

9 August 2021

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By email only to FutureChargingandAccess@ofgem.gov.uk

Re: DNOs' request for directions to temporarily disapply the current DUoS charges notification periods

Dear Patrick,

We are writing in response to the consultation that Ofgem have issued in relation to the request for directions to temporarily disapply the current Distribution Use of System (DUoS) charges notification periods. BUUK Infrastructure are the parent company for two independent distribution network operators ("IDNOs"), the Electricity Networks Company Limited ("ENC") and Independent Power Networks Limited ("IPNL").

We welcome the opportunity to respond to Ofgem's consultation regarding DNOs' solicitation for directions to support them and disapply the current notice periods for DUoS charges published in the Electricity Distribution Licence SLC 14.11 and the Distribution Connection and Use of System Agreement (DCUSA) Section 2A clause 19.1B concerning the regulatory years 2023/24 and 2024/25. Our methodology for DUoS charges is such that our tariffs replicate those published by the DNOs where the latter have been calculated using the Common Distribution Charging Methodology (CDCM) for Low Voltage and High Voltage (LV and HV) Designated Properties. Therefore, the consultation regarding the proposed disapplication for DNOs' notice periods for their DUoS charges directly impacts us, thus it is of particular importance to us.

Given, under the current Electricity Distribution Licence SLC 14.11 and the DCUSA Section 2A clause 19.1B, the DNOs are obligated to publish their DUoS charges for the regulatory year 2023/24 approximately six months prior to the RIIO-ED2 draft determinations publication and the following regulatory year's DUoS charges very shortly after the RIIO-ED2 final determinations, we recognise DNOs' intentions to receive directions from Ofgem to be temporarily relieved from publishing their distribution use of system tariffs 15 months in advance. We understand and agree with the fact that, on this occasion, publishing the tariffs six months before the authority has made any opinion on the total allowed revenue for a new price control brings along several risks, such as under- or over- recovery of revenue and any potential penalties associated with a 'K-factor' tolerance limit and short-term cash flows. We recognise that there may be some concerns with shortening the notice period such as the

incorporation of higher risk premiums in suppliers' final tariffs, we believe that the benefits from low price volatility resulting from fewer unknowns faced by the DNOs, hence an increased certainty, would outweigh the risks. It is likely to be consumers that would also bear the burden of increased volatility in their energy bills. We note that

Furthermore, although the changes between the RIIO-ED2 draft determinations and final determinations are estimated to be minimal (and Ofgem have indicated that this has been around 1% in the past), we encourage higher certainty because of the uncertain nature of this price control above previous periods. We would point to the changes between the RIIO-GD2 draft and final determination being around, in our calculation, 4% (and subject to appeal which may yet increase this gap). Hence, we would be supportive of directions to temporarily disapply both clause 19.1A of the DCUSA Section 2A and the Electricity Distribution Standard Licence Condition 14.11 regarding the notice periods for both regulatory years (2023/24 and 2024/25), rather than only the first year, and request for the DNOs to publish their distribution use of system charges 60 days prior to the start of the new charging year 2023/24, and three months before the following year, 2024/25, rather than 15 months in advance.

As mentioned at the beginning of this letter, our DUoS charges reflect each DNO's charges. As a consequence, the notice periods affect us and our ability to publish our own tariffs. Ordinarily, through DCUSA clause 19.1A.2, IDNOs have a 14 months' notice period to publish their tariffs. This effectively gives IDNOs a month in order to produce their tariffs based on the DNO charging statement. We would request, given the compressed timescales, a 20 day period after the publication of the DNOs' charges is allowed for IDNOs to publish their own DUoS tariffs, as a reflection of the DNOs' charges. This is required irrespective of the overall timeline for DNO publication.

In conclusion, we welcome a temporary disapplication in both Electricity Distribution Licence SLC 14.11 and the Distribution Connection and Use of System Agreement (DCUSA) Section 2A clause 19.1B with regards to the 15 months' notice period for DUoS charges.

Please find attached in the Appendix below our answers to all the consultation questions.

Please note we are happy to discuss any of the comments made in this response in more detail with Ofgem.

Yours sincerely

Mike Harding
Regulation Director

Appendix 1 – Responses to Questions

1. Do you agree with our initial views on whether to issue directions that the relevant DCUSA and licence conditions do not apply? Please provide evidence to support your views, including on whether any or some directions should be issued and the benefits and risks with each option. If we do issue a direction (or directions):

i. Should these apply for 2023/24 and 2024/25, or just 2023/24?

ii. Should it be a direction only disapplying DCUSA Section 2A clause 19.1B or also electricity distribution licence SLC 14.11?

iii. If both, what should the notice period be and why?

