

Supply Licence Review (SLR) Steering Group minutes Meeting 2, 26 October 2005

Attendee	Organisation
Tahir Majid (TM)	Centrica
Tony Herbert (TH)	Citizen Advice Bureau
Nigel Cornwall (NC)	Cornwall Energy Services
Roger Barnard (RB)	EDF Energy
Carole Pitkeathley (CP)	Energywatch
Graham Kirby (GK)	E.on
Duncan Sedgwick (DS)	ERA
Julie Voce-Pascoe (JVP)	HSE
Laurence Poel (LP)	npower
Philip Davies (PD)	Ofgem (Chair)
Nigel Nash (NN)	Ofgem
Andrew Wallace (AW)	Ofgem
Angela Green (AG)	Ofgem (Secretariat)
Stephanie Tobyn (ST)	Scottish Power
John Sykes (JS)	SSE
Lisa Waters (LW)	Waters Wye Associates (representing Corona Energy Ltd)
Mick Fewes (MF)	Ofgem (part)

1. Minutes and actions of the last meeting

AW confirmed that any revised minutes would be circulated to the Steering Group for agreement with changes marked to enable people to identify the proposed amendments.

LW suggested that a separate action list be created to track all the actions from the meetings.

Action: Ofgem

The actions from the last meeting were reviewed and were confirmed as having been completed.

The minutes of the meeting of 28 September 2005 were agreed.

2. Impact Assessments (see attached slides)

To assist in developing the case for change, workgroups will be required to provide a report to the Steering Group by May 2006 where possible in accordance with Ofgem's Impact Assessment (IA) methodology. This forms part of each workgroup's terms of reference as agreed by the Steering Group.

MF made a presentation on Ofgem's role in conducting IAs. The presentation covered: why Ofgem are now required to produce and publish IAs, detailing the legal framework and exceptions, when an IA needs to be produced and published, and how IAs should be produced.

There was general discussion about the use of IAs. Ofgem were asked whether they intended to conduct a further competitive market review to support the competition

assessment part of an IA. PD said that this was not Ofgem's intention. As had been shown with the response to the billing super complaint, it was Ofgem's view that competition was effective in the market but, where further specific work was needed on discrete issues, Ofgem could consider this further.

There was a discussion about whether the baseline competition assessment would differ for each workgroup. Ofgem considered that each workgroup would have to separately identify the elements that would need to be considered for an IA. RB considered that the Duty to Supply, Contracts and Information workgroup would find such elements difficult to assess without a review of current market conditions.

LW requested that Ofgem clearly set out the source of data used in the IAs and how the conclusions had been reached.

NC stated that the requirements for and content of IAs will differ between issues. He said that it was unclear what the exact requirements were at this stage but that the IA methodology provided a tool to help define the issues.

NN said that the aim of the presentation was to get the Steering Group and workgroups thinking about how they are going to factor in IAs. LP commented that part of this work would be to get the workgroups to review the original intention of the obligations. It was noted that documents such as the Slaughter & May review [query reference – RB] of the supply licence conditions and OFFER's historical supply licence consultations may provide assistance on this issue.

DS stressed that the IAs needed to be proportionate and add value to the decision making process. MF agreed, noting that the IA should be a two-way process and provide a clear route for industry and customer representatives to provide comments and feedback.

LP asked whether the intention was for the Steering Group to sign off the IAs from the workgroups. This was considered to be the case. DS stated that the Steering Group should monitor workgroup progress at each Steering Group meeting. An update from the workgroup and progress on IAs should be tabled.

LW asked whether workgroups should consider the potential for the displacement of certain obligations, and in particular whether metering obligations should pass from suppliers to DNOs and GTs. There was a discussion about the danger of project scope creep and its impact on the delivery timetable. It was agreed that workgroups would be permitted to review issues as they saw fit and flag potential areas of concern that were outside the scope of the terms of reference for discussion at the Steering Group. These issues could be noted, if appropriate, as important and worthy of further consideration but this would not form part of the SLR.

GK suggested that workgroups should have the opportunity to benefit from Ofgem's IA presentation. It was agreed that tailored presentations would be made to workgroups as appropriate, focussing on the methodology for conducting IAs.

Action: Ofgem

3. Consumer Law and the Supply Licence (see attached slides)

RB gave a presentation on general consumer law and the standard conditions of the supply licences. It was noted that whilst the presentation was based on the ERA report circulated to the group after the last meeting, it also contained some personal views of RB. The presentation set out background and rationale for the SLCs and discussed the overlap between general consumer law and the licence obligations. In particular, overlaps with the Disability Discrimination Act and the Enterprise Act were considered.

PD thanked RB for his presentation. It was noted that the ERA paper had been passed to the working groups to refer to as they saw fit.

4. Terms of reference

Some amendments to the generic workgroup terms of reference had been proposed by CP. As these had not been circulated, the group agreed that, rather than tabling the comments, they should be circulated for consideration at the next meeting. The group asked that, where possible, issues should be circulated in advance of meetings.

