

DIRECTIONS UNDER PARAGRAPH 10 OF SPECIAL CONDITION G OF THE DISTRIBUTION LICENCE

Whereas:

1. EDF Energy Networks (EPN) Plc (“the Licensee”) is the holder of a licence (“the Licence”) treated as granted under section 6(1)(c) of the Electricity Act 1989 (“the Act”) to distribute electricity for the purpose of giving a supply to any premises or enabling a supply to be so given in its authorised area for the term and upon the conditions specified in the Licence.
2. The Gas and Electricity Markets Authority (“the Authority”) has carried out a consultation exercise in accordance with paragraph 10A of Special Condition G (“the Condition”) of the Licence.
3. The Authority has considered all representations and objections made by the Licensee and has had regard to all relevant information and circumstances.
4. Pursuant to paragraph 10 of the Condition:
 - (a) the Licensee considers that its performance for calculating Q_t has been materially and adversely affected by two exceptional events referred to as Event One and Event Two in Annex 2 to the notice given under paragraph 10A of the Condition (the “reasons document”);
 - (b) the Licensee notified the Authority of such events within 14 days of the date upon which the Licensee considered such adverse effect had ceased;
 - (c) after the end of the relevant year (2002/03) in which those events occurred, the consortium of Mott-MacDonald and British Power International (“together known as the examiner”) had reported to the Authority in respect of such events and their effect;
 - (d) the Licensee provided such other information as the Authority required; and
 - (e) the Authority is satisfied that Event One and Event Two are exceptional events having regard to the criteria contained or referred to in the conclusions document¹.

Now, for the reasons specified in the notice issued pursuant to paragraph 10A of the Condition, in the Reasons document for the Authority’s directions under the Condition and in the Annex to the notice issued to the Licensee under section 49A (1)(c) of the Act, the Authority directs under paragraph 10 of the Condition that for the purpose of calculating Q_t in respect of the relevant year in which the events occurred, the constituent data relevant to those events shall be adjusted as follows:

¹ “the conclusions document” means the document issued by the Authority entitled “Information and Incentives project Incentive Schemes Final Proposals December 2001 78/01”, paragraph 2.60, page 25

- (1) In respect of Event One, $CIIS_t$ for the year commencing 1 April 2002 shall be adjusted from 109.66 to 92.60 and $CMLIS_t$ for the year commencing 1 April 2002 shall be adjusted from 197.42 to 106.30
- (2) In respect of Event Two, $CIIS_t$ for the year commencing 1 April 2002 shall be further adjusted from 92.60 to 89.40 and $CMLIS_t$ for the year commencing 1 April 2002 shall be further adjusted from 106.30 to 101.62.

Overall Distribution Standards of Performance

In respect of Event One and Event Two, the number of customers affected for the purpose of Service 5 of the Overall Distribution Standards of Performance shall be adjusted by the Licensee in accordance with the directions under paragraph 10 of the Condition.

NOTICE OF REASONS FOR DECISION UNDER SECTION 49A(1)(c) OF THE ELECTRICITY ACT 1989

The Gas and Electricity Markets Authority (“the Authority”) hereby gives notice pursuant to section 49A(1)(c) of the Electricity Act 1989 (“the Act”) as follows:

1. The Authority has decided to give directions under paragraph 10 of Special Condition G (“the Condition”) of the distribution licence (“the Licence”) treated as granted under section 6(1)(c) of the Act to EDF Energy Networks (EPN) Plc (“the Licensee”).
2. The Authority has carried out a consultation exercise in accordance with paragraph 10A of the Condition.
3. In summary, the effect of the directions is to revise the values of the specified information in column A of Table A below so as to be those set out in Column B of Table A below.

Table A: Effect of the directions on the Licensee¹

Column A	Column B
CIIS _t for the year commencing 1 April 2002	89.40
CMLIS _t for the year commencing 1 April 2002	101.62

4. The reasons why the Authority has decided to give these directions are set out in the Annex to this notice. In reaching its decision to issue directions under paragraph 10 of the Condition the Authority has taken account of all representations and objections it has received to the consultation under paragraph 10A of the Condition.
5. A copy of the direction and other documents referred to in this notice are available (free of charge) from the Ofgem library (telephone 020 7901 1600).

