



**By Email Only**

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**Npower response to the Ofgem forward work plan 2018/19**

Dear Ofgem Forward Work Programme Team,

We welcome the opportunity to respond to the 2018/19 Ofgem forward work plan. This is a joint submission by npower and innogy renewables UK limited- both UK arms of Innogy SE. We are broadly supportive of the activities detailed within the work plan, in appendix B we provide views on the specific activities.

Generally, we believe it would be helpful for the Ofgem workstreams undertaking the below activities to take steps to work more closely between themselves and also with government departments to avoid introducing conflicting or unclear regulations in this time of rapid and interconnected change. We believe the following activities should be prioritised.

**Data** - Industry data is presently not fit for the purposes of energy policy, consumer protection or enabling a low carbon transition. It is necessary to join up data on people, buildings and consumption to better support consumers' individual needs and reduce bills. Ofgem has a critical role to play here, to work with both industry and non-industry parties and better coordinate data related initiatives, including the introduction of new industry databases. In appendix C we expand on our views regarding industry data.

**Costs** – Regulated costs should not distort competition. Any domestic price protections must be temporary, targeted, proportionate and consistent for all relevant consumers. Network charges must be practical, future proof and predictable for suppliers so reflective costs can be passed to customers. DCC costs must be better incentivised and more transparent to enable greater scrutiny by suppliers to avoid passing unfair costs onto the end consumer.

**Governance** – We are keen to understand Ofgem's proposals for the Strategic Direction and Consultative Board under the Code Governance Reform, providing greater transparency and clarity of priorities to help with cross-code industry planning. With the volume of change already in the pipeline for the next few years, it is imperative that this is properly coordinated and potential pinch points identified and addressed at an early stage.

**Evaluation of OFTO regime** – The regime has run for 9 years to date. It would now benefit from an evaluation of its successes and identification of areas where it could become more efficient and robust. This should be added to Ofgem's 2018 work plan.

This response is not confidential. If you require clarification on any of the points we have made please do not hesitate to contact me.

Yours sincerely,

Richard Vernon

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## **Appendix A: General Comments**

1. The general format and layout of the forward work plan is an improvement on previous years, however the 2017-18 work plan contained a table as an appendix that listed the key deliverables throughout the year by quarter. We found this to be very useful in planning when to expect Ofgem engagement. Such a tool would be extremely valuable in this and future years.

## **Appendix B: npower/innogy response to the activities detailed within the Ofgem 2018/19 Forward Work Plan**

### **Enabling a better functioning retail market**

#### **2. Temporary Price Protections**

We recognise the challenges faced by disengaged vulnerable customers and will continue to work with Ofgem to find appropriate solutions. npower continues to make significant efforts to engage with all of our customers, including those on Standard Variable Tariffs (SVT), through numerous activities, initiatives and trials. We are committed to reaching out to those who have been less able or willing to engage in the market.

It is essential that any price protection is temporary, targeted, proportionate and consistent, so as not to exclude vulnerable customers for whom protection is intended. The price protection must facilitate good customer outcomes and therefore should not distort competition or discourage customer engagement by reducing their interaction with industry participants. We continue to urge all parties to take the necessary steps to facilitate wider data share.

#### **3. Consumer Vulnerability Strategy**

We will revisit our 2013 Consumer Vulnerability Strategy, focusing on where it is particularly important to see further improvements in outcomes for consumers in vulnerable situations

We support the proposal for Ofgem to revisit (and this being implicit in the statement, review) the Consumer Vulnerability Strategy (CVS), not least that in the intervening period from the CVS's introduction in 2013, there has been a greater focus on vulnerability along with a move towards principles-based regulation and less reliance on prescription. The revised Standards of Conduct introduced in the autumn exemplify this approach. Given these changes, there is, then, the necessity to establish whether the CVS remains appropriate.

