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Dear Martin,

**ELECTRICITY DISTRIBUTION PRICE CONTROL REVIEW:
LICENCE MODIFICATIONS AND DRAFT RIGS ISSUED FOR CONSULTATION
3 DECEMBER 2004**

CE Electric UK Funding Company (CE) is the UK parent company of Northern Electric Distribution Limited (NEDL) and Yorkshire Electricity Distribution plc (YEDL). The views expressed represent the response of CE, NEDL and YEDL to Ofgem's 3 December 2004 issue of draft distribution licence amendments and regulatory instructions and guidance (RIGs) for revenue reporting; DG, IFI and RPZ; and IIP. Copies of this response have been sent to Colin Green, Dave Young and James Hope.

As you know, all DNOs have been working collectively with Ofgem to review the above documentation in order to meet the challenging development timescales. In that regard, I would stress that we support the comments and redrafting proposals that are being submitted on behalf of all DNOs in respect of the above documents.

There are a number of points relating to the proposed modifications to which we would wish to add particular emphasis and the purpose of this letter, therefore, is to provide the CE view on these few key points, supported by an appendix that provides more detailed comments and some proposed drafting.

GENERAL COMMENTS

The timetable leading up to Ofgem's publication of the section 11 notice is extremely tight. It is therefore vital, in order to ensure that the section 11 modification process is not prejudiced by last-minute queries over numbers, that the penultimate draft modifications which Ofgem plans to circulate on 31 January should contain all the money figures needed to complete the licence modifications for section 11 purposes. We welcome the intimation you have provided via Roger Barnard to this effect and would stress that there should also be an audit trail to enable each company to understand (and, if appropriate, question) how Ofgem has converted the comparable financial figures which appeared in the Price Control Final Proposals (the *Final proposals*) into the figures in the formal section 11 notice.

CE ELECTRIC UK FUNDING COMPANY

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DRAFT PRICE CONTROL LICENCE MODIFICATIONS

The following highlights the key issues that we feel need to be addressed in respect of the draft price control licence modifications. Appendix 1 provides more detailed points on both the draft licence modifications and the draft RIGs.

Special Condition A3 – Arrangements for the recovery of uncertain costs

As drafted, special condition A3 includes a materiality test for each of the three categories of cost that might be recovered under the uncertain costs mechanism.

Where it is anticipated that new costs may arise but that no costs have been factored into the price control cost allowance calculations, it seems inappropriate to include a materiality test. To do so means that, until that materiality threshold is reached, the licensee is bearing the entire cost of the new obligations. There is no symmetry about this risk since there is clearly no potential for licensees to enjoy any reduction in costs as a result of these particular new obligations. The presence of a materiality threshold also introduces perverse incentives at the boundary between the material and non-material amounts.

Special Condition C1 – Incentive scheme: calculation of charge restriction adjustments for distribution losses

The proposed modification says that LR *“is the distribution losses incentive rate and takes the value of £48/MWh for units physically distributed on or after 1 April 2005 and £[xx]/MWh for units physically distributed before that date”*. Whilst we appreciate Ofgem's position on the losses incentive, the dual incentive rate does pose significant issues for us, specifically:

- the loss of symmetry between the losses incentive and the revenue driver, as the losses will be applied at a DPCR3 rate whilst the revenue driver will be at the DPCR4 rate.
- the proposal could lead to increased volatility in DUoS charges, as it may prevent the estimation of the value of the losses incentive mechanism within the current bounds of acceptability of allowed income for tariff setting.

On this basis we believe that the £48/MWh should be consistently applied to all units billed in the DPCR4 period.

Special Condition C2 – Incentive scheme: calculation of charge restriction adjustments for quality of service performance

We note that Ofgem has still used a two-year lag for settling the IIP part of the charge retention in 2005/06 and beyond. As the 2004/05 IIP performance charge retention is being settled in 2005/06, we see no reason why this same timescale, with only a one-year delay, cannot be carried forward: this would also have the merit of consistency with this prior treatment. We strongly believe that there should only be a one-year delay prior to settlement and, as such, the redrafting we would suggest is as follows:

“3. For the purposes of paragraph 2 of special condition B3 (Restriction of distribution charges: incentive revenue adjustment), in the relevant year commencing 1 April 2006 and in each subsequent relevant year t , IQ_t shall be the amount derived from the following formula:

$$IQ_t = [qa_{t-1} + qb_{t-1} + qc_{t-1} + qd_{t-1} + qe_{t-1}] * [1 + I_t/100] + qf_t + qg_t + [qh_t] “$$

Special Condition C3 – Incentive scheme: calculation of charge restriction adjustments for the innovation funding incentive (IFI)

In order to achieve alignment with the *Final proposals*, there is a need to amend the definition of IFIEt so that it includes the fact that we can count expenditure in the last six months of 2004/05 as expenditure in 2005/06. We suggest that the following wording should be added to the end of the existing IFIEt definition:

"where qualifying expenditure incurred between 1 October 2004 and 31 March 2005 inclusive shall be treated as if incurred in 2005/06"

Special Condition D2 – Incentive scheme: calculation of charge restriction adjustments for distributed generation and registered power zone incentives.

