

DUoSA Consolidation Group

28th July 2005

Proposed revisions to the Charges and Payments clauses in the DUoSA

Views of the Consolidation Payments sub-group meeting of 15th July 2005

Attendees: David Tolley (Npower)
Frank Welsh (UU)
Peter Waymont (EdF Energy)
Apologies: Mark Manley (Centrica)

Commercial issue identified during the course of this review have been highlighted by describing each issue in a text box below.

Generally

Before the sub-group could review the wording in Clause 6 a clear definition of “Use of System Charges” had to be assumed. The sub-group agreed that following the revision of LC4 of the Distribution Licence and developments in the market for the provision of metering, it might be appropriate to define “Use of System Charges” as those charges specified in the Charging Statement produced pursuant to Licence Condition 4A. This would raise the issue of where Transactional charges should be dealt with. A statement pursuant to Condition 36B may be one option.

Clause 6.1

In the light of the above definition this clause could now be simplified to read: *“The User shall pay to the Company the charges set out in the Charging Statement produced pursuant to Condition 4A in the Electricity Distribution Licence, or those specified in accordance with Condition 48 in The Electricity Distribution Licence.”*

Defining “Charging Statement” as *“the document produced which incorporates the Company’s obligations under Condition 4A of the Electricity Distribution Licence”* would simplify the subsequent drafting.

Clause 6.2

The wording of 6.2 (B) should be revised to be symmetrical with the wording in 6.2 (A) by removing the expression “in the case of all charges which are not Transactional Charges”

Clause 6.3

In the opening sentence the words “*or in ERS*” can be deleted since this is no longer relevant.

Clause 6.3.1

To make clear how unmetered supplies greater than 100kW are to be treated the scope of 6.3.1 could be expanded to read: *“the supply of electricity is measured by Half-Hourly Metering Equipment or by an Equivalent meter ...”*

Clause 6.3.3

Replace “Schedule 3” by “the Charging Statement pursuant to Condition 4A of the Electricity Distribution Licence”

Clause 6.4

Although the group were asked to review this clause it was judged best left as currently drafted.

Clause 6.5

This can be deleted since it is covered by the Condition Precedent at Clause 2.1.7

Clause 6.7

This can be deleted since it is now covered by Clause 6.1

Clause 6.8

Amend to read “Without prejudice to Clause 6.1, where the Company is intending to revise the charges set out pursuant to Condition 4A of the Electricity Distribution Licence it shall serve a copy of any notice it sends to the Authority

Clause 6.9

The group were unclear what point was being made in the review. It is proposed to leave this clause as it currently stands.

Clause 7.2

It is suggested that there is a preamble to this clause such that it reads “Notwithstanding the provisions of the BSC the User shall procure ...”. The purpose of this is to ensure that the Distributor receives any necessary data even if this is not required by the provisions of the BSC.

Clause 7.3

It is proposed to replace “after the end of each charging period” with “and with reasonable frequency” (this might be caveated by expressions such as ‘as agreed with the User’ and ‘such agreement not to be unreasonably withheld’).

Clause 7.4

Need to check that the BSC definitions are still appropriate.

Clause 7.5

Review of this clause raises the commercial issue of what should happen when the payment date falls on a Bank Holiday.

Agreement is needed as to whether in these circumstances the payment date should default to the Working day before or after the calculated payment date. Note that Schedule 5 calculates interest by reference to the “Working Day prior to day n”.

Clause 8.2

It is suggested that this clause is amended by replacing “charging period” by “after the end of each calendar month”. Alternatively “Charging Period” could become a defined term. This approach needs to be contrasted with that suggested in Clause 7.3 which is dealing with super-customer billing.

Clause 8.2.2:

The first part of this clause should be amended to read the Charging Statement pursuant to Condition 4A of the Electricity Distribution Licence.

This clause gives rise to a further commercial issue in that for site specific connection agreements a supplier will be unaware of the charges in a connection agreement and thus unable to validate them with the possibility of a dispute arising with the customer. Clause 3.5 may be relevant in this respect.

It is also for consideration whether a neutral rate of interest should be applied, in either direction, if the estimate is different to the actual; as in clause 7.4.

[NB the Credit Cover group has suggested that the default payment provisions should be included as Clause 8A, but this Clause numbering seems inappropriate because the issue is a generic one and should not appear to apply solely to site specific circumstances which are covered by Clause 8]

Clause 24.4.2

The group thought that the existing wording should adequately accommodate multiple IDs. However, it may add clarity if a sentence were added obliging Users to advise the Company of any changes. This might be worded *"The User shall notify the Company of any additions or deletions to the Market Domain IDs listed in this clause"*.

Schedule 3

This schedule can be deleted since the reference in the body of the agreement is now to the Charging Statement.

Schedule 4

In accordance with the treatment of "Use of System charges" (i.e. those pursuant to Condition 4A of the Electricity Distribution Licence) it was thought appropriate for Transactional Charges, to the extent that these are ancillary to Use of System Charges, to be brought within the body of the Agreement as a new Clause 9.

New Clause 9.1

This would read *"This Clause 9 applies to charges calculated by reference to the number or frequency of specific transactions"*.

New Clause 9.2, et seq.

These would then pick up the wording currently in Schedule 4 Part 2, and read *"As soon as reasonably practicable after the end of each month the Company shall submit to the User an account specifying ... etc"*

[The changes proposed by the Credit Cover Group to this Schedule would seem to be more appropriate in the new payment default clause (currently proposed as Clause 8A but which might more appropriately be Clause 10)]

Schedule 6

This needs further consideration by the Consolidation Group since any modification to it will first need to consider the underlying commercial principles that are to be followed. A separate paper will be prepared to suggest how this Schedule might be developed.