

Notice under section 11A of the Electricity Act 1989

Proposal to modify standard condition D3 of licences granted or treated as granted under section 6(1)(b) of the Electricity Act 1989

The Gas and Electricity Markets Authority ("the Authority") hereby gives notice pursuant to section 11A of the Electricity Act 1989 ("the Act") as follows:

1. The Authority proposes to modify standard condition D3 (Transmission system security standard and quality of service) ("SLC D3") of all the licences granted or treated as granted by the Authority under section 6(1)(b) of the Act to transmission Licensees to participate in the transmission of electricity for the purpose of giving a supply to any premises or enabling a supply to be so given (the "Licences").

2. The proposals are to modify SLC D3 by -

- a. altering paragraph 2; and
- b. omitting paragraph 3,

as set out in Annex 1 to this notice and this notice is coterminous with a separate notice under section 11A of the Act which proposes to modify standard condition C17 of the Licences and is also published on the Ofgem website.

3. The reasons why the Authority proposes to make the modifications and their effect are set out in the letters dated -
 - a. 31 March 2005 titled '*Licence Condition D3*';
 - b. 13 October 2005 titled '*Modification of Transmission Licence Standard Conditions C17 & D3*'; and
 - c. 15 December 2005 titled '*Modification of Transmission Licence Standard Conditions C17 and D3*,

copies of which are attached herewith as Annex 2, Annex 3 and Annex 4 respectively.

4. In summary, the reasons why the Authority proposes to make the modifications are that paragraphs 2 and 3 of SLC D3 currently require each transmission Licensee to submit to the Authority a report providing details mainly of the performance of the transmission Licensee in maintaining the security and availability and quality of service of the transmission Licensee's transmission system, and SLC D3 does not provide for adequate reporting of the GB transmission system performance under the British Electricity Trading and Transmission Arrangements.
5. In summary the effect of the proposed modifications is to revise the transmission performance reporting arrangements by requiring each

transmission Licensee to provide to that transmission Licensee designated as system operator (under the Energy Act 2004 (Designation of System Operator) Order 2004, Statutory Instrument 2004 No. 2242) such information relating to each transmission Licensee's transmission system as may be necessary or as that transmission Licensee may reasonably require for the purpose of submitting to the Authority, a report providing details of the system availability and security and service quality of the GB transmission system, in compliance with standard condition C17 of that transmission Licensee's Licence.

6. "Relevant licence holders" for the purpose of giving notice of objection to this notice are all transmission Licensees in whose Licence SLC D3 has effect at the expiration of this notice.
7. A pro forma that relevant licence holders may wish to use in order to give notice of objection to this notice is attached as Annex 5 to this notice.
8. Any representations or objections to the licence modifications proposed in this notice must be made in writing, on or before 20 January 2006 and should be sent to John Benson, Ofgem, 9 Millbank, London SW1P 3GE or by e-mail to John.Benson@ofgem.gov.uk.



Robert Hull
Director – Transmission, Networks
Authorised on behalf of the Authority

16 December 2005

Annex 1

Alteration and omission to standard condition D3. (Transmission system security standard and quality of service)

2. **The licensee shall no later than 2 months after the end of the financial year as required by the system operator, provide to the system operator all such information as may be necessary or as the system operator may reasonably require for the purpose of submitting a report to the Authority in compliance with paragraph 3 of standard condition C17 of the transmission Licence.**
3. *(Omitted)*

Annex 2

David Densley
Regulation Development Manager
Scottish & Southern Energy
Inveralmond House
200 Dunkeld Road
Perth
Scotland
PH1 3AQ
S & S E

Your Ref:
Our Ref:
Direct Dial: 020 7901
Email:

31 March 2005

Dear David,

Licence Condition D3

Thank you for the draft Statement that you e-mailed to me on 9 February 2005, and for participating in discussion of future transmission reporting arrangements.

