry with a membership of over 100 suppliers, generators, and stakeholders with a business interest in the production and supply of electricity and gas for domestic and business consumers. Our membership encompasses the truly diverse nature of the UK's energy industry – from established FTSE 100 companies right through to new, growing suppliers and generators, which now make up over half of our membership.

Our members turn renewable energy sources as well as nuclear, gas and coal into electricity for over 27 million homes and every business in Britain. Over 730,000 people in every corner of the country rely on the sector for their jobs, with many of our members providing long-term employment as well as quality apprenticeships and training for those starting their careers. The energy industry invests £12bn annually, delivers £88bn in economic activity through its supply chain and interaction with other sectors, and pays £6bn in tax to HMT.

This is a high-level industry view; Energy UK's members may hold different views on particular issues. We would be happy to discuss any of the points made in further detail with BEIS or any other interested party if this is considered to be beneficial.

Executive summary

Energy UK welcomes the opportunity to respond to Ofgem's Forward Work Programme (FWP) and commends Ofgem's open engagement and transparency over upcoming work. To keep our response as concise and useful as possible Energy UK's comments are made by exception.

Energy UK asks Ofgem to be explicit about how it has taken stakeholder responses into account when it publishes its final FWP. Periodic updates on Ofgem's progress against the actions set out in the FWP would be useful to stakeholders.

Energy UK urges Ofgem to continue to ensure it takes as open and collaborative approach to regulation as possible. It is vitally important Ofgem, industry and stakeholders work closely together when developing policy to protect consumers and promote a competitive market. In line with the principles of Better Regulation, forward planning and transparency support a consistent and proportionate regulatory approach. Energy UK also believe that Ofgem should be more proactive on commenting on Government policy that impacts on consumers. A positive example of this was Ofgem's response to the National Infrastructure Commission assessment, and Energy UK would encourage Ofgem to do this more often.

Enabling a better functioning retail market

Temporary price protections

With Ofgem's previous extension of the Prepayment Meter (PPM) price cap, we recognised the time pressures Ofgem was operating under and the impacts this had on the final policy design. As Ofgem is now looking to extend protections further, it is increasingly vital for both consumers and suppliers that the process and models adopted by Ofgem are robust and well considered. In particular, as noted in our response to the statutory consultation for a vulnerable customer safeguard tariff, the accuracy of the level of any cap becomes increasingly important the wider group of customers it impacts. Any temporary price protections should be well thought out and not exclude vulnerable customers for whom protection is intended, or distort competition in the market.

Appropriate conduct

Energy UK is supportive of Ofgem revisiting its 2013 Consumer Vulnerability Strategy, especially given Energy UK's own planned work in this area during 2018. It would be useful to know more details on any specific areas Ofgem are planning to look at as part of this work, and Energy UK is keen to ensure close working as part of this process.

Energy UK has recently launched a new "Commission for Customers in Vulnerable Circumstances" to look at how standards of care could be improved for consumers. The Commission is independently chaired, and will be comprised of independent commissioners from across the sector. The Commission will report by the end of 2018, and is expected to make recommendations for industry, Government and other stakeholders. In addition, drawing on the work of the Commission, Energy UK will be separately drafting a new "Vulnerability Charter" to build on existing commitments (Safety Net & PPM Principles) and go further to support customers most in need.

Supply-side competition

It is right that the regulatory framework should evolve to enable a smarter more flexible energy system that allows new ways of offering energy supply and associated services, where this is in consumers' interests.

It is, however, important that Ofgem ensures that future arrangements provide for a level playing-field on which both existing parties and new entrants can compete for customers. There is a primary need for the energy system to be fair for all participants. In particular, it is vital that Ofgem ensure that: consumers, regardless of how they engage in the market, remain protected; core functions like balancing and settlement operate effectively for the benefit of consumers; and recovery of policy costs and network changes is apportioned fairly across consumers and amongst all market participants.

With this in mind, we continue to believe there is a strong case for Ofgem regulating the activities of intermediaries where this is not currently already sufficiently provided for under consumer law. As noted in the open letter on future supply market arrangements, it is not sustainable to keep regulating intermediaries indirectly (as suppliers' agents), particularly in a future where intermediaries undertaking wider activities may mean they have increased potential to cause customer detriment and have less, and potentially no, relationship with a customer's supplier.

