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3rd October 2008

Draft Social and Environmental Guidance to the Gas & Electricity Markets Authority

We thank you for giving us the opportunity to respond to the draft social and environmental guidance to the Gas and Electricity Markets Authority.

The BWEA is the trade and professional body for the UK Wind and Marine Renewables industries and currently has 435 corporate members. More information on the BWEA is available on our website at www.bwea.com.

Our most important general comment is that the guidance needs to make totally clear that Ofgem's function when addressing social and environmental issues is to ensure that the policy objectives of Government are met at least cost. This is consistent with the prime driver of GEMA and Ofgem to protect the interests of the consumer. What is not appropriate is for Ofgem to use cost to consumer as an argument to frustrate the implementation of policy that Government has decided on after careful analysis and consultation. We believe that Ofgem has exhibited this behaviour. The guidance must be clear that Ofgem should not do so in the future.

Consequently, we believe the guidance proposed is not sufficiently certain and robust to allow the Authority to assist the Government to the full extent of its capabilities. The Authority always faces the possibility of having its decisions challenged by way of judicial review. This guidance should give the Authority protection against potential allegations that it should not be implementing actions that achieve the Government's social and environmental policies if those actions have a short term cost impact on consumers (i.e. the policies do not appear to meet the Authority's principal objective). If the guidance is not sufficiently clear then the Authority is more likely to adopt a cautious approach, which will limit the assistance given to the Government.

Paragraph 5 of the introduction to the draft guidance touches on this issue directly; if there is an apparent conflict between the general duties on the Authority to promote

sustainable development and a viable long term energy supply and the Authority's principal objective, what should the Authority do?

We would suggest that one of the key objectives of the guidance should be to address this issue.

Taking the questions raised in consultation in turn:

Do you agree that it is appropriate for the Government to provide new guidance to the Authority on its contribution to the achievement of the Government's relevant social and environmental aims at this time?

The overall position of the BWEA in relation to the Authority's duties is that the current general duties to contribute to the achievement of sustainable development and to secure a diverse and viable long term energy supply should not be given equivalent status to the principal objective to protect the interests of consumers by promoting competition.

However, as you may be aware, it is of concern to us that the Authority interprets its principal objective in such a narrow fashion that the interests of consumers is held to be equal to the short term financial interests of those consumers, without appropriate weight being given to the social and environmental implications of the regulatory policy that the Authority adopts. Furthermore, we suggest that the Authority be explicitly advised not to consider costs directly arising from compliance with Government legislation as negatives in any assessment. For example, in its recent impact assessment of CAP148, Ofgem has attributed a major negative cost to additional ROC issuance resulting from potential headroom expansion of the ROC regime, implying that Ofgem considers the growth of renewables to levels close to targets as inherently against the interests of consumers. BWEA and its members regard this type of approach by the Authority as inappropriate.

The approach adopted by the Authority is particularly relevant given the challenging target that the European Union has adopted for supplying energy from renewable sources, and Great Britain's likely contribution to that target

For these reasons we think it is very relevant and appropriate for the Government to provide new guidance to the Authority on its contribution to the achievement of the Government's relevant environmental aims at this time.

Do you agree with the guidance provided on contributing to the achievement of Government policy aims on:

(a) Networks

1. Before addressing the specific provisions set out in the consultation paper, we would like to mention a number of general points relating to networks that were not fully reflected in the consultation paper.
2. BWEA supports a position that the Authority should promote change to the regulatory framework that provides a firm connection date to all generation seeking connection to the transmission system, such a date being no later than a set number of years after the date of the connection application. We would

suggest that the relevant time period is three years; certainly the period should be no longer than four years.

3. Much discussion has taken place around the concept of priority access to the grid for renewable generators, particularly in the context of negotiating the new renewable energy directive which is to implement the EU 20% by 2020 target. We believe that with the system set out in paragraph 2 above, where generators can connect within project planning timescales, renewables do not necessarily need priority on the network. If such a regime cannot deliver connections to renewables within the set timescale without a degree of priority given to them, then clearly priority must be given; however, we would hope that a system can be agreed that brings certainty to developers of all forms of generation, without the need for any one set of technologies to be given advantage over others.
4. We support the general principle that the charges paid by generators for using the transmission system should be cost-reflective. This is not to say that current cost calculation methodologies achieve this result.
5. We strongly support the suggestion that the network owners should be encouraged to invest strategically in developing network capacity in areas where major expansions of capacity are likely to be required, in advance of developers making substantial commitments to use this capacity.
6. We suggest that the Government should insist on regular face to face meetings between BERR and the Authority, accompanied by a system of six-monthly reports by the Authority setting out how it has assisted BERR in delivering the Government's social and environmental objectives. We believe that a more formal communication structure together with the opportunity for the industry to comment on the outcomes of those meetings would be beneficial.

Taking the paragraphs relating to networks issues set out in the consultation paper in turn:

1. Paragraph 10 touches on one of the key difficulties in this area. It is likely to be increasingly difficult to achieve sustainable development and secure a diverse and viable long term energy supply without some costs being passed through to consumers.
2. If the Authority, as it currently seems to do, considers that its principal objective to promote the interests of consumers is to ensure that the net present value of any change is positive for consumers, this may prevent the Authority taking steps that are required to encourage sustainable development and secure a diverse and viable long term energy supply. Government needs to guide Ofgem not only as to the appropriate shadow cost of carbon, but also as to over what period its assessments should be made, and what discount rate should be applied. This should ensure that proper account is taken of the interests of future generations in assessing the impact of changes to regulation.
3. At present the implication of having a principal objective is that if a policy meets the sustainable development duty, but does not satisfy the principal objective, then that policy should not be pursued by the Authority. We suggest that part of the purpose of this guidance should be to indicate to the Authority when the

protection of consumers' interests would involve expenditure in the short term to avoid greater expenditure in the longer term, and so to indicate when meeting the sustainable development duty actually satisfies the principal objective as well.

