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Response to Ofgem Consultation on Electricity

Distribution Licence Review Proposals

Introduction

Energy Action Scotland (EAS) is the Scottish charity with the remit of ending fuel poverty. EAS has been working with this remit since its inception in 1983 and has campaigned on the issue of fuel poverty and delivered many practical and research projects to tackle the problems of cold, damp homes. EAS has worked with both the Scottish Government and the UK Government on energy efficiency programme design and implementation.

EAS has responded to various consultations associated with the Supply Licence Review and also to the Ofgem consultations on Complaint Handling Standards and on Redress Schemes in the Energy Sector. EAS welcomes this consultation on the standard licence conditions of the Electricity Distribution Licence and supports the general move towards making licence conditions clearer and easier to understand.

EAS is primarily concerned with the impact of energy regulation policy on the fuel poor and other vulnerable consumers and this response concentrates mainly on the aspects of the consultation which are likely to affect those consumers in Scotland.

Fuel Poverty in Scotland

The Scottish Government is required by the Housing (Scotland) Act 2001 to end fuel poverty, as far as is practicable, by 2016 and plans to do this are set out in the Scottish Fuel Poverty Statement. The number of Scottish households living in fuel poverty dropped from 738,000 (35%) in 1996 to 286,000 (13%) in 2002. Half the reduction was due to increases in household income, 35% to reduced fuel prices and 15% to improved energy efficiency of housing¹. There was a dramatic downward push on fuel poverty between 1996 and 2002 with some 452,000 households being taken out of fuel poverty according to the Scottish House Condition Survey 2002 with falls in energy prices being a significant factor. The most recent figures from the Scottish House Condition Survey show an increase to 543,000 families living in fuel poverty in Scotland in 2005/06, representing 23 per cent of households.

According to a report produced by Communities Scotland², for every 5% rise in fuel prices an estimated 30,000 more households would go into fuel poverty. EAS estimates that there are currently 700,000 households, almost one in three, in fuel poverty in Scotland. This significant increase in fuel poverty is widely accepted to be due to the dramatic increases in domestic fuel prices and the price rises announced recently will exacerbate this situation.

EAS believes that the Scottish Government's target on the eradication of fuel poverty can be met but only if significant additional resources are directed into fuel poverty initiatives.

Response to Ofgem Consultation on Electricity Distribution Licence Review Proposals, 18 January 2008

¹ Fuel Poverty in Scotland: Further Analysis of the Scottish House Condition Survey 2002

² Fuel Poverty in Scotland: Further Analysis of the Scottish House Condition Survey 2002.

General comments about the Electricity Distribution Licence Review (DLR)

EAS accepts the views expressed in the consultation document that the DLR is designed to make the licence conditions clearer and easier to understand and supports the general principles set out in the Ofgem proposals. EAS understands that energywatch participated in the workgroup set up by Ofgem to review the process of rewriting the licence conditions. EAS notes that the proposals do not represent any substantive change in policy and that they are focussed on presenting licences in a clearer and more user friendly format. EAS supports the consolidation of duplicated conditions and the removal of those that have now become obsolete.

Specific questions in the consultation:

Chapter One

Question 1.1: Do you agree with the detailed proposals for modifying the standard conditions of the distribution licence, as described by this consultation document and in particular Appendices 3 and 4? Please give reasons for your answer.

EAS is supportive of the general principles behind the Review and accepts that some of the existing licence obligations are now obsolete and that there has been some duplication of conditions which can be consolidated without any significant loss of meaning.

Question 1.2: Do you consider that those proposals maintain the obligations and underlying policy captured by the current standard licence conditions? If you consider that obligations or policy have changed, please describe how you think this has happened and whether you think the change is appropriate.

EAS accepts that the proposed changes do not represent any substantive change in policy and that they appear to be designed to simplify the licence conditions in order to make them more user friendly. The only exceptions are those relating to vulnerable customers and those living in the Scottish Hydro-Electric Distribution area which is dealt with in response to Question 2.6.

