

## Minutes of CLLS Energy Committee Meeting

20 December 2018

### Attendees:

Robert Lane (*Chairman*), CMS Cameron McKenna Nabarro Olswang LLP

Clare Hatcher (*Vice Chair*), Clyde & Co LLP

Kevin Hart, City of London Law Society

Sarah King, CMS Cameron McKenna Nabarro Olswang LLP

### **1. Introduction**

Robert Lane introduced the meeting and welcomed Clare Hatcher from Clyde & Co LLP as Vice Chair of the Committee.

### **2. Update by members**

#### General

There was a discussion regarding the composition of the Committee, which was followed by an analysis of methods for widening its membership.

#### Discussion on UK Energy policy and Ofgem

The members noted that Ofgem, in the run up to Christmas, has issued various publications on areas such as the RIIO-2 sector-specific methodologies, co-ordinating networks and Orkney. It was further noted that there have also been publications relating to the Targeted Charging Review, supply licence conditions, the capacity market and also a consultation from BEIS on the way forward following the state aid challenge brought by Tempus Energy.

### **3. Energy price cap/State of the supply market**

The Committee discussed the supply price cap and, more generally, the state of the supply market, highlighting that this is a time of change.

There was also discussion regarding the decision of the Court of Justice of the European Union on the state aid challenge relating to the UK capacity market brought by Tempus Energy. The Committee noted that this would raise significant policy, regulatory and commercial issues for many participants in the energy market and that prolonged uncertainty as to the status of the capacity market would be detrimental.

It was further discussed that while Ofgem is encouraging more suppliers to join the market, some new entrants have faced financial difficulties, leading to suppliers of last resort having to be appointed. The members discussed the possibility of Ofgem introducing measures designed to ensure that suppliers are capable of conducting their businesses in a sustainable manner.

### **4. RIIO-2**

There was discussion on the challenges that the new RIIO-2 price control brings for network companies, with many issues revolving around the concept of financeability.

## **5. Water**

It was acknowledged by the Committee that the water price controls are being decided at the moment. There was discussion regarding the issue of granting local councils responsibility over the water systems as the Labour manifesto proposes.

## **6. Brexit developments (Withdrawal agreement/No-Deal scenario)**

The Committee noted that the Energy UK trade association is publishing a number of commentaries on Brexit. There was discussion regarding how lawyers could best serve their energy clients on this issue; however, it was acknowledged that there are limitations on what can be done given the lack of legal clarity on many aspects of the process, including on energy matters.

## **7. Consultations**

The members reviewed a number of live consultations; however, it was agreed that there is not sufficient scope for the Committee currently to respond on any particular issue being consulted on.

## **8. A.O.B**

The Chairman announced that the Committee has welcomed a new member, Natalya Pilbeam of BP, whose position on the Committee has been formally approved.

The next meeting of the Committee is scheduled for 21 January 2019 and a subsequent meeting on 13 May 2019, which will be followed by the annual CLLS service at the Tower of London and thereafter by a dinner at Trinity House.

There was no other business.