As previously indicated, submission of proposed statements by the three transmission licensees has demonstrated that the wording of these licence conditions (which have been carried forward from the pre-Betta licences) are, in our view, far from ideal. Due to a number of factors, including several overlapping periods of leave of those involved, it has yet been possible to identify and agree improved transmission reporting arrangements and underlying licence requirements.

My purpose in writing is to re-assure you that S&SE will not be in breach of its licence as there is currently a statement in place, which should be used for production of the 2004-5 report (due by 31 May 2005). This statement will subsist, as it has in previous years, until a new statement is approved. Therefore any delay in Ofgem approving the new statement will not result in S&SE being in breach for failure to have an approved statement. One company had expressed concerns about this.

Ofgem plans to carry out a consultation with all parties to identify and agree the most satisfactory arrangements for transmission performance reporting. We will endeavour to complete this exercise as quickly as possible. I expect to be in contact with you and with the other transmission licensees in the course of preparing a consultation document. This should provide an opportunity to take proper account of all considerations relating to transmission performance reporting.

Yours sincerely

T John Benson, Technical Adviser

David Thornton

BETTA Programme Director
SP Transmission & Distribution
New Alderston House
Dove Wynd
Strathclyde Business Park
Bellshill
ML4 3FF

Your Ref:
Our Ref:
Direct Dial: 020 7901 7361
Email:

31 March 2005

Dear Dave

Licence Condition D3

Thank you for your letter of 21 March 2005, the contents of which were discussed in the course of a telephone conference call between Dave Laurie and Anthony Mungall, of Ofgem, and Carl Woodman and yourself on the evening of Tuesday 22 March 2005. I apologise for not responding earlier but I have been on leave from 22 March until today.

I understand that my colleagues were able to re-assure you that SP Transmission Limited would not be in breach of Licence Condition D3 as there is currently a statement in place, which you will be using for production of the 2004-5 report (due by 31 May 2005). They explained that this statement will subsist, as it has in previous years, until a new statement is approved. Therefore any delay in Ofgem approving the new statement will not result in SP Transmission Limited being in breach of Licence Condition D3 for failure to have an approved statement.

Submission of proposed statements by the three transmission licensees has demonstrated that the wording of these licence conditions, which have been carried forward from the pre-BETTA licences, are in our view far from ideal. Ofgem therefore proposes to carry out a consultation with all parties to identify and agree the most satisfactory arrangements for transmission performance reporting arrangements and underlying licence requirements. We will endeavour to complete this exercise as quickly as possible.

We note that you have concerns that there are significant differences between your obligations to date, and your obligations for the 2005-6 onwards. As the first tangible result of the consultation will be production, in 12 months time, of the 2005-6 reports, it is our intention to await the outcome of the consultation before approval of any modified D3 Licence Condition statements.

I expect to be in contact with you and with the other transmission licensees in the course of preparing a consultation document. This should provide an opportunity to take proper account of all considerations relating to transmission performance reporting.

Yours sincerely

T John Benson
Technical Adviser

Annex 3

Direct Dial: 020 7901 7361
Email: john.benson@ofgem.gov.uk

13 October 2005

Dear David

Modification of Transmission Licence Standard Conditions C17 & D3

On 31 March 2005 I wrote to each Transmission Licensee stating that Ofgem considered that the text of some provisions of standard conditions C17 and D3 (Transmission system security standard and quality of service), which have been carried forward from pre-BETTA, do not fully reflect the current situation. I indicated that Ofgem would be consulting on revised transmission performance reporting arrangements with a view to modifying those provisions.

Following submission by each transmission licensee of their 2004-5 reports, I have been exploring this issue further. The procedures to be followed are set out in the Electricity Act 1989 and in Ofgem's "Guidance on modifying the standard licence conditions of gas and electricity licences" of September 2003. That document states that before entering into a statutory consultation exercise Ofgem will, other than in exceptional circumstances, informally consult on the proposal (paragraph 2.10).

This subject was considered, without a conclusion being reached, earlier in the year. It appeared that some degree of licence modification would be necessary and one transmission owner (SHETL) suggested that new provisions should require the system operator (NGET) to produce a single comprehensive report covering the performance of the entire GB transmission system. The responsibility of each transmission owner would be limited to providing the system operator with information needed for production of that report.