There is an incorrect formula for j within GP_t . The formula states that $j = \max(y+1, t-P+1)$, where y is the value of the relevant year t . As y is 2005/06, the lowest that $y+1$ could ever be is 2006/07, which means that there would be no return on investment made in 2005/06. The formula for j should therefore be $j = \max(y, t-P+1)$.

Special Condition F1 – Restriction of basic metering charges

Restraints on charges for single-rate credit meters (SRCM) – the reference here should be to domestic single-rate, single-phase credit meters. The current drafting would expose DNOs to a significant cost risk as poly-phase single-rate meters are far more expensive than the price cap allows for. All references in the licence condition to "single-rate meter" should therefore be changed to "domestic single-rate, single-phase meter": this would also achieve conformity with the wording used in the *Final proposals* for credit meters.

The domestic single-rate credit meter price cap should be £1.12 as per the *Final proposals* (page 57), rather than £1.11 as per the current licence condition drafting.

Restraints on charges for single-rate token pre-payment meters (SRTPPM) – this term should also include the words "domestic, single-phase" for appropriate precision.

Standard Condition 1 – Definitions and interpretation

The revised definition of "distribution business" would create a situation whereby standard condition 43 would define the provision of basic metering services (an obligation under standard condition 36) as de minimis activity and would prevent licensees from carrying it out under any other guise (unless they obtained GEMA's written consent, a requirement which would hardly be appropriate when such provision is a licence obligation – and would be no more appropriate from 2007 if it were not then a licence obligation, as this would hardly represent a level playing field for competition). This would no doubt drive licensees beyond the specified de minimis limits. The most obvious remedy would seem to be to reinstate the provision of basic metering services within the definition of "distribution business". However, regard also needs to be had to adjacent definitions such as "distribution services", "distribution business activities" and "distribution charges", both in the light of the currently-proposed definition and the proposed remedy.

Standard Condition 20 – Payments in relation to standards of performance

Paragraph 2(c) of standard condition 20 describes the requirement to contract with other licensed distributors such that they may recover the relevant costs from DNOs when DNOs are liable for the payments, as described in the Guaranteed Standards Regulations. However, it appears that there is an inconsistency between the current draft of standard

condition 20 and the proposals for revising the standards of performance arrangements as published by Ofgem earlier this month.

The proposed revisions to the Regulations envisage a DNO or IDNO passing the obligation to make a payment to the DNO whose failure has caused the standard to be breached.

The draft licence conditions seem to envisage a different, possibly an alternative, mechanism whereby the DNO or IDNO to whose network the customer's premises are connected (the first DNO or IDNO) making the required payment to the affected customer and being reimbursed by the other DNO to the extent that the breach of the standard was caused by that DNO.

We question whether it is intended that both routes should be available to the first DNO or IDNO. If only one route is intended by Ofgem then the policy decision needs to be made in favour of one or other routes.

If Ofgem's intended policy is to allow both routes the wording of standard condition 20 needs to be amended to ensure that there is no ambiguity about the treatment of multiple interruptions and that the licence is consistent with the proposed Regulations. The Regulations do not permit the first DNO or IDNO to pass the obligation to make multiple interruption payments to the other DNO even if that DNO has contributed to some or all of the interruptions. Instead the first DNO or IDNO simply relies on the exemption in Regulation 9(3)(c). Since the licence requirements and Regulations should be consistent the wording of paragraph 2(c) needs to be addressed to achieve this.

We suggest that the final clause of paragraph 2(c) should read:

"...where the liability to make a payment under Regulations 5, 6, 7 or 8 of the Regulations has arisen fully or partially due to the failure, action or inaction on the part of the licensee".

The existing draft of SLC20 refers to not entering into any agreements with suppliers or distributors unless they take account of performance payments in the manner described. It is assumed that this is intended to apply to existing agreements as well as to all new agreements. If so, it may be appropriate to add words such as *"or allow to continue"* after *"The licensee shall not enter into"* in paragraph 2.

Standard Condition 42 – Regulatory accounts

We believe that the requirement of this licence condition must be discussed with the ICAEW in order that the audit profession can comment on whether verification such as is envisaged could realistically be provided. Such a discussion should ensure that the cost and timescale implications arising from these additional audit procedures would be reasonable and within the cost levels and timescales allowed.

Standard Condition 44 – Availability of resources

This condition requires licensees to prepare a cash flow forecast for the next 12 months from the date of the Certificate of Resources and a working capital statement in the format required by the UK Listing Authority.