4. In part this ties in to paragraph 21 of the guidance to the Authority, and paragraph 5 of the introduction to the guidance. In our view, these paragraphs should *require* the Authority to raise with the Government any potential difficulty the Authority is having in reconciling specific social or environmental measures the Government wishes to achieve with the principal objective of the Authority. As mentioned above, we suggest that the Authority should be obliged to report to the Government on initiatives that it is not progressing, that would assist in the achievement of the Government's environmental and social objectives, for the reason that those initiatives would, in the Authority's opinion, be inconsistent with its principal objective. This will give Government a chance to make clear what it thinks the Authority should do to implement the policy whilst protecting consumers.
5. Paragraph 11 of the consultation paper refers in its introductory text to the parameters of the principal objective and general duties. This again highlights the issue of the principal objective itself actually being a bar to the achievement of the social and environmental policies, as it seems to be currently interpreted by the Authority.
6. The first of the bullet points in paragraph 11 is broadly drafted, which, in our opinion, gives too much room for interpretation by the Authority or any person seeking to challenge a decision of the Authority. We would suggest that the Authority is encouraged to seek means to give improved access to electricity networks for new generation by introducing a time limit within which generators will be certain of being connected to the transmission system. That time limit would run from the date that the generator applies for connection to the transmission network.
7. In relation to the second bullet point, it is not clear what the Authority is being guided to do within the broad heading of resilience. This bullet point would benefit from some clarification as to the nature of the events that the Authority is to adapt to.
8. For the third bullet point, we would suggest that the Authority is encouraged to develop a system for incentivising strategic investment by the transmission owners that would incentivise the transmission owners to take some risks in relation to developing the network in advance of commitments being received from users. The current mechanism, where the transmission owners respond to requests from users at a point where users are able to give a degree of commitment, has led to the transmission owners being delayed by the current planning system, amongst other issues, and thus the extremely long lead times given by certain transmission companies in relation to connections to their system.
9. The fourth bullet point relates to developing confidence in the network. We would suggest that it would give developers far more confidence in the network connection process if there was a firm date when developers knew they would be connected to the system from the time that their application was made. This

would remove a great deal of the uncertainty surrounding the connection process, which is currently a disincentive to investment in UK generation projects.

10. The fifth bullet point again is a step in the right direction, but could be strengthened to oblige network owners and developers to discuss investment plans which would allow more informed decisions on network development to occur. Existing generation owners also need to be involved in these discussions.
11. With regard to paragraph 12, we believe Government should additionally direct GEMA to ensure that the offshore transmission regime is fit for purpose in enabling strategic development of the offshore grid. The third round of offshore wind site awards takes us into a different order of magnitude of development, and the grid regime must be able to deliver a rational infrastructure to meet the needs of this scale of delivery.
12. We agree with the points made by the Government in paragraph 13 but consider that this is an extremely broad piece of guidance that does little to actually guide the Authority. We would suggest that it would be far more beneficial for the Authority if specific guidance was included in relation to the relative costs and benefits of different approaches that should be considered and other means of implementing the policies being promoted.
13. As has been mentioned above, we would suggest that paragraph 21 of the guidance and paragraph 5 of the introduction should be strengthened so that the Authority has an obligation to notify the Government when it considers that it cannot reconcile its principal objective with its general duties in relation to sustainable development and long-term energy supplies.

(b) Energy efficiency

We agree that energy efficiency is a key aspect of energy policy and that Ofgem should be strongly guided in this respect. We would add that the demand side of the power market has a key role to play in optimising the overall efficiency of the system; Ofgem should be tasked with enabling consumers to participate in the market in ways that enhance efficiency and allow higher penetrations of variable renewable energy such as wind power.

(c) Distributed Energy

BWEA foresees that distributed energy, particularly in the form of large-scale wind turbines connected to the distribution network, but also microgeneration, will become increasingly important in meeting our renewable energy targets. We therefore welcome the guidance to Ofgem in this area.

(d) Smart Meters

Given the importance of smart meters not only to the demand reduction and management agenda, but also to the spread of microgeneration, BWEA believes that Ofgem should be more strongly guided in this regard. The Authority should be tasked with bringing forward a roll-out plan which maximises the savings to consumers of this key technology.

(e) Technology and Innovation

Whilst Ofgem has a key role in supporting the development of new technologies and techniques that allow better use of networks, of even greater importance is deploying these innovations in a timely manner. Ofgem needs to be given stronger guidance that innovations that are demonstrated should be strongly encouraged through the regulatory regime, with DNOs and TOs able to gain rewards from early roll-out if they have taken more of the risk.

Do you agree that the Authority should have regard where appropriate to the Government's Green Book Guidance, including ensuring that policy options are assessed using values for shadow price of carbon within the range assessed by the Government Economic Service?

Yes. It is vital that appropriate and consistent approaches to assessing the climate impact of policies and measures are used across Government and its agencies. We believe that using the Government's shadow price for carbon will help ensure that Ofgem gives that correct weight to environmental impacts when making assessments of regulatory changes.

We hope that you find this response helpful and we would welcome an opportunity to discuss this with you.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Gordon Edge', written in a cursive style.

Dr Gordon Edge
Director of Economics & Markets
BWEA