

Your Ref:  
Our Ref: BETTA/mod2/June 04  
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9 July 2004

For the attention of all holders of electricity generation, transmission, distribution and supply licences,

**Licence conditions in electricity generation, transmission, distribution and supply licences relating to the Fuel Security Code in England and Wales and directions issued under sections 34 and 35 of the Electricity Act 1989 – Ofgem/DTI revised proposals under BETTA**

**Existing licence obligations**

Electricity licensees are subject to the following obligations with regard to the Fuel Security Code (FSC) and sections 34 and 35 of the Electricity Act 1989.

*England and Wales*

Existing licence arrangements<sup>1</sup> in England and Wales require licensees active in England and Wales to comply with the provisions of the FSC.

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<sup>1</sup> Generation standard licence condition (SLC) B7 (Security Arrangements (England and Wales)), Generation SLC C3 (Security Arrangements (Scotland)), Transmission SLC C8 (Security Arrangements), Transmission SLC D7 (Security Arrangements), Distribution SLC B16 (Security Arrangements) and Supply SLC B14 (Security Arrangements).

## Scotland

In relation to licensees acting in Scotland existing licence obligations require that the licensee complies with any direction made by the Authority to comply with any direction issued by the Secretary of State under sections 34 and/or 35 of the Electricity Act 1989. No directions have been issued to date

### Original proposals for BETTA

In previous consultations on the regulatory framework for transmission licensees under BETTA<sup>2</sup> and on required changes to generation, supply and distribution licence conditions under BETTA<sup>3</sup> Ofgem/DTI considered what changes were required to the existing arrangements (as described above) under BETTA.

Ofgem/DTI noted that the DTI were in the process of reviewing the existing security arrangements<sup>4</sup>. That consultation document recognised that the electricity industry had seen many changes since privatisation when the FSC was established and noted that changes were required to accommodate the introduction of the new electricity trading arrangements and also that further changes might be required to 'address wider management of problems affecting power generation and closely related items'. The paper recognised that the implementation of BETTA would mean a number of changes to the structure of the electricity industry in GB,

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<sup>2</sup> 'Publication of 'near final' electricity transmission licences under BETTA', Ofgem/DTI April 2004, Ofgem #82/04.

"Regulatory framework for transmission licensees under BETTA – Third consultation on electricity licences under BETTA", An Ofgem/DTI consultation, December 2003, Ofgem#178a/03 & 178b/03.

"Regulatory framework for transmission licensees under BETTA – Second consultation on electricity licences under BETTA", An Ofgem/DTI consultation, June 2003, Ofgem#59/03.

Regulatory framework for transmission licensees under BETTA – Volume 2: Electricity transmission licences under BETTA", An Ofgem/DTI consultation, December 2002, Ofgem #88/02.

<sup>3</sup> "Publication of 'near final' changes to the electricity generation, distribution and supply licence conditions under BETTA", Ofgem/DTI April 2004, Ofgem #93/04.

"Changes to electricity generation, distribution and supply licences under BETTA: A third Ofgem/DTI consultation", Ofgem/DTI January 2004, Ofgem #06/04 & 06a/04.

"Changes to electricity generation, distribution and supply licences under BETTA: A second Ofgem/DTI consultation." Ofgem/DTI September 2003, Ofgem #114/03.

"Changes to electricity generation, distribution and supply licences under BETTA: An Ofgem/DTI consultation." Ofgem/DTI January 2003, Ofgem #04/03.

including the introduction of a single GB system operator and a number of transmission owners<sup>5</sup>. The paper explored issues and invited proposals through questions and discussions.

In the December 2003 consultation on transmission licences under BETTA and the January 2004 consultation on changes to generation, distribution and supply licence conditions under BETTA, Ofgem/DTI explained that DTI would issue a further consultation paper in the near future on the FSC. Ofgem/DTI noted that, following publication of that consultation paper, it would be possible to determine the precise impact of DTI's proposals on the industry framework and, as such, on BETTA.

For the purposes of taking forward work on the draft transmission licences and changes to other electricity licence types for BETTA, Ofgem/DTI assumed that there would, upon the introduction of BETTA, be a FSC which applied on a GB basis and that it would be appropriate for all electricity licensees to comply with that code. As such, Ofgem/DTI proposed that a new SLC should be included within Section B of the SLCs for transmission licensees placing such an obligation on all transmission licensees and that existing licence conditions for generation, distribution and supply licensees should be amended to reflect that the FSC would apply GB wide. Ofgem/DTI noted that to the extent that this assumption proved to be incorrect it would be necessary to consider further what licence changes may be required for electricity licences under BETTA in relation to security arrangements.

### **Revised proposals**

In light of the planned introduction of the required licence changes for BETTA on 1 September 2004 and in view of the fact that DTI's review of FSC arrangements is ongoing, Ofgem/DTI have given further thought to the licence obligations that should be placed upon electricity licensees under BETTA.

In particular Ofgem/DTI consider that, at this time, it is appropriate to retain the existing obligations that apply in Scotland and in England and Wales (amended as appropriate for BETTA). Ofgem/DTI consider that such an approach is required while DTI's review of the FSC

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<sup>4</sup> The Fuel Security Code: Review of the Fuel Security Code and related issues: A DTI consultation 20 May 2003 – <http://www.dti.gov.uk/energy/consultation/fsc.pdf>.