While for Ofgem, the CVS is meant to be and is used as a reference point for policy formulation, for suppliers, because of the discursive nature of its definition of vulnerability, it can be more difficult to apply in practice. In reviewing the CVS, Ofgem needs to be mindful that there are already several definitions or 'expressions' of vulnerability extant in the supply licences. SLC 26 (Priority Services Register) contains one such definition; SLC 28B ('Warrants relating to Pre-payment Meters and other supplier actions to recover debts') has others. The proposed price cap currently being consulted on will contain another. Applying these different definitions or expressions (of vulnerability) can be problematic, particularly where they are open to wide interpretation. For example, in SLC 28B, suppliers cannot levy any ppm warrant-of-entry-related charges where the customer has a '..vulnerability which has significantly impaired their ability to engage..'. How is '..significantly impaired their ability to engage..' identified in practice? Despite requests for clarification, Ofgem has not provided this. We understand that in a principles-based regulation environment, a prescriptive approach may sit uneasily, and suppliers are expected to apply their own (approach) to comply with the licence conditions - this being subject to Ofgem oversight, ex-post. Notwithstanding, without guidance for certain aspects of vulnerability, suppliers may and can feel somewhat exposed.

To that end, we would expect Ofgem to work with other sectoral regulators and consumer bodies to develop best practice as part of this review.

Secondly, Ofgem lists 'Better social outcomes' and that it wants to '...see further improvements in outcomes for consumers in vulnerable situations.' as one of the desired impacts of its work. Better social outcomes is very general. What does this mean in the context of the production, transmission, transportation, distribution and supply of energy? How does this sit with Ofgem's statutory duties? In the context of the review of the CVS, what outcomes does Ofgem wish to see further improved? It would be helpful if Ofgem could provide some examples or an indication of its thinking as this develops.

In conclusion, in revisiting the CVS, we would expect Ofgem to consult and in so doing: (a) take account of the existing different definitions of vulnerability already in use; (b) where applicable, provide guidance on (aspects of) them; (c) seek to formulate and adopt best practice across the piece; and (d) what and how better (social) outcomes can be measured.

#### 4. Future Retail Regulation Project

We fully support Ofgem's review of the rules that apply to supplier communications. We would welcome the flexibility to ensure our customers are provided with the right information at the right time informed by customer insight, within a principles based framework, to support engagement and innovation. An early example of this has been the improvements we identified for the statement of renewal terms.

#### 5. Future Supply Market Arrangements

We support the work Ofgem has recently commenced to remove barriers to innovation and consider longer term reforms. We support the continued work of Ofgem on reviewing the supplier hub model and its alternatives. There is a balance between enabling innovation and providing a stable, investable environment. Future supply market arrangements in our view should:

- Be reasonable. The market is for consumers and hence the design must be consumer centric. The two essentials seem to be ; i) consumer protection, ii) synchronous system resilience.
- Take into account that the current market is not fit for purpose to accommodate new business models at scale. The general approach to data design, privacy and cyber security needs considerable work.
- Ensure that consumer engagement with new energy markets remains a priority and no consumer groups are less incentivised to engage.
- Consider that Ofgem directly regulates Third Party Intermediaries (TPIs and aggregators) in gas and power, especially in the small and medium business sector.

#### 6. Faster, More Reliable Switching Programme

npower has supported the faster more reliable switching programme since the outset and will continue to do so. We support improving switching speed if it benefits consumers and does not have a detrimental impact on reliability of the process. Some of the proposals around improving industry data, we would want to see these elements brought in sooner.

#### 7. Better Data, Better Switching Project

We agree with the suggestion of a Supplier Switching Performance Dashboard but this has to show performance of all suppliers in the market. The dashboard should also have clear definitions of measures and we suggest it to be hosted on Citizen's Advice website where current performance reporting sits so customers won't have to access different websites. We are broadly in favour of the compensation regime; however the following points must be taken into consideration:

- **Supplier at Fault** - Critical is the underlying view that this payment should only be made where the Supplier is at fault. This needs to be reflected in the new commitment and clear rules defined.
- **Level playing field** – the requirements must apply to all suppliers regardless of size.
- **Simplicity** - We favour the approach of a stated daily rate or one off fee as we do in both Standards of Performance and the Erroneous Transfer charter. This is easier to implement, fairer to consumers and easy to explain to our customers.
- **Implementation** – the new requirements should be tested at code level first to see how successful it is and then move into licence once it is proven to be successful.

## 8. Consumer Engagement and Check Your Energy Deal

We support initiatives and prompts that seek to encourage greater customer engagement, and were an active participant in the earlier CMA database remedy alpha trial. This is in addition to certain consumer engagement trials we have conducted ourselves. However, we suggest that prior to implementation Ofgem must ensure that any new information and service requirements are both appropriate for customers and represent a proportionate and reasonable measure in seeking to encourage engagement. In particular, customer wishes in terms of data protection should be duly considered, especially with the pending new data protection requirements under the General Data Protection Regulation. This should include Ofgem seeking agreement from the ICO on the appropriateness of any trial and enduring arrangements.