Facilitating change in the energy system

Energy UK welcomes Ofgem's commitment to delivering the 29 actions in the Smart Systems and Flexibility Plan in 2018/2019, part of which should include having greater oversight of the Open Networks Project that the ENA is running and aligning other policy developments such as the charging reforms being perused through the Targeted Charging Review (TCR) and the Significant Code Review (SCR). Ofgem should also proactively assess this year what other areas of the current framework will need to be reformed in the future to deliver this smart system. The Open Networks Project outputs (the emergence of DSO models and trials) need to be accompanied by Ofgem's implementation of an appropriate regulatory framework. Resource is needed for this in 2018 so that it is not an afterthought. We also support the continued commitment to unbundling rules as they apply to networks and commercial assets such as storage.

In addition, while Energy UK supports National Grid's work to date on reforming ancillary services and we look forward to further work from Ofgem to ensure that market solutions facilitate longer term market investment. While the SO Incentive scheme has been settled for 2018/2019, and another for 2019 to 2021, Energy UK would like to see Ofgem think about longer term incentivisation to secure the flexible energy system of the future. It is essential that any solution takes an integrated approach that will allow system stability support services to be incorporated into other specific mechanisms, allowing services to compete for a mixture of long and short-term contracts over a level playing field.

Energy UK supports the plan to deliver code governance reform and looks forward to responding to the strategic vision consultation when it is published. Visibility of the future role of the consultative board and who will be appointed is appreciated sooner rather than later. We are supportive of the postponement of licensing for code administrators and of a review of this concept in the future; perhaps not this year but next. In addition to the reforms that Ofgem is currently implementing, Energy UK would

like to see a medium to long term vision of code governance. Energy UK believes that code governance should strive to be accessible and uniformed across codes.

Ofgem should encourage the Distribution Code administrator to bring forward open governance arrangements. The Grid Code has been under Open Governance arrangements for nearly a year and it is about time that the Distribution Code Administrator took the learnings from the Grid Code and raised a modification for Open Governance. Ofgem has been supportive of open governance for codes and Energy UK would like to see Ofgem encourage this move.

Energy UK believes that Ofgem ought to be committing sufficient resource to the TCR and associated work considering its importance to industry stakeholders and consumers, particularly in light of its tight timelines. In addition, Energy UK is concerned that while a website has been commissioned to ensure communications on charging is disseminated, the current site is not updated in good time; those not involved in task groups are, therefore, at a disadvantage. In addition, Ofgem mention consulting on access reforms in 2018-19, but there is no mention of consulting on the forward-looking charging aspect. We would appreciate clarification on Ofgem's plans in this regard. The two work streams are inextricably linked, and so consulting on these separately would likely lead to unintended consequences and difficulties.

Smart programme

Collectively, Energy UK's members are the single biggest contributors to the funding of the Smart DCC's costs, and it is important to note that these costs are ultimately borne by consumers. As the DCC is a regulated monopoly, it is essential that Ofgem has the relevant tools to ensure that there is a very tight financial control over the Smart DCC's costs. Given the continuously rising DCC costs, we would be happy to support Ofgem and the DCC in considering ways to seek better control of these rising costs.

Our concerns also extend to the DCC's timely provision of its impact assessments of SEC Mods, the lack of which continue to delay and frustrate the modifications process. Whilst these issues have been raised directly with DCC via the SEC Panel and BEIS' Transition Governance forums, we would suggest Ofgem consideration (in collaboration with BEIS) is required as part of the Price Control arrangements to drive improvements to DCC's performance in the modifications process, with the ultimate aim of ensuring that the SEC change process remains fit for purpose.

Ensuring network companies deliver for consumers in a changing system

Energy UK welcomes the engagement so far that Ofgem have undertaken with industry on RIIO second phase, but would ask that more effort is made to educate stakeholders and simplify the content; this would also enable improved and constructive scrutiny. While Energy UK is supportive of the more engaged route being taken for RIIO-2, engagement is only as good as stakeholder's ability to feed into the review. Ofgem, and indeed, networks have a responsibility to ensure that the framework is user friendly and that stakeholders are able to participate.

The OFTO regime is 9 years old in 2018, and 5 tender rounds for OFTOs will be complete by the end of 2018-19. We have concerns about applying a similar regime to that of OFTO without a critical evaluation of what has gone well and what could be improved in the OFTO regime. Such an evaluation would benefit both OFTO and future CATO regimes, as well as offering value for money for consumers of the future by ensuring these regimes are as efficient and robust as they can be. It would be useful if Ofgem could clarify as to whether the development of alternative competition models for onshore transmission networks applies to all networks, and also whether this refers to the DNO as well.