Dated the 5 July 2004

Martin Crouch

Director, Electricity Distribution

Duly authorised by the Authority

¹ See paragraph 6 of Special Licence Condition G

**Annex
to
Section 49A Electricity Act Notice of Reasons for Directions
Under Distribution Licence Special Condition G
EDF Energy Networks (EPN) Plc**

1. Introduction

- 1.1 This document sets out the reasons for the Authority's decision to issue directions under the Condition of the Licence.²

2. Exceptional Events

Adjustments

- 2.1 EPN notified the Authority that it considered the severe weather on Sunday 27 October 2002 (Exceptional Event 1) and 30 January 2003 (Exceptional Event 2) to be exceptional events (for the purposes of paragraph 10 of the Condition) and to have had material and adverse impacts on both its interruption and telephony performance.
- 2.2 The audited impact of the exceptional events on EPN's 2002/3 performance is set out in Table 2.1 below:

Table 2.1: Impact of 27 October 2002 and 30 January 2003 storms

	CI	CIIS	CML	CMLIS
Event 1: 27 October 2002	20.69	20.69	115.24	115.24
Event 2: 30 January 2003	3.20	3.20	4.68	4.68

Note (1) CI and CML are un-weighted customer interruptions and customer minutes and CIIS and CMLIS are weighted customer interruptions and customer minutes lost as used in the incentive scheme.

- 2.3 The examiner (Mott-MacDonald BPI) found that both events were exceptional, with more than 63 incidents at higher voltages being recorded in a 24 hour period in each case, and had a material and adverse impact on interruption performance having caused more than 2.30 CIs in each case. However, based on analysis by Accent Marketing and Research³, the examiner found that neither event had an adverse impact upon the quality of telephone response for the reporting year 2002/03.

² A more detailed explanation of the adjustments and the reasons behind them is set out in the Reasons document for the Authority's directions on the public register.

³ Accent carried out analysis to compare EPN's annual results in the quality of telephone response survey with the period of the exceptional events included and excluded.

- 2.3 The Authority has considered the recommendation of the examiner and other relevant information and circumstances (such as the DTI Storms report⁴, the DTI resilience report⁵ and the Asset Risk Management survey⁶) and is satisfied that the events were exceptional. Under paragraph 10 of the Condition the Authority may therefore, in accordance with the provisions of that paragraph, make adjustments to EPN's data in respect of the events.
- 2.4 In considering the appropriate level of the adjustments for each event, the Authority has taken into account the examiner's views on the extent to which the EPN had taken appropriate mitigating actions, its own analysis, submissions from the company and other relevant evidence.
- 2.5 On this basis the Authority has directed that that the following number and duration of interruptions should be excluded from EPN's 2002/3 performance to take into account the impact of these events.

Table 2.2: Adjustments for 27 October 2002 and 30 January 2003 storms

	CI	CIIS	CML	CMLIS
Event 1: 27 October 2002	17.06	17.06	91.12	91.12
Event 2: 30 January 2003	3.20	3.20	4.68	4.68

Note (1) CI and CML are un-weighted customer interruptions and customer minutes and CIIS and CMLIS are weighted customer interruptions and customer minutes lost as used in the incentive scheme.

In light of these adjustments EPN's final CIIS and CMLIS performance for 2002/03 are 89.40 and 101.62 respectively.

The Authority considers that it is inappropriate to make any adjustment to EPN's quality of telephone response performance for 2002/03 in respect of these events.

Double Jeopardy

- 2.6 EPN has argued that payments under the standards of performance for the October 2002 storms and penalties under the IIP incentive scheme for the same event constitute double jeopardy.
- 2.7 While the Authority considers that EPN should have been aware of the scope for penalties under both mechanisms, it acknowledges the fact that EPN agreed to go significantly beyond its strict legal obligations in making ex-gratia payments to a wider group of customers following the standards of performance determinations.

⁴ Department of Trade and Industry - October 2002 Power System Emergency Post Event Investigation – 16 December 2002

⁵ The Department of Trade and Industry resilience report may be viewed on the Department of Trade and Industry web site www.dti.gov.uk/energy/domestic_markets/security_of_supply/bpifinalreport/.shtml

⁶ Ofgem Asset Risk Management Survey – Composite Industry Report – December 2002

- 2.8 The Authority has considered this issue in the context of the current price control review and has proposed that, from 1 April 2005, there should be a full exemption for storms⁷ under the IIP quality of service incentive for the number and duration of interruptions and that DNOs' incentive to restore customers' supplies promptly following severe weather should be strengthened by refining the interim arrangements. This should remove any question of double jeopardy. In the light of this approach the Authority has decided that it would be appropriate to net off against the 2002/3 CML penalty arising from the October 2002 storms ex-gratia payments made to the wider group of customers following the determinations in September 2003.

⁷ The threshold for severe weather exceptional events will be determined as part of the distribution price control review.