If there is an ongoing requirement for DNOs to continue to prepare regulatory accounts, then in the majority of cases the directors will have signed the accounts prepared on a going concern basis and the auditors will have confirmed this to be the case. We therefore believe that the requirement for a cash flow forecast should be restricted such that it should only be produced in those circumstances where the regulatory accounts had not been prepared on a "going concern" basis. The following drafting suggestions would achieve this:

In paragraph 3 delete the words *"including a cashflow projection and the underlying assumptions thereof for the next 12 months from the date of the certificate"*.

At the end of paragraph 3 add a new sentence: *"If the most recent set of regulatory accounts prepared by the licensee in accordance with standard condition 42 (Regulatory accounts) has not been prepared on a 'going concern' basis the licensee shall also submit to the Authority with the certificate referred to in paragraph 2 a cashflow projection and the underlying assumptions thereof for the next 12 months from the date of the certificate."*

However, if the regulatory accounts were to be superseded by the proposed Regulatory Reporting Pack (RRP), as we have suggested in our response to the RRP consultation, we can see why Ofgem would require DNOs to prepare this cashflow forecast.

We do not believe that licensees should be obliged by the licence to produce the statement on links between directors' pay and standards of performance that is required under section 42C of the Electricity Act as part of their regulatory accounts. This statement is required by section 42C to be based on statutory year ends. Having this report in the regulatory accounts would therefore be confusing in the case of licensees, like NEDL and YEDL, whose statutory year-end differs from the regulatory year-end. An obligation of this nature would also unreasonably fetter the discretion given to licensees by section 42C to determine themselves what would constitute adequate publicity for these statements.

Standard Condition 50 – Price control revenue reporting and associated information

Restating returns for changes that have occurred as a result of the normal operation of the NHH settlements process will create significant additional workload for DNOs, for their auditors and also for Ofgem. As such, we suggest that changes to prior years as a result of reconciliation data should be excluded from this requirement. Whilst we understand that it is not Ofgem's intention for us to restate regulatory accounts submissions, the current proposal would also make the reconciliation back to the audited price control return more complex.

PRICE CONTROL REPORTING FRAMEWORK: RIGs (version1)

There are several issues regarding the drafting of the Price Control Reporting Framework RIGs on which we support the proposed industry redraft. Great care needs to be taken to ensure that the RIGs do not conflict with the licence conditions that reflect the *Final proposals*. We believe that the industry redraft achieves this. Some additional comments are detailed in Appendix 1.

INFORMATION AND INCENTIVES PROJECT: RIGs (version 5)

We have no major issues with the overall drafting of the IIP RIGs but have provided some suggestions for improvement in Appendix 1.

DISTRIBUTED GENERATION INCENTIVE, INNOVATION FUNDING INCENTIVE, REGISTERED POWER ZONES RIGs (version 1 draft 2)

We support the proposed drafting to be submitted by Roger Barnard on behalf of all distributors. We also propose that the words 'or new demand connection' be deleted from the second sentence of paragraph 2.9. The burden of disaggregating expenditure between the real scheme and a notional demand-only scheme for customers with own generation would be disproportionate. Any such distinction would, when applied to individual customers' requirements, also be unduly arbitrary. Other comments are detailed in Appendix 1.

FUTURE WORK

We remain committed to working with Ofgem to resolve all outstanding issues. We are grateful for the opportunities that Ofgem has afforded us to date to discuss these in more detail and look forward to a continued dialogue with Ofgem to get us to a successful endpoint in the licence modifications review process.

Yours sincerely



John France
Director of Regulation

APPENDIX 1: CE ELECTRIC UK COMMENTS IN RESPECT OF THE DRAFT LICENCE MODIFICATIONS & RIGS – 3 DECEMBER 2004

DRAFT LICENCE CONDITIONS

LC / PARA	ISSUE	COMMENT / SUGGESTED REDRAFT.	X ¹
SC A1			
Definition of "unmetered"	Definition & Interpretation		
	The definition of 'unmetered' could be improved	The definition of "unmetered supply" in the current licence would appear to work much better. No other major issues, only typos, wrong cross-references etc. Marked- up copy to be provided under separate cover.	
SC A2			
Scope of the charge restriction conditions			
ES1	No comment.		
ES2	This paragraph should include references to repair and operation . Also, given that under the Electricity Act electrical plant includes switchgear it does not need to be separately identified.	We suggest the following redraft: The service consisting of the carrying out of works for the provision, installation, <u>operation, repair and maintenance of electric lines or of any switchgear or other electrical plant....</u> "	
ES3	Not clear what this paragraph allows DNOs to do that is different from ES2. Is ES3 redundant?		
ES7	This paragraph refers to the moving of "mains, services or meters". In ES2, ES6 and ES8 the reference is to electric lines and plant. This is a hang-over from the existing licence. It would be more consistent if the drafting of ES7 used the same terms as in other paragraphs. Currently ES7 does not include as a 'service' the moving of plant.	We suggest the following redraft: The service consisting of the moving of any mains, services or meters <u>electric lines, electrical plant or meters forming part of the licensee's distribution system.....</u> "	
ES9	This condition only allows charges for reactive power where there is metered reactive data. The KVA figure is calculated from these two values: it is not the figure taken directly from the meter. Would it not be better to recognise that metering data is provided by MPAN (or metering point) rather than by premises. Single premises may have more than one MPAN. By using the term premises reactive charges to other distribution systems may not be excluded. Also, many HH traded UMS inventories have a notional power factor significantly below 0.95; however, under proposed drafting	We suggest the following redraft: The service consisting of the transport of reactive energy to metering points with a power factor of less than 0.95, but only insofar as the charges for such services reflect the costs imposed on the licensee and are levied on the basis of values derived from the metered value of kVA _r or KVA _r h transported to each metering point <u>premises or, in the case of an unmetered supply, derived from information relating to the inventory associated therewith.</u>	