I therefore asked NGET to consider with SHETL whether such an approach might be feasible. Having given the matter some consideration their answer appears to be that, from a practical point of view, that is indeed the case. Information can be provided under existing operating arrangements, or modest enhancements to those arrangements. However, a number of concerns will need to be addressed, in addition to any further concerns that licensees might raise. They include:

1. Who will “own” the report?
2. What approvals will be needed?
3. How to ensure timely provision of information to NGET?
4. What agreement will be needed between licensees on wording of text of the report?

Attached is a draft of modified paragraphs for the standard licence conditions that would form the basis of such an approach. Significant points are:

- The requirements are expressed in terms of system performance, rather than the performance of particular licensees, though it is expected that information presented will be very much as in previous reports.
- Ownership of the report will clearly rest with the system operator, NGET
- Responsibility of the transmission owner will be limited to the timely provision of information to NGET
- There is a new requirement for publication of the report.

Arrangements for the provision of information by the transmission owners to the system operator, and for agreeing the wording of text regarding particular incidents, are not specified in the attached draft licence conditions. I am advised that these would be best incorporated in the transmission owner’s criteria statement* and I would envisage them being agreed between transmission licensees, prior to Ofgem’s formal consultation and approval by the Authority. I would expect the statement to include arrangements for agreement on the text to accompany data on incidents or, in the unlikely event of agreement not being reached, for the views of all relevant licensees to be incorporated in the report.

I hope you will regard the above as a helpful step in the development of new transmission system performance reporting arrangements. It is only an outline but I have tried to provide a basis on which we can move forward. Please will you consider the above and let me have your views by 31 October 2005.

Yours sincerely

T John Benson
Technical Adviser

Annex 4

15 December 2005

Dear

Modification of Transmission Licence Standard Conditions C17 & D3

Thank you for responding to the informal consultation on proposed changes to transmission licence standard conditions C17 & D3. Formal notices to modify these standard licence conditions under section 11A of the Electricity Act 1989 will be published tomorrow. This letter summarises the three companies' responses to the informal consultation and Ofgem's view on those responses.

Responses have been broadly supportive of the main provision of the proposed changes, which is that the system operator should be responsible for producing a single report covering the GB transmission system. However, in their submissions all three companies have indicated that they would like to see agreement between the companies on the content of the statement required under C17, so far as it relates to information to be provided by the transmission owners. The system operator has also indicated that it believes there should be agreement with the transmission network owners on the content of each annual report, while one of the transmission network owners has a view that information to be provided to the system operator under D3 should be limited to what might be "reasonably required" to enable the system operator to submit a report to the Authority.

These responses have been given careful consideration. While the Authority would not wish to discourage agreement between the companies on the content of the statement and of the annual reports, it considers that their production cannot be conditional on collective agreement or on individual company judgements on what might be considered reasonable. The proposed paragraph 2 of condition C17 requires approval of the statement by the Authority following consultation with any relevant authorised electricity operator. Ofgem's view is that this provides sufficient safeguards to ensure that the information specified is no more than is necessary or might reasonably be required.

In accordance with the proposed amendments to standard licence condition C17, the form of the annual report will be subject to a further consultation following implementation of the proposed licence condition and receipt of a statement from the system operator. I would expect the statement to set out the required timescales

for production of information for the annual report, subject to the overall requirement that all information is to be provided no more than 2 months from the end of the financial year. In response to an observation from the system operator, the deadline for production of the report has been put back by one month to allow more time for consolidation of data.

Yours sincerely

T John Benson
Technical Adviser

Annex 5

Notice of Statutory Objection

In response to the statutory notice dated [] in respect of the above modification proposals, this notice constitutes a statutory objection to that proposal on behalf of *[state full name of objecting transmission Licensee]*.

I confirm that I am duly authorised to give this notice on behalf of [].

Signed

Date:

[Address for acknowledgment, preferably including email address]