



Our Ref: UK-D/S&I/R&LC/THS

Mark Cox
The Office of Gas and Electricity Markets
9 Millbank
London SW1P 3GE

Your Ref:

Date: 6 May 2004

UK-DISTRIBUTION
98 Aketon Road
Castleford WF10 5DS
www.ce-electricuk.com
tel 01977 605165
fax 01977 605811
e-mail tony.sharp@ce-electricuk.com

Dear Mark

Notice under Section 11A(3) of the Electricity Act 1989

CE Electric UK Funding Company (CE) is the UK parent company of Northern Electric Distribution Ltd (NEDL) and Yorkshire Electricity Distribution plc (YEDL). This letter is sent on behalf of CE, NEDL and YEDL in connection with Ofgem's proposal to modify the standard conditions of the distribution licence in accordance with the Section 11A(3) notice published on 6 April 2004.

You will be aware that Roger Barnard's letter of 16 April 2004 to Martin Crouch on behalf of EDF Energy plc (EDF) was copied to all DNOs. That being the case, it is our perception, on the basis of the number of distribution licences held by EDF and irrespective of our own views on the subject, that Ofgem's proposal as it stands will be frustrated by an effective blocking minority so far as the collective licence modification process is concerned.

In these circumstances we have endeavoured to explore the extent to which there might be scope to take the essence of this matter forward in a different way. Directive 2003/54/EC requires that regulatory authorities should be responsible for fixing or approving, prior to their entry into force, at least the methodologies used to calculate or establish the terms and conditions for (inter alia) connection and access to national networks, including transmission and distribution tariffs. The directive does not appear to venture definitions for either "methodology" or "national", so one must fall back on the dictionary for those.

Given that the distribution licence (SLC4) requires licensees to prepare charging statements which set out *the basis upon which charges will be made for the provision of use of system and connections to the system*, it might reasonably be argued that such basis should equate to a methodology. Taking this together with the prescription in the licence as to the actual charges themselves (SLC4 para 4 and SLC4B paras 4 and 5 for

CE ELECTRIC UK FUNDING COMPANY

connections, and the special conditions in respect of use of system), it could be argued that the degree of control envisaged by the directive is already there. Such an argument would seem to be further strengthened by the requirement in the licence for licensees to prepare charging statements *in a form approved by the Authority*. Perhaps all that is necessary is for Ofgem to be more prescriptive as to what needs to be included in the form of a charging statement (eg in respect of methodology) in order for such form to gain its approval. A charging statement in a non-approved form would be non-compliant with the distribution licence. From a customer perspective, it is perhaps worth noting also that such an approach would avoid the need for a separate (new) document to be studied.

We should naturally be interested to have your views on the viability of this kind of approach.

Even if the currently-envisaged approach were to go forward via the proposed licence modifications, we believe that Ofgem would wish to correct a number of drafting errors that occur in them. To assist you in undertaking a review for the purpose of making necessary corrections, I attach details of the drafting points that we have identified.

I hope that you will find this letter helpful in the current circumstances. If you would like to discuss any part of it, please do not hesitate to contact me.

Yours sincerely



TONY SHARP
Regulation Manager

CE ELECTRIC UK FUNDING COMPANY

Lloyds Court, 78 Grey Street, Newcastle upon Tyne NE1 6AF. Tel: (0191) 223 5151. Fax (0191) 223 5152

Registered Office: Lloyds Court, 78 Grey Street, Newcastle upon Tyne NE1 6AF. Registered in England: 3476201

C E Electric UK – Comments on drafting of licence modifications proposed by Ofgem on 6 April 2004.

Condition 4, para 1(a) – there seems to be potentially confusing circularity in an obligation for the licensee to determine a use of system charging methodology approved by the Authority, around whether the determining (by the licensee) or the approving (by the Authority) should come first. A logical inference from the words as presented might be that the Authority would endow approval on a number of methodologies and that the licensee would then be obliged to determine to use one of them.

Condition 4, para 1(c) – insert “charging” between “system” and “methodology” in the first line and change “of” to “including” in the second line.

Condition 4, para 2 – insert “as” between “detail” and “to” in the fourth line.

Condition 4, para 3(e) – add full stop after “statement” in the third line.

Condition 4, para 8 – insert “into” between “enter” at the end of the first line and “arrangements” at the beginning of the second line.

Condition 4, para 9 – this is potentially superfluous, as the references to “charges” in the paragraphs cited could not reasonably be construed in any other way.

Condition 4, para 10 – change “paragraph” to “paragraphs” in the third line.

Condition 4, para 11 – change “paragraph” to “paragraphs” in the second line.

Condition 4A, para 3(a) – change semi-colon to colon at the end of the first line.

Condition 4A, para 3(b) – change “that” to “as” in the second line.

Condition 4A, para 4 – delete comma after “shall” at the end of the first line.

Condition 4A, paras 4(a) and 4(b) – change “him” to “it” in the first line of each para, to avoid any speculation around the “coming out” of GEMA as a male.

Condition 4A, para 5(d) – it is not clear what is meant by “the developments” in the third line.

Condition 4A, para 8(b) – we do not recognise the reference to “amended standard condition BA1 of the distribution licence”.

Condition 4B, para 1(a) – the comment above on condition 4, para 1(a) applies here also.

Condition 4B, para 4(a)(i) – insert space before first word to secure consistent left-hand alignment.

Condition 4B, para 4(a)(iv) – the function of the final word, “thereto”, is uncertain.

Condition 4B, para 5 – change “paragraph” to “paragraphs” in the first line and change “set out” in the fourth line to “described” or something similar (since the relevant objectives are not actually *set out* in para 18).

Condition 4B, para 16 – the sub-paragraph lettering appears to omit (b) in going from (a) to (c).

Condition 4B, para 16(c) – change “that” to “as” in the second line.

Condition 4B, para 17(a) – delete the comma after “shall” in the first line.

Condition 4B, paras 17(a)(i) and 17(a)(ii) – the comment above on condition 4A, paras 4(a) and 4(b) applies here also.

Condition 4B, para 17(b) – insert “it shall” before “furnish” in the first line and add a full stop at the very end of the para.

Condition 4B, para 18 – insert a space between “4A” and “(Use” in the second line.

Condition 4B, para 20 – add a full stop at the very end of the para.

Condition 4B, para 21(b) – the comment above on condition 4A, para 8(b) applies here also.

Condition 4D, para 3(b) – change “in” to “at” in the second line.

Condition 4D, para 3(e) – insert a second closing bracket after “Services” in the third line and change “to” to “of” in the penultimate line.

Condition 4D, para 4(a) – add a comma after “which” in the first line.

Condition 4D, para 7(a)(ii) – change “to” to “of” in the third line.

Condition 4D, para 8 – add a comma after “shall” in the first line.

Condition 4E, para 1(a)(ii) – insert “provision of a connection,” between “of” and “connection” in the first line.

Condition 4E, para 3 – change the first instance of “to” in the third line to “of”.

Condition 4E, paras 4(a) and 4(b) – change “Charge” to “Charges” in the third line in each case.

Condition 4E, para 4 – the sub-paragraph references in the final four lines of the para do not appear correct: in any event the reference to “sub-paragraphs (b)” needs to be modified.