¹ X – Issue for covering letter

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LC / PARA	ISSUE	COMMENT / SUGGESTED REDRAFT.	X ¹
	DNOs would not be able to treat UMS charges for reactive power as an excluded service		
ES10	The DPCR proposals are that income from out of area networks is treated as excluded. However ES10 only permits services that are not remunerated through use of system charges to be treated as excluded.	The Final Proposals state that revenue from out of area networks should be treated as an excluded service item. However, special condition A2, in defining excluded services (para 2) as falling outside the scope of the charge restrictions otherwise imposed by or under the licence, would debar the service of providing out of area use of system from being excluded since it is clearly subject to charge restrictions (special condition G1). This could be remedied by changing “the charge restrictions otherwise imposed by or under this licence” to “the charge restriction conditions”, since this defined term expressly excludes (by failing to include) special condition G1. An alternative would be to add “in respect of the distribution services area” to the end of the existing para 2 wording. This, however, is not enough, since the scope of the charge restriction conditions, as drafted, unintentionally includes revenue and units from out of area networks owned by the licensee. It would be insufficient to address this aspect of the problem, say, by using special condition A2 to state specifically that the revenues derived from use of out of area networks are excluded from the price control, because the units would also need to be excluded from relevant calculations (but special condition A2 works essentially by defining services in respect of which the derived revenue is not subject to charge restrictions and would not readily lend itself to being used to remove units from the formula calculation). We therefore suggest that an amendment is made to A2 that makes it clear that revenue from out of area distribution is excluded and that in paragraph 3 of special condition B1 the definition of Dit should be amended (see below).	
ES11	See above	See above	

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LC / PARA	ISSUE	COMMENT / SUGGESTED REDRAFT.	X ¹
SC A3	<i>Arrangements for the recovery of uncertain costs</i>		
	As drafted Condition A3 includes a materiality test for each of the three categories of cost that might be recovered under the uncertain costs mechanism. The proposed level is 1% of revenues.	As drafted Condition A3 includes a materiality test for each of the three categories of cost that might be recovered under the uncertain costs mechanism. Where it is anticipated that new costs may arise but that no costs have been factored into the price control cost allowance calculations it seems inappropriate to include a materiality test. To do so means that until that materiality threshold is reached the licensee is bearing the entire cost of the new obligations. There is no symmetry about this risk since there is clearly no potential for licensees to enjoy any reduction in costs as a result of these new obligations. The presence of a materiality threshold also introduces perverse incentives at the boundary between the material and non-material amounts. We propose that the materiality test is removed.	X
SC A4	<i>Duration of the charge restriction conditions</i>		
		Wording could be improved (double negatives, etc). Already notified to Ofgem, with suggested alternative wording, in the DNOs' 25 November 2004 redraft.	
SC B1	<i>Restriction of distribution charges: demand use of system charges</i>		
3	Add a more useful definition for the terms PU and PE.	PU - represents the allowed price control revenue in respect of the distribution of electricity to premises other than EHV premises; and PE - represents an allowed price control revenue in respect of the distribution of electricity to EHV connected prior to 1 April 2005.	
SC B2	<i>Restriction of distribution charges: allowable pass-through items</i>		
5	Extra full stop at the end of the MPC _i definition	Delete extra full stop.	

