

DLR Meeting 4 – 11/07/2007

Continuation of review of the electricity distribution standard licence conditions.	From Date and time of Meeting Location	Catherine Wheeler 11/07/2007 Ofgem	13 July 2007
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1. Present

Martin Crouch (MC)	Ofgem – Distribution Policy
Simon Polley (SP)	Ofgem – Distribution Policy
Paul Darby (PRD)	Ofgem – Distribution Policy
Mark Askew (MA)	Ofgem – Distribution Policy
John Wilson (JW)	Ofgem – Networks Legal
Jessica Mehta (JM)	Ofgem – Networks Legal
Laura Nell (LN)	Ofgem – Networks Distribution
Michael Knowles (MK)	Ofgem - Licensing
Catherine Wheeler (CW)	Ofgem – Licensing
Jeremy Blackford (JB)	Scottish Power EnergyNetworks
Natasha Richardson (NR)	Western Power
Paul Delamare (PD)	EDF Energy Networks
Roger Barnard (RB)	EDF Energy Corporate
John Cooper (JC)	Wragge & Co (legal adviser to ENA)
Abid Sheikh (AS)	Energywatch
Mike Harding (MH)	ENC

2. Apologies

John France – CE Electric
Jill Ashby - Gemserv

3. Agenda Item 1 - Introduction and review of last minutes

3.1. The minutes from the last meeting were agreed with the suggested changes from NR and RB including the clarification that the rewording of condition 28 did not give DNO's powers that they did not have before. MA agreed to JB's suggestion that the minutes should refer to the title of the condition as well as its new condition number.

4. Agenda Item 2 - Review of Section A package

4.1. **Chapter 1** - SLC2 (Interpretations of standard conditions) – It was pointed out that the drafting of 2.11 (b) did not address the concept of working days and that it would be necessary to add a new sub-paragraph for that purpose.

4.2. **Chapter 2** - SLC4 (No abuse of the licensee's special powers) – RB highlighted that he has added a definition of 'third party' at 4.4 (a), no issues were raised about this.

4.3. **Chapter 3** – The group ran through a draft of condition 9 (Arrangements for site access) and (Special services and complaints) and compared it to RB's latest draft.

4.4. MK stated that paragraph 9.3 (c) was removed in RB's version and that it should be reinserted. RB disagreed as the condition is meant to apply to all customers and not just domestic. MK stated that Ofgem is concerned that if a DNO or IDNO does not have a website, they could not inform customers. RB said the reason he had removed paragraph (c) was because it had been removed in the Supply licence review (SLR). RB wanted to

Created 10/09/2007 10:56
Modified 10/09/2007 11:07

know if Ofgem would like him to insert a caveat in the condition for domestic customers. He felt that this would make the condition over complicated and suggested that such a caveat should be consulted upon. NR argued that paragraph (c) takes it beyond what the old condition used to request and suggested that a combination of (b) and (c) be made, RB and MH agreed. PRD suggested that the title of condition 9 be changed from 'Arrangements for Site Access' to 'Arrangements for Access to Premises' in order that it could be better understood.

4.5. SLC 10 (special services and complaints) – RB felt that the comments/rewrite of his version of the condition was illogical. RB commented on SLC10(3)(iii) that the details of the person was added to the PSR by the supplier. MK replied that there was not one single PSR, and different suppliers and different distributors had different PSRs. NR mentioned that the details of people on the PSR was passed from the supplier to the distributor via a D0225 dataflow. There was some acceptance in the group that whilst the supplier initiates the transfer of data the distributor still has to decide whether that person goes on its PSR. RB felt there was no need to split paragraph 10(4) between unplanned and planned interruptions as they were split further down in the condition. MK stated that the prior information requirements should be kept in the condition and that RB's draft did not include a reference to what should be done prior to an unplanned interruption. JB suggested splitting 10.4 into two, having an (a) section on unplanned interruptions and a (b) section on planned interruptions. RB and PD agreed that this would resolve the issue.

