

Pants On Fire, episode 13

by Franck Latrémolière on Friday 26 June 2015

1. Ofgem approved DCP 189 even though its legal text contained the passage quoted in exhibit 1.

Exhibit 1 Extract from DCP 189 legal text

... the fixed charge will be derived as follows:

$$\text{p/day} = (\text{direct cost\%} + \text{network rates \% applied to the SUA MEAVU}) + (\text{network rates \% applied to the SUA MEAVP})$$

2. This formula is wrong: a percentage applied to a modern equivalent asset value (in £) does not give a result in pence per day.
3. Using the <https://www.whatdotheyknow.com/> website, I asked Ofgem for the following (in relation to three change proposals including DCP 189):

A list of the tests and methods that Ofgem used to check that the legal text submitted for approval would have the effects relied upon in the reasoning underpinning Ofgem's approval decision.

4. Ofgem replied:¹

No such list exists.

5. It looks like Ofgem approved DCP 189 without making any attempt at verifying that what they were approving had the effect contended for in the change report.
6. This is an example of regulatory capture. A properly independent regulator would have done something to validate the claim that the change that it was asked to approve was consistent with what the industry told it the change would do.
7. In the case of DCP 189, no direct practical harm has resulted from Ofgem's capture, because a DNO has subsequently put forward an additional change proposal (DCP 233) which has corrected the errors.
8. If I was a conspiracy theorist, I'd imagine that someone was testing the waters to find out how difficult it would be to smuggle a hidden modification past Ofgem's not-so-watchful eyes.
9. But in truth the whole thing was probably just a series of accidents. It still tells us something about the intensity of Ofgem's scrutiny of code governance matters.

¹ https://www.whatdotheyknow.com/request/documents_related_to_recently_ap