APPENDIX I: CE ELECTRIC UK COMMENTS IN RESPECT OF THE DRAFT LICENCE MODIFICATIONS & RIGS – 3 DECEMBER 2004

LC / PARA	ISSUE	COMMENT / SUGGESTED REDRAFT.	X ¹
SC B3	Restriction of distribution charges: incentive revenue adjustment		
	Units from out of area distribution need to be excluded	Change definition of Dit to read "Dit means the total number of units distributed in the relevant year to premises within the distribution services area of the licensee or to the distribution system of another licensee which fall within the relevant distribution unit category i."	
SC C1	Incentive scheme: calculation of charge restriction adjustments for distribution losses		
2	The proposed definition of LR is: "the distribution losses incentive rate and takes the values of £48/MWh for units physically distributed on or after 1 April 2005 and £[xx]/MWh for units physically distributed before that date."	Whilst we appreciate Ofgem's position on the losses incentive the dual incentive rate does pose significant issues for us specifically: - The loss of symmetry between the losses incentive and the revenue driver as the losses will be applied at a DPCR3 rate whilst the revenue driver will be the DPCR4 rate. - Could lead to volatility in DUoS charges as it will make the estimation of allowed income for tariff setting more difficult. On this basis we feel that the £48/MWh should be consistently applied to all units billed in the DPCR period.	X
C2	Incentive scheme: calculation of charge restriction adjustments for quality of service adjustments		
3	The calculation means that there is a 2-year delay in any IIP rewards (or penalties). These are indexed by inflation rate only. E.g. any rewards for 2005/6 will not become payable until 2007/8.	We have noted that Ofgem have still used a 2-year lag for settling the IIP part of the charge retention in 2005/6 and beyond. As the 2004/5 IIP performance charge retention is being settled in 2005/6, we see no reason why this same timescale, with only a 1-year delay, cannot be carried forward. The redrafting we would suggest is as follows: "3. For the purposes of paragraph 2 of special condition B3, in the relevant year commencing 1 April 2006 and in each subsequent relevant year t, IQ_t shall be the amount derived from the following formula: $IQ_t = [qa_{t-1} + qb_{t-1} + qc_{t-1} + qd_{t-1} + qe_{t-1}] * [1 + I/100] + qf_t + qg_t + [qh_t]"$	X
SC C3	Incentive scheme: calculation of charge restriction adjustments for IFI		
2	Amend the definition of IFIEt so that it includes the fact that we can count expenditure in the last 6 months of 2004/05 as expenditure in 2005/06.	Wording to be added to the end of the existing IFIEt definition: "where qualifying expenditure incurred between 1 October 2004 and 31 March 2005 inclusive shall be treated as if incurred in 2005/06"	X

LC / PARA	ISSUE	COMMENT / SUGGESTED REDRAFT.	X ¹
SC D1	<i>Incentive scheme: calculation of charge restriction adjustments for DG and RPZ incentives</i>		
	No comment.		
SC D2	<i>Incentive scheme: calculation of charge restriction adjustments for DG and RPZ incentives</i>		
2	The formula has not been updated to reflect the fact that the GTt term is now part of the GPt term.	$IG_t = GI_t + GP_t + GO_t$	
3	Definition of ng_t is slightly unclear.	"is the total amount of relevant DG with connections to the licensee's distribution system in the relevant year t;"	
3 & 5	The $\sum gci_{it}$ element in GI_t and GO_t could easily be simplified to just read gci_{it}	Remove the " $\sum gci_{it}$ " and replace it with " gci_{it} " then change the definition of gci_{it} as per the next point.	
3 & 5	Definition of gci_{it} is slightly unclear. This is just total incentivised DG capacity. Use the definition as it appears in the RIGs.	"is the sum, for all relevant DG connected to a DNO's distribution system, of the incentivised DG capacity."	
4	Incorrect formula for j within GP_t . Formula states $j = \max(y+1, t-P+1)$ where y is the value of the relevant year t. Therefore the formula should be changed. As y is 2005/06 the lowest y+1 could ever be is 2006/07 therefore there would be no return on the investment made in 2005/06.	$j = \max(y, t-P+1)$	X
4	gl_t requires the completion of the paragraph reference.	"is the amount... accordance with paragraph 8."	
10	Add the definition for "total incentivised DG capacity".	"Means the sum, for all relevant DG connected to a DNO's distribution system, of the incentivised DG capacity."	
SC E1	<i>Restriction of distribution charges: supplementary restrictions</i>		
9		Distribution unit categories – This ought to be drafted such that it would mean that the tariffs allocated to baskets at 1 April 05 represented the baseline and then only changes after that would be subject to the potential direction. For instance, the allocation in the last D7 return should stand and only variations from that point should be subject to Offgem's power of direction.	