4.6. The group moved on to paragraph 10.8. MK suggested that the phrase '*and it is appropriate and reasonably practicable to do so,*' should be removed. RB commented that this seemed sensible since it was difficult to envisage any circumstances in which a DNO would be unable to agree a password. MK wondered if 10.12 was really needed. NR felt that it was useful to have that paragraph and it was agreed that the paragraph be kept in and an equivalent paragraph should be inserted into condition 9. RB agreed to redraft conditions 9 and 10, taking Ofgem's comments into account, and circulate around the group in advance of the next meeting.

4.7. **Chapter 4** - SLC 12 (Requirement to offer terms for use of system and connection) RB stated that he and JC had redrafted paragraph 12.2 to reflect the concerns which MC raised at the last meeting. RB enquired as to whether the new draft allayed MC's concerns. MC queried the reliance on a double negative formulation. JC said this was inevitable given how the condition works. MH was concerned by the wording 'whatever steps are appropriate' in this paragraph and felt it put undue pressure on the DNO/IDNO since it is the connectee's responsibility to provide the appropriate information. It was agreed that the wording would be altered to 'all reasonable steps'.

4.8. SLCs 13 (Charging methodologies for use of system and connection) and 14 (Charges for use of system and connection) – RB indicated that he had inserted a definition of 'charging methodology' at the end of condition 13. The group were happy with this. JB felt that the cross-referencing between paragraph 13.5(a) in SLC13 and paragraph 14.1 in SLC 14 could be improved, as in the latter case the statements referred to were charging statements. It was agreed that JB would try to clarify the drafting in order to reflect the present requirements of the licence. RB felt that the need for publication (paragraphs 13.13 and 14.2 (c)) under these conditions should be consulted on.

4.9. SLC 15 (Standards for the provision of Non-Contestable connection services) – RB drafted this condition in line with Ofgem's statutory consultation under Section 11a of the Act. MC raised questions over paragraph 15.2. JW said he would want to take a closer look at the wording before making any comments. MC restated that the final wording of the condition would be dependent upon the outcome of the forthcoming consultation.

4.10. SLC 18 (Provision of and charges for Metering Point Administration Services) – MC questioned whether the MPAS charging statement could be obsolete given that MPAS

charges were covered within use of system charges. It was noted that transactional charges remained outside use of system charges.

4.11. **Chapter 5** – SLC 21 (The distribution code). RB stated that he had drafted paragraph 21.11 to reflect that the distribution code is a peremptory rather than a contractual document and also so as to provide a sound legal basis for the new DC governance arrangements currently under discussion.

4.12. SLC 23 (Master registration agreement) – RB commented that this condition was not clear as it presently resides in section C of the licence. MH confirmed that all IDNOs are party to the MRA. It was subsequently agreed to remove paragraph's 23.4 and 23.5 dealing with powers to direct exemption.

4.13. **Chapter 6** – SLC 26 (Disposal of relevant assets) – RB highlighted the problem with the definition of 'Disposal' in paragraph 26.6 (a) and (b) due to the differences in law between Scotland and England and Wales. JC indicated that even once the differences between Scottish law and English and Welsh law were removed from the original, there would still be some substantial differences between paragraphs (a) and (b). RB also noted that the definition states that 'disposal includes...'. He suggested that this be changed to 'disposal means' once the differences between the 2 paragraphs had been rectified. It was agreed that JC should look into redrafting 26.6 (a) and (b).

4.14. NR suggested that the asset value quoted in A6 of appendix 1 to condition 26, be raised from the present £100,000 to £200,000 to reflect inflation. MC said he would look into the merits of this.

4.15. SLC 27 (Theft, damage and meter interference) – RB stated that he had redrafted the condition on the basis of discussions at the last meeting.

4.16. **Chapter 7**. RB ran through his financial and ring fencing arrangements chapter. SLC 32 (Credit rating of Licensee) – PD suggested providing for a scenario where IDNO's grew to a size where they would require a credit rating. PRD stated that at present an Ofgem guidance document stated that IDNO's with more than 500,000 connections must have a credit rating. It was suggested that this limit be mentioned in the licence condition. JB suggested looking at having an updated list of all published licence related guidance documents and directions to see to whom they apply.

