

Electricity Distribution Licence Review: Proposals



Document type: Consultation

Ref: 259/07

Date of publication: 25 October 2007

Deadline for response: 18 January 2008

Target audience: Electricity distributors and potential new entrants, consumer groups, electricity suppliers, generators and other interested parties

Overview:

Ofgem is reviewing the standard licence conditions of the electricity distribution licence as part of its drive towards Better Regulation. The primary aim of the Distribution Licence Review is to improve the clarity and ease of use of the licence without making substantive changes to the obligations placed on licensees.

The proposed licence is now thinner (by almost a third), more up to date, and easier to use. While there have been no substantive policy changes, it has undergone substantial structural change. Certain conditions have been consolidated and those which are now obsolete have been removed. The proposed licence also uses descriptive chapters and subheadings, and a more Plain English approach to the drafting.

This document describes our proposals for updating the distribution licence and highlights specific changes and related issues. We are asking for views on these proposals and for distribution licensees in particular to decide whether they are acceptable in principle.

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Context

This consultation forms part of our review of distribution standard licence conditions (the Distribution Licence Review) aimed at ensuring that they are fit for purpose and meet the principles of Better Regulation. This document invites views on our proposals to modify the existing standard conditions of the electricity distribution licence.

The Distribution Licence Review is referred to in Ofgem's Corporate Strategy and Plan 2007-2012 and is consistent with our commitment to incorporating the principles of Better Regulation into our policies and processes. In particular the Distribution Licence Review is outlined in our simplification plan as work to be carried out between 2007 and 2008.

Associated Documents

"Electricity Distribution Licence Review" (March 2007) Ref 52/07

<http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=1&refer=Networks/ElecDist/Policy>

"Ofgem Corporate Strategy and Plan 2007-2012" (March 2007) Ref 60/07

http://www.ofgem.gov.uk/About%20us/CorpPlan/Documents1/19247_2007%20Corp%20Plan.pdf

"Better regulation - from design to delivery: Annual Report 2004/2005"

<http://www.brc.gov.uk/upload/assets/www.brc.gov.uk/designdelivery.pdf>

"Supply Licence Review - Final Proposals" (June 2007) Ref 128/07

<http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=156&refer=Markets/RetMkts/Compl/SLR>

"DPCR5 - looking ahead an initial consultation letter" (May 2007) Ref 119/07

<http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=1&refer=Networks/ElecDist/PriceCtrls/DPCR5>

"GDPCR: Initial Licence drafting Consultation" (September 2007) Ref 221/07

<http://www.ofgem.gov.uk/NETWORKS/GASDISTR/GDPCR7-13/Documents1/GDPCR%20Licence%20drafting%20Consultation%20appendices.pdf>

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Summary

Ofgem has been reviewing the standard licence conditions (SLCs) of the electricity distribution licence as part of its drive towards Better Regulation. The proposals from this review are now published in three documents. They are:

1. The main body of the consultation document;
2. A copy of the legal text of a complete set of proposed SLCs (see Appendix 3); and
3. A detailed log of changes to the standard conditions of the distribution licence (see Appendix 4).

The distribution licence is the principal mechanism by which Ofgem regulates the electricity distribution industry. The SLCs of the distribution licence are generally in a similar form to those introduced approximately 18 years ago. Furthermore, both the drafting style and the overall structure of the licence are unduly complex. As a consequence it is considered that the style, format and general ease of use of the licence are in need of review in order to bring the licence up to date.

The primary aims of the Distribution Licence Review (DLR) are therefore to improve the clarity and ease of use of the licence without making substantive changes to the obligations placed on licensees or the underlying policy of the licence.

To achieve these aims, a workgroup was established in March 2007 by Ofgem and the Energy Networks Association (ENA), with the aim to take forward the detailed work of reviewing the licence and developing initial proposals. Membership of the workgroup¹ included representatives from Distribution Network Operators (DNOs), Independent Distribution Network Operators (IDNOs), energywatch and Ofgem.

The workgroup has relied, where appropriate, on much of the style developed during the recent Supply Licence Review in guiding its thoughts and proposals.

This document sets out Ofgem's proposals for a shorter and clearer distribution licence that distributors and all other interested parties should find easier to use. The proposals adopt the recommendations of the workgroup, which involved considerable discussion between industry representatives, energywatch and Ofgem.

The key themes of our proposals are:

- **No policy change** - the purpose of the DLR is not to change the obligations on licensees. Therefore this document and its appendices explain how regulatory policy has, with minor exceptions that are explained in this document, been maintained despite considerable change to the format and style of the licence.

¹ Please see Appendix 5 for full details of the workgroup's membership.

- **Clearer and more user friendly style and format** - the proposed changes introduce a drafting style and format that are much clearer and easier to use. For example it is proposed that the SLCs are reorganised into themed chapters, with the obligations within the SLCs being grouped under specific sub-headings. These changes should promote improved regulatory transparency.
- **Consolidation** - it is proposed that a number of SLCs will be consolidated in order to reduce the level of duplication and to gather similar obligations together so they are clearer and more accessible.
- **Removal of obsolete obligations** - the SLCs of the current distribution licence contain many obligations that have over time become obsolete, for example in relation to the Utilities Act and BETTA. Consequently it is proposed that these obligations are removed from the licence.

Next Steps

This consultation document seeks views in relation to the proposals it describes. Responses should be addressed to Simon Polley and sent to distributionpolicy@ofgem.gov.uk by 18 January 2008.

Before the deadline for responses to this consultation passes, we intend to host a public workshop on 29 November 2007. This will give industry participants and other interested parties an opportunity to discuss the proposals set out below and raise any issues or seek clarification before submitting a formal response. Please contact Mark Askew (distributionpolicy@ofgem.gov.uk or 020 7901 7022) to register your interest in attending (by 9 November) or for further details.

Following this consultation, the next stage of the DLR is to prepare draft licence modifications based upon the proposals set out in this document, taking into account the views of respondents and further legal review which Ofgem intends to undertake during the consultation period. We aim to raise these modifications in February 2008. If the necessary majority of licensees accept our proposals, we plan to introduce the modified standard licence conditions from 1 April 2008.

Please note: we do not intend to consult again before issuing formal statutory notices to modify the standard conditions of the distribution licence. It is therefore vital that licensees and other interested parties provide all their comments in response to this consultation. Furthermore, to avoid misunderstandings, causing delay and further work, we urge all licensees and interested parties to raise all substantive issues at the workshop on 29 November.

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1. Overview

Chapter Summary: This chapter explains the background to the Distribution Licence Review, the proposed timeline for the remainder of the review and the broad changes that have been made to the licence, eg the introduction of a new structure and style and the consolidation and removal of conditions.

Questions

Question 1.1: Do you agree with the detailed proposals for modifying the standard conditions of the distribution licence, as described by this consultation document and in particular Appendices 3 and 4? Please give reasons for your answer.

Question 1.2: Do you consider that those proposals maintain the obligations and underlying policy captured by the current standard licence conditions? If you consider that obligations or policy have changed, please describe how you think this has happened and whether you think the change is appropriate.

Question 1.3: Do you consider that the proposals achieve the aims of the Distribution Licence Review and adhere to the principles of Better Regulation? Please give reasons for your answer.

Question 1.4: Are there any changes which have been made as part of this review which you consider go beyond the scope of this review and should be considered under different terms of reference? Please give reasons for your answer.

