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22 October 2004

Dear Colleague,

**Open letter on Ofgem's proposals to implement revised standards of performance arrangements for electricity distributors**

1. Introduction

Ofgem is proposing to introduce revised standards of performance arrangements for electricity from 1 April 2005. The main changes that are being proposed are:

- separating the existing 18 hour guaranteed standard of performance for supply restoration for electricity distributors into 2 standards covering normal and severe weather conditions respectively;
- extending the application of the guaranteed standards to all distributors (including independent distribution network operators (IDNOs) and distribution network operators (DNOs) operating out of area;
- removing the overall standards for electricity distributors; and
- setting out a more comprehensive practice and procedure for determining standards of performance disputes.

Ofgem is proposing to retain the existing standards of performance for electricity suppliers. The revised arrangements will be set out in a new Statutory Instrument that supersedes the existing Electricity (Standards of Performance) Regulations 2001 (as amended).

## 2. Views invited

The policy to revise the standards of performance for DNOs has been consulted on extensively as part of the price control review. The application of standards to IDNOs and DNOs operating out of area was consulted on as part of the June policy paper on the regulation of IDNOs<sup>1</sup>.

The purpose of this letter is to summarise the proposed changes to the arrangements (Annex to this letter) and invite views on the draft regulations required for their implementation. These are attached as a separate document.

Responses to this open letter should be received by Wednesday 17 November 2004. They will be considered in developing an updated draft of the regulations for statutory consultation in December 2004 or January 2005.

The responses should be sent to Chris Watts, Head of the Quality of Service Team, Ofgem, 9 Millbank, London SW1P 3GE or by e-mail to [chris.watts@ofgem.gov.uk](mailto:chris.watts@ofgem.gov.uk)

Unless marked as confidential, all responses will be published by placing them in Ofgem's library or on the website. It would be helpful if responses could be submitted both electronically and in writing. Any questions on this letter should, in the first instance, be directed to James Hope, who can be contacted on 020 7901 7029 or by email at [james.hope@ofgem.gov.uk](mailto:james.hope@ofgem.gov.uk)

Yours faithfully,

Chris Watts  
**Head of the Quality of Service Team**

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<sup>1</sup> Regulation of Independent Electricity Distribution Network Operators – Consultation Paper, June 2004

## Annex - Summary of existing arrangements and Ofgem's proposed changes

### Background

Section 39A of the Electricity Act 1989 (as amended) ('the Act') provides for the Authority, with the consent of the Secretary of State of Trade and Industry, to make regulations for guaranteed standards of performance for electricity distributors. These standards set service levels that must be met in each individual case. If the licensee fails to provide the level of service required, it must make a payment to the customer affected, subject to certain exemptions.

The existing guaranteed standards were introduced in April 2002 and apply only to DNOs in their distribution service areas. They are summarised in Table 1 below.

**Table 1 – Distribution Guaranteed Standards**

Standard	Service	Performance Level	Payment
GS1	Respond to failure of distributors fuse	All DNOs to respond within 3 hours on weekdays (at least) 7 am to 7 pm, and within 4 hours at weekends between (at least 9 am to 5 pm)	£20
GS2*	Restoration of supply following a fault	Supplies must be restored within 18 hours, otherwise a payment must be made	£50 domestic customers £100 non-domestic, plus £25 for each further 12 hours
GS2A*	Multiple Interruptions	Four or more separate interruptions each lasting 3 or more hours in any single year (1 April – 31 March)	£50
GS3	Estimating charges for connection	5 working days for simple jobs and 15 working days for most others	£40
GS4*	Notice of planned interruption to supply	Customers must be given at least 2 days notice	£20 domestic customers, £40 non-domestic
GS5	Investigation of voltage complaints	Visit within 7 working days or substantive reply within 5	£20
GS8	Making and keeping appointments	Companies must offer and keep a morning or afternoon appointment, or a timed appointment if requested by the customer	£20
GS9	Notifying customers of payments owed under the standards & making payments	Payment to be made within 10 working days	£20

\* Customers need to claim under these standards, for the remaining standards payments are automatic

Section 40A of the Act also provides for the Authority to separately determine overall standards of performance. These set the minimum levels of performance that distribution businesses are required to achieve over a 12-month period in specific service areas. A description of these standards is provided in Table 2 below. They also only apply to DNOs operating in their distribution service areas.

**Table 2 – Distribution Overall Standards**

Standards	Service	Target level
OS1	Restoration of Supply: Minimum percentage of supplies to be reconnected following faults within 18 hours	99.5%
OS2	Voltage Complaints: Minimum percentage of voltage complaints to be corrected within 6 months	100%
OS3a	New Connections: Minimum percentage of domestic consumers connected within 30 working days	100%
OS3b	New Connections: Minimum percentage of business premises connected within 40 working days	100%
OS4	Correspondence: Minimum percentage of customers letters to be responded to within 10 working days	100%
OS5	Multiple interruptions (from 1 April 2002): Minimum percentage of customers experiencing no more than five interruptions each lasting 3 minutes or more	96% - 99% (varies by DNO)

Experience from the October 2002 storms showed that GS2 (the guaranteed standard for supply restoration) could lead to large numbers of disputes and long delays before customers receive compensation in relation to severe weather events. Changes were needed to strengthen the incentives that DNOs have to restore supply as quickly and efficiently as possible following severe weather events and to streamline the arrangements for providing compensation to customers affected. The interim arrangements for storm compensation, which were introduced in October 2003, supplement the standards of performance, and ensure that for most major storms customers are entitled to claim compensation if they are off supply for longer than 48 hours.

