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value for all customers*

MRASCo c/o Genserv, MRA
Parties, energywatch and Other
Interested Parties

Direct Dial: 020 7901 7052
Email: philip.davies@ofgem.gov.uk

18th July 2007

Dear Colleague,

Modification to the Master Registration Agreement ("MRA") 177: "Updating the MRA to reflect the moving of aspects of Objections to the Electricity Supply Licence" (the "Change Proposal")

Gas and Electricity Markets Authority consent in relation to the Change Proposal and notice of reasons.

Summary

The Gas and Electricity Markets Authority (the "Authority"¹) has carefully considered the issues raised in a Statement of Fact² dated 22nd June 2007 (the "Statement of Fact") provided to it by MRASCo (c/o Genserv) and the Change Proposal.

Having had regard to paragraph 4 of standard licence condition ("SLC") 37 of the electricity distribution licence (The Metering Point Administration Service and the Master Registration Agreement)³ and its wider statutory duties⁴, the Authority provides its written consent to the modification of the MRA in line with the Change Proposal.

¹ "Ofgem" is the Office of the Gas and Electricity Markets, which supports the Authority, the regulator of the gas and electricity industries in Great Britain. The Authority's primary aim is to bring choice and value to all gas and electricity customers, where appropriate by promoting competition and regulating monopolies. The Authority was established by the Utilities Act 2000 and its powers are provided for under the Gas Act 1986, the Electricity Act 1989, the Competition Act 1998, the Utilities Act 2000, the Enterprise Act 2002 and the Energy Act 2004. The terms "Ofgem" and "the Authority" are used interchangeably in this letter.

² The Statement of Fact provided by Genserv includes a formal request for the Authority's consent for MRA Change Proposal (MCP) 177, a copy of MCP 177 including the reasons for the proposed change and its details and an extract from the draft minutes of the relevant MRA Development Board meeting highlighting the outcome of the vote and any views expressed by MRA Development Board representatives.

³ This paragraph provides that:

"The Master Registration Agreement shall comprise:

- a) terms for the provision of metering point administration services in accordance with the requirements of paragraph 3 of standard condition 14 (Provision of the Metering Point Administration Service and Compliance with the Master Registration Agreement) and the equivalent requirements in the distribution licences of all other licensed distributors;
- b) provisions to facilitate, and procedures and practices to be followed by electricity suppliers in relation to changes of electricity supplier in respect of any premises;

This letter explains the background to, and sets out the Authority's reasons for its consent to the implementation of, the Change Proposal.

Background

In August 2005 Ofgem launched the Supply Licence Review project "Gas and Electricity Supply Licence Review, Way Forward"⁵.

The Supply Licence Review aimed to bring the regulatory rules for gas and electricity suppliers up-to-date given that competition is now firmly established and that developments in consumer and competition law make some rules redundant. The key themes of the proposals were:

- removal and simplification of licence conditions;
- striking the balance between competition and regulation;
- protection of vulnerable customers;
- opportunity for self-regulation; and
- promotion of innovation.

The circumstances in which a supplier may prevent a customer transferring to a new supplier (an objection) have, to date, been governed differently in gas and electricity. For the gas market they are set out in the Gas Supply Licence. For the electricity market they are in the MRA. Following wide public consultation, Ofgem decided that the governance of the objections process should be set out in suppliers' licences.

In June 2007 Ofgem published the Supply Licence Review – Final Proposals document⁶. This document included the statutory modification notice required under the Electricity Act 1989, which set out, inter alia, the Authority's proposed modifications to the Electricity Supply Licence in relation to objections.

The closing date for representations or objections was 29 June 2007. No statutory objections to the proposed modifications were received. The Authority made a direction modifying the Electricity Supply Licence on 6 July 2007; the modifications contained in that direction will come into effect on 1 August 2007.

Further to the direction to modify the Electricity Supply Licence, the MRA needs to be altered to avoid unnecessary duplication. The Change Proposal seeks to remove the relevant clauses from the MRA.

