

Mr Andrew Walker  
The Office of Gas and Electricity Markets  
9 Millbank  
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SW1P 3GE

15 May 2003

Dear Andrew

### **Regulation of New Electricity Distribution Licence Holders**

Thank you for your letter of 16 April and the chance to comment.

#### **General Principles**

We are pleased to note that many of our comments to the consultation last year have been reflected in this latest letter. We have consistently argued for an approach that would place identical obligations on all parties that would be operating monopoly businesses. We therefore welcome the proposals to introduce similar licence provisions on new entrants as apply to existing distributors. However, there are still some areas of concern that we would wish to comment on.

#### **Charging arrangements**

We welcome your intention to adopt the proposals for charge restriction conditions set out in the letter of 31 May 2002. We argued previously that it was essential for all customers to be afforded the protection available from price controls. With regard to encouraging competition, we argued that all distribution licences should include an obligation to adopt, where the licensee can specify reasonable requirements for new assets and publish adoption terms that include payments related to future tariff income. This would encourage the competitive connections market whilst still allowing the constructor or developer to take out a distribution licence if they believed that there were further profit opportunities from doing so. We hope our suggestion will be duly considered.

#### **Quality of Service**

We welcome the intention to introduce similar requirements on new entrants as apply to existing distributors. We note that you will be publishing a consultation paper in due course that will consider tailoring the requirements to reflect the size of new

entrants and other specific circumstances. The size of any new entrant should not diminish the level of service that a customer should expect and any “tailoring” should not result in a general lowering of service.

### **Financial Ring-Fencing**

We responded previously that you should exercise caution before seeking to relax any of the ring-fencing provisions for new entrants. We therefore note with concern the proposal to introduce a modified SLC 46 allowing Ofgem to give consent to alternative financial arrangements. Whilst we note the alternative proposal, we can see no justification for it. As well as sending out a signal that new entrants might not have to maintain the same financial rigour as existing distributors, the recent problems in generation and supply must act as a warning for the future. There is no ‘distributor of last resort’ to pick up the consequences of a failed business and given the relaxing of the licence application regulations, we consider that SLC 46 should not be modified for new entrants. The sudden failure of a distribution business, whatever the size, would have more serious direct consequences for customers than we have seen with the recent demise of some supply companies.

### **Process**

We agree that the introduction of the licence conditions for new entrants as SLCs would be a more robust process and therefore have no objection to the process. Please do not hesitate to contact us about any of our above comments.

Yours sincerely

**Mike Boxall**

Head of Electricity Regulation