Question 1.5: We have thoroughly reviewed the defined terms used in the standard licence conditions. As a consequence in some cases we propose to introduce, replace and remove certain terms. Are our proposals appropriate? Do they maintain existing licence obligations and underlying policy? Will our proposals have consequential effects on industry codes and arrangements outside the scope of the Distribution Licence Review? Please give reasons for your answer.

Question 1.6: Do you have any general comments or observations that you think should be taken into account as part of this consultation?

Background

General

1.1. In accordance with the Electricity Act 1989 (the Act), all electricity distributors must hold either a distribution licence or an exemption to distribute electricity. The distribution licence contains obligations and provisions in relation to consumer protection, the provision of monopoly services on a non-discriminatory basis, the establishment and operation of the competitive market infrastructure, the integrity and development of the distribution network, the financial ring-fencing of the distribution business, and the provision of regulatory information to Ofgem.

1.2. The standard licence conditions (SLCs) of the distribution licence have not been substantially reviewed for many years and in some cases not since the inception of the licence in 1989. As a consequence it is considered that the style, format and general ease of use of the licence are now in need of review in order to bring the licence up to date.

1.3. Accordingly, in March 2007 Ofgem launched the Distribution Licence Review (DLR), a review of the SLCs found in the distribution licence.

1.4. In order to better serve the interests of customers, Ofgem is committed to improving the way it regulates. Therefore, following the example set by the recent Supply Licence Review (SLR)², the DLR is an important part of Ofgem's work towards Better Regulation³ and its desire to develop the way in which it regulates so that energy regulation is more proportionate, accountable, consistent, targeted and transparent⁴.

1.5. A workgroup was established in March 2007 by Ofgem and the Energy Networks Association (ENA), with the aim to take forward the detailed work of reviewing the licence and developing initial proposals. Membership of the workgroup included representatives from Distribution Network Operators (DNOs), Independent Distribution Network Operators (IDNOs), energywatch and Ofgem⁵.

Distribution price control review

1.6. Ofgem intends to launch the fifth Distribution Price Control Review (DPCR5) in April 2008. DPCR5 will provide an opportunity to review the regulatory policy and obligations in relation to electricity distribution businesses. As a consequence the DLR has not, in general, reviewed the policy behind licence obligations. Ofgem has, however, identified in Chapter 4 of this document a number of policy areas under the licence that could be subject to future change.

² Please see the "Supply Licence Review - Final Proposals" (June 2007) Ref 128/07 (http://www.ofgem.gov.uk/Markets/RetMkts/Compl/SLR/Documents1/SLR_Final_Proposals_Decision_Doc.pdf)

³ The Distribution Licence Review is referred to in Ofgem's 'Corporate Strategy and Plan 2007-2012' and in particular is outlined in the simplification plan as work to be carried out between 2007 and 2008. (http://www.ofgem.gov.uk/About%20us/CorpPlan/Documents1/19247_2007%20Corp%20Plan.pdf)

⁴ The Principles of Better Regulation can be found in "Better regulation - from design to delivery: Annual Report 2005" (<http://www.brc.gov.uk/upload/assets/www.brc.gov.uk/designdelivery.pdf>)

⁵ A list of the workgroup's members can be found in Appendix 5.

Objectives and principles applied

1.7. The DLR's objectives are to improve the clarity and ease of use of the licence without changing the obligations placed on distribution licensees or disturbing the underlying policy objectives of the licence conditions.

1.8. In particular, the review has concentrated on:

- rewording certain conditions and defined terms;
- the removal of redundant conditions; and
- updating the style of the licence

1.9. The SLR is a valuable example of how Ofgem has incorporated the Principles of Better Regulation into its work. As a consequence the DLR has sought broadly to replicate, where appropriate, the drafting style and formatting approach adopted by the SLR for its licence proposals. Further details are set out below.

Timeline

1.10. We plan to introduce the modified electricity distribution SLCs on 1 April 2008.

1.11. To achieve this target and in addition to this consultation document, we plan to:

- Invite licensees and interested parties to a public workshop on 29 November 2007. This will provide an opportunity for attendees to discuss any issues they discover prior to submitting a formal response to the consultation.
- Collate and take account of responses to this consultation in January 2008.
- Undertake the statutory 28 day consultation on formal licence modifications in February 2008⁶.

Summary of proposed changes

1.12. Summaries of the key changes proposed by the workgroup are described below and a more detailed analysis of the changes being made to the licence can be found in the Detailed Log of Proposed Changes (Appendix 4).

⁶ Please see Appendix 5 for more details in relation to the process for making licence modifications.

Structure of the proposed licence

General style and format

1.13. The proposed standard distribution licence is considerably different in style and format from the current licence. The SLCs have also been substantially reordered, in places consolidated and those which are obsolete have been removed. The proposed licence is therefore around a third slimmer due to the existing 77 SLCs being reduced to 50.

1.14. At present the distribution licence is divided into three general parts - Sections A and B which apply to all distribution licensees, Section C which only applies to DNOs operating within their distribution services area and Section BA which is specific to IDNOs.

1.15. The proposed licence has incorporated the conditions in Section BA with the associated SLCs found in Section C so that there are now just two sections – Section A which applies to all distribution licensees and Section B which only applies to DNOs operating within their distribution services area.

1.16. A more detailed assessment of the incorporation of conditions from Sections C and BA can be found in the following chapter.

Sections and chapters

1.17. It is also proposed to introduce chapters that group similar conditions together under one heading. The individual conditions will also contain subheadings to help the reader to identify particular obligations and provisions within a condition.

Consolidation of standard licence conditions

1.18. The DLR proposes to consolidate a number of existing SLCs and obligations. The main reasons for this are to make the licence easier to read and use, to make it more concise and to reduce the level of duplication. As mentioned above, these changes contribute significantly to the envisaged reduction, by about 60 pages, in the overall size of the licence.

1.19. For example, conditions relating to use of system (UoS) and connection charging methodologies and charges (ie SLC 4, 4A and 4B) have been consolidated into proposed licence conditions (PLCs) 13 and 14, obligations in relation to discrimination have been brought together in PLCs 19 and 42, obligations that require the licensee not to restrict, distort or prevent competition (eg SLC 4C(6))

have been consolidated into PLC 4⁷ and obligations that require licensees to be parties to and comply with core industry codes have been brought together in a single PLC 20.

1.20. In addition, all of the Authority's formal determination powers in relation to disputes over the terms offered by the licensee for use of system and connection, for the connection of metering equipment, and for the provision of metering point administration services, legacy basic metering equipment, and data services now sit together within PLC 7.

Removal of obsolete conditions and obligations

1.21. In addition to consolidating the SLCs, it is proposed to remove obsolete conditions and obligations. The particular SLCs and/or specific obligations that are planned to be removed can be identified in the Detailed Log of Proposed Changes that is found in Appendix 4 to this document.

Review of defined terms and the rules of licence interpretation

1.22. The defined terms of the licence and provisions relating to the interpretation of the licence, in SLC 1, have been thoroughly reviewed and revised.

1.23. A large number of obsolete or otherwise unused terms have been removed. All defined terms now begin with initial capital letters wherever they occur, and some important new definitions (for example, of Connection, Electronic Communication, and Representative) have been introduced.

1.24. As part of this it is proposed that the previous term "basic meter operation services" is replaced by the term "basic metering services", while the previous term "basic meter asset provision" is removed and a new definition added for "basic metering equipment". This change in terminology does not materially affect the obligations and underlying policy contained in the existing SLCs or the special licence conditions⁸. However, we are aware that the new terminology may differ from that which is in use in related industry codes and arrangements. In this respect we welcome views generally in relation to our review of defined terms and in particular in relation to the new terminology around metering services.