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LC / PARA	ISSUE	COMMENT / SUGGESTED REDRAFT.	X ¹
SC F1	Restriction of basic metering charges		
	Restraints on charges for Single-Rate Credit Meters (SRCM) – this should be domestic single-rate, single phase credit meters. This drafting exposes DNOs to a significant cost risk as poly-phase single-rate meters are far more expensive than the price cap allows for. Restraints on charges for Single-Rate Token Pre-payment Meters (SRTPPM) – this should also include domestic, single phase for completeness. “MRV shall take the value set against the term in Annex A of this condition.” Annex A actually refers to the term MRTt.	Change all references to single-rate credit meter in the document to domestic single-rate, single-phase credit meter. This is what it said in the Final proposals for credit meters. The domestic single-rate, single phase credit meter price cap should be £1.12 as per the Final proposals (page 57) not £1.11 as per the current licence condition drafting.	X
Part B: Basic meter operation services, para 8			
SC G1	Restriction of distribution charges: use of system services provided outside the distribution services area	No re-draft of the statement is necessary if the table in Annex A is amended to read MRV instead of MRTt	
	No comment		
SLC 1	Definitions and interpretations		
Definition of “distribution business”	The revised definition means that standard condition 43 would define provision of basic metering services (an obligation under standard condition 36) as de minimis activity and would prevent us from carrying it out under any other guise (unless we obtained GEMA’s written consent, which would be incorrect when such provision is a licence obligation) and this would no doubt exceed the de minimis limits.	We need to understand why Ofgem dropped the metering element from the definition of “distribution business”, since its reinstatement would seem to offer the most obvious remedy. We need to keep sight also of adjacent definitions (eg “distribution services” and “distribution charges”) and understand whether or not these are intended to include provision of basic metering services.	
		No other major issues, only typo etc. Marked-up copy to be provided under separate cover.	
SLC 20	Payments in relation to standards of performance		
2 c)	Clause 2c) of SLC20 describes the requirement to contract with other licensed distributors such that they may recover the relevant costs from us when we are liable for the payments, as described in the statutory instrument. However, the final phrase of the clause could be interpreted as conflicting with the statutory instrument in the case of multiple interruptions. The wording of the licence condition refers to the licensee not	Suggested redraft for 2c) – replace final phrase Old - “where the liability to make a payment under the regulations has arisen fully or partially due to a failure, action or inaction on the part of the licensee” Suggested new – “where the liability to make a payment under Regulations 5, 6, 7 or 8 of the Regulations has arisen fully or partially due to the failure,	X

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LC / PARA	ISSUE	COMMENT / SUGGESTED REDRAFT.	X ¹
	entering into any agreements with suppliers or distributors unless they take account of performance payments in the manner described. It is assumed that applies to existing agreements as well as new.	action or inaction on the part of the licensee.” Suggested wording in response to Ofgem: The existing draft of SLC20 refers to not entering into any agreements with suppliers or distributors unless they take account of performance payments in the manner described. It is assumed that this applies to existing agreements as well as to all new agreements.	
SLC 36	Requirement to offer terms for provision of basic metering services		
	No comment		
SLC36A	Requirement to offer terms for provision of data services		
	No comment		
SLC36B	Non discrimination in the provision of basic metering services and data services		
	No comment		
SLC36C	Basis of charges for basic metering services and data services; requirements for transparency		
	No comment		
SLC36D	Functions of the Authority		
	No comment		
SLC 42	Regulatory Accounts		
4	No mention of requirement to publish related party transactions in full in accordance with FRS 8. Ofgem gave us a derogation for 2002/03 and 2003/04 not to make the full disclosures	Add a last sentence to paragraph 4 that states that full FRS 8 disclosures for related party transactions are not required in the regulatory accounts and information if the licensee's statutory accounts do not include such a disclosure.	
3(b)	Not sure why a statement on the links between directors' pay and standards of performance is to be part of the Regulatory Accounts. Production of such a statement is a requirement under the Act (introduced by the Utilities Act) and is based on statutory year ends.	Regulatory accounts requirements should not be more onerous than statutory accounts requirements. We currently provide a separate report stating the links between directors' pay and standards of performance based on our statutory accounts year-end. We believe that inclusion of this report in the regulatory accounts will therefore cause confusion. Please delete The reference to a “statement on the links between directors' pay and standards of performance”	
6	Ofgem should consult with audit firms to confirm that they believe	The requirement of this licence condition must be discussed with the ICAEW in	X

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LC / PARA	ISSUE	COMMENT / SUGGESTED REDRAFT.	X ¹
	they can fulfil the requirement re cross- subsidies before this becomes a licence condition.	order that the audit profession can comment on whether such a verification could be made. Such a discussion should ensure that the cost and timescale implications as a result of these additional audit procedures are reasonable and within the cost allowances and timescales allowed.	
SLC 42A	Change of financial year		
	No comment		
SLC 43	Restriction on activity and financial ring fencing		
4(b) & (d)	We require a definition (or at least clarification) of "the equity share" in paras 4(b)(i) and 4(d)(ii).	It might be useful to include a definition for 'equity share'. If so, we believe that "equity share" as relating to a shareholding should be defined in the licence condition as: "The nominal value of the equity shares held by the licensee in a relevant associate, as a percentage of the nominal value of the entire issued equity share capital of that relevant associate."	
SLC 44	Availability of resources		
3	This condition requires licensees to prepare a cash flow forecast for the next 12 months from the date of the Certificate of Resources and a working capital statement in the format required by the UK Listing Authority.	Suggest that the requirement for a cash flow forecast is restricted so that it is only produced in those circumstances where the regulatory accounts have not been prepared on a "going concern" basis. In paragraph 3 delete the words "including a cashflow projection and the underlying assumptions thereof for the next 12 months from the date of the certificate". Add at the end of paragraph 3 a new sentence: "If the most recent set of regulatory accounts prepared by the licensee in accordance with standard condition 42 have not been prepared on a 'going concern' basis the licensee shall also submit to the Authority with the certificate referred to in paragraph 2 a cashflow projection and the underlying assumptions thereof for the next 12 months from the date of the certificate." Also need to ask Ofgem what format the forecast should take and what a working capital statement in the format required by the UK listing Authority is.	X
SLC 46	Credit rating of licensee		
	No comment.		