We have also actively engaged with Ofgem on preparation for the Cheapest Market Offer Communication (CMOC) pilot project and establishing a Customer Database for default tariff customers, as per the CMA's recommendations. In both we have signalled the importance of the burden of trials and pilot projects being shared amongst all suppliers given the associated costs and call on resources at a time of multiple regulatory exercises and associated requests for information.

In addition, and as we have stated elsewhere in this response, we have asked Ofgem to ensure that data used, for example customer addresses in the default tariff database, is robust and takes stocks of initiatives underway to use all appropriate sources and feeds to ensure customers' unique circumstances and needs are reflected.

## Facilitating change in the energy system

9. We agree with Ofgem that the key to consumer benefit is by developing a more flexible, responsive and efficient system. This is cheapest, and best value for money, to achieve when there is a high penetration of renewable energy technologies<sup>1</sup>. Low carbon technologies, including renewables and storage are also proving to be excellent value for consumers. The recent CfD pot 2 auction yielded almost 50% reductions in offshore wind bid prices as compared with the 2015 auction, and coming in cheaper than new nuclear

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<sup>1</sup> [Whole-system cost of variable renewables in future GB electricity system](#)

and gas plants at £57.50 per MWh. Onshore wind remains the cheapest form of energy generation for the UK, but is excluded from participating in competitive auctions. This must change, otherwise consumer bills could be £1.5bn higher in the next 5 years<sup>2</sup>. Many forms of flexibility are also available in the marketplace, including storage and DSR, and flexibility in general is key to reducing consumer costs over the next 5-10 years.

#### 10. Smart systems and Flexibility Plan

We are supportive of the positive role provided by Ofgem. We would encourage this to continue and to work with BEIS prompting additional progress, particularly on smart appliance standards consultation. If there is the decision to proceed with mandatory HH settlement, it would be beneficial for consumer appliances to be available from relevant manufacturers who will require the right signals to do this.

The overarching banner of the 'Flexibility Plan' encompasses many areas. Given the large expected volume of work via the Open Networks Project we request that Ofgem make a specific plan and resource for evaluating this project's outputs. For example the regulator should be in a position to critique and comment on the Open Networks Project 'Independent Review of DSO Models'.

Ofgem should also research this year what regulatory changes and oversight will be needed to accompany the emerging DSO model(s). Without this, the Regulator's thinking will not keep pace with DSO trials and network company ambitions for transition. Ofgem's policies regarding the DSOs could also be a key input for RIIO-ED2 design.

With regards to the Targeted Charging Review, we are concerned that the tight timelines that Ofgem is dedicated to, do not allow for a robust review to be taken forward.

#### 11. Access Reform and Forward-looking Charging

We support this Ofgem workstream and will continue to attend and provide our views. 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. The risk for suppliers and their customers is that changes from this workstream are made without sufficient time to implement. Suppliers will be unable to fully pass through the cost or benefit of any change to their customers. Regulatory changes should be transparent and not create unnecessary risk.

#### 12. Future Electricity SO

We are supportive of Ofgem's decision to create a new system operator company that is physically separate from any other National Grid subsidiary.

#### 13. Code Governance Reform

We support the progression of the CMA remedy in this area, and look forward to hearing Ofgem's proposals for the Strategic Direction and Consultative Board. It is vital that large scale changes fit into a delivery horizon that avoids pinch points and congestion, so a steer from Ofgem on the general direction of travel it expects the industry codes landscape to take, in the light of technology and policy

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<sup>2</sup> [Blown Away: What is the UK losing by banning the cheapest form of electricity generation?](#)

developments, would be helpful. We support a strategic direction which enables the transition to a smart, flexible and low carbon energy system.

The strategic direction along with code-specific work plans will provide greater transparency and clarity of priorities and should help with industry planning. We broadly support the introduction of a consultative board which would play a role in managing the congested delivery horizon and provide essential expertise to support Ofgem in this regard. We are particularly keen to understand how we can engage with the strategic direction and which bodies would sit on the cross-code oversight board.

