



To: Electricity Distribution  
Licensees, Independent  
Connection Providers and other  
interested parties

*Promoting choice and  
value for all customers*

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Date: 17 December 2007

Dear Colleague,

### **Acceptance of the variation of SP Manweb's commitments**

On 26 October 2007, Ofgem gave notice<sup>1</sup> of its proposal to accept variation of the commitments which the Gas and Electricity Markets Authority ("the Authority") accepted from ScottishPower ("SP") Manweb in October 2005, following an investigation into its provision of electricity connections services<sup>2</sup> ("the commitments"). Ofgem invited representations on the proposed variation from interested third parties.

The notice followed a request by SP Manweb for the commitments to be varied, in view of the overlap between its obligations under the commitments and the requirements of Standard Licence Condition 4F ("SLC 4F")<sup>3</sup> of the electricity distribution licence, which was introduced on 1 October 2007. Having considered the representations made in response to the notice, pursuant to which no objections to the variation were raised, Ofgem considers that in order to address its current competition concerns it is appropriate to vary the commitments to remove the areas of overlap with SLC 4F, while retaining those commitments where no overlap exists.

This letter and its Annex constitute statutory notice of Ofgem's acceptance of the variation of the commitments, pursuant to paragraph 7 of Schedule 6A of the Competition Act 1998.

### **Background**

Following the commencement of an investigation by Ofgem under the Competition Act 1998, the Authority accepted the commitments in order to address its competition concerns that independent connection providers ("ICPs") had experienced delays in receiving connections services which were not experienced by SP Manweb's affiliated connections provider, Core Utility Solutions Limited ("Core"). The commitments imposed

<sup>1</sup> The Authority is required to give notice of its intention to vary SP Manweb's commitments and consider any representations made by interested third parties pursuant to paragraph 2 of Schedule 6A of the Competition Act 1998. The Authority's notice can be obtained at:  
<http://www.ofgem.gov.uk/About%20us/enforcement/Documents1/Consultation%20on%20variation%20of%20commitments%2026107.pdf>

<sup>2</sup> For the Authority's decision, see "Commitments offered by SP Manweb plc (Company Number 02366937) ("SP Manweb") to the Gas and Electricity Markets Authority pursuant to Section 31A of the Competition Act 1998": <http://www.ofgem.gov.uk/About%20us/enforcement/Investigations/ClosedInvest/Documents1/55a.pdf>

<sup>3</sup> "Standard Licence Condition 4F Guidance Document - Version 1"  
<http://www.ofgem.gov.uk/NETWORKS/CONNECTNS/COMPINCONN/Documents1/SLC4F%20guidance%20document%20v1.pdf>

various obligations on SP Manweb, including: (i) specific timescales for the provision of information relating to points of connection ("POC") and for responses to requests for design approval, and (ii) certain quarterly reporting requirements for the purposes of monitoring compliance.

Following the introduction of SLC 4F, SP Manweb became subject to the timescales set out in the licence condition as well as those established by the commitments. The licence condition also placed SP Manweb under a second set of reporting obligations in respect of the same services. SP Manweb requested that the commitments be varied to remove the obligations which overlapped with the new licence condition.

### **Responses to the Consultation**

There were three respondents to the public consultation on the proposal to vary the commitments, none of which expressly opposed the variation.

energywatch agreed that, having regard to principles of better regulation, there should be no duplication of the same obligations on a licensee and that therefore, to the extent that the commitments were duplicated by SP Manweb's obligations under SLC 4F, the commitments ought to be varied.

Scottish Power also responded, expressing its support for the proposed variation.

The third respondent, an independent distribution network operator, did not expressly oppose the variation, commenting that it would be premature to remove the commitments insofar as the commitments fell outside the ambit of SLC 4F. The respondent stated that those commitments falling outside SLC 4F should remain in force until it can be confirmed that the competition concerns which required their imposition have been resolved, and suggested that compliance with the commitments be monitored for at least five years.

Ofgem has taken the representations into account, in particular those of the third respondent, but considers that SLC 4F now addresses the competition concerns which the commitments as varied no longer address. The commitments which are not replicated by the provisions of SLC 4F are to be retained; for example, the requirement that SP Manweb provides access of its IT systems to independent DNOs and ICPs on request will remain in place so as to improve transparency and fairness.

In this way, Ofgem's current competition concerns with regards to SP Manweb's conduct will continue to be addressed either under SLC 4F or by the commitments and the duplication of obligations will be avoided, in line with Better Regulation principles.

Ofgem will continue to monitor SP Manweb's compliance with the remaining commitments in accordance with the terms of those commitments which are due to expire in January 2009. Its compliance with SLC 4F will also be monitored in accordance with the provisions of the licence condition and the related guidance<sup>4</sup>.

### **Ofgem's acceptance of the variation**

The regime of timescales and reporting requirements created by SLC 4F address most of the Authority's current competition concerns in relation to the provision of non-contestable connections services by SP Manweb, particularly concerns over the timely provision of POC information to ICPs and IDNOs. Where Ofgem's competition concerns are not met by the provisions of SLC 4F, the commitments will remain in place.

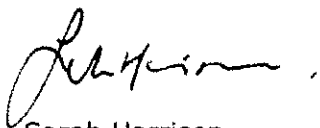
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<sup>4</sup> See previous footnote

The requirements of SLC 4F create a robust framework<sup>5</sup> within which Ofgem can monitor and enforce compliance with SP Manweb's obligation not to discriminate in the provision of connections services. For this reason, and in order to avoid the duplication of the obligations which it imposes on licensees, Ofgem considers that it is appropriate to vary the commitments to remove the areas of overlap with SLC 4F.

The commitments in their varied form are appended to this letter at Annex 1. The variation is to take immediate effect.

Yours sincerely,



Sarah Harrison  
Marketing Director, Corporate Affairs

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<sup>5</sup> Particularly when considered alongside Standard Licence Condition 4C (Non-Discrimination in the Provision of Use of System and Connection to the System), paragraph 2 provides: "The licensee, in providing non-contestable connection services and information relating thereto, shall not discriminate between: (a) any business of the licensee comprising the provision of connections to the licensee's distribution system; (b) any business of any affiliate or related undertaking of the licensee comprising such provision; and (c) any business of any other person comprising such provision".