1.25. In addition, the rules of licence interpretation also currently present in SLC 1 have been modernised, and because of their importance are now located in a new condition of their own (PLC 2).

⁷ For further details please see the section in Chapter 2 entitled 'Consolidation of obligations relating to the restriction, distortion or prevention of competition'.

⁸ See the sub-section in Chapter 2 entitled 'Consequential changes in relation to special conditions'.

1.26. Whilst most provisions in relation to licence interpretation have been maintained, in some cases we propose to remove some provisions⁹ and introduce new ones. For example, we propose to add provisions that recognise that industry codes and arrangements may change over time (PLC 2.2), make the Authority's powers in relation to consents and derogations clearer (PLC 2.7-2.9), take account of recent changes in the Companies Act 2006 (PLC 2.16) and ensure that the licence is read and understood in accordance with the Interpretations Act 1978 (PLC 2.18).

Inclusion of general consent

1.27. SLC 29 (Disposal of Relevant Assets) contains obligations that are intended to protect the interests of customers by ensuring that licensees do not, without the Authority's consent, dispose of the ownership or control of assets that are required for the continuation of the distribution business. To this extent the licensee must seek consent (or at least no objection) from the Authority in relation to any plans to dispose of relevant assets.

1.28. The condition also provides for the Authority to issue to the licensee a general consent in relation to the disposal or relinquishment of operational control of particular relevant assets.

1.29. The Authority issued a general consent on disposals in 1992 and on relinquishment of operational control to affiliates in 2003. Inter alia, their scope is controlled by financial limits, eg of £100,000 in 1990 prices in the 1992 consent.

1.30. It is proposed that the terms of these general consents are consolidated and brought into the main body of the standard licence (ie PLC 26). This would improve the general transparency and consistency of licensees' obligations. It is also proposed that two particular financial limits specified in the first of the two consents in 1992 price values should be revised upwards to a level broadly equivalent to their 2007/08 price levels, ie £200,000.

Specific changes to condition titles

1.31. Some SLCs have had their titles changed. This is to ensure that they are more representative of the obligations they cover and also to improve the ease of use of the licence - through consistency within the licence and with other related documents, and by the use of plain English.

⁹ These are described in our 'Detailed log of changes to the standard conditions of the distribution licence' (Appendix 4)

2. Specific changes and related issues

Chapter Summary: The DLR proposes to substantially review the format and order of the standard conditions in the distribution licence. As a consequence of the review and development of the proposed licence, specific policy issues have been raised, for example in relation to the consolidation of SLCs, obligations pertaining to vulnerable customers and how the formal statutory consultation should best be carried out.

This chapter considers these specific policy issues, sets out specific proposals in respect of these issues and seeks views on these proposals.

Questions

Question 2.1: This chapter sets out specific significant changes and related issues. Do you consider that we have captured and explained these changes and issues adequately? Are there other changes and issues which you consider should be covered in more detail by this review? If so, please could you explain why they are significant and how we could address them?

Question 2.2: We propose to significantly consolidate the obligations on DNOs and IDNOs in relation to financial ring fencing. As a consequence of consolidating these obligations we have identified issues and proposed solutions. We welcome your views in relation to how appropriate our proposals are for consolidating these obligations.

Question 2.3: Are our proposals to consolidate obligations in relation to codes of practice and vulnerable customers appropriate? In particular, do our proposed changes maintain adequate protection for vulnerable customers? Please give reasons for your answers.

Question 2.4: A consequence of consolidation is that the obligations in relation to requiring that licensees do not restrict, distort or prevent competition have been redrafted. We welcome views as to whether our proposals substantially reflect existing obligations and are appropriate.

Question 2.5: Is our proposal to clarify that licensees should comply with a single Distribution Code appropriate? Please give reasons for your answer.

Question 2.6: SLCs 53 A, B and C relate to assistance for areas with high distribution costs, which in practice only apply to Scottish Hydro-Electric Distribution within its distribution services area. Is it appropriate for these conditions to be removed from the standard licence and should they be added to Scottish Hydro-Electric Distribution's licence as special conditions? Please give reasons for your answer.

Question 2.7: In relation to the implementation of the modified standard licence, we welcome your views generally in relation to our proposals for performing

statutory consultations. In particular, we welcome views in relation to our proposal to amend special condition A1.

BA conditions

2.1. The amended conditions in Section BA describe obligations, mainly in relation to financial ring fencing, that apply to the IDNOs. They are similar to conditions in Section C but with some variations to take account of the differences in markets (ie size and maturity) between DNOs and IDNOs.

2.2. As described above, the DLR proposes to consolidate existing SLCs and obligations in order to make the licence easier to read and use, to make it more concise and to reduce the level of duplication. In this respect, it is proposed that the conditions in Section BA and their equivalents in Section C are consolidated and placed in Section A of the proposed licence, to avoid repetition of very similar conditions. To achieve this without changing the obligations on DNOs and IDNOs, some paragraphs in PLCs 29 to 34 only apply to either DNOs or IDNOs.

2.3. However, a consequence of consolidating these obligations would be that in future both DNOs and IDNOs would be able to vote on changes to obligations within the same SLC that do not necessarily have a direct bearing on them.

2.4. This is because at present any modification to the standard licence conditions is subject to collective licence modification (CLM) under Section 11A of the Act. In accordance with Section 11A, 'all relevant licence holders' are entitled to vote on proposed changes. In the proposed licence, therefore, both DNOs and IDNOs will be able to vote on any modifications to these conditions, as they will all be 'relevant licence holders' under Section 11A of the Act. So all licensees will have the ability to object to any modifications proposed to the relevant conditions, even if the proposed modifications relate to provisions which in effect do not apply to them and/or in which they have no material interest.

2.5. The voting process under Section 11A allows for the licence modification to come into effect unless the proportion (in terms of both numbers and market share) of relevant licence holders who object is at least 20%. One consequence of this is that, because the DNOs have considerably higher market shares than the IDNOs¹⁰, they would have a dominant position that would allow them to veto any CLM to the shared SLCs. On the other hand, IDNOs can in aggregate also veto a CLM because the total number of licences they hold already exceeds 20% of the total.

¹⁰ There are 14 DNOs to 4 IDNOs and the total number of connections attributable to IDNOs is fewer than 10,000 at present

2.6. One possible option for levelling the playing field between IDNOs and DNOs in the voting process, short of a change in the relevant provisions of Section 11A of the Act, would be the insertion of a new condition into the licence that would allow for modifications relating to IDNOs only, or to DNOs only, to be treated as being subject to objection only by members of the particular category of licence holder to which the modifications will apply. An illustrative draft of such a new condition is included as Annex 1 to the legal text of proposed SLCs published as Appendix 3 to this consultation document.

2.7. Another option would be to align the variant provisions between IDNOs and DNOs. In most cases this can be readily achieved, for example, by changing the references to Regulatory Accounts for DNOs and Statutory Accounts for IDNOs to references to Statutory Accounts in all cases¹¹. However, there may be some distinctions remaining and, in any event, there would be a possibility of introducing distinctions in the future.

2.8. We would welcome views on this issue and in particular on the specific manner in which it should be resolved.

Codes of practice and vulnerable customers

2.9. The current licence includes a series of obligations that relate to the interaction between licensees and customers, particularly vulnerable customers, i.e. SLCs 17 to 19 and 21 to 23. These require the licensee to prepare codes of practice which describe how they will discharge obligations in relation to services for vulnerable customers, complaint handling procedures and site access. The proposals in relation to complaint handling procedures (PLC 10.9) are discussed more fully in Chapter 3, under 'Complaint handling'.