Yes, we understand and share Ofgem's initial views regarding the benefits, as well as the potential risks of DNOs publishing their DUoS charges at a later date if Ofgem decides to issue the directions to disapply the 15 months' notice period for the regulatory years 2023/24 and 2024/25, as currently stipulated in clause 19.1A of the DCUSA Section 2A and the Electricity Distribution Standard Licence Condition 14.11.

We believe that increased certainty and lower price volatility in future charges would outweigh the risks of marginally higher costs levied to the consumers by the suppliers due to greater risk premiums included in their final tariffs, especially given the role that the electricity networks will play in decarbonising heat and transport.

We consider a 60 days' and three months' respectively notice periods for the first two regulatory years of the new price control would suffice for the DNOs to publish their distribution use of system tariffs, as long as the IDNOs are allowed a 40 days' and two months' respectively notice period to mirror DNOs' charges and publish them. With this in mind, we support issuing directions to disapply the DCUSA Section 2A clause 19.1A, as well as the Electricity Distribution Licence SLC 14.11.

2. Can you provide any specific evidence about the impact of varying notice periods on contractual arrangements and budgeting?

Whilst we recognise that this question is generally aimed at suppliers or large energy users, we do provide some comments on the impact of DUoS charge setting to our own budgeting process. We are reliant on the DNO's published charging statements in order to generate our own tariffs and, subsequently, budgeting position. Whilst, in the general course of price setting, we welcome the 15 months' notice period that we get and the certainty around revenues and budgets that this affords us, we believe that price volatility is more damaging to the budget setting process than shorter notice periods. Variations in charges will ultimately mean variations for cash flow and revenue and it is challenging to produce year on year budgets on this basis.

3. Do you agree with our initial views on the potential for a letter of comfort being sufficient to mitigate the main risk for DNOs? If no, please provide evidence of what the remaining risks are with this option?

Although it might alleviate some risks, we do not believe that a letter of comfort addressed to the DNOs confirming that the penalty interest rate would not apply during the first regulatory

year of the next price control would suffice as the main concern regarding future uncertainty and exceeded volatility in future charges would not be addressed. Given the fact that during the upcoming price control there are other potential major exterior factors (such as the existing expectations for the electricity demand to increase significantly in the near future due to the net-zero target), that might bring an extra level of pressure, as well as uncertainty, and make the RIIO-ED2 draft determinations more unstable than we are used to. Additionally, given Ofgem's recent publication on Access SCR to reduce customers' funding towards network reinforcement, it is expected of the distribution use of system tariffs to increase in order to recover the additional proportion of reinforcement costs. As a consequence, due to multiple potential unforeseen impacts on the DUoS charges, we believe a letter of comfort to the DNOs would not be sufficient on this occasion.

4. Do you think the benefit of advanced notice of charges outweighs the risk of significant under/over-recovery over multiple years? Please provide evidence to support your preference.

No, we do not believe that publishing the tariffs six months before Ofgem have provided draft determinations for a new price control in order for the suppliers/ customers to have advance notice outweighs the several risks that a potential under- or over- recovery of revenue and any potential penalties associated with a 'K-factor' tolerance limit or short-term cash flows might bring. Although shortening the notice period might induce some issues, such as increased costs faced by the consumers due to an incorporation of higher risk premiums in suppliers' final tariffs, we believe that the benefits from low price volatility resulted from fewer unknowns faced by the DNOs, hence an increased certainty, would outweigh the risks.

5. Do you agree with our views on the option to use the code modification process to address the timing issues between price controls? If not, can you provide any evidence regarding the benefit of applying a code change?

We agree that issuing directions to DNOs to temporarily disapply the 15 months' notice period for DUoS tariffs is the most appropriate course of action due to the time restrictions. Although we acknowledge the importance of a code modification process when a possible issue is brought to light, in this situation, taking into account the extended time necessary to invest in reaching a decision when a code modification is proposed, we consider it to be inefficient for the existing, somewhat urgent, matter.

6. Do you have any further evidence or information that you think is relevant and can help inform our decision?

We would like to use this opportunity to kindly remind Ofgem once again that IDNOs mirror DNOs' DUoS charges for each regulatory year and hence, a temporary modification in the notice periods for DUoS tariffs should account for the independent distribution network operators as well when reaching a decision. A minimum of 20 days' additional notice period would be required for the IDNOs to complete their internal processes of analysing the DNOs' published tariffs, calculating and publishing their own on their websites.