#### 14. Brexit Preparedness

Brexit may require significant change that will take time to implement and create uncertainty, depending on the final outcome. We do not expect Ofgem to be an oracle but do believe that Ofgem can help greatly in understanding the framing of what (and when) things are likely to happen and not happen in relation to energy. For example what EU energy rules (transmission charging, interconnector arrangements, green electricity rules) may be necessary in order to have market coupling or other trading arrangements. Similarly Ofgem can help to frame an understanding of other rules such as targets and limits (e.g. carbon, renewable, efficiency), consumer rules; IT protocols such as for smart etc. Ofgem may need to take into account potential impacts to wholesale price within existing policy.

#### 15. Innovation Link

We support increased innovation within the industry and that relevant legislation is removed or amended where it is a barrier. However, we need to be mindful that the innovation link and similar Ofgem work recognises where commercial barriers do exist for business models and we do not seek to resolve these commercial issues as part of this process.

#### 16. Targeted Charging Review

We continue to support and involve ourselves within the Ofgem Targeted Charging Review. Above all the output needs to be practical and the market must be able to predict charges to avoid price shocks for suppliers or customer types.

#### 17. Gas Charging Review

No comment.

#### 18. Half-Hourly Settlement

We are supportive of wider Half Hourly Settlement, however new arrangements need to be suitably trialled and tested. Unrealistic deadlines should not be placed upon the industry and suppliers should not be required to run significant but related programs in parallel as this may result in unnecessary costs, which are passed to the end customer.

To enable a robust change programme for Half Hourly Settlement a decision must be reached as early as possible on the challenging subjects of access to customer data and centralisation of agent services.

We support Ofgem's collaborative approach and stakeholder engagement within this programme to date.

## 19. The Data Communication Company (DCC)

Our views, provided to your recent DCC Price Control Consultation broadly contained the below points:

- Transparency of costs, it is essential to ensure that suppliers are able to effectively scrutinise costs against the assurance that we have been provided. Within the current framework we are not able to determine if costs are justified, necessary, effective or efficient and are reliant on Ofgem solely providing assurance. We would therefore welcome greater transparency to support independent assurance, challenge and review.
- Effective risk and reward frameworks and controls are paramount to incentivise the DCC to deliver to plan both effectively and efficiently to minimise any risk/exposure to Suppliers, our Customers (present and future) and delivery of the overall smart roll out programme to UKPLC.
- Improved accuracy and control of estimated / forecasted costs to ensure that there are not significant variances between the predicted costs and actuals for the regulatory year in focus. This will support less volatility in the price of the DCC service and reduce market exposure to increasing costs, allowing suppliers to plan and deliver their programmes with confidence. Costs are ultimately borne by the end consumer.
- Suppliers are wholly dependent on the DCC to successfully deliver their regulatory commitments, plans and milestones to a consistent, sustainable, and secure level of performance to enable mass-deployment. Failure to do so has an impact on ALL suppliers, the smart rollout and ultimately the end consumer. Therefore, it is essential that this is coupled with a more effective risk and reward incentivisation to effectively drive performance outcomes and control costs.
- The DCC is not unique within the industry in operating as a monopoly regulated service provider, Ofgem should seek to apply best practice approaches from other areas in order to ensure DCC performance, cost and delivery outcomes meet the industry objectives set

### **Ensuring network companies deliver for consumers in a changing system**

20. We are very supportive of Ofgem's approach to this broad topic which ensures that low-carbon sources of energy have access to the grid. The 'Capacity Gap' can only be resolved where all renewable energy technologies are enabled to build and operate within market conditions which support them. Investor certainty is key.

#### 21. RIIO second phase Framework Decision Document Q1 2018

It is essential that suppliers are aware of network revenues well in advance of the networks setting tariffs to enable accurate charges to be passed through to customers.

#### 22. Uncertainty Mechanisms

Again suppliers, competition and the end consumer would benefit from a greater notice period than we have at present between the annual review and when suppliers are charged.



23. Incentives

We will continue to provide robust feedback on the incentive schemes. It is important that incentives are fairly handled, are clearly separated and distinct from other regulated activities.

24. Mid-Period Review (MPR) decision on RIIO-ED1

Distribution Network Operators have been achieving revenue above the initial forecast, at the start of the price control. Ofgem may wish to consider how these could be re-baselined.

25. Annual Network Innovation Competition

No Comment.

26. Development of alternative competition models for onshore transmission networks

We support Ofgem's commitment to increasing competition in networks. We do however have concerns about applying a similar regime to that of OFTO without a critical evaluation of what has gone well in the OFTO regime, and what could be improved. 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. Please also refer to our comments regarding OFTO Competitive Tenders below.