2.10. In addition to SLCs 17 to 19 and 21 to 23, there are associated guidance notes that currently describe in more detail what is expected of licensees¹². In some instances these guidance notes require the licensee to include certain provisions in their codes of practice which are not specified in the licence.

2.11. Prior to the recent SLR, the supply licence contained similar provisions to the distribution licence. As a consequence of the SLR, those provisions were simplified so that all obligations can now be found more concisely within the conditions of the standard supply licence.

¹¹ Such changes may have other benefits as well, which are considered in Chapter 4.

¹² Please go to

<http://www.ofgem.gov.uk/Sustainability/SocAction/NetwrkOps/Documents1/258-10oct01a.pdf>

2.12. The DLR proposes to adopt a similar format to the SLR, whereby all obligations in relation to codes of practice (including those currently found in guidance notes) will be consolidated into SLCs (see PLCs 9 to 11). This will rationalise the administrative requirement and ensure that obligations are clear, focused and targeted. These proposals are the consequence of discussions at the workgroup meetings, which concluded that the current regime requiring the approval of codes by Ofgem was overly bureaucratic. They will also ensure, in the main, that existing levels of protection, particularly for vulnerable customers, are retained. The proposed changes are also consistent with the ongoing gas distribution licence review. Below is a more detailed summary of the changes we propose to conditions that relate to codes of practice and vulnerable customers.

2.13. Previous requirements for distributors to produce codes of practice for regulatory approval have been replaced with obligations to produce statements in plain and intelligible language which clearly set out their arrangements for complying with its obligations (PLC 9 and 10). We propose that licensees must ensure adequate publicity for these statements, publish them on their website, take reasonable steps to inform domestic customers of these statements once a year and how to obtain them, and provide a copy on request free of charge.

2.14. Where our proposals relate to customers eligible for the priority service register (currently SLC 17 and 18) or the complaints procedure (currently SLC 21) these statements must also be provided, on request, in a manner accessible to blind, partially sighted, deaf or hearing impaired customers¹³. Our proposals also require that as part of the standard licence, upon request, assistance must be provided to enable a person whose first language is not English to understand the contents of these statements. Previously, published guidance required that codes of practice should be made available in alternative languages that were predominant in a licensee's distribution services area and licensees should provide translation facilities for customers to make enquiries and complaints in a language other than English. We are mindful that requiring documents to be made available in different languages may not be proportionate but wish to ensure that licensees deal effectively with customers who have trouble communicating in English. Our proposal in this area only applies to the statement made under PLC 10 and requires that assistance is provided to enable a person to understand the content of the statement.

2.15. Another obligation that is currently found in the codes of practice which has been moved into the standard conditions of the licence (see PLC 10.5(b)) is the requirement to provide the information, which is given to all priority service register customers about interruptions in the supply of electricity, in a manner or format that is suitable to that customer's special communication needs¹⁴, when asked to do so. Our proposal reflects our belief that it is necessary to ensure customers with special communication needs have appropriate protection.

¹³ Please see PLC 10.11(c)

¹⁴ due to that customer being blind, partially sighted, deaf or hearing impaired.

2.16. In removing the requirement for licensees to produce codes of practice, some obligations and provisions are being removed from the licence. It is considered that such requirements may be more appropriately provided for through encouraging best practice or through incentives outside of the licence framework. For example, the commitment to liaise with and provide information about the priority services register to relevant bodies, such as health and welfare organisations is something we expect to see delivered by distributors in response to the electricity distribution customer service reward scheme.

2.17. We have also redrafted the requirements for reporting on performance (currently SLC 23) so that licensees obligations are clearer (see PLC 11).

2.18. We are conscious that the changes proposed in relation to codes of practice and vulnerable customers may be considered as material changes to those SLCs. However, we emphasise that whilst the content of the licence may have changed, in the main, licensees' obligations and overall policy have not changed. We welcome comments on our proposals.

Consolidation of obligations relating to the restriction, distortion or prevention of competition

2.19. The existing standard licence contains obligations in a variety of SLCs that require the licensee not to restrict, distort or prevent competition in relation to certain activities (eg SLC 4C(6), 6(4) and 14A(4)).

2.20. As discussed above, we propose that all such obligations are consolidated into a single SLC (ie PLC 4). This proposal is intended to make the licence easier to read and use, to make it more concise and to reduce the level of duplication.

2.21. However, a consequence of consolidation is that the obligations in PLC 4.2 become broader and weaker. That is, as opposed to in relation to certain activities, the licensee will be required to at all times carry on all its activities in a manner that is most likely to ensure that its conduct does not restrict, distort or prevent competition in, inter alia, the generation, transmission and supply of electricity, the provision of metering equipment and metering services etc. Furthermore, the obligation is also slightly reduced (ie "...in the manner most likely to ensure that...") so as to take account of those activities that involve third parties.

2.22. We are aware that our proposal to consolidate obligations in relation to the restriction, distortion or prevention of competition may change the obligations on licensees. As a consequence we welcome views as to whether our proposals substantially reflect existing obligations and are appropriate.

Obligations in relation to the Distribution Code

2.23. In accordance with SLCs 9 and 9A, licensees are obliged to prepare and comply with a Distribution Code.

2.24. Under the auspices of the ENA all the DNOs have prepared and comply with a single Distribution Code. Ofgem have encouraged the DNOs and the ENA to develop the governance arrangements for the Distribution Code to also allow the IDNOs to be active parties. The Distribution Code Review Panel issued a consultation entitled "Distribution Code Review Panel (DCRP) Consultation: Proposal for incorporating Independent Distribution Network Operators (IDNOs) into DCRP Governance" on this subject on 16 October 2007¹⁵.

2.25. It is therefore intended that by spring 2008 the IDNOs will also be parties to the Distribution Code. In light of the development of a single Distribution Code for all network operators, it is proposed that the licence reflects this by obliging all licensees to prepare and comply with 'the' Distribution Code as opposed to a Distribution Code. In addition, the final paragraph of the relevant new condition (PLC 21) provides a robust legal basis for the development and approval of the eventual new governance arrangements.

High cost distribution areas

2.26. SLCs 53 A, B and C relate to assistance for areas with high distribution costs. Although they are SLCs, in practice they only apply to Scottish Hydro-Electric Distribution within its distribution services area. Furthermore, the provisions that implement this policy for price control purposes are actually found in the special conditions of the distribution licence and in the SLCs of the transmission licence and supply licence.

2.27. At an early stage in the workgroup's discussions, a consolidation of these three conditions into one clear condition was drafted (see Annex 2 of the legal text of proposed SLCs published as Appendix 3 to this consultation document). However, because for the foreseeable future these conditions only have relevance to one licensee, it is now proposed that they are removed from the SLCs altogether. At the same time, we are reviewing whether any of the obligations covered by the conditions should be re-introduced into Scottish Hydro-Electric Distribution's licence as a special condition, similar to the Annex 2 text mentioned above.

¹⁵ For a copy of the consultation document please go to <http://www.energynetworks.org/dcode/consultations.asp>

Introduction of SLC 4F

2.28. Since May 2006, Ofgem has been reviewing competition in connections. One of the outcomes of this review was to propose a new distribution licence condition setting requirements for the provision non-contestable connection services¹⁶.

2.29. This was implemented as SLC 4F on 1 October 2007 and is therefore included in the proposed new standard conditions (as PLC 15).

