

ENERGY MARKET INVESTIGATION

Notice of appointment of an external consultant to conduct case studies on industry codes' modification processes

1. On 18 February 2015, the Competition and Markets Authority (CMA) published an updated issues statement which sets out a number of hypotheses relevant to our investigation into the energy market in Great Britain. It contains a theory of harm which states that the broader regulatory framework, including the current system of code governance, acts as a barrier to pro-competitive innovation and change.
2. On 8 April 2015, the CMA also published a notice explaining that, in order to better understand the impact of the current system of code governance and the code modification process on competition, it intends to engage Cornwall Energy Associates Ltd, of 2 Millennium Plain, Bethel Street, Norwich NR2 1TF (www.cornwallenergy.com) (Cornwall Energy) to conduct case studies of previous or currently progressing modification proposals.
3. The notice of 8 April 2015 invited parties to comment on the proposal to carry out case studies of previous (or currently progressing) modification proposals and Cornwall Energy's proposed appointment.
4. In relation to the case studies themselves, the CMA received comments as to the criteria it should use in deciding which code modification proposals should be examined. The CMA will consider these comments going forward.
5. It also received comments as to whether Cornwall Energy was, given its and its staff members' own active involvement in the codes' modification process, a suitable firm to conduct the case studies for the CMA. Comments were also received as to what safeguards should be put in place in the event of Cornwall Energy's appointment to ensure that it conducts the case studies in an unbiased way. The CMA has noted the comments submitted in response to the notice of 8 April 2015, and wishes to clarify that Cornwall Energy's role in the case studies will be limited to the provision of factual information to the CMA about the particular modification processes the CMA chooses to examine. This information will be gathered through desktop research of publicly available information. If the CMA deems it appropriate, Cornwall Energy will consult persons (including employees of Cornwall Energy) who

hold positions as industry code panel members or working group members, but it will be in a formal approach to represent their positions as panel members or working group members. The CMA will use, if it considers it useful, the factual information set out in the case studies within the context of its assessment, which will be published as part of the provisional findings. Cornwall Energy shall not provide analysis of, or commentary on, these code modification processes.

6. As set out in its notice of 8 April 2015, none of the persons actively involved in the provision of the case studies to the CMA currently hold positions as industry code panel members or working group members. The CMA has reviewed the list of instances in which Cornwall Energy advised energy companies within the context of a code modification process, and considers that none of these raises material concern.
7. Given the above, the CMA has now appointed Cornwall Energy to carry out case studies identified by the CMA.

27 April 2015