Question 1.3: Do you consider that the proposals achieve the aims of the Distribution Licence Review and adhere to the principles of Better Regulation? Please give reasons for your answer.

The original licence conditions were very cumbersome and EAS accepts that the proposals described in the consultation documents represent clearer and more understandable language making them more accessible to the general domestic consumers and their representatives.

Question 1.4: Are there any changes which have been made as part of this review which you consider go beyond the scope of this review and should be considered under different terms of reference? Please give reasons for your answer.

Yes. EAS believes that the proposed changes to the codes of practice relating to services for vulnerable customers should be considered separately in order to ensure that the proposed changes do not represent any loss of protection for vulnerable customers.

Question 1.5: We have thoroughly reviewed the defined terms used in the standard licence conditions. As a consequence in some cases we propose to introduce, replace and remove certain terms. Are our proposals appropriate? Do they maintain existing licence obligations and underlying policy? Will our proposals have consequential effects on industry codes and arrangements outside the scope of the Distribution Licence Review? Please give reasons for your answer.

EAS is generally supportive of the proposals and agrees that the removal of certain terms does not appear to represent any significant change to Ofgem's obligations. However, EAS recommends that licence conditions relating to vulnerable customers and complaint handling procedures may require separate consideration.

Question 1.6: Do you have any general comments or observations that you think should be taken into account as part of this consultation?

EAS is generally supportive of any measures that will make licence conditions more accessible to energy consumers but would be very concerned if the rights of vulnerable consumers were to be diluted as a result and therefore EAS urges Ofgem to ensure that this general principle is central to its drive towards better regulation of the energy markets.

Chapter Two

Question 2.1: This chapter sets out specific significant changes and related issues. Do you consider that we have captured and explained these changes and issues adequately? Are there other changes and issues which you consider should be covered in more detail by this review? If so, please could you explain why they are significant and how we could address them?

EAS is satisfied that the changes set out in the consultation documents have in general been adequately explained and appear to be an improvement on the original text. However, the process for formal consultation on the obligations relating to vulnerable customers needs further consideration and EAS recommends that these should be considered in more detail before a final decision is taken.

Question 2.2: We propose to significantly consolidate the obligations on DNOs and IDNOs in relation to financial ring fencing. As a consequence of consolidating these obligations we have identified issues and proposed solutions. We welcome your views in relation to how appropriate our proposals are for consolidating these obligations.

EAS has no strong views on this subject other than to reiterate that any changes to licence conditions should ensure that the needs of vulnerable customers are taken into consideration.

Question 2.3: Are our proposals to consolidate obligations in relation to codes of practice and vulnerable customers appropriate? In particular, do our proposed changes maintain adequate protection for vulnerable customers? Please give reasons for your answers.

EAS supports the proposals to simplify the obligations relating to vulnerable customers and to consolidate them into the Supply Licence Conditions (SLC). EAS also accepts that the current system of approving Codes of Practice is overly bureaucratic and that replacing them with statements in plain and intelligible language to be made available to customers on request and published on suppliers website may be more appropriate.

The Codes of Practice are currently subject to Ofgem approval and it is not clear from the consultation document whether the content of the statements relating to vulnerable customers and complaint handling will be subject to an approval process which EAS recommends should be subject to an approval process. EAS recommends that this issue needs further consideration in order to ensure there is no loss of protection for vulnerable customers.

EAS notes that in the process of removing the requirement to produce codes of practice some obligations and provisions are being removed from the licence and that such requirements may be provided for by encouraging best practice. EAS does not accept that 'encouraging best practice' is sufficient, and urges Ofgem to ensure that the changes proposed under the DLR do not represent a dilution of protection for vulnerable customers.

In the current climate of rising energy prices and changes to consumer representation arrangements EAS believes that protection for vulnerable customers must be robust and therefore EAS recommends that provisions relating to the Priority Services Register and other obligations relating to vulnerable customers should remain within the licence framework.