'Regulatory Year'

2.30. When referring to, amongst other things, reporting periods, the current licence variously refers to 'Relevant Year', 'Reporting Year', and 'Financial Year'.

2.31. Following discussions at the DLR workgroup meetings we propose to replace all of these terms with the single term 'Regulatory Year', which we consider is already in common use and means 1 April to 31 March.

2.32. This proposal is intended to improve consistency and reduce the opportunity for ambiguity. In particular, it will avoid the confusion that can arise from the fact that many licensees have different financial years for statutory accounting purposes.

Revenue reporting

2.33. During 2006 and early 2007, Ofgem, working with the DNOs, reassessed the value of the reporting obligation under SLC 50(5)(b). This requires licensees with a distribution services area to provide a formal template forecast by no later than 1 April each year of price control revenue information for the regulatory year commencing on that same 1 April.

2.34. As a result of the reassessment, the DNOs all agreed to publish forecasts of allowed and actual price controlled revenue on their websites three times a year, and Ofgem then informed them that they need not submit estimates for 1 April 2007, so long as these forecasts continued to be published on their websites. All parties agreed that it was sensible for the SLC 50(5)(b) requirement to be removed in order to reduce the regulatory burden on licensees, so the necessary change has been reflected in the redrafting of this condition (now PLC 48). This removes the need for Ofgem to relieve all the DNOs every year of an obligation that is no longer considered necessary.

¹⁶ For more information please see "Standard Licence Condition 4F. Standards for the provision of non-contestable connection services ('the Condition') - Licence Modification" (September 2007) Ref 229/07. This document can be found on our website at <http://www.ofgem.gov.uk/>

Format of statutory consultation

2.35. In order to introduce the changes proposed by the DLR, licence modifications will need to be raised and consulted on in accordance with Sections 11 and 11A of the Act.

2.36. The most efficient means of introducing the changes would be to raise a single licence modification proposal. The scope of the meaning of a licence modification under the relevant legislation is sufficiently wide to encompass the whole suite of proposed standard conditions. This would mean that distribution licensees would have the option of objecting, or not objecting, to all of the conditions as a package. However, if a licensee had strong objections to a specific change but agreed with the remainder of the package, it might consider this process unfair.

2.37. The alternative option is to treat each element of the changes (amounting to several hundred, as shown by the Detailed Log of Proposed Changes published alongside this document) as if it were a discrete licence modification proposal.

2.38. Our preference, at this stage, is for the formal statutory consultation process under Section 11A to be carried out at the level of a single proposed licence modification. This is because, unlike under the SLR, the policy changes for licence holders under the DLR are neither many nor material.

Consequential changes in relation to special conditions

2.39. The DLR proposes considerable change to the format and drafting of the standard conditions in the distribution licence. As a consequence, necessary changes will have to be made to licensees' associated special licence conditions. These will typically be to ensure consistency in style and the use of definitions, and to update references to SLCs.

2.40. Given the scale of the changes that might be required to the special conditions (for example, because of the wide-ranging consequential effect of the adoption of initial capital letters for definitions in the new standard conditions), we propose to amend paragraph 1 of special condition A1 as follows:

"Unless the context otherwise requires, words and expressions used in the standard conditions of this licence **in the form in which those conditions were in force at 31 March 2008 [the day before the proposed modification of the standard conditions]** have the same meaning when used in these special conditions".¹⁷

¹⁷ The proposed change is highlighted by the bold text.

2.41. The purpose of this change is to ensure that defined terms in the special licence conditions continue to have the meanings that they had before the proposed new standard conditions were introduced. This will ensure that the meaning and intention of special conditions are not inadvertently affected by changes to defined terms as proposed by this review.

2.42. It is our intention, in due course (probably as part of DPCR5), to review the defined terms in the special conditions to reflect, where appropriate, changes to the SLCs.

2.43. However, in relation to special condition G, which concerns the arrangements for charge restrictions on DNOs when operating out of area, we propose to remove this special condition as a consequence of its amalgamation with the analogous condition for IDNOs (BA1) into new standard condition PLC 34.

2.44. We propose to make these consequential changes as part of the Section 11A modification process, as the statutory provisions allow for this.

3. Related projects

Chapter Summary: This chapter highlights some ongoing projects which have been or are being undertaken outside this review. None of these projects have been incorporated into the drafting of the proposed licence. We seek views on whether they should become part of this licence review

Questions

Question 3.1: Should any of the projects highlighted by this chapter be incorporated into the scope of the DLR and therefore its proposed changes? Please give reasons for your answer.

Question 3.2: Have we failed to mention related projects that in your view should be considered within the scope of the DLR and its proposals? If so, what are these and how should they be incorporated into the review?

Question 3.3: Should the three month notice period that licensees must give when changing UoS charges be maintained in relation to all licensees, or reduced in relation to IDNOs and DNOs operating out of area? If you consider the notice period should be reduced what would be an appropriate notice period for IDNOs and DNOs operating out of area? Please give reasons for your answer.

Question 3.4: Is it necessary to maintain the requirement on IDNOs and out of area DNOs to have a charging methodology in relation to charges for which they have adopted the host DNO's charges? Please give reasons for your answer.

Review of P2/6

3.1. In August 2007 Ofgem published an open letter consultation entitled 'Electricity Distribution Network Planning – Engineering Recommendation P2/6'¹⁸. Our primary purpose in doing this was to establish, on behalf of customers: (a) whether changes are required to the relevant licence condition (SLC 5) or to ER P2/6 to ensure that appropriate practice as already applied or as is necessary to meet current conditions is consistent with the legal position; and (b) whether there is a sufficient case to initiate a review of ER P2/6.

3.2. An open workshop was held on 14 September 2007 to allow stakeholders to express their views on the issues raised in the open letter and the consultation closed on 21 September. We intend to form a view as to whether actions need to be

¹⁸ Please go to the Ofgem website - <http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=1&refer=Networks/Techn/TechStandds>

taken and, if so, over what timescale and with what priorities. Changes to the licence condition, if required, could be effected through the DLR.

Complaint handling

3.3. SLC 21 (Complaint Handling Procedure) requires the licensee to prepare a code of practice¹⁹ explaining the procedure for handling complaints from domestic customers about the manner in which the licensee conducts its distribution business. It also requires the licensee to specify the periods within which it is intended that different descriptions of complaint should be processed and resolved.

3.4. The recently introduced Consumers, Estate Agents and Redress Act 2007 places a statutory requirement on Ofgem to make regulations which set complaint handling standards for gas and electricity customers. We have recently informally consulted on the approach to setting standards and in particular whether network companies should be included within the scope of the regulations. We expect to follow this up with a full consultation in October 2007 ("the complaint handling consultation").

3.5. In relation to our proposals under the DLR, we have followed a similar approach to that adopted in the standard supply licence and removed the requirement to include the periods in which different descriptions of complaint will be processed and resolved²⁰. In light of ongoing policy development in this area, we consider that the complaint handling consultation is the most appropriate vehicle for determining the overall approach to setting complaint handling standards for network companies. As such we intend to address the issue within that remit. As a consequence, it should be noted that there may be future changes to provisions in relation to complaint handling as a result of the complaint handling consultation. This may be necessary to ensure consistency with any regulations made under the Consumers, Estate Agents and Redress Act 2007.

IDNO charging

3.6. Currently, all licensees are required, under SLC 4A (5), to provide three months' notice of changes to their use of system charges. Such a notice must be sent to the Authority and any person who has entered into an agreement for use of system. The proposed licence has carried this obligation over into PLC 14.20.

