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Dear Mark

Date: 7 May 2004

### **Notice under Section 11A(3) of the Electricity Act 1989 dated 6 April 2004**

I write with SSE's formal response to the proposed modifications to standard licence conditions set out in the above statutory notice. We will respond separately to the update document on structure of charges in the near future.

Firstly I should say that we fully support the policy objective of encouraging the development of distributed generation (DG) by removing the perceived barrier of the "deep" connection charge that has been applied to DG up to now. We therefore support the development of a "shallowish" connection charge boundary coupled with a simple generator use-of system charging arrangements to apply to new generators only from 1 April 2005. We also agree with Ofgem that it is helpful to have the clarity over the connection charging boundary in advance of the price control proposals being made and note that Ofgem has helpfully set out the high level proposed guidelines for connection charging boundary rules in the update document accompanying the above notice.

Furthermore, we have no objection to network users having greater visibility and predictability of charging frameworks. Neither do we have any fundamental problem with greater levels of consultation, although we would hope that costs in this regard could be kept to reasonable levels.

As a consequence, we are in full agreement with Ofgem about the main policy issues going forward. However, we do have some concerns about the process for implementing those policy changes. In particular, we do not believe that the directive 2003/54/EC on the internal market in electricity requires the detailed oversight and regulatory involvement in the charge setting process that Ofgem advocates. We have also had experience of the problems which can arise when required approvals are not forthcoming.

For example, we have still not had approval for Scottish Hydro-Electric Transmission Ltd's 2003/04 use of system charges, as required under its licence.

We would therefore urge Ofgem to reconsider its interpretation of what is required under the terms of the directive. In any event, if Ofgem nonetheless consider that such a course of action is unavoidable, we would be willing to consider withdrawing our objection, if the detailed drafting issues outlined below are resolved.

Against this background, we have two specific concerns with the licence conditions as currently drafted.

Firstly, there is a risk that Ofgem's control over the approvals process will allow the connection charge boundary to move over the course of a price control period in which, by definition, allowed use of system revenue has already been set. There is therefore the possibility of material detrimental impact to DNOs inherent in the framework set out in the licence conditions, which contain no right of appeal for the DNO. This issue does not arise under the current framework and, in our view, can be resolved by including the right for the DNO to appeal to the Competition Commission in such circumstances.

Our second concern relates to the clarity, within the drafting, of what is actually being proposed in terms of different statements and the change control for these. Our understanding of the intention is as follows:

- For **use of system charging**, both the use of system charging methodology and a "use of system charging methodology statement" will be approved by the Authority and be subject to the formal change process set out in draft Condition 4A. There will also be a "basis of use-of-system charging statement", with the form only to be approved by the Authority and this will contain the actual use of system charges applicable at any time, as derived from the approved methodology. This latter statement is analogous to the use of system charging statement currently required by the licence. Its form can be changed with the approval of the Authority but its content can be changed without approval and indeed should be reviewed once a year to ensure that the statement remains accurate. In particular, the actual charges can be changed provided that notice has been given as set out in the current licence framework (except that only 3 months, rather than the current 5 months notice will be required). When changes to charges or other parts of this statement are made, the DNO should provide a copy of the revised statement (or the revisions to the previous version of the statement) to the Authority.
- For **connection charging**, there will be one statement that sets out the connection charging methodology that has been approved by the Authority. The statement includes the requirements of the current "basis of connection charging statement" and from 1 April 2005 will be subject to approval by the Authority. The formal change process for the approved connection charging methodology, and thus also the statement, is set out in paragraphs 16 and 17 of draft Condition 4B and is essentially the same as the formal process for the use of system charging methodology and

statement.

The drafting of the licence conditions is, in our view, quite convoluted and we would therefore welcome confirmation that our understanding (set out above) is correct before we could consent to the changes.

For the above reasons, SSE objects to the licence modifications on behalf of the distribution licensees Southern Electric Power Distribution plc and Scottish-Hydro-Electric Power Distribution Ltd. In doing so, however, we believe that the points above can be addressed before Ofgem's 1 July target deadline through a combination of clearer drafting and the addition of the appeals mechanism we have described in the case of a further change to the connection boundary. In addition, we will in the meantime continue to work on the preparation of "interim" use of system and connection methodologies on the basis of the principles and timetable set out in the update document.

Please contact me if you wish to discuss any aspect of the above.

Yours sincerely

Rob McDonald  
**Director of Regulation**