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LC / PARA	ISSUE	COMMENT / SUGGESTED REDRAFT.	X ¹
SLC 47	Indebtedness		
2	New para 2 introduces a constraint on the licensee undertaking the transactions listed in para 1(b), including paying a dividend, if it does not hold an investment grade credit rating or the rating held falls to the lowest ranking investment grade available at the time and is on review for downgrade or on "CreditWatch" or "RatingWatch" or, if neither, the outlook has been changed to negative.	The wording appears to work but one minor comment would be that Ofgem should define "CreditWatch" and RatingWatch".	
3	No comment.		
4	Only applies if triggered by the scenarios in 47(2), so above comments apply here also.		
SLC 49	Incentive scheme and associated information		
4(a)	Date needs updating to 1 April 2005	Date needs updating to 1 April 2005	
5(b)	Date needs updating to 31 May 2006	Date needs updating to 31 May 2006	
SLC50	Price control revenue reporting and associated information		
3 (e) (iii) (2)	Missing and from the end of the line.	"Meter operation revenue; and"	
9	Missing space between words. " ... appropriate auditorso ... "	" ... appropriate auditor so ... "	
11	The specified contents of the notice of a modification direction do not include a statement of what the proposed modification actually is.	Include this requirement	
15	As per the ENA letter the levels on materiality should be removed.		X
17	Restating returns.	Restating returns for changes that have occurred as a result of the NHH settlements process will create additional workloads for us, our auditors and also Ofgem. As such, changes to prior years as a result of reconciliation data should be excluded from this requirement. Whilst we understand that it is not Ofgem's intention for us to restate Regulatory Account submission it will also make the reconciliation back to the audited price control return more complex.	X
SLC 51	DG, IFI and RPZ incentive schemes and associated information		
9	The specified contents of the notice of a modification direction do not include a statement of what the proposed modification actually	Include such a requirement	

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LC / PARA	ISSUE	COMMENT / SUGGESTED REDRAFT.	X¹
	is		
	Minor typos	- paragraph 3(b) replace 'direct' by 'direction' - references to a direction given under paragraph 9 should refer to paragraph 8	
SLC 52	Price control review information		
12	The specified contents of the notice of a modification direction do not include a statement of what the proposed modification actually is	Include such a requirement	

REGULATORY INSTRUCTIONS & GUIDANCE

PARA	ISSUE	COMMENT / SUGGESTED REDRAFT.	X²
Price control reporting framework RIGS			
3.14	There is no reference to X in this document. This has been mentioned to David Young by the Revenue Reporting Sub group.	Add a paragraph detailing what X is and what value it assumes.	
3.69	This paragraph refers to "regulated revenue" as defined under the current licence. It should refer to "distribution revenue"	" ... by the definition of "distribution revenue" in force on that date. "	
3.70	The second bullet refers to "regulated revenue" as defined under the current licence. It should refer to "distribution revenue"		
4.3	This should be split into three bullets rather than 2 as there are 3 elements to the formula. A middle bullet should be added to separate the incentive revenue for distributed generation from the RPZ incentive.	"the incentivised revenue for registered power zones" which is the adjustment to the revenue restriction for a DNOs performance against the incentive; and	
4.5	The brackets around the formula are not necessary and are inconsistent with the application of brackets in the remainder of the document.	Remove the brackets.	
5.27	There is an extra "2." At the beginning of the paragraph.	Remove it.	
6 general	There is mixed use of capitals for "Special Condition". The formulae do not match the licence (David Young is aware of this).		
6.3	Last bullet point "SSPPM" acronym is incorrect.	"SRSPPM"	
6.3	Add a further bullet point for the "Other meters".	"Other meters (MAPPC)."	