¹⁹ The proposals in relation to obligations currently contained in the codes of practice conditions (SLC 17 to 19 and 21 to 23) are discussed more fully in Chapter 2, under 'Codes of practice and vulnerable customers'.

²⁰ The requirement to provide translation facilities for customers to make complaints in a language other than English has also been removed. The requirement is not in the current SLCs, it is found in the associated guidance notes and is currently reflected in all DNOs' codes of practice.

3.7. Under the relative price control, which is in place for IDNOs and DNOs operating out of area (BA1 and Special Condition G1/PLC 34), charges to domestic customers are capped at the level of the host DNO. Consequently, IDNOs and DNOs operating out of area tend to adopt the charges (to all classes of customer) of the host DNO.

3.8. This has an impact on the ability of the IDNO and DNO operating out of area to provide three months' notice of changes to their charges. In other words, in order to meet their obligation to give three months' notice, they have to amend their charging statement accordingly and issue their own separate notice, on the same day as receiving notice from the host DNO(s).

3.9. We welcome views on whether the requirements to give notice for changes to charges for IDNOs and DNOs operating out of area are appropriate. In particular, we are interested to know whether the three month notice period should be maintained in relation to all licensees, or reduced in relation to IDNOs and DNOs operating out of area to allow them time to adjust to changes in the host DNO's charges. If the notice period should be reduced what would be an appropriate notice period for IDNOs and DNOs operating out of area?

3.10. We would also welcome views as to whether the requirement to have a charging methodology in place is necessary, when the IDNO or out of area DNO simply adopts the host DNO's charges.

4. Potential future changes

Chapter Summary: The DLR does not intend to make changes to policy but this consultation is an opportunity to gather views on the potential for more substantive revisions to the licence. These views will be useful background for the future.

Questions

Question 4.1: Is it appropriate to review the policy areas identified in the future? If so, what aspects of these policy areas do you consider should be reviewed and why?

Question 4.2: Are there other policy areas which in your view should be subject to future review? If so, which areas and why?

4.1. The DLR has endeavoured to not make changes to the regulatory policy that underpins the standard conditions of the distribution licence. However, Ofgem are aware that there are policy areas covered by the distribution licence that may be candidates for review in the future, for example as part of DPCR5

4.2. In light of these, Ofgem would welcome views on any aspects of the following SLCs and the policy areas covered by them that could be subject to future changes. Examples of areas where review could be considered are:

- Metering (SLCs 7, 8, 36, 36A, 36B, 36C and 36D) - when Ofgem removed the obligations on provision of new/replacement meters and meter operation earlier in 2007, we committed to undertaking a review of the competitive metering market within 18 months. This is still our intention. We would however welcome any thoughts you have at this time regarding whether, given developments in metering, the remaining metering obligations are still appropriate for DNO businesses.
- Regulatory Accounts (SLC 42) - following the introduction of cost reporting under SLC 52, are Regulatory Accounts still necessary?
- Appointment of Compliance Officers (SLC 40) - in view of progress in supply competition, are the compliance officer provisions still required? Are they effective?
- Regulatory Instructions and Guidance (RIG) (SLCs 49, 50, 51 and 52) - is there scope to consolidate (some or all of) the different RIGs, possibly with the connections reporting requirement as well?
- Metering Point Administration Service (MPAS) (SLCs 14, 14A, 14B, 14C and 37) - can some of these obligations be consolidated or removed, for example in relation to charges, which are generally subsumed into use of system charges, except for transactional charges?

5. Next Steps

Chapter Summary: This chapter briefly summarises how the DLR will progress following the publication of this consultation.

Questions

Question 5.1: Taken as a package, please indicate whether, in principle, you would accept or object to these proposals. Please give reasons for your answer.

5.1. This consultation document is intended to seek views in relation to the proposals it describes. Responses should be addressed to Simon Polley and sent to distributionpolicy@ofgem.gov.uk by 18 January 2008.

5.2. Before the deadline for responses to this consultation passes, we intend to host a public workshop on 29 November 2007. This session will give industry participants and interested parties an opportunity to seek clarification in relation to the proposals set out below before submitting a formal response. Please contact Mark Askew (distributionpolicy@ofgem.gov.uk or 020 7901 7022) to register your interest in attending or for further details.

5.3. Following this consultation, the next stage of the DLR is to prepare draft licence modifications based upon the proposals set out in this document, taking into account the views of respondents. We aim to raise these modifications in February 2008. If the necessary majority of licensees accept our proposals, we plan to introduce the new licence from 1 April 2008.

5.4. Please note: we do not intend to consult again before issuing formal statutory notices to modify the standard conditions of the distribution licence. It is therefore vital that licensees and other interested parties provide all their comments in response to this consultation. Furthermore, to avoid misunderstandings, causing delay and further work, we urge all licensees and interested parties to raise all substantive issues at the workshop on 29 November.

6. Appendices

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Appendix 1 - Consultation Response and Questions

1.1. Ofgem would like to hear the views of interested parties in relation to any of the issues set out in this document.

1.2. We would especially welcome responses to the specific questions which we have set out at the beginning of each chapter heading and which are replicated below.

1.3. Responses should be received by 18 January 2008 and should be sent to:

Simon Polley
Electricity Distribution Policy
Office of Gas and Electricity Markets,
9 Millbank
London
SW1P 3GE

distributionpolicy@ofgem.gov.uk

1.4. Unless marked confidential, all responses will be published by placing them in Ofgem's library and on its website www.ofgem.gov.uk. Respondents may request that their response is kept confidential. Ofgem will respect this request, subject to any obligations to disclose information, for example, under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004.

1.5. Respondents who wish to have their responses remain confidential should clearly mark the document/s to that effect and include the reasons for confidentiality. It would be helpful if responses could be submitted both electronically and in writing. Respondents are asked to put any confidential material in the appendices to their responses.

1.6. Next steps: Having considered the responses to this consultation, Ofgem intends to prepare draft licence modifications based upon the proposals set out in this document, taking into account the views of respondents. We aim to raise these modifications in February 2008.

1.7. Any questions on this document should, in the first instance, be directed to Simon Polley (simon.polley@ofgem.gov.uk or 020 7901 7326).

1.8. Below is a summary of all questions found in this consultation:

Chapter One

Question 1.1: Do you agree with the detailed proposals for modifying the standard conditions of the distribution licence, as described by this consultation document and in particular Appendices 3 and 4? Please give reasons for your answer.

Question 1.2: Do you consider that those proposals maintain the obligations and underlying policy captured by the current standard licence conditions? If you consider that obligations or policy have changed, please describe how you think this has happened and whether you think the change is appropriate.

Question 1.3: Do you consider that the proposals achieve the aims of the Distribution Licence Review and adhere to the principles of Better Regulation? Please give reasons for your answer.

Question 1.4: Are there any changes which have been made as part of this review which you consider go beyond the scope of this review and should be considered under different terms of reference? Please give reasons for your answer.

Question 1.5: We have thoroughly reviewed the defined terms used in the standard licence conditions. As a consequence in some cases we propose to introduce, replace and remove certain terms. Are our proposals appropriate? Do they maintain existing licence obligations and underlying policy? Will our proposals have consequential effects on industry codes and arrangements outside the scope of the Distribution Licence Review? Please give reasons for your answer.

Question 1.6: Do you have any general comments or observations that you think should be taken into account as part of this consultation?