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- c) a catalogue of definitions, flow and forms of such data as may require to be transferred by or to parties to the Master Registration Agreement, or as between any persons for settlement purposes or for any related purposes (the "data transfer catalogue");
 - d) arrangements for the variation of the Master Registration Agreement following consultation with the parties, or representatives of the parties, to that agreement;
 - e) provisions (which shall require to be approved in advance by the Authority) by virtue of which the whole or specified parts of the Master Registration Agreement shall not be capable of variation without the prior approval of the Authority; and
 - f) such other matters as are or may be appropriate for the development, maintenance and operation of an efficient, co-ordinated and economical system for the supply of electricity and for the purpose of facilitating competition in electricity supply.

⁴ The Authority's statutory duties are wider than the matters that MDB must take into consideration including a principal objective to protect the interests of consumers by promoting effective competition where appropriate.

⁵ http://www.ofgem.gov.uk/Markets/RetMkts/Compl/SLR/Documents1/11381-187_05.pdf

⁶ <http://www.ofgem.gov.uk/Markets/RetMkts/Compl/SLR/Documents1/SLR%20Final%20Proposals%20Decision%20Doc.pdf>

The Change Proposal

The Change Proposal was submitted on 3rd May 2007 by Brendan McGarry of Gemserv. The Change Proposal seeks to amend the definition of "Customer Requested Objection" in Clause 1 and seeks to amend Clauses 16, 18 and 30, in order to remove some aspects of the objections governance from the MRA and to update relevant cross-references.

In accordance with Clause 9.5 of the MRA, any change to any definition in Clause 1.1 which may materially affect the provisions of the Clauses set out in Clause 9.5.1 (i.e. including Clause 16) or any change to Clause 16 shall not take effect without the consent of the Authority.

The affected clauses are re-produced with appropriate change-marking below:

1 Definitions and Interpretation

"Customer Requested Objection" means an objection raised pursuant to Clause ~~16.1.1.4~~ means and objection raised pursuant to Condition 14.4 (c) of the Electricity Supply Licence

16 PROCEDURE FOR OBJECTION BY OLD SUPPLIER

16.1 The circumstances under which an Old Supplier may issue an objection ("Notice of Objection") to the relevant MPAS Provider in relation to an Application for Registration of which it has been notified pursuant to Clause 15.9 are defined in Condition 14 of the Electricity Supply Licence where either,

~~16.1.1.1. subject to Clause 16.2, where charges for electricity supplied to the Customer (at any such Domestic Premises);~~

~~16.1.1.1.1 having been demanded in writing by the Old Supplier, prior to the notice of termination being given remain owing to the Old Supplier more than 28 days after that demand was made; or~~

~~16.1.1.1.2 have been or are to be transferred to a Supplier in accordance with the procedures agreed by MEC pursuant to Clause 30.1, and those charges remain outstanding to that Supplier; or~~

~~16.1.1.2 subject to Clause 16.2, where the Customer is being supplied by the Old Supplier at those Premises under a contract which will neither expire nor, to the knowledge of the Old Supplier, be terminated on or before the date of the New Supplier's Supply Start Date notified to the Old Supplier pursuant to Clause 15.9, and that contract is of a kind specified in a direction issued by the Authority; or~~

~~16.1.1.3 the New Supplier has contacted the old Supplier and both Suppliers have agreed that the New Supplier's Registration has been in error; or~~

~~16.1.1.4~~ its Customers at the Premises has advised the Old Supplier that they have not entered into a contract with the New Supplier (a 'Customer Requested Objection'); or

~~16.1.1.5~~ the Application for Registration relates to a Metering Point which is a Related Metering Point and the New Supplier has not applied to Register all the Related Metering Points on the Same Working Day for the same Supply Start Date.

OR

~~16.1.2~~ the Application for Registration is in relation to a Metering Point which is associated with non-Domestic Premises and:

~~16.1.2.1~~ subject to Clause 16.2, where the Old Supplier is permitted to do so by the provisions of a contract (excluding a Deemed Contract) with its customers at those premises; or

~~16.1.2.2~~ the New Supplier has contacted the Old Supplier and both Suppliers have agreed that the New Supplier's Registration has been made in error; or

~~16.1.2.3~~ the Application for Registration relates to a Metering Point which is a Related Metering Point and the New Supplier has not applied to Register all the Related Metering Points on the same Working Day for the same Supply Start Date.

