

NORTHERN POWERGRID (NORTHEAST) PLC and

NORTHERN POWERGRID (YORKSHIRE) PLC

Appellants

- and -

GAS AND ELECTRICITY MARKETS AUTHORITY

Respondent

CITIZENS ADVICE

Intervener

Permission to Intervene

1. On 30 March 2023, the CMA granted permission to Northern Powergrid (Northeast) Plc (NPgN) and Northern Powergrid (Yorkshire) Plc (NPgY) (collectively NPg) to bring an appeal, under section 11C of the Electricity Act 1989 (the EA89), against GEMA's decision (published on 3 February 2023) to proceed with modifications to the distribution licences of NPgN and NPgY (the Decision). The licence modifications give effect to GEMA's price control determinations under the price control regime known as RIIO-ED2.
2. On 24 April 2023, the CMA received an application by Citizens Advice for permission to intervene in the appeal to oppose Ground 1 of NPg's appeal, which concerns the alleged misallocation by GEMA of allowances between cost categories.
3. Citizens Advice opposes Ground 1 for a variety of reasons including that:

- (a) allowing the appeal would grant NPg significant additional revenue, to be funded by consumers, without any related improvement in service or investment;
- (b) unjustified returns for network companies arising from RIIO-ED2 add unfair cost to consumers' bills at a time of crisis in the cost of energy and cost of living;
- (c) NPg has not demonstrated that it will receive allowances at a level below what it expects to spend; and
- (d) when compared with NPg's business plan, there is evidence that NPg would be over-funded if their preferred allocation method is followed.

Requirement for permission to intervene

- 4. Under Rule 10.1 of the Competition and Markets Authority Rules for Energy Licence Modification Appeals, 2022, CMA70 (the Rules), the CMA's permission is required to intervene.
- 5. Under Rule 10.2, in considering whether to grant permission to intervene, the CMA shall take account of all the circumstances including:
 - (a) whether the applicant is materially interested in the outcome of the appeal;
 - (b) whether the applicant's intervention in the appeal will assist the CMA to determine the appeal; and
 - (c) whether granting permission to intervene would be proportionate in the circumstances.

Decision on permission

- 6. On 24 April 2023, the application by Citizens Advice for permission to intervene in the appeal was received by the CMA within the period prescribed by Rule 10.3.¹
- 7. Citizens Advice has a statutory role in relation to electricity consumers. It is a consumer body which, under the EA89, could itself have appealed to the CMA

¹ Rule 10.3 provides that an application for permission to intervene must be made before the end of the period of 15 working days beginning with the first working day after the day on which the CMA's decision to grant permission to appeal is published on the CMA's website. That decision was published on 30 March 2023 in the present case.

against the Decision.² The CMA is satisfied that Citizens Advice has a material interest, on behalf of consumers, in the outcome of the appeal on Ground 1 for the purposes of Rule 10.2(a).

8. The CMA further considers that Citizens Advice's intervention will assist it to determine the appeal on Ground 1. Citizens Advice is the statutory consumer advocate for energy and has been closely engaged in previous RIIO licence condition review processes including the Decision. It has a distinct consumer perspective and knowledge of the RIIO-ED2 price control process.
9. In the CMA's view, Citizens Advice's proposed intervention, which is limited in scope to Ground 1, is proportionate in the circumstances to the matters to be determined.
10. Accordingly, taking account of all the circumstances pursuant to Rule 10.2, the CMA grants permission to Citizens Advice to intervene in the appeal on Ground 1.

Kip Meek
Group Chair
26 April 2023

² Section 11C(2)(d) EA89.