Chapter Two

Question 2.1: This chapter sets out specific significant changes and related issues. Do you consider that we have captured and explained these changes and issues adequately? Are there other changes and issues which you consider should be covered in more detail by this review? If so, please could you explain why they are significant and how we could address them?

Question 2.2: We propose to significantly consolidate the obligations on DNOs and IDNOs in relation to financial ring fencing. As a consequence of consolidating these obligations we have identified issues and proposed solutions. We welcome your views in relation to how appropriate our proposals are for consolidating these obligations.

Question 2.3: Are our proposals to consolidate obligations in relation to codes of practice and vulnerable customers appropriate? In particular, do our proposed changes maintain adequate protection for vulnerable customers? Please give reasons for your answers.

Question 2.4: A consequence of consolidation is that the obligations in relation to requiring that licensees do not restrict, distort or prevent competition will become

broader but weaker. We welcome views as to whether our proposals substantially reflect existing obligations and are appropriate.

Question 2.5: Is our proposal to clarify that licensees should comply with a single Distribution Code appropriate? Please give reasons for your answer.

Question 2.6: SLCs 53 A, B and C relate to assistance for areas with high distribution costs, which in practice only apply to Scottish Hydro-Electric Distribution within its distribution services area. Is it appropriate for these conditions to be removed from the standard licence and should they be added to Scottish Hydro-Electric Distribution's licence as special conditions? Please give reasons for your answer.

Question 2.7: In relation to the implementation of the modified standard licence, we welcome your views generally in relation to our proposals for performing statutory consultations. In particular, we welcome views in relation to our proposal to amend special condition A1.

Chapter Three

Question 3.1: Should any of the projects highlighted by this chapter be incorporated into the scope of the DLR and therefore its proposed changes? Please give reasons for your answer.

Question 3.2: Have we failed to mention related projects that in your view should be considered within the scope of the DLR and its proposals? If so, what are these and how should they be incorporated into the review?

Question 3.3: Should the three month notice period that licensees must give when changing UoS charges be maintained in relation to all licensees, or reduced in relation to IDNOs and DNOs operating out of area? If you consider the notice period should be reduced what would be an appropriate notice period for IDNOs and DNOs operating out of area? Please give reasons for your answer.

Question 3.4: Is it necessary to maintain the requirement on IDNOs and out of area DNOs to have a charging methodology in relation to charges for which they have adopted the host DNO's charges? Please give reasons for your answer.

Chapter Four

Question 4.1: Is it appropriate to review the policy areas identified in the future? If so, what aspects of these policy areas do you consider should be reviewed and why?

Question 4.2: Are there other policy areas which in your view should be subject to future review? If so, which areas and why?

Chapter Five

Question 5.1: Taken as a package, please indicate whether, in principle, you would accept or object to these proposals. Please give reasons for your answer.

Appendix 2 - The Authority's Powers and Duties

1.1. Ofgem is the Office of Gas and Electricity Markets which supports the Gas and Electricity Markets Authority ("the Authority"), the regulator of the gas and electricity industries in Great Britain. This appendix summarises the primary powers and duties of the Authority. It is not comprehensive and is not a substitute to reference to the relevant legal instruments (including, but not limited to, those referred to below).

1.2. The Authority's powers and duties are largely provided for in statute, principally the Gas Act 1986, the Electricity Act 1989, the Utilities Act 2000, the Competition Act 1998, the Enterprise Act 2002 and the Energy Act 2004, as well as arising from directly effective European Community legislation. References to the Gas Act and the Electricity Act in this Appendix are to Part 1 of each of those Acts.²¹

1.3. Duties and functions relating to gas are set out in the Gas Act and those relating to electricity are set out in the Electricity Act. This appendix must be read accordingly²².

1.4. The Authority's principal objective when carrying out certain of its functions under each of the Gas Act and the Electricity Act is to protect the interests of consumers, present and future, wherever appropriate by promoting effective competition between persons engaged in, or in commercial activities connected with, the shipping, transportation or supply of gas conveyed through pipes, and the generation, transmission, distribution or supply of electricity or the provision or use of electricity interconnectors.

1.5. The Authority must when carrying out those functions have regard to:

- The need to secure that, so far as it is economical to meet them, all reasonable demands in Great Britain for gas conveyed through pipes are met;
- The need to secure that all reasonable demands for electricity are met;
- The need to secure that licence holders are able to finance the activities which are the subject of obligations on them²³; and
- The interests of individuals who are disabled or chronically sick, of pensionable age, with low incomes, or residing in rural areas.²⁴

1.6. Subject to the above, the Authority is required to carry out the functions referred to in the manner which it considers is best calculated to:

²¹ entitled "Gas Supply" and "Electricity Supply" respectively.

²² However, in exercising a function under the Electricity Act the Authority may have regard to the interests of consumers in relation to gas conveyed through pipes and vice versa in the case of it exercising a function under the Gas Act.

²³ under the Gas Act and the Utilities Act, in the case of Gas Act functions, or the Electricity Act, the Utilities Act and certain parts of the Energy Act in the case of Electricity Act functions.

²⁴ The Authority may have regard to other descriptions of consumer.

- Promote efficiency and economy on the part of those licensed²⁵ under the relevant Act and the efficient use of gas conveyed through pipes and electricity conveyed by distribution systems or transmission systems;
- Protect the public from dangers arising from the conveyance of gas through pipes or the use of gas conveyed through pipes and from the generation, transmission, distribution or supply of electricity;
- Contribute to the achievement of sustainable development; and
- Secure a diverse and viable long-term energy supply.

1.7. In carrying out the functions referred to, the Authority must also have regard, to:

- The effect on the environment of activities connected with the conveyance of gas through pipes or with the generation, transmission, distribution or supply of electricity;
- The principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed and any other principles that appear to it to represent the best regulatory practice; and
- Certain statutory guidance on social and environmental matters issued by the Secretary of State.

1.8. The Authority has powers under the Competition Act to investigate suspected anti-competitive activity and take action for breaches of the prohibitions in the legislation in respect of the gas and electricity sectors in Great Britain and is a designated National Competition Authority under the EC Modernisation Regulation²⁶ and therefore part of the European Competition Network. The Authority also has concurrent powers with the Office of Fair Trading in respect of market investigation references to the Competition Commission.

²⁵ or persons authorised by exemptions to carry on any activity.

²⁶ Council Regulation (EC) 1/2003

Appendix 3 - Proposed Standard Licence Conditions

(Please see associated document entitled "Electricity Distribution Licence Review: Proposals, Appendix 3 - Proposed Standard Licence Conditions" Ref 259a/07)

Appendix 4 - Detailed Log of Proposed Changes

(Please see associated document entitled "Electricity Distribution Licence Review: Proposals, Appendix 4 - Detailed Log of Proposed Changes" Ref 259b/07)

Appendix 5 - DLR Workgroup membership

1.1. To achieve the aims of the DLR, a workgroup was established with the aim to take forward the detailed work of reviewing the licence and developing initial proposals.