16.2 The Old Supplier may not issue an objection to the New Supplier's Application for Registration on the grounds indicated in ~~Clauses 16.1.1.1, 16.1.1.2 or 16.1.2.1~~ Condition 14.4(a), 14.4(d) or 14.2(a) of the Electricity Supply Licence if the MPAS Provider's notice to it in Clause 15.9 indicates that data item 7 in Schedule 2 for the Metering Point in the New Supplier's Application for Registration has been set to "T" ("True") unless it has reasonable grounds for believing that information to be inaccurate.

16.3 A Notice of Objection that complies with the requirements of Condition 14 of the Electricity Supply Licence and ~~Clauses 16.1 and 16.2~~ shall be a Valid Notice of Objection ("**Valid Notice of Objection**").

16.4 The relevant MPAS Provider shall not be responsible for checking that any Notice of Objection that it receives is a Valid Notice of Objection.

16.5 Where an Old Supplier has raised an objection pursuant to Condition 14.2(c) or 14.4(e) of the Electricity Supply Licence ~~Clauses 16.1.1.5 and 16.1.2.3~~, in respect of a particular Metering Point, the Old Supplier shall on the request of the New Supplier as soon as reasonably practical, notify the New Supplier of all Related Metering Points for the Metering Point for which the Old Supplier is or has been Registered.

16.6 Where an Old Supplier wishes to issue a Notice of Objection to the MPAS Provider in relation to an Application for Registration of which it has been notified pursuant to Clause 15.9 it shall issue such notice to the relevant MPAS Provider so that it is received by that MPAS Provider within the Objection Raising Period.

- 16.7 Where the Old Supplier issues a Notice of Objection (i) pursuant to Conditions 14.4(a), 14.4(b), Clauses 16.1.1.1 14.4(d) 16.1.1.2, 16.1.1.3, 14.4(e) 16.1.1.5, 14.2(a) 16.1.2.1, 16.1.2.2, 14.2(b) and 16.1.2.3 14.2(c) of the Electricity Supply Licence it shall, at the same time, ~~as per~~ in accordance with Conditions 14.3 and 14.6 of the Electricity Supply Licence, send notification to its Customer at the Premises of the grounds for the objection and how the Customer may dispute or resolve such grounds (which notification shall include resolution pursuant to Clause 30.2, if applicable) or, (ii) pursuant to Condition 14.4(c) of the Electricity Supply Licence Clause 16.1.1.4, it shall at the same time, send notification to the New Supplier and confirmation to its Customer at the Premises that a Customer Requested Objection has been issued.
- 16.8 Where the relevant MPAS Provider receives and Accepts a Notice of Objection within the Objection Raising Period, that MPAS Provider shall:
- 16.8.1 record the notice on its MPAS Registration System;
 - 16.8.2 notify the Old Supplier and New Supplier, the Old Supplier's Data Aggregator, any Data Aggregator the Old Supplier may have appointed for a future date, the New Supplier's Data Aggregator, any Data Aggregator the New Supplier may have appointed for a future date and, where necessary, the Distribution Business, that such Notice of Objection has been received and Accepted;
 - 16.8.3 delete all data items relating to the New Supplier's Registration, including any changes to data items a New Supplier has made pursuant to Clause 24.7;
 - 16.8.4 notify the Old Supplier of all changes to data items made by the New Supplier pursuant to Clause 24.8 or made by the Distribution Business pursuant to Clause 24.3 which were entered on or after the Working Day on which the New Supplier's Registration was Accepted, and which have an effective date which is not later than the Working Day on which the Notice of Objection is Accepted. Such notification shall exclude any items which were provided by the Old Supplier.
- 16.9 The New Supplier shall not be able to make any changes to data items 4, 5, 7, 11 to 14, 16 or 17 in Schedule 2 for the Metering Point after the Old Supplier's Notice of Objection is lodged unless and until the Notice of Objection is removed by the relevant MPAS Provider in accordance with Clause 16.13.
- 16.10 Where the Notice of Objection is not Accepted or was not received within the Objection Raising Period, the relevant MPAS Provider shall Reject such Notice of Objection and notify the Old Supplier that it has Rejected its Notice of Objection and all the reasons for the Rejection.
- 16.11 Where the Old Supplier's Notice of Objection has been Rejected the Old Supplier may re-submit a Notice of Objection within the Objection Raising Period.
- 16.12 Where the MPAS Provider records a Notice of Objection in accordance with Clause 16.8 it shall note within its MPAS Registration System that the Registration of the New Supplier in relation to the Metering Point has been objected to and the responsibility for supplying that Metering Point shall revert to or remain with the Old Supplier, such that the New Supplier's Registration shall be deemed not to have taken place.