Question 2.4: A consequence of consolidation is that the obligations in relation to requiring that licensees do not restrict, distort or prevent competition have been redrafted. We welcome views as to whether our proposals substantially reflect existing obligations and are appropriate.

EAS has no strong views about this aspect of the consultation other than to state that any move to broaden or weaken licence obligations is likely to have an adverse effect on vulnerable customers.

Question 2.5: Is our proposal to clarify that licensees should comply with a single Distribution Code appropriate? Please give reasons for your answer.

EAS supports the proposal that all licencees should be subject to a single distribution code as this change should result in codes being more concise and easier to use.

Question 2.6: SLCs 53 A, B and C relate to assistance for areas with high distribution costs, which in practice only apply to Scottish Hydro-Electric Distribution within its distribution services area. Is it appropriate for these conditions to be removed from the standard licence and should they be added to Scottish Hydro-Electric Distribution's licence as special conditions? Please give reasons for your answer.

The Scottish Hydro-Electric Distribution currently has a high percentage of housing which is termed as "hard to treat" in energy efficiency terms and therefore customers living in that area are more likely to be in fuel poverty. In view of this fact EAS supports the proposal to add special conditions to the Scottish Hydro-Electric Distribution Licence. This issue could be subject to a sunset clause to be reviewed at a later date.

Question 2.7: In relation to the implementation of the modified standard licence, we welcome your views generally in relation to our proposals for performing statutory consultations. In particular, we welcome views in relation to our proposal to amend special condition A1.

EAS agrees with the proposal to amend special condition A1 as set out in the consultation document.

Chapter Three

Question 3.1: Should any of the projects highlighted by this chapter be incorporated into the scope of the DLR and therefore its proposed changes? Please give reasons for your answer.

EAS is pleased to note that Ofgem has accepted that the consultation on complaint handling may result in future changes to provisions and therefore recommends that this issue should be reconsidered after the changes to complaint handling procedures under CEAR have been fully considered.

Question 3.2: Have we failed to mention related projects that in your view should be considered within the scope of the DLR and its proposals? If so, what are these and how should they be incorporated into the review?

EAS is unaware of any other projects that should be considered within the review.

Question 3.3: Should the three month notice period that licensees must give when changing UoS charges be maintained in relation to all licensees, or reduced in relation to IDNOs and DNOs operating out of area? If you consider the notice period should be reduced what would be an appropriate notice period for IDNOs and DNOs operating out of area? Please give reasons for your answer.

EAS has no strong views on this issue.

Question 3.4: Is it necessary to maintain the requirement on IDNOs and out of area DNOs to have a charging methodology in relation to charges for which they have adopted the host DNO's charges? Please give reasons for your answer.

EAS has no strong views on this subject.

Chapter Four

Question 4.1: Is it appropriate to review the policy areas identified in the future? If so, what aspects of these policy areas do you consider should be reviewed and why?

EAS strongly recommends that licence obligations relating to metering should be reviewed when smart metering is rolled out across the UK in order to ensure that consumers are adequately protected when the new technology is introduced.

Question 4.2: Are there other policy areas which in your view should be subject to future review? If so, which areas and why?

EAS would suggest that the opening of competition in the European energy market may have an impact on UK energy consumers and that this issue may need to be reviewed at a future date.

Chapter Five

Question 5.1: Taken as a package, please indicate whether, in principle, you would accept or object to these proposals. Please give reasons for your answer.

EAS is generally supportive of the proposals apart from those relating to licence obligations relating to the protection of vulnerable customers and complaint handling procedures.

Conclusions:

EAS understands the need to revise licence conditions and accepts the move to simplify the style and format of the licences in order to make them more accessible to the general public. The move towards better regulation must not be carried out at the expense of weakening current protection for vulnerable and fuel poor customers. In the current climate of rising energy prices and uncertainty about the effectiveness of new consumer protection arrangements under CEAR, EAS recommends that any changes to licence conditions should enhance rather than reduce protection for vulnerable customers.