1.2. The workgroup met on six occasions and minutes of these meetings can be found on the Ofgem website.

1.3. Membership of the workgroup consisted of representatives from DNOs, IDNOs, energywatch and Ofgem. The members were:

Mark Askew	Ofgem
Roger Barnard	EDF Energy (Corporate)
Jeremy Blackford	ScottishPower EnergyNetworks
John Cooper	Wragge & Co (legal adviser to the ENA)
Martin Crouch	Ofgem
Paul Delamare	EDF Energy (Networks)
John France	CE Electric
Mike Harding	Electricity Networks Company
Simon Polley	Ofgem
Natasha Richardson	Western Power Distribution
Abid Sheikh	energywatch
Catherine Wheeler	Ofgem
John Wilson	Ofgem

Appendix 6 - Process for modifying standard licence conditions

1.1. The process for modifying standard licence conditions is set out in section 11A of the Electricity Act. A modification includes an addition, an alteration and an omission. Before making a modification, the Authority must give notice:

- stating that it proposes to make the modification and setting out its effect
- stating the reasons why it proposes to make the modification, and
- specifying the time (not being less than 28 days from the date of publication of the notice) (the notice period) within which representations or objections with respect to the proposed modification may be made.

1.2. The notice shall be given:

- by publishing it, and
- by sending a copy to each relevant licence holder, the Secretary of State and energywatch.

1.3. Generally, if within the notice period:

- the Secretary of State directs the Authority not to make the modification, or
- 20 percent of relevant licence holders by number or 20 percent of relevant licence holders weighted by market share give notice of objection to the Authority,

the Authority may not make the modification.

1.4. Where the Authority modifies the standard licence conditions of a licence, it may make such incidental or consequential modifications as it considers necessary or expedient of any conditions of any licence of that type.

1.5. The Authority may make a reference to the Competition Commission requiring it to investigate and report on whether any matters relating to the carrying on of activities authorised or regulated by a licence, operate or may be expected to operate, against the public interest. If yes, whether the effects adverse to the public interest which those matters have or may be expected to have could be remedied or prevented by modifications of the standard licence conditions of that type. If the Competition Commission provides such a report, the Authority may make the modifications of the relevant conditions as appear to it to be required to remedy or prevent the adverse effects specified in the report.

Appendix 7 - Glossary

A

Authority

The Authority is the governing body for Ofgem, consisting of non-executive and executive members.

B

Better Regulation

Is to regulate and develop policy in such a way that is proportionate, accountable, consistent, transparent and targeted.

BETTA - British Electricity Trading and Transmission Arrangements

The BETTA reforms, introduced on 1 April 2005, created a single, competitive wholesale electricity trading market in Great Britain. These trading arrangements are based upon the preceding England and Wales trading arrangements. The BETTA arrangements allow parties to trade energy forward through bilateral over the counter trades, through exchanges, or in any other manner they deem appropriate on a GB basis.

C

Consumers, Estate Agents and Redress Act 2007

The Consumers, Estate Agents and Redress (CEAR) Act 2007 c.17 is designed to create a new, stronger and more coherent consumer advocacy body, introduce redress to the energy, postal services and estate agency sectors; and improve regulation of estate agents and doorstep selling.

D

Detailed log of changes to the standard conditions of the distribution licence

The document which explains how the DLR's proposals affect the existing provisions found in the SLCs of the distribution licence. In particular it explains how and why existing provisions have been maintained, moved, redrafted or removed.

DLR - Distribution Licence Review

A review of the SLCs of the electricity distribution licence, which aims to improve the clarity and ease of use of the licence without making any substantive policy changes to the licence.

DLR workgroup

A group established by Ofgem and the ENA, made up of key industry stakeholders, to review the SLCs of the distribution licence. Minutes of the workgroup's meetings can be found on the Ofgem website at

<http://www.ofgem.gov.uk/Networks/ElecDist/Policy/Pages/Policy.aspx>

DNO - Distribution Network Operator

A licensed distributor which operates electricity distribution networks in distribution services areas but can also compete to operate networks anywhere within the UK.

[Distribution Price Control Review 5 \(DPCR5\)](#)

DNOs operate under a price control regime, which are intended to ensure DNOs can, through efficient operation, earn a fair return after capital and operating costs while limiting costs passed onto customers. Each price control typically lasts five years at a time. The existing price control will expire 31 March 2010. DPCR5 will be the fifth review of the price control and is expected to commence in early 2008. The resulting price control is planned to commence 1 April 2010.

[Distribution services area](#)

As defined in SLC 1 of the electricity distribution licence.

E

[Electricity Act 1989](#)

Electricity Act 1989 c.29 as amended. Also referred to as 'The Act'.

[ENA - Energy Networks Association](#)

Trade association open to owners and operators of energy networks in the UK. The following are members of the ENA: CE Electric UK, Central Networks, EDF Energy, National Grid, Northern Gas Networks, Northern Ireland Electricity, SSE Power Distribution, ScottishPower EnergyNetworks, United Utilities, Wales and West Utilities and Western Power Distribution. Link to the ENA's website:

www.energynetworks.org

[energywatch](#)

energywatch is the Gas and Electricity Consumer Council set up under the Utilities Act 2000 to represent the interests of gas and electricity consumers. Link to the energywatch website: <http://www.energywatch.org.uk/bst/index.asp>

F

[FSC - Fuel Security Code](#)

The FSC covers arrangements when the Secretary of State calls a Fuel Security Period (a power under the Electricity Act). In these circumstances, he can ask for certain generation types to preserve fuel (i.e. not generate) or switch to alternative back-up fuels. This is an interventionist power that is only likely to be used in extreme circumstances. The FSC sets out how these instructions will be carried out and how parties will be compensated for doing things they otherwise would not have done.

I

[IDNO - Independent Distribution Network Operator](#)

A licensed distributor which does not have a distribution services area and competes to operate electricity distribution networks anywhere within the UK.

[Industry Codes and arrangements](#)

The licence requires licensees to establish and/or comply with a number of industry codes that underpin the electricity licence. These codes and arrangements include the Balancing and Settlement Code (BSC), Connection and Use of System Code (CUSC), Distribution Connection and Use of System Agreement (DCUSA), Master Registration Agreement (MRA), Distribution Code and the the Grid Code, amongst others.

P

[Priority Services Register \(PSR\)](#)

SLC 17(2)(a) requires distributors to maintain a list (the Priority Services Register) of those domestic customers who, by virtue of being of pensionable age or disabled or chronically sick, require information and advice in respect of services specified under that condition.

[PLC - Proposed Licence Condition](#)

Term used to describe the SLCs which this consultation is proposing, as opposed to those SLCs which are already in use.

R

[Regulatory Accounts](#)

As defined by SLC 42 in the electricity distribution licence.

S

[Special licence conditions](#)

Unlike a SLC, a special licence condition contains provisions that are specific to individual licensees. They are created and amended in accordance with Section 11 of the Electricity Act.

[SLC - Standard Licence Condition](#)

These are conditions that licensees must comply with as part of their licences. SLCs can only be modified in accordance with Section 11A of the Electricity Act. Failure to comply with SLCs can result in financial penalties and/or enforcement orders to ensure compliance.

[SLR - Supply licence review](#)

Between 2005 and 2007, Ofgem carried out the SLR, which was a comprehensive review of all SLCs in the electricity and gas supply licences. New SLR SLCs came into effect in August 2007.

V

[Vulnerable customer](#)

Customers who are disabled or chronically sick, of pensionable age, or living on low incomes.

Appendix 8 - Feedback Questionnaire

1.1. Ofgem considers that consultation is at the heart of good policy development. We are keen to consider any comments or complaints about the manner in which this consultation has been conducted. In any case we would be keen to get your answers to the following questions:

1. Do you have any comments about the overall process, which was adopted for this consultation?
2. Do you have any comments about the overall tone and content of the report?
3. Was the report easy to read and understand, could it have been better written?
4. To what extent did the report's conclusions provide a balanced view?
5. To what extent did the report make reasoned recommendations for improvement?
6. Please add any further comments?

1.2. Please send your comments to:

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