### ***Changes in the electricity distribution standards***

Ofgem has consulted extensively on changes to the electricity distribution standards of performance as part of the price control review. Ofgem has also invited views on the extension of the standards to IDNOs and DNOs operating out of area as part of the June consultation on the regulation of such licensees<sup>2</sup>. The key changes in light of these discussions are set out below.

#### (a) Supply restoration under normal and severe weather

Ofgem is proposing to split the standard for supply restoration into 2 standards covering normal and severe weather conditions respectively.

Under normal weather conditions domestic consumers will be entitled to £50 compensation (non-domestic £100) after being off supply for 18 hours, with a further £25 for each subsequent 12 hour period. The level of compensation will continue to be uncapped.

Under severe weather conditions the trigger period for payment (i.e. the time at which customers are entitled to compensation) will depend on the scale of event. This is summarised in Table 3 below.<sup>3</sup>

<sup>2</sup> Regulation of Independent Electricity Distribution Network Operators – Consultation Paper, June 2004

<sup>3</sup> Severe weather events on an IDNOs network will be categorised in the same way as for the DNO in whose distribution services area it operates.

**Table 3: Severe weather banding**

Category of severe weather	Definition	Trigger period for compensation
Category 1 (medium events)	Lightning events ( $\geq 8$ times daily mean faults at higher <sup>4</sup> voltage and less than 35% of exposed customers <sup>5</sup> affected)	24 hours
	Non-lightning events ( $\geq 8$ times and $< 13$ daily mean faults at higher voltage and less than 35% of exposed customers affected)	
Category 2 (large events)	Non-lightning events ( $\geq 13$ times daily mean faults at higher voltage and less than 35% of exposed customers affected)	48 hours
Category 3 (very large events)	Any severe weather events where $\geq 35\%$ of exposed customers are affected	$48 \text{ hours} \times \left( \frac{\text{Number of customers affected}}{35\% \text{ of exposed customers}} \right)^2$

Both domestic and non-domestic customers will be entitled to £25 compensation after the trigger period has passed (e.g. after 24 hours following a category one event) and a further £25 for each additional period of 12 hours up to a cap of £200. The existing “non-weather” exemptions will continue to apply to these standards.

DNOs exposure to the severe weather arrangements will be capped at 2 per cent of price control revenue (approximately £4 million for an average company.) The costs of compensation over and above this level would be passed through to customers via distribution charges.

Further details of the proposed normal and severe weather restoration standards are set out in paragraphs 3.25 to 3.39 of the September price control update paper.<sup>6</sup>

The DNOs have suggested that there should be a cap on the size of events that are covered by the severe weather arrangements. Ofgem considers that the advantages and disadvantages of the 2 options are:

- **cap on the size of events which are covered** – it could be argued that events above a certain scale are emergencies outside the control of companies where normal standards of performance arrangements should not apply. For example, Ofgem could introduce an exemption for category 3 weather conditions where more than 70 per cent of exposed customers have been affected in at least one DNO’s area. Alternatively there could be an exemption for events where more than 4 million customers have been affected nationwide; and

<sup>4</sup> Higher voltage means any nominal voltage of more than 1,000 volts up to and including 132 kilovolts in England and Wales and up to but excluding 132 kilovolts in Scotland.

<sup>5</sup> Exposed customers are defined as customers on mixed or overhead circuits (i.e. those customers that may be affected by a severe weather event.) In the case of EDF (LPN) a different approach has been used to calculate the threshold as its circuits are almost entirely underground. Ofgem has calculated 35 per cent of exposed customers as a percentage of total customers for all other DNOs and then applied this figure to EDF (LPN)’s total number of customers to arrive at the threshold.

<sup>6</sup> Electricity Distribution Price Control Review, Update Paper, September 2004

- **no cap** – it may be argued that the square-rule for very large events (set out in the table above) provides companies sufficient time to complete supply restoration. For example, for an event where 50 per cent of exposed customers are affected (420,000 customers for an average DNO), DNOs would have approximately 4 days before they have to make payments to customers. However, if a significant amount of customers were still off supply after such a period it could lead to large amounts of compensation being paid out. For example, for a very extreme event (such as the October 1987 storms) it is feasible that total compensation could run to many millions of pounds. As a proportion of costs would be passed through to customers this could result in a significant rise in distribution charges in a subsequent year.

**Ofgem welcome views on each of these options.**

Scottish and Southern Energy (SSE) has proposed that the Highlands and Islands should be covered by similar arrangements to the existing 18 hour standard for supply restoration (GS2). The company would be entitled to claim an exemption from paying compensation for severe weather but the customer could apply for a determination if it felt that compensation had been withheld unreasonably.

