

Summary of discussion at DLR public workshop 29.11.07

Attendees:

Martin Crouch (Ofgem), Simon Polley (Ofgem), Nicholas Rubin (Ofgem), John Wilson (Ofgem), Mark Askew (Ofgem), Roger Barnard (EDF Corporate), Paul Measday (EDF Energy), Mike Harding (ENC), Joe Ashe (UU), Jody Pittaway (SSE), Andy Phelps (ENA), John France (CE Electric), Abid Sheikh (energywatch), Andy Lovatt (Laing O'Rourke), Nicki Johnson (Central Networks), Alun Jones (EVU), Jill Ashby (Gemserv), Mark Field (RWE npower), Davy Thielens (KEMA).

On 29 November 2007 Ofgem held a public workshop¹ to discuss the Electricity Distribution licence review (DLR) consultation document.² The workshop centred around a presentation given by Roger Barnard on behalf of the DLR working group, who had drafted the proposed licence in conjunction with Ofgem.

During the course of the workshop attendees discussed a number of issues. These issues and the key points discussed have been summarised below.

Changes to defined terms and the use of language

It was considered whether proposed changes to the use of language and defined terms were appropriate. For example, replacing 'de minimis business' with 'ancillary business', and changing the effect of obligations from negative to positive. Some attendees felt that replacing the term 'de minimis business' was unnecessary because the term 'de minimis' is an appropriate descriptor. It was also considered whether 'ancillary business' was an appropriate replacement. Roger Barnard said that the proposed change was intended to make the licence easier to read and understand. It was suggested by one attendee that parties take care to review all such changes and that alternatives to the term 'ancillary business' may be raised in consultation responses.

Public service requirements

The DLR proposes to group related conditions into chapters. Chapter 3 contains conditions 8-11, which deal with the safety and security of supplies enquiry service and revised conditions to cover the old codes of practice. The chapter has been termed Public service requirements. Some attendees felt that it would be more appropriate if the chapter was entitled Customer Service Requirements. Again, it was stated that alternative chapter titles could be raised as part of consultation responses.

An attendee commented on the requirement in this chapter to provide (upon request) assistance and advice for people whose first language is not English in order that they could understand the public service statements. They stated that this went beyond the scope of the DLR in that it was a significant change to policy. Martin Crouch responded by stating that the current licence requires codes of practice to be approved by Ofgem and the associated published guidance sets out what must be included in those codes of practice in order to gain approval. The guidance notes include a reference to provisions which enable people, whose first language is not English, to understand the content of the statements. As it is proposed to remove the requirement for the codes to be approved, it is necessary to include these particular elements of the guidance notes as licence obligations in order to maintain the current policy requirements.

¹ The agenda and slides from the workshop can be found at:
<http://www.ofgem.gov.uk/networks/elecdist/policy/pages/policy.aspx>

² A copy of this document can be found at:
<http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=9&refer=Networks/ElecDist/Policy>

Abuse of Licensee's special position (proposed condition 4)

One attendee said that they had concerns over any perceived relaxation of the licence obligations which prohibit the licensee from restricting, distorting or preventing competition. Roger Barnard replied that the wording was as close as you could get to an absolute obligation and that in his view the existing prohibitions had not been materially weakened. It was considered that unless the changes in this area are trivial they should be treated very seriously.

Special Modification Power (proposed condition X)

An attendee commented that IDNOs may have a dual interest in some licence modifications due to the fact that they are both a licensee but also users of the system. He explained that this could lead to a conflict of interests and it may be unfair as other users of the system would not get a vote in any licence modifications.

In response, both Roger Barnard and Martin Crouch explained that this is an issue which could arise as much under the current licence as the proposed licence. The Special Modification Power was designed to deal with modifications to licence obligations which, due to the merger of the BA conditions into the main body of the licence, were specific to either DNOs or IDNOs but on which all licensees would be entitled to vote.

Roger Barnard explained that when using the Special Modification Power, Ofgem would be responsible for determining whether a licence modification affected solely IDNOs or DNOs or both.

Distribution Code

It was mentioned that the proposal to require licensees to maintain and comply with a single Distribution Code appeared to be ahead of the Distribution Code Review Panel (DCRP). That is it did not include anything on financial payments that licensees would have to contribute towards the governance of the Distribution Code.

Roger Barnard replied that the intention of the proposals was to provide a hook for a single distribution code which all licensees were obliged to develop in co-operation with all other electricity distributors, and a solid legal platform for new all-industry governance arrangements. He went on to state that the precise details of how the code was developed, maintained and financed could be dealt with in the governance arrangements for the code, rather than within the licence.

General consents

The question was asked as to whether existing consents (concerning the disposal of relevant assets) would be rescinded in light of the proposed inclusion of consents within the proposed licence.

Martin Crouch replied that this would be the case. Nicholas Rubin reminded attendees that if the general consents were rescinded, the rules of interpretation (proposed condition 2.15) would allow for the effect of actions taken under those general consents to have continuing effect.

Reduction of IDNO notice of changes to UoS charges

An attendee responded to the DLR's consultation question which asked whether it was appropriate for IDNOs to issue 3 months' notice. He commented that the issue should be consulted on separately as suppliers may have an issue with any reduction in the notice period.

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Martin Crouch said that, in practice, any reduction in notice period would have very limited effect on suppliers since they could have confidence that any revised IDNO UoS charges would neither exceed nor be less than the host DNO charge. He reminded them that they would still receive 3 months' notice of any DNO charge changes but asked that any views should be provided in responses to the consultation.