<sup>5</sup> The DTI consultation document states "Transmission Operator", it is assumed that this should be "transmission owners" as the fundamental principle underpinning BETTA is that there will be a single system operator across GB.

and its application on a GB basis continues. Currently the application of these licence conditions relates to geographic boundaries, with one set of arrangements applying in England and Wales and another set of arrangements applying in Scotland. As such, NGC will be subject to both licence obligations, one in respect of its activities in England and Wales and the other in respect of its activities in Scotland.

### **Draft licence conditions**

Attached to this letter as annex A are the draft licence conditions which will apply to the generation, distribution and supply licensees under BETTA in accordance with the proposals set out in this letter. It should be noted that no changes are required to the existing licence conditions for BETTA.

Annex B includes a draft licence condition to apply to the transmission licensees under BETTA. This licence condition amends existing proposed SLC B11 to limit the geographical scope of the obligation to comply with the FSC to England and Wales and to reintroduce the existing provisions of SLC D7 (limited in their applicability to Scotland).

### **Responses**

Any comments on these proposed changes for BETTA and responses that identify additional implications for Great Britain should be sent by 30 July 2004 to:

David Halldearn  
Ofgem  
9 Millbank  
London  
SW1P 3GE

All responses will normally be published on the Ofgem website and held electronically in Ofgem's Research and Information Centre unless there are good reasons why they must remain confidential. Respondents should try to put any confidential material in appendices to their

responses. Ofgem prefers to receive responses in an electronic form so they can easily be placed on the Ofgem website.

Please e-mail responses to [BETTA.consultationresponse@ofgem.gov.uk](mailto:BETTA.consultationresponse@ofgem.gov.uk) marked "Response to licence conditions in electricity generation, transmission, distribution and supply licences relating to Security Arrangements". All consultation responses will be forwarded to the DTI.

If you wish to discuss any aspect of this document, please contact Roberta Phillips, e-mail [Roberta.phillips@ofgem.gov.uk](mailto:Roberta.phillips@ofgem.gov.uk) telephone 0141 331 2012 or Renata Williams at DTI, e-mail [Renata.Williams@dti.gsi.gov.uk](mailto:Renata.Williams@dti.gsi.gov.uk) telephone 020 7215 0442.

### **Next steps**

As explained above it is intended that the changes outlined in this paper will be made to generation, supply and distribution licences on 1 September 2004, although some of those changes might not take effect until BETTA go-live. Ofgem/DTI will write to each affected licensee detailing the changes that are to be made to that licensee's licence in August 2004, in advance of those changes taking effect.

**Condition 7. Security Arrangements**

1. Insofar as the licensee shall construct or operate a generating station in England and Wales, the licensee shall comply with the provisions of the Fuel Security Code and such provisions shall have effect as if they were set out in this licence.
  
2. In this condition:

“Fuel Security Code” means the document of that title designated as such by the Secretary of State as from time to time amended.

**Condition C3. Security Arrangements (Scotland)**

1. (a) If so directed in directions issued by the Authority for the purposes of this Section, the licensee shall, not later than such date as may be specified in such directions, enter into an agreement designated by the Secretary of State for the purposes of this Section relating to compliance with directions issued by the Secretary of State under section 34 and/or section 35 of the Act.
  
- (b) The licensee shall comply with and perform its obligations under any agreement which it enters into pursuant to sub-paragraph (a) above.

**Condition 16. Security Arrangements**

1. Insofar as the licensee shall distribute or offer to distribute electricity within any area of England and Wales, the licensee shall comply with the provisions of the Fuel Security Code and such provisions shall have effect as if they were set out in this licence.
  
2. Insofar as the licensee shall distribute or offer to distribute electricity within any area of Scotland:
  - (a) if so directed in directions issued by the Authority for the purposes of this condition, the licensee shall, not later than such date as may be specified in such directions, enter into an agreement designated by the Secretary of State for the purposes of this condition relating to compliance with directions issued by the Secretary of State under section 34 and/or section 35 of the Act; and
  
  - (b) the licensee shall comply with and perform its obligations under any agreement which it enters into pursuant to sub-paragraph (a) above.
  
3. In this condition:  
  
“Fuel Security Code” means the document of that title designated as such by the Secretary of State as from time to time amended.

**Condition 14. Security Arrangements**

1. Insofar as the licensee shall supply or offer to supply electricity to any premises in England and Wales, the licensee shall comply with the provisions of the Fuel Security Code and such provisions shall have effect as if they were set out in this licence.
  
2. Insofar as the licensee shall supply or offer to supply electricity to any premises in Scotland:
  - (a) if so directed in directions issued by the Authority for the purposes of this condition, the licensee shall, not later than such date as may be specified in such directions, enter into an agreement designated by the Secretary of State for the purposes of this condition relating to compliance with directions issued by the Secretary of State under section 34 and/or section 35 of the Act; and
  - (b) the licensee shall comply with and perform its obligations under any agreement which it enters into pursuant to sub-paragraph (a) above.
  
3. In this condition:

“Fuel Security Code”	means the document of that title designated as such by the Secretary of State as from time to time amended.
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**Condition B11. Security Arrangements**

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1. The licensee shall:

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a. in respect of its participation in transmission in England and Wales comply with the provisions of the Fuel Security Code and such provisions shall have effect as if they were set out in this licence, and

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b. in respect of its participation in transmission in Scotland and if so directed in directions issued by the Authority for the purposes of this condition, not later than such date as may be specified in such directions, enter into an agreement designated by the Secretary of State for the purposes of this condition relating to compliance with directions issued by the Secretary of State under section 34 and/or section 35 of the Act.

2. The licensee shall comply with and perform its obligations under any agreement which it enters into pursuant to sub-paragraph 1 (b) above.

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