27. OFTO Competitive tenders

The regime is 9 years old in 2018, and 5 tender rounds for OFTOs will be complete by the end of 2018-19. The OFTO regime would benefit from a critical evaluation of its successes since its inception, and identification of areas where the regime could use lessons learned to build an even more robust and efficient regime. Industry is proposing an offshore wind Sector Deal which would review market arrangements and include the development of a Taskforce to inform future grid planning and regulations for large scale systems and offshore transmission. Consumer benefits could be realised from undertaking such a review.

28. Review of the cap and floor interconnector regime

No Comment.

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

29. The Capacity Market

In administering the rules for the capacity market, issuing consolidated versions of the Rules promptly following changes would be highly valued.

30. Monitor and investigate potential breaches of REMIT and the Standard Licence Conditions

Ofgem feel they need to provide support for smaller suppliers but if those suppliers undertake actions that result in consumer harm, that equally must be redressed for the sake of the customer and the errors must be addressed with the offending supplier. The customer is ultimately the concern.

We believe that in enforcement, Ofgem should aim to mirror the checks and balances in the criminal justice system

There are several stages in enforcement – referral, case opening, case for the prosecution, judge and jury, sentence, appeal, precedent. The criminal justice system and its review and update processes and transparency set the standard. Any departure from the standard should be by exception, explained, and subject to public scrutiny

We believe that Ofgem and other regulators should consider whether all sector regulatory enforcement should be conducted by a single independent authority such as the Competition and Markets Authority with its Office of Fair Trading role.

Remit is complex. It would be helpful if the regulator could provide further guidance to support industry parties in managing their compliance.

### 31. Compliance and Enforcement activity

We are supportive of Ofgem increasing transparency of its compliance and enforcement activities.

It is essential that all customers receive appropriate regulatory protections, regardless of who their supplier is. We approve of the Ofgem intention to push for greater scrutiny during the licensing process to test the ability of new market entrants to comply with relevant obligations.

We also have concerns that the financial adequacy of new entrants to the supply market are not being scrutinised sufficiently before a licence is issued and we believe that the implications of this are socially unjust. 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, whereas the customers of the failed supplier have generally already benefited from the lower prices that they paid. At the same time, they are protected from the risk of switching to a supplier that may, or may not, prove to be financially sustainable in the long term. A review of the arrangements Ofgem have in place for licensing suppliers, which takes into consideration supplier insolvencies during the period, was committed to in the 2017/18 Ofgem Forward Work Plan but not delivered. We would urge Ofgem to go ahead with this review.

### 32. State of the Market Report 2018-19

We are supportive. The State of the Market report and annual enforcement conferences are engaging and provide good visibility of market direction. We welcome a continuation.

## **Delivering E-Serve schemes efficiently and effectively**

33. We are supportive of the Ofgem intention to deliver E-Serve schemes more efficiently and more effectively.

## **Reducing regulatory burdens**

34. We are supportive of the Ofgem intention to reduce regulatory burdens for industry parties. Generally RFIs are becoming more complex and increasing in number due to an increased number of organisations requesting information from the industry. Where possible Ofgem should work more closely with other bodies to answer the same question with a single RFI. The introduction of suppliers having to fund external audits takes some of the administration away from Ofgem but increases the burden on suppliers.

## **Appendix C: npower views on Industry Data**

35. The use of data on people, buildings and consumption is not fit for purpose for energy policy and consumer protection.

To enable the low carbon transition and to protect consumers with universal service it is necessary to join up data on people, buildings and consumption. For example what consumers' individual needs are and the extent to which energy efficiency and other measures can help reduce bills. To do this the data need to be accurate and accessible in a secure manner.

The current issues are mainly;

- Data that is inaccurate, out of date and incomplete.
- Proliferation of databases with similar information, which is increasing the inaccuracy.
- Very poor ability to connect databases, for example in identifying premises that are off the gas grid.
- Privacy related barriers to improvement of data – arising partly from inadequate of privacy-by-design solutions and partly due to in adequate explanation that good data well managed can overcome privacy concerns.

We believe that Ofgem has a critical role to play in resolving this situation, for example in working with the Information Commissioner's Office, other regulators, government departments and consumer advocates, as well as encouraging the coordination of data related initiatives and non-proliferation of databases.