SSE has suggested that this treatment is appropriate as many of the circuits in these areas were built as part of the electrification programme of Northern Scotland in the 1960s and had a derogation from normal design standards. It also notes that the North of Scotland is subject to more frequent severe weather than the rest of Great Britain.

**Ofgem would welcome views on whether SSE's proposed treatment of the Highlands and Islands is appropriate.**

(b) Extension of the standards to IDNOs and DNOs operating out of area.

A key principle in taking this work forwards is to ensure that customers receive equal protection under the standards regardless of whether they are connected to a DNO or IDNO network. This was generally supported by the respondents to the June document on the regulation of IDNOs.

Ofgem therefore proposes that all of the distribution guaranteed standards (including the new severe weather standard) should be extended to both IDNOs and DNOs operating out of area. For most of the standards (e.g. making and keeping appointments and providing estimates for connections) the extension to other distributors is relatively straightforward. However it raises a number of boundary issues for the standards relating to supply interruptions. For example, an 18 hours interruption may arise due to faults on another network or several networks.

There are three possible scenarios for the **normal, severe weather and multiple interruption standards**:

- **Scenario A** - where faults on a distributor's network affect customers directly connected to its network. In this case Ofgem proposes that the distributor makes payments to its customers for failure to meet the standards as at present.
- **Scenario B** - where faults on a distributor's network affect customers connected to another distributor's network downstream. In this case Ofgem proposes that upstream distributor

should be liable for the standards of performance payments. The upstream distributor will make the payments to the downstream distributor for onward transmission to the customer.

- **Scenario C** – the interruption(s) are caused by faults on more than one network. In such cases Ofgem considers that customers should receive the same compensation as if the failure(s) were only to arise on one network. DNOs, IDNOs or DNOs operating out of area will need to agree commercial terms to share liability for compensation. In cases where the parties do not agree terms, the dispute could be referred to Ofgem by any party for determination. Ofgem considers that this is the simplest approach where several networks are involved. Otherwise complicated sharing rules would need to be built into the statutory instrument.

There are two possible scenarios under the **planned interruption standard**.

- **Scenario A** - where a distributor needs to carry out planned work that only affects customers on its network. In these cases the status quo applies. Distributors should inform their customers at least 2 days in advance of the work taking place.
- **Scenario B** - where a distributor needs to carry out planned work that affects customers connected to another distribution network. In this case Ofgem proposes that the distributor carrying out the work should inform the other distributor 5 days before the work takes place and then that distributor in turn will need to inform its customers at least 2 days in advance.

Ofgem is also proposing some consequential amendments to the standard for making payments to a customer. Where a failure by one distributor affects customers connected to another network, the distributor will be required to pass on payments to the other operator, who will in turn be required to pass on the payment to its customers (either directly or via suppliers).

#### Removal of overall standards

Ofgem considers that overall standards have served a very useful purpose in protecting consumers since their introduction at privatisation but have been superseded by the new quality of supply incentives under the price control and the associated monitoring and reporting framework under the Regulatory Instructions and Guidance (RIGs). Ofgem therefore proposes to revoke the Overall Standards for distributors but retain some of the key reporting requirements as part of the RIGs framework. If reported performance shows notable deterioration, Ofgem will investigate and retain the ability to re-introduce overall standards.

#### ***Practice and procedure***

The existing Standards of Performance Regulations set out high level procedural matters for disputes. A more detailed process and timetable for determining disputes is sent out to parties at the start of each dispute process together with the initial request for statement of facts.

Ofgem is proposing to include a new schedule in the SI that sets out a more comprehensive practice and procedure for both individual and consolidated disputes. This builds on the Energy Act example for Competition Commission references and includes the deadlines for determining disputes and the key stages of the disputes process.

The new disputes practice and procedure is intended to apply to all disputes relating to the electricity standards of performance including disputes between customers and distributors, customers and suppliers and between operators.

The practice and procedure schedule has been drafted on the basis that Article 23(5) of the Internal Markets Electricity Directive (IMED)<sup>7</sup> does not apply to standards of performance disputes. However, Ofgem is discussing with the DTI whether this is the case and awaits DTI's decision document in respect of its Article 23(5) consultation<sup>8</sup>. If necessary, Ofgem will make appropriate changes to the practice and procedure schedule in due course.

### ***Views Invited***

Comments are invited on the draft regulations required to implement the changes to the standards of performance arrangements discussed in this Annex. The draft regulations are attached.

Responses should be sent to Chris Watts, Head of the Quality of Service Team, Ofgem, 9 Millbank, London SW1P 3GE or by e-mail to [chris.watts@ofgem.gov.uk](mailto:chris.watts@ofgem.gov.uk) by Wednesday 17 November 2004.

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<sup>7</sup> European Directive 2003/54/EC – The Internal Markets Directive.

<sup>8</sup> DTI's Consultation on the Implementation of Articles 23/25(5) and (6) of European Directives 2003/5 and 2003/55 Concerning Common Rules for the Internal Markets in Electricity and Gas (August 2004)