- 16.13 The Old Supplier may withdraw a Notice of Objection that has been Accepted by the relevant MPAS Provider within the Objection Resolution Period, other than where such objection was issued pursuant to Condition 14.4(c) of the Electricity Supply Licence Clause 16.1.1.4 (in which case the procedures established in accordance with Clause 16.13.1 shall apply), and shall do so where the grounds for its objection have been resolved within the Objection Resolution Period. The relevant MPAS Provider shall not be responsible for checking that the grounds for objection in the Old Supplier's Notice of Objection have been resolved within the Objection Resolution Period.
- 16.13.1 MEC shall agree and issue appropriate procedures in relation to Customer Requested Objections, which procedures shall be subordinate to and shall not be inconsistent with this Clause 16 and Condition 14 of the Electricity Supply Licence.
- 18.3 Where the Old Supplier reasonably believes that the New Supplier has Registered for a Related Metering Point without Registering all other Related Metering Points it shall either:
- 18.3.1 raise an objection pursuant to Condition 14 of the Electricity Supply Licence Clause 16.1 within the time limits set out in Clause 16, using the facility provided under Clause 17 if necessary; or
- 18.5 Where either the Old Supplier or New Supplier contacts the other pursuant to Clause 18.3 or 18.4, these Suppliers shall agree the appropriate method for Registering all other Related Metering Points. This may include:
- 18.5.1 the Old Supplier objecting to the New Supplier's application under Condition 14 of the Electricity Supply Licence Clause 16 within the time limits set out in Clause 16; or
- 18.5.2 the Old Supplier withdrawing its objection; or
- 18.5.3 the New Supplier Registering all Related Metering Points before it commences supplying electricity through the Related Metering Point(s) and if necessary the Old Supplier removing its objection under Condition 14 of the Electricity Supply Licence Clause 16 within the time limits set out in Clause 16; or
- 18.5.4 the New Supplier applying for Registration in relation to the other associated Related Metering Points after the time period indicated in Clause 18.5.3.
- 18.9 Where the Old Supplier becomes aware, other than pursuant to Condition 14.4(c) of the Electricity Supply Licence Clause 16.1.1.4, that the New Supplier's Registration for a particular Metering Point may have occurred in error it shall use reasonable endeavours to notify the New Supplier within 2 Working Days of becoming aware that a potential Erroneous Registration has occurred, using the facility provided under Clause 17 if necessary.
- 18.10 Where the New Supplier becomes aware, including notification pursuant to Clause 18.9, that its Registration for a particular Metering Point may have been made in error it shall, on becoming so aware, use reasonable endeavours to determine

within 8 Working Days whether it has entered into a contract to supply electricity (including a Deemed Contract) for that Metering Point. In the event that the New Supplier determines that an Erroneous Registration has occurred, this shall be rectified by either;

18.10.1 The New Supplier contacting the Old Supplier i) using the facility provided under Clause 17 if necessary or ii) responding to a notification pursuant to Clause 18.9, and the Old Supplier objecting to the New Supplier's application under Condition 14.2(b) or 14.4(b) of the Electricity Supply Licence ~~Clause 16~~ within the time limit set out in Clause 16 (**a Co-operative Objection**); or

30 ASSIGNMENT OF OUTSTANDING CHARGES FROM THE OLD SUPPLIER TO THE NEW SUPPLIER

30.1 MEC shall agree and issue appropriate procedures in relation to a Notice of Objection that has been issued in accordance with ~~Clause 16.1.1.1~~ Condition 14.4(a) of the Electricity Supply Licence for a Metering Point that is equipped with a pre-payment meter (which procedures shall be subordinate to and not inconsistent with Electricity Supply Licence Condition 14 and Clauses 15 and 16).

