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Dear Mark

**Response to Ofgem Decision Document – Regulation of Independent Electricity Distribution Network Operators (July 2005 176/05)**

Following our meeting I can confirm that our key comments to Ofgem's Decision Document relate to three areas:

- The Price Control
- The way DNOs charge IDNOs for use of system
- Charging arrangements

**Price Control**

A significant component of an IDNO's charges will comprise of DUoS charges from the upstream DNO. We are therefore concerned that should year on year changes to DNO charges differ from the RPI the IDNO may be unduly compromised even with the +/- 5% limits. Such variations may result from:

- the 'x' factor used in the price control being different from zero.
- Other components, allowances or penalties in the price control formula effecting a change different to the RPI.
- DNOs restructuring their charges. We note that Ofgem is currently facilitating work on the structure of charges. As such it is not inconceivable that DUoS charges will be restructure and rebalanced.
- Increases due to SoLR charges.

In addition there may well be other unforeseeable external factors that impact on the costs of the DNO. Therefore, we believe that Licence Condition BA1 needs to be strengthened in respect of the IDNO's ability to require the Authority to review charges where the IDNO costs change. As agreed at our meeting I have drafted a new paragraph 4A for LC BA1 which identifies the sort of comfort we are seeking. This is provided at Annex A. I fully recognise that such a clause requires further consideration.

### **The way DNOs charge IDNOs for use of System**

Our concern here is partly covered by our comment on the price control. However, in addition we believe that the way DNOs charge for DUoS potentially stifles competition. This is particularly true in respect of EHV connections. Where an IDNO is connected at EHV it will receive site specific charges. However, if the DNO provides and operates the downstream network it smears the EHV charges across the DNOs entire customer base: in effect existing customers subsidise new customers. Since the charges levied by the IDNO are linked to the DNOs charges this could result in an IDNO being unable to recover its upstream site specific charges from its customers (since the IDNO would have a smaller customer base to smear charges). This could arise even where the downstream network provided by the IDNO is identical to that which would be provided by the DNO in the same circumstances, i.e. an efficient solution. We therefore believe that the way that DNOs levy site specific and generic DUoS charges requires a fundamental review.

### **Charging Arrangements**

This is a point we have raised before so it will not be new to you. Our concern here is that the IDNO is required to take on the liability for upstream DUoS debt in respect of upstream DUoS. In doing this the IDNO is required to take on the cash flow burden of such debt and the burden of risk that a supplier will default. In doing this the DNO receives no compensation for taking on such risks and burdens.

Additional comments to Ofgem's Decision Document were discussed in our meeting and captured in your minutes of that meeting.

Yours sincerely,

**Mike Harding**  
Governance Manager  
Laing Energy Limited

## **Annex A**

### **Paragraph 4a**

Where the licensee has reason to believe that the limits in paragraph 3 and paragraph 4 have become inappropriate the licensee may request that the Authority review the limits specified in paragraph 3 and paragraph 4. Where the licensee requests the Authority to undertake such a review the licensee shall provide such information as may be reasonably required to support its claim that the limits are inappropriate. Circumstances where the licensee may make such a request include, but shall not be restricted to:

- (a) Where an incumbent licensee's use of system charges to the licensee increase on a year by year basis by more than the limits specified in paragraph 3 or paragraph 4.
- (b) Where the licensee has incurred additional costs as a consequence of a supplier default.
- (c) Where the licensee has incurred additional costs as a consequence of complying with a direction issued by the Authority
- (d) Where the licensee has incurred additional costs as a result of increased charges levied pursuant to the BSC, the MRA , The Distribution licence or any other agreement that the licensee has an obligation to be a party to under its licence.
- (e) Where the licensee amends its charging methodology in accordance with the provisions of standard licence condition 4.

Where the Authority receives a request from the licensee it shall review the limits that should apply to the licensee in respect of paragraph 3 and paragraph 4 above and consider whether they should be revised such that the licensee is able to recover the additional costs reasonably incurred as a consequence of the circumstances arising.