



Making a positive difference
for energy consumers

Jemma Baker
Competition and Markets
Authority (CMA)
Victoria House
37 Southampton Row
London
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Date: 15 October 2015

Dear Jemma,

Water and sewerage mergers: Draft guidance on the CMA's procedure and assessment

We welcome the opportunity to respond to your consultation on the above.

Ofgem is the Office of Gas and Electricity Markets. We are the independent economic regulator for the GB electricity and gas sectors and an independent National Regulatory Authority, recognised by EU directives. Our principal objective when carrying out our functions is to protect the interests of existing and future electricity and gas consumers. We do this in a variety of ways including:

- promoting value for money
- promoting security of supply and sustainability for present and future generations of consumers, domestic and industrial users
- the supervision and development of markets and competition
- regulation and the delivery of Government schemes.

In many aspects of our regulation of electricity and gas networks, particularly when regulating the local 'distribution' networks we make extensive use of comparing evidence between the different network companies.

The effectiveness of comparative regulation is related to the number of independent sources of evidence. At present energy does not have a process like the water and sewerage merger arrangements that you are consulting upon. This means that we need to consider our work in that context. When we work to set regulatory controls, we sometimes use information/data at licensee level knowing that some of these companies have the same owners. For example in electricity distribution we will consider 14 separate data points despite there being six owner groups. The extra information justifies this and we sometimes apply sensitivity testing to such information to take account of this.

In principle, we value as many independent comparators as possible; these are more useful than non-independent (ie within the same group) comparators. This continues to be the case under our new RIIO (Revenue = Innovation + Incentives + Outputs) approach to network regulation. Here, when carrying out our new assessment process of business plans, we saw in RIIO-ED1, the most recent control, 'quasi competition' between the local network companies in trying to have a high quality business plan that could be sufficiently high quality to be fast-tracked (reach early settlement around 12 months ahead of the remaining companies).

We would like a process similar to the water and sewerage arrangements in energy, particularly given the benefits for consumers that we saw in RIIO-ED1. As in the water and sewerage sector this would make sure that the value we can bring consumers through comparative regulation, which we consider to be strategically important, could be weighed by CMA as merger authority against the benefits from a proposed merger.

We do not have specific comments on the process discussed in your consultation.

Yours Sincerely

Ian Rowson: Associate Partner, Regulatory Finance & Governance