30.2 Where the procedures pursuant to Clause 30.1 may apply, a Supplier that has raised a Notice of Objection pursuant to Condition 14.4(a) of the Electricity Supply Licence ~~Clause 16.1.1.1~~ shall include in the notification to the Customer pursuant to Clause 16.7 that the Customer may apply for the assignment of the outstanding charges to the New Supplier as a means of preventing future grounds for the issue of a Notice of Objection to that Supplier's Application for Registration.

MRA Development Board ("MDB")⁷

In accordance with the process set out in Clause 9 of the MRA, the Change Proposal was considered at a meeting of the MDB on 31st May 2007.

At that meeting, 7 suppliers, 2 distribution businesses and the settlement body voted in favour of the Change Proposal, 2 distribution businesses voted no interest.

Consequently, the MDB accepted the Change Proposal with a proposed implementation date of:

(a) the date on which the revised standard conditions of the Electricity Supply Licence come into effect; or

(b) the date of the Authority's consent,

whichever is the later.

On 22nd June 2007 Gemserv, on behalf of the MDB, requested the Authority's consent for the Change Proposal.

⁷ The MDB is a group that has been delegated responsibility by the MRA Executive Committee ("MEC") for MRA change control.

Ofgem's view

Ofgem considers that there are benefits in placing the objection rules in the standard licence conditions of suppliers' licences. It also considers that there are advantages for companies operating in the gas and electricity markets having a consistent approach to the interpretation and enforcement of the objection rules.

Suppliers, for commercial reasons, are sensitive about the interpretation and application of the objection rules. While the MRA has in many respects proved to be a highly effective example of industry self-governance, the experience with objection rules is less positive. All cases of breach of MRA requirements have related to objections, and the need for subsequent investigations and interpretation of the objection rules has generally been a source of frustration for the parties involved.

Further, although disputes that arise under the MRA can be appealed to Ofgem, this adds time to the process of resolving the issue. If there is a dispute between two parties on the use of objections, the dispute must first be dealt with under the MRA compliance arrangements.

Ofgem has carefully considered the proposals set out in the Statement of Fact and the result of the MDB's voting. Having regard to paragraph 4 of SLC 37 of the electricity distribution licence and its statutory powers and duties, including those under the Electricity Act 1989, the Authority has decided to consent to the Change Proposal.

Ofgem considers that the Change Proposal will better achieve the requirements of paragraph 4(f) of SLC 37 for the "development, maintenance and operation of an efficient, co-ordinated and economical system for the supply of electricity and for the purpose of facilitating competition in electricity supply". By consenting to this Change Proposal Ofgem is removing unnecessary duplication from the MRA by removing obligations that are now contained in the Electricity Supply Licence.

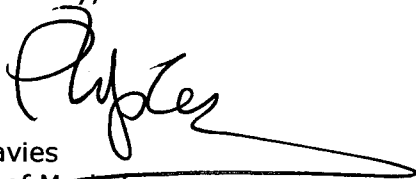
The Authority's Decision

Pursuant to Clause 9.5 of the MRA, the Authority hereby consents to the implementation of the Change Proposal. This consent and the change which is the subject of the Change Proposal will take effect on and from 1 August 2007.

Unless the context otherwise requires, words and expressions used in the MRA shall bear the same meaning in this letter.

If you have any questions regarding this decision please contact Joanne Tackley on 020 7901 7254.

Yours faithfully,



Philip Davies
Director of Markets

for and on behalf of the Gas and Electricity Markets Authority