

The Regulatory Appeals Team  
Competition and Markets Authority  
Victoria House  
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WC1B 4AD

29 August 2017

By email only to: [steven.preece@cma.gsi.gov.uk](mailto:steven.preece@cma.gsi.gov.uk)

Dear Steven

**Ref: Competition and Markets Authority (CMA) consultation on draft *Energy Licence Modification Appeals Rules (the Rules)***

I refer to the CMA's consultation on the draft Rules. You ask consultees two questions:

1. Do you have any comments on the draft *Energy Licence Modification Appeals Rules and Guide*?
2. What is your view on the CMA's proposed approach in Rule 10 of the draft *Energy Licence Modification Appeals Rule*, which is to provide that the CMA may take into account whether a third party is materially interested in the outcome of the appeal, when it is considering whether to allow that person to intervene in an energy licence modification appeal?

I am responding to set out the opinion of UK Power Networks' three distribution licensees: Eastern Power Networks plc, London Power Networks plc and South Eastern Power Networks plc. I am UK Power Networks' Head of Regulation and Regulatory Finance.

The overriding objective of the Rules is set out in Rule 4: "*The overriding objective of these Rules is to enable the CMA to dispose of appeals fairly and efficiently and at proportionate cost within the time periods prescribed by the Acts. The CMA will apply these Rules so as to give effect to the overriding objective.*"

UK Power Networks does not consider that Rule 10 assists the CMA in achieving its overriding objective.

UK Power Networks considers that the CMA would be much better assisted in achieving its overriding objective if Rule 10 is changed so that instead of an application having to be made for permission to intervene, any party identified in the applicant's case as materially affected should be automatically entitled to participate in the appeal. At the very least the hearing of the application for permission to intervene should be dealt with at the same time as and as part of the application for permission to appeal.

Adopting this approach brings forward the consideration of the issues, so benefiting the timetable and achieving the overriding objective in that respect also addressing an issue of fairness: by

ensuring that the CMA does not make any decision that materially affects (on the applicant's own case) the interests of the intervener, without it being present.

Moreover, there should be a wider discretion to hold an oral hearing to decide the application to appeal/become an intervener. Therefore the qualification of paper submissions being the usual method by which applications are made/representations/observations are submitted, should be removed.

Finally, in our opinion interveners/prospective interveners should be able to attend all the hearings.

I hope the above is clear and provides you useful feedback to help improve the process. If you have any queries please do not hesitate to contact me in the first instance.

Yours sincerely

James Hope  
Head of Regulation and Regulatory Finance  
UK Power Networks

Copy Paul Measday, Regulatory Returns & Compliance Manager, UK Power Networks