4.17. RB requested that Peter Bucks review the conditions under Chapter 7 (Financial and ring-fencing arrangements) to make sure that policy had not been changed in RB's redrafting of the conditions.

4.18. SLC 34 (Regulation of charging arrangements) – MC commented that he would have to check the disapplication dates quoted in paragraph 34.10.

4.19. **Chapter 8** – SLC 35 (Payment claim for providing last resort supply) – MC said he could not see a great advantage in keeping the condition in Section A rather than B. It was agreed that SLC 35 should be put back into Section B and renumbered as a new Condition 44.

4.20. SLC 36 (Assistance for high-cost distribution areas) – RB questioned whether the condition should remain in section A. The group agreed that this condition, by its very nature, was only going to apply to SSE in the foreseeable future. Consequently it would make sense for the condition to become a special condition applying solely to SSE. It was agreed that this should go in the consultation. PRD agreed to provide an update, prior to the next meeting.

5. Agenda Item 3 – Review of Section B Package

5.1. **Chapter 10** - SLC 39 (Requirement to offer terms for the provision of Legacy Basic Meter Assets) – RB highlighted some confusion over when paragraph 39.2 would apply. Some distributors treat it as applicable if the meter has been removed whereas others treat the condition as not applicable in such circumstances. It was agreed that the meaning was clear.

5.2. **Chapter 11** - SLC 45 (Appointment of a compliance officer) – MC stated that he thought there had been a suggestion in previous meetings to change the name of compliance officer. JB suggested 'Business Separation Compliance Officer'. PD pointed out people within the industry were not confused by the current name. RB suggested square bracketing the name and proposing JB's wording for consultation.

5.3. **Chapter 12** – RB explained that in drafting this chapter he had split out the modification elements of the current conditions and placed them as a separate appendix, alongside the condition.

5.4. SLC 46 (Regulatory accounts) - RB pointed out that he had replaced the term 'de minimis' with ancillary business.

5.5. PRD informed the group that there has been an informal consultation on the old SLC 50 (price control revenue reporting) proposing to remove the obligation contained in 49 A7 (b)ii as Ofgem no longer made explicit use of it.

5.6 SLC 50 Reporting scheme for Price control review information – NR suggested changing the title of this condition in order that it could be easily recognised within the industry. RB suggested the title 'Cost Reporting Scheme', but there was some concern that the reference to a scheme was confusing. This was agreed and RB said he would think again and aim for something that reflected the spirit of the discussion.

6. Agenda Item 5 – Next steps

6.1. MC drew the group's attention to the draft table indicating where licence obligations had moved to in three conditions. MC stated that it was only meant to be illustrative of what Ofgem had in mind. JB felt that the table was not needed at this stage and RB agreed. MC stated that the table was being composed internally nonetheless, to satisfy Ofgem that no obligations had fallen through.

6.2. MC suggested meeting in early September to discuss the consultation paper and if there were any issues a second meeting could be held later in September. MC asked the group to pencil in 4 September for the meeting.

7. Any other business

7.1. No other business was raised.

Action

Minutes from 14 June to be finalised and placed on the Ofgem website

Person – By

Ofgem

Action

Restructure and redraft definition conditions, bring the full new draft licence to completion in the light of the group's discussions, and

Person - By

Roger Barnard

circulate by mid-August

Action

Redrafting of conditions 9 and 10 taking Ofgem comments on board

Person - By

Roger Barnard

Action

Redraft relevant parts of conditions 13 and 14 to improve the cross referencing

Person - By

Jeremy Blackford

Action

Redraft of definition of 'disposal' in SLC 26

Person - By

John Cooper

Action

List general directions required in association with the distribution licence

Person - By

Ofgem

Action

To ask Peter Bucks to review Chapter 7 and check that the redrafting has not led to any policy changes

Person - By

Ofgem

Action

To check the disapplication dates in condition 34

Person - By

Ofgem

8. Date of next meeting

8.1. 7th September 2007