



**Response by Energia to the Utility
Regulator Discussion Paper published 5
December 2012**

Reviewing our consultation guidance

27 February 2013

1. Introduction

Energia welcomes this opportunity to respond to the Utility Regulator's Discussion Paper on Consultation Guidance.

It is Energia's view that best regulatory practice should deliver a stable, predictable and fair regulatory regime where decisions are proportionate, targeted, evidence-based, transparent, fully reasoned in line with statutory objectives, and made on a timely basis. Effective consultation should form an integral part of this good regulatory process. We therefore welcome the initiative from the Utility Regulator to review its consultation guidance in an open, inclusive manner and in light of consultation guidance and practices elsewhere. This demonstrates a commitment to continuous improvement in stakeholder engagement which is to be commended.

The remainder of this response provides specific feedback to the proposals in the discussion paper, along with more general feedback on what we consider important attributes of good consultation content and process. We also comment on the SEM Committee's consultation process and the notable absence of guidance around that. It would be helpful if the Utility Regulator could address this gap in light of its role on the SEM Committee.

2. Feedback

With reference to the specific proposals in section 4 of the discussion paper we have the following comments:

1. General format of consultation guidance:

- Energia has no objections to a simplified format and greater brevity providing that the guidance remains as comprehensive and prescriptive as it needs to be.

2. Process:

- Energia agrees that the provision of feedback is central to accountability and transparency and has no objections to the proposal in the discussion paper to 'define the process [for providing feedback] by setting a timeframe for publishing documentation following consultation'. The process should also define the timeframe for making decisions but we comment further on this point later in this response.
- With regard to the current process to hold a stakeholder workshop during the annual FWP consultation we would support its continuation and we would encourage the use of stakeholder workshops for all significant or complex consultations. Their timing is also important. We suggest that workshops be carefully planned in coordination with the publication and closing date of said consultations to provide interested parties sufficient

time to consider proposals, raise clarifications, and provide more informed feedback.

3. Engagement:

- In addition to holding stakeholder workshops during the course of formal consultations we would welcome the use of pre-consultation stakeholder workshops and stakeholder briefings.

4. Timing:

- On the issue of timing we agree that setting standards for the length of consultation gives a certain degree of certainty to stakeholders but this is not the most important criterion to satisfy and we would not support the proposed timelines in the discussion paper.
- We should stress that regulatory issues peculiar to utilities are often highly complex and significant in terms of their impacts on consumers and the companies concerned. Interested parties need sufficient time to carry out analysis, consider impacts, identify potential unintended consequences, raise clarifications, and get internal approvals as required before they can submit informed and constructive responses. We understand this is exactly the kind of feedback regulators want and thus we suggest this be a key criterion in determining appropriate timelines for consultation.
- In the above respect the CEER guidelines on consultation (revised 24 April 2012) are more appropriate in terms of timing than the new Cabinet Office guidelines (which stipulates a range of between 2 and 12 weeks) because they relate specifically to energy regulation matters. We thus suggest in line with CEER guidelines that an 8 week minimum timeframe be adopted (unless unavoidable, for example due to enforcement orders) for consultations and that all significant consultations (to be defined) should last for a minimum of 12 weeks (and more if over a holiday period).

5. Accessibility:

- We welcome the Utility Regulator's commitment to enhance the accessibility of the documents it publishes and the associated measures proposed in the discussion paper.
- We would particularly value website accessibility enhancements.
- Whilst we have no particular objection to online formats for responding to consultations we feel strongly that this should not preclude more traditional methods for making submissions, and importantly we would not advocate the CEER approach of treating more traditional submissions as

supplementary background documents only which are not considered in the evaluation of responses.

In addition to our specific comments above in response to the proposals in the discussion paper we would like to offer the following feedback and suggestions for improving the existing consultation process:

- I. Provide indicative timelines for decisions in consultation documents and commit to them as much as possible. Timely decisions are an important aspect of best regulatory practice. The current discussion paper states the following: 'We expect to publish our final view on consultation practice within 3 months of the close of the consultation'. We would strongly encourage this practice on a systematic basis and for this to be reflected in the revised Consultation Guidance.
- II. We suggest the publication of planned consultations in the FWP and for this to be maintained and updated on the Utility Regulator's website on a rolling 3 month basis.
- III. We also suggest the publication of closed consultations, noting when decisions are expected, and for this to be maintained and updated on the Utility Regulator's website on a monthly basis.

Finally, we would urge the Utility Regulator to bring best practice consultation process and guidance into the SEM Committee. We are not aware that the SEM Committee has published formal consultation guidelines and we would see this as a notable gap that needs to be addressed.