² X – Issue for covering letter

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PARA	ISSUE	COMMENT / SUGGESTED REDRAFT.	X ²
6.4	There is no formula shown for PIT _i this would be useful to show that it is indexed from 2002/03 prices.	$PIT_i = (1 + (RPI_i / 100)) * PIT_{i-1}$	
6.6	The "RLTPPM" acronym is incorrect.	"LRTPPM"	
6.8	The "RLKPPM" acronym is incorrect.	"LRKPPM"	
6.10	The "RLSPPM" acronym is incorrect.	"LRSPPM"	
6.12	Definition of MEAP includes the words "(or volume weighted average purchase price of the meter type)" this text is not in the definition within the licence.	Remove the wording.	
6.12	Definition of ELA contains the words "(or the volume weighted expected economic life of the meter type)" this is not in the licence definition.	Remove the wording.	
6.16	MRV references need to be updated.	"... Annex A of special condition F1 and PIT _i ..."	
6.18	PISt in the formula should be PIT _i and the reference should be updated to F1.	"... Annex A of special condition F1 ..."	
6.19	The reference should be updated to F1.	"... Annex A of special condition F1 ..."	
6.21	The items listed are not included in the audited price control return tables in Appendix 1.	Amend the tables to include the metering elements of the formula.	
7.5	The bullets suggest that the EHV units will be split pre and post April 2005 but the tables in Appendix 1 do not show this.	Amend the tables to show split EHV units.	
8.7	The Appendix reference should be updated.	"Appendix 1"	
8.7	The full return is not currently included in Appendix 1 so some of the referenced sections cannot be checked: however, the missing tables are very similar to those already completed in the existing price control returns.		
8.18	Spelling of "scrutinized".	"scrutinised"	
9.3	The 1% of demand base revenue should be increased. This is covered in the ENA letter.		
9.12	Also, the words demand and base need to be switched round.		
10.2	There is an extra "in" that should be removed.		
10.3	Missing a few words to make the sentence grammatically correct.	"... that causes a change to the calculation of any ..."	
10.4	The second bullet states 0.1% whilst the licence states that it should be 0.5%.	"0.5%"	
App 1.1	Table 1a should split the EHV into customers connected pre and post April 2005. It should also include customer numbers. The notes underneath should also have the condition number added i.e. B1 not just B.		

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PARA	ISSUE	COMMENT / SUGGESTED REDRAFT.	X ²
	Table 2 the definition of RD _t should be changed to reflect the wording in the licence.	Replace "Actual Revenue" with "Regulated Demand Revenue"	
	Table 2a the P _l D _t reference needs to be updated to P _l A _l D _t		
	Table 2c1 P _l A _l D _t inflation is misspelled. Also the subscript t's are missing from the items in the notation column.	Correct spelling to "inflation"	
	Table 2d a line needs to be added for K _D Correction Factor		
	Table 2d 1 point 5 the K should be K _D		
	Table 3 the formulae need to be updated to reflect the licence.		
	Table 5 needs additional tables adding for "Additional Security Provision" and "Reactive Power Charges".		
	There are no tables for the metering price control information.		
App 1.2	Table 1 should split the EHV into customers connected pre and post April 2005. It should also include customer numbers.		
	Table 5 point 4 shows EHV (before 1 st April 2005) should be after.	"EHV (after 1 st April 2005)"	
	There are no tables for the metering price control information.		
DG,RPZ & IFI RIGS			
	There is an issue regarding the disaggregation of costs. Other comments are mainly typos.	references to a direction given under paragraph 9 of SDLC 51 should refer to paragraph 8	
1.4		Replace 'covers' by 'cover'	
2.4		After 'increase in capacity due to an upgrading or expansion after 1 April 2005 of a DG plant', delete 'existing before 1 April 2005' This brings expansion of later plant within scope: similar wording already exists in the current draft of SDLC D2(10).	
2.8		Replace 'in a DNO's distribution system' by 'connected directly or otherwise to the licensee's distribution system'	
2.9		Delete 'or new demand connection' The burden of disaggregating expenditure between the real scheme and a notional demand-only scheme for CWOs would be disproportionate. Investment should not be split between generation and demand for individual customer schemes, which would otherwise require us to separate the requirements of an individual user into generation and demand elements, but only where the demand element relates to the requirements for the general system.	

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PARA	ISSUE	COMMENT / SUGGESTED REDRAFT.	X ²
		Replace 'index' by 'indexed'	
IIP RIGS			
Covering letter	No comment		
2.11 & 2.22	New definitions added for "new customers" and "exited customers". However, there is no requirement to report anything on these items in later parts of the document. "Exited" would be better defined as "disconnected". This will then match up with definitions in the MPAS system where this data will be derived from.	Although "new customers" and "exited customers" have been defined in 2.11 and 2.12 there is no requirement in the RIGs to actually report them. We would suggest that if these numbers are not required then the definitions be removed. If the numbers are required then we would suggest a re-wording of the definitions as follows: 2.11 New customers - Total number of new customers that have been connected between 30 September in the relevant year and 30 September in the previous year. 2.12 Disconnected customers - Total number of customers that have disconnected between 30 September in the relevant year and 30 September in the previous year. To make it absolutely clear that the above refers to the number of new connections made to the distribution system and permanent disconnections from the distribution system (as against say a change of owner of an existing serviced property) an additional paragraph should be added under the headings of "Instructions and guidance" "customers" : New and disconnected customers should be identified from MPANs such that the number of new and disconnected customers corresponds to the number of new and disconnected connection points on the distribution system.	
5.33	New requirement to report the length of LV services.	Section 5.33 requires that the length of overhead and underground services be reported. Some DNOs will not have recorded these lengths as a matter of course. The RIGs should therefore allow DNOs to provide reasonable estimates where accurate information is not available	