

Our ref :  
Your ref :

Andrew Walker  
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Dear Andrew

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

I am writing with regard to your letter of 24th September 2003. East Midlands Electricity welcomes the opportunity to make comments on the regulation of a new electricity distribution licences.

We welcome Ofgem's consultation on the application by ENL for an electricity distribution licence, however we would still like to see Ofgem carry out a full Regulatory Impact Assessment regarding the regulation of new distribution licences, as we remain unconvinced that the benefits to customers outweigh the additional costs, complexities and risks that distributed network ownership will bring.

We have a number of specific comments on the 24th September consultation regarding the application for a new distribution licence by ENL, as follows.

#### Quality Of Service

We welcome Ofgem's move to impose similar standards of performance on new licensees to those already in place for existing licence holders. We believe that the application of the IIP scheme within new distribution licences would give an appropriate measure of the quality of service provided by new distribution licence holders in addition to those already provided by the guarantees of service prescribed under the "Electricity Standards Of Performance Regulations 2001" reported by all distribution companies. We would reiterate that we believe that it is vitally important that the performance of any networks not owned by the host DNO is reported separately, and are excluded from the hosts reported performance under IIP. We look forward to further participation in regard of your consultation with regards to quality of service later in 2003.

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### Charging Arrangements

We support Ofgem's proposal to introduce a charge restriction condition to the new licences. Often, the choice to locate a property on a new licensee's network rather than on an existing DNO's will be made by the developer, not the end customer, and it is the developer who will have gained in terms of a competitive price for connection. Customers that are connected to new licensees' networks should not be disadvantaged and equally existing DNOs cannot be expected to pick up additional costs, responsibilities and risks in this area, without an appropriate level of reward.

### Financial Ring Fencing

We are pleased to see that conditions regarding, Financial Ring Fencing, Availability of Resources, Undertakings from Ultimate Controller and the credit rating of the licensee, will be included in the new distribution licence. We believe that as much protection should be given to customers as possible. We continue to believe that new licensees should be subject to the same financial restrictions as existing DNOs to ensure that companies have robust arrangements in place, to avoid similar instances in the distribution market that we have seen in the supply arena with companies having financial difficulties. We believe that a distributor must have the right to refuse to adopt assets it does not believe are compliant with the ESQC Regulations, which means that any adoption following a company failure could only happen voluntarily, which could lead to a period of uncertainty for customers. Indeed, the situation where no DNO is prepared to take on the failed distributor's assets, because of reasonable doubt as to their quality, has to be considered.

### Regulatory Accounts

We welcome Ofgem's decision to require new licence holder's statutory accounts to provide adequate information on turnover, costs and assets associated with electricity distribution activities. There is currently a licence review of the requirements for Regulatory Accounts, and we believe this review should include assessing the requirements for holders of new distribution licences.

### General Comments

We believe that there are still unresolved issues regarding the issues surrounding asset ownership and adoption, and the financial and criminal liabilities associated with new licensed distributors. We believe that further work is needed in relation to developing a robust framework for the development of new licensed distributors and in development of competition in the connections marketplace. Failure of robust framework arrangements could lead to problems for the new companies, the host DNOs they are connected to, for Ofgem and, of course, for the end customer.

As always, if you need any more information, or would like to discuss any of the issues raised in this letter further, please do not hesitate to contact me.

Yours sincerely

Lesley Queripel  
Regulatory Strategy Manager