Energy UK has, so far, been engaged with Ofgem on the future of the SO Incentives regime and look forward to 2018/19 as Ofgem establishes the new regime. Energy UK would like for Ofgem to closely scrutinise the appointments to the new SO Performance Panel, considering its importance to the regime.

Energy UK is supportive of a review of the cap and floor interconnector regime to determine if further application rounds are desirable, and especially before any further contracts are given out.

Identifying opportunities and managing long-term risk on behalf of consumers

Ofgem has noted that it would 'update its work programme accordingly' for new priorities that may emerge in 2018-19 including heat networks and adapting its approach and frameworks to accommodate greater uptake of electric vehicles (EVs). Energy UK is supportive of more work being undertaken by Ofgem in this area. With regards to EVs, there is a lack of clarity and transparency around the connection of EV charging infrastructure to the distribution networks and there is little information available regarding where network connectivity issues are likely to occur and with whom the responsibility lies to remedy the issues. We would like to see Ofgem:

1. Work with industry to consider smart charging arrangements in order to ensure optimum investment in networks to facilitate EV roll out that best delivers for customers
2. That appropriate incentives and frameworks are in place for public infrastructure development; for example; we would support minimum standards of EV charging points need to be established to prevent the rollout of "dumb" chargers and ensure the necessary technology is flexible and can be developed in the future.
3. To continue to support the transition away from Internal Combustion Engine vehicles to low carbon solutions

Ofgem may be interested to follow work that Energy UK is committed to in 2018. We are leading a major new piece of work looking at the 'Future of Energy', an in-depth look at what the future energy system will look like and the pathway to get there, based upon the needs and expectations of consumers. Energy UK will examine the future challenges and opportunities as we move to a smart, decarbonised energy system which gives consumers more control of their energy use. Energy UK will publish a series of papers on key Future of Energy issues, culminating in a final report at the end of the year. We will continue to work with Ofgem to develop and deliver key proposals to ensure success.

Reducing regulatory burdens

Information requests

Energy UK urges Ofgem to continue to ensure it takes as open and collaborative approach to regulation as possible. It is vitally important Ofgem, industry and stakeholders work closely together when developing policy to protect consumers and promote a competitive market. In line with the principles of Better Regulation, forward planning and transparency support a consistent and proportionate regulatory approach.

One of the methods Ofgem uses to assess the market and inform its decision-making is through Requests for Information (RFIs). This is an established activity and industry understands the importance of RFIs in supporting a healthy, communicative relationship between suppliers and Ofgem to ensure that the policy-making process is well informed and evidence-based. In Ofgem's Simplification Plan for 2016-17, Ofgem committed to review the volume and complexity of RFIs citing issues around timing and a lack of clarity within the questions as causing additional unnecessary burden. This was met positively by Energy UK; however, members note that the only improvement made was Ofgem pre-engaging with suppliers with a draft RFI.

The complexity and the volume of data that is required, continues to command significant resource, particularly when multiple RFIs are ongoing. This can prove burdensome and costly for suppliers, and lead to non-regulatory work being deprioritised. Proportionality is a key principle for good regulation, ensuring resources are commanded only when necessary and in a cost-effective manner. Therefore, it is important that RFI processes ensure that requests are effective and made only when necessary. Energy UK continues to advocate for improved forward planning of RFIs, and would propose that Ofgem publish a forward work plan of RFIs as part of its final 2018-19 Forward Work Programme. It would also be useful for Energy UK members to know where Ofgem's focus will be throughout the year so that members can plan internally, as well as understand when they should expect consultations to be published.

Supply license monitoring and compliance support

We are disappointed to note that Ofgem has not carried forward its commitment to review the arrangements it has in place for licensing suppliers and to learn the lessons from GB Energy Supply's

insolvency. We note that this is an uncompleted action from the 2017-18 Forward Work Programme. Energy UK and its members feel that there is a role for Ofgem to be more proactive in monitoring the financial health of the businesses it regulates and acting quickly should concerns arise to help minimise the potential of future SoLR events occurring. This is important because if a supplier ceases trading, and Ofgem determines to award a levy payment to the subsequent SoLR, the costs fall on consumers overall, including vulnerable consumers.

For further information or to discuss our response in more detail please contact Tom Marsland at tom.marsland@energy-uk.org.uk or 020 7747 2957.