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Re: ERGEG public consultation on Guidelines of Good Practice on Functional and Informational Unbundling

Dear Fay,

National Grid plc (National Grid) appreciates ERGEG's drive to achieve full implementation of existing legislation and welcomes the opportunity to comment on ERGEG's Guidelines of Good Practice on Functional and Informational Unbundling. National Grid owns and operates the electricity transmission system in England and Wales, operates the electricity transmission system in Scotland and owns and operates the gas transmission network in Great Britain, as well as four of the eight gas distribution networks. Through regulated and non-regulated subsidiaries, National Grid also owns and maintains around 20 million domestic and commercial meters, and the short range LNG gas storage facilities in Great Britain. Separate legal entities within the National Grid Group own the electricity interconnector between Britain and France and a Liquefied Natural Gas (LNG) importation terminal at Isle of Grain. National Grid will also soon become the second largest energy utility in the United States by customer numbers, owning electricity and gas companies in the New England and New York States.

National Grid is pleased to acknowledge that a central theme of the European Commission's energy policy proposals has been the unbundling of transmission networks from production or supply interests. In our experience, the best model to guarantee true transmission network independence is ownership unbundling. National Grid believes, similarly to ERGEG, that the ownership-unbundled TSO option is the best solution to deliver consumer benefits, market confidence and the objectives of market and policy makers - namely a transmission network which both acts independently and is perceived to be independent. The creation of Independent System Operators (ISOs) is clearly second-best to ownership unbundled TSOs and where ISOs are implemented, there should be clearly defined criteria governing their operation in order to avoid any actual or perceived discrimination.

Before such time as a new legislative and regulatory framework can be developed to address these points, National Grid agrees with ERGEG that effort needs to be made to tackle the issues associated with non-ownership unbundled companies under the current conditions and consequently we welcome this consultation as a first step. However there are a number of points that National Grid wishes to clarify in relation to ERGEG's Guidelines for Good Practice (GPP).

Definition of 'Vertically Integrated'

The GPP does not set out as clear a definition of vertically integrated companies as is contained in the Internal Market Directives. National Grid feels that it is important that a

definition is included in order to clarify who the GGP applies to. The definition should reflect that which is included in the Electricity and Gas Directives (2003/54/EC and 2003/55/EC respectively) i.e.

'vertically integrated undertaking' means an undertaking ... where the undertaking/group concerned is performing (at least one of the functions of transmission or distribution and at least one of the functions of generation or supply of electricity) / (at least one of the functions of transmission, distribution, LNG or storage and at least one of the functions of production or supply of natural gas).

GB Market Structure

Page 7 of ERGEG's GGP refers to the 'structural separation of system operation in Britain'. National Grid would like to clarify that the BETTA model of the electricity industry in Britain is a hybrid of structural separation of system operation and ownership unbundling. In England and Wales ownership is unbundled - the system operator and transmission owner National Grid Electricity Transmission (NGET) is in separate ownership from the 'competitive' aspects of the market and is prevented by its licence from buying or acquiring electricity for resale. This prohibition extends to NGET's affiliates and related undertakings (effectively including NGET's entire corporate group). In Scotland ownership of the electricity transmission network is not unbundled from competitive activities, as the two transmission owners have generation interests. However, system operation in Scotland is unbundled through National Grid Electricity Transmission's role as GB system operator with ownership of the transmission assets residing with Scottish and Southern Energy and Scottish Power plc.

In gas, National Grid Gas is ownership unbundled from any competitive elements. The non-competitive elements of Transmission and Distribution are under common ownership, with National Grid Gas having detailed licence conditions requiring the operational and managerial separation of Transmission, Distribution and Metering activities. The licence specifically requires Transmission and Distribution to be managed as if they were separate legal entities. A Business Separation Compliance Officer ("BSCO") is required to oversee this separation and has an independent reporting line to avoid any conflict of interest. The BSCO is required to actively monitor compliance with the separation Licence conditions and report to a sub-committee of the National Grid plc board and Ofgem at least annually.

Summary

National Grid believes that arrangements such as those in GB are fully sufficient in order to ensure that there is no incentive for discrimination between network activities and competitive activities. It is important that there is recognition of existing arrangements and structures that prevent discrimination at the moment within EU Member States, and that the imposition of additional unnecessary obligations is avoided.

National Grid is happy to engage in further discussions on any of the above points.

Yours sincerely,



Graeme Steele