



Energy Act: Institutional Arrangements

Issue: Institutional framework for delivery of the Capacity Market (CM) and Feed-in-Tariff Contracts for Difference (CfD) functions.

Policy commitment:

The December 2011 *Technical Update*¹ set out the Government's view that the System Operator, National Grid, is best placed to administer and deliver the EMR functions of the Capacity Market and the CfD. However it also acknowledged that this could give rise to conflicts of interest. It committed to assessing these with Ofgem and proposing mitigating action, if shown to be necessary.

The Joint DECC-Ofgem report recommends several business separation measures which will be implemented with our licence modification in the Act.

Legislative proposal:

There are clear benefits arising from the EMR functions being conferred on the System Operator. However, as a private company, there is a potential risk of conflicts of interest arising between the new EMR functions National Grid will take on and its existing role and interests in the energy market, including its ownership of transmission infrastructure. The Act provides the Government with powers it may need to manage any conflicts of interest.

Further, the Act includes sections to enable the Government to act if it becomes apparent that the System Operator should no longer be able to deliver the EMR functions, and to confer the functions on a new delivery body. These contingency powers are intended to be used only under specific circumstances and are necessary in order to ensure that the EMR schemes continue to be delivered efficiently and effectively.

Relationship to other legislative proposals:

The proposals relate to the implementation of the sections of the Bill relating to the CfD, FiD and Capacity Market functions (Part 2, Chapters 2, 3 and 4).

Background:

Ofgem and DECC carried out an assessment and published final recommendations on how to manage conflicts of interest. This was after a 16 month project of extensive evidence gathering including a consultation and conducting analysis including some by KPMG.

The report recommends a package of measures including some business separation within National Grid to prevent conflicts of interest arising. We will modify National Grid's transmission licence to implement these measures using our powers in the Energy Act.

¹http://www.decc.gov.uk/en/content/cms/legislation/white_papers/emr_wp_2011/tech_update/tech_update.aspx