

CONSOLIDATION GROUP MEETING

27 October 2005

DUoSA CHARGES AND PAYMENT ARRANGEMENTS

Background

1. During July 2005 the Consolidation Group considered the wording in Sections 6, 7 and 8 of the DUoSA, and the accompanying Schedules 3 and 4. A paper prepared by a sub-group with representatives from EdF Energy, Centrica, and Npower was presented to the meeting on 28th July that suggested various revisions to the current wording. The paper also identified certain commercial principles that would need to be resolved if the proposed changes were to be adopted.
2. Key amongst these issues was the definition of “use of system charges”. The other matters of commercial principle were concerned with:
 - The treatment of payment dates when this would fall on a Bank Holiday
 - Whether site specific charges that arise under a connection agreement are the liability of a supplier
 - Whether the application of a neutral rate of interest following a reconciliation calculation should apply to site specific charges as well as super customers
 - Whether the dispute resolution processes for use of system payments, that envisages a distinction between “designated” and other disputes, is still relevant, and whether arbitration is still appropriate for settling such disputes.
3. This note deals solely with the definition of Use of System charges. It first suggests a conceptual framework for the charges that should be covered by the core provisions of the agreement in the light of the new Licence obligations placed on DNOs from 1 April 2005 pursuant to Condition 4 of their Licence. It then looks at the application of the proposed basis in the context of current practice.

Definition of DUoS charges

4. The extant DUoSAs define “Use of System Charges” within Clause 6.1 of the agreement. Use of System Charges are those described in Schedule 3 of the agreement. They are “deemed” to include:
 - charges for Use of Distribution System (flow of electricity across a distribution network)
 - charges for certain services pursuant to
 - the Meter Operations Services Agreement
 - the Master Registration Agreement
 - charges pursuant to Condition 48 of the Licence.

Schedule 3 merely makes reference to a “Statement of the basis of charges for Use of the System” and notes that these will be calculated in accordance with the Condition 4 Statement and the Condition 36 Statement.

5. The essence of the provisions of Clause 7 is one of “pay now dispute later”. Payment terms are relatively onerous and the conditions for late payment relatively penal. Whilst this may be appropriate for charges in respect of monopoly services whose basis has been approved by the regulator, it may not be appropriate for charges in respect of competitive services that a distributor may continue to provide. In the latter case there should be the ability on the part of both the service provider and the supplier to exercise choice in the terms on which competitive services are provided. Payment arrangements and price will interact for competitive services. It is suggested that only in the case of monopoly services provided by a distributor should the rigour of clauses 7 and 8 apply.
6. Since the model form of the DUoSA was introduced metering and registration services have generally become competitive. There has also been a change to the obligations placed on distributors under Licence Condition 4. Both the Statement of Use of System Charges and the methodology by which they are derived must be approved by Ofgem. This provides a new backcloth against which Use of System Charges can be defined.
7. The proposal in this paper is that Use of System Charges should be defined as those contained in the Charging Statement produced pursuant to Condition 4A of the Distribution Licence, and for which there is an approved methodology described in the Use of System Charging Methodology Statement produced pursuant to Condition 4 of the Licence.
8. The regulatory approval of both the methodology and the charging statement would provide a framework by which suppliers would obtain comfort that charges for the monopoly services of use of system were being properly derived. This should not preclude the DUoSA containing separate provisions for payment arrangements concerning competitive services. However, the payment terms surrounding these, where they were provided by the distributor rather than another service provider, would be subject to mutual agreement as would their prices.

Application of the principle

9. A synopsis of the current practice of distributors in levying charges in accordance with Section 6 of the DUoSA has been prepared by EdF Energy. This has been circulated under separate cover, but is attached for ease of reference. If the above definition is to be adopted it will be necessary to review current practice against the principle to decide which charges fall within the new definition.

Recommendation

10. The DUoSA Consolidation Group is invited to consider the proposed definition for Use of System Charges both as a conceptual basis and in the light of the current interpretations of the definition adopted by each distributor.

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