Action: Ofgem

In relation to the Steering Group terms of reference, it was confirmed that the Steering Group had to be guided by Ofgem's 5 principles for the SLR. This was provided for by the group's agreement to append those principles to the terms of reference for each of the workgroups.

5. Updates from Workgroups

Ofgem provided updates on those workgroups that had met or were due to do so shortly.

5.1 Vulnerable Customers and Codes of Practice (VCCOP)

NN noted that the first VCCOP Workgroup had taken place on 17 October 2005. The terms of reference had been agreed. The workgroup had begun to consider why special protection was required for some customers, the definition of vulnerable customers, and the delivery mechanism for these protections.

It was noted that knowledge in the group on the detail contained in the licences was poor. GK had therefore offered to make a presentation to members of the group who would find it beneficial directly before the next VCCOP workgroup. [GK's presentation will take place between 11 and 12 noon. The VCCOP meeting is due to start at 12 noon.]

NN noted the dates of the next meetings and the subject area to be covered:

- 14 November : Issues related to debt and disconnection (SLCs 35, 36 and Gas 37A)
- 12 December : Priority Service Register and Services for persons who are deaf or blind (SLCs 37 and 38)
- 16 January : Complaint handling, monitoring and reporting (SLCs 26 and 39)

DS requested clarification on the use of case studies by the VCCOP workgroup. He stated that the use of individual case studies would be misleading and was not a substitute for firm and comprehensive evidence. This point was further reinforced by ST. GK, who had attended the workgroup, stated that they had felt that some case studies would be useful to provide an initial understanding of some of the issues involved in each topic area. It was agreed that case studies would be used as an aid to discussion only and not as a means of demonstrating a definite need for change. It was agreed to make this point clear to workgroups.

Action: Ofgem

RB said that the view that codes of practice that contain provisions over and above the explicit requirements of the licence are in breach of the licence was wrong in law.. GK replied that the real problem is that, since SLC 27 requires a licensee to comply with what is set out in its codes, companies may increase their regulatory burden if they offer more in their codes than the licence requires and are therefore incentivised to offer only the bare minimum.

NN noted that one of the potential approaches was to develop an “off-the-shelf” code of practice. This may be of particular use to small suppliers and those considering entering the market. LW offered to provide information from some Industrial and Commercial suppliers who were reluctant to enter the domestic market for such reasons.

5.2 Industry codes

NN noted that the first Industry Codes workgroup had taken place on 24 October 2005. The terms of reference were agreed. The group had considered the need to establish, maintain, sign and comply with codes as a licence requirement. The debate had centred on compliance. Codes may not need compliance to be a requirement of the supply licence if the internal compliance arrangements were sufficient. Alternatively, the requirement to comply could be amended to relate only to material breaches rather than lower level non-material breaches. The group had agreed to review alternative models, for example the approach to licence enforcement undertaken by the Office of the Rail Regulator.

Ofgem confirmed that the workgroup would consider the distributional impact of internal compliance on all parties. Concern was expressed that there may be windfall gains for some (smaller) parties under neutrality mechanisms and some vertically integrated organisations may be better able to absorb such costs.

NN added the following clarification that what was being referred to here was that where an industry code included both supplier and distribution parties, where a penalty was imposed on one party the benefits would be likely to accrue to other parties and the result may be no net disbenefit where the party comprised of both supplier and distribution interest.

NN noted that the date of the next meeting was 17 November 2005.

5.3 Metering

NN said that the first Metering workgroup will take place on 15 November 2005. There are three main areas that the workgroup will focus on: the 2 year inspection arrangements, provisions to ensure that meters are available to other parties (SLCs 7 and

34), and site access/rights of entry. NN noted that a discussion paper would be circulated nearer to the meeting date.

5.4 Duty to Supply, Contracts and Information

AW explained that the first Duty to Supply, Contracts and Information workgroup would take place on 10 November. A discussion paper setting out the main issues to be tackled and a draft timetable would be issued the following week.

6. SLR timetable update

AW advised the group that the December Steering Group meeting was currently scheduled for 21 December. The group agreed that they were happy for the meeting to take place on this date as planned.

7. Issues register

A new issue had been raised at the VCCOP workgroup and was tabled at the Steering Group for discussion. William Baker of the Centre for Sustainable Energy had requested that billing issues and the frequency of meter reads be included within the scope of the SLR. The group agreed with the wording proposed by Ofgem and that, in light of the work being carried out following the billing super complaint, the issue was currently out of scope and no further action was required.

NC raised a query regarding the scope of the licence exemption regime. LW said that some large customers did not fall within the class exemption parameters and were required to comply with the SLCs where this was not relevant. Ofgem noted that the scope of the exemptions regime was a matter for the DTI and agreed to add this to the issues register with its thoughts for consideration by the next Steering Group meeting.

Action: Ofgem

8. Any other business

The date of the next meeting is 23 November 2005.