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Your Ref: Ofgem doc 259/07

Dear Simon

### **Electricity Distribution Licence Review: Proposals consultation**

energywatch welcomes the opportunity to respond to the issues raised in this consultation. This response is non-confidential and we are happy for it to be published on the Ofgem website.

As one of the parties involved in the review of the licence, we are pleased to support the primary aim of improving the clarity, understanding and accessibility of the licence. It was clear at the outset of the review that consideration of policy issues should not form part of the review, as addressing these would require a detailed and lengthy process involving much wider stakeholder participation. We believe that the review workgroup made considerable progress in addressing the primary aim, resulting in this document. We intend to continue to engage with Ofgem and licence holders on policy issues through DPCR 5.

We note Ofgem's emphasis on meeting its better regulation objectives. While we welcome the need to make licences and other regulatory instruments clearer for users, simpler and of an appropriate size, better regulation should reflect Ofgem's primary statutory duty to consumers to protect their interests through the promotion and facilitation of competition. There should be an effective and appropriate balance which ensures that consumers enjoy essential protections through obligations on licensees when competition cannot deliver, while removing unnecessary burdens which hinder effective competition which can also adversely impact on consumers. Ofgem must take particular care, in the case of services provided by monopoly network operators, to develop an acceptable balance. Better regulation should reflect the need for 'less' to be just as effective, in terms of consumer protection, as before the 'slimming down' of a licence.

### **Obligations relating to codes of practice and vulnerable consumers**

We believe that the drafting of Chapter 3 of the revised standard licence conditions (PLCs 8 to 11) are generally appropriate and reflect the current obligations towards vulnerable consumers and consumers in general that apply to electricity distribution companies. By placing these obligations, which are currently developed through

codes of practice statements which then require separate approval by Ofgem, directly in the licence we believe that some administrative burden is also lifted from the companies while making the enforcement of the obligations easier in the case of a licence breach.

We do have some suggestions for tidying up the legal drafting further (in bold italics) which we believe would be an improvement:

- in PLCs 8 and 9, there is no explicit provision for the statements relating to the Safety and Security of Supplies Enquiry Service and to arrangements for access to premises to be provided ***in a manner or format that is suitable for the special communication needs of certain customers***, as is the case with statements in PLC 10. This should be made explicit in these PLCs.
- PLC 10.8 “The licensee must provide facilities, free of charge, which enable any Domestic Customer who is:
  - (a) blind or partially sighted, ***by telephone or other appropriate means***; or
  - (b) deaf or hearing-impaired and in possession of appropriate equipment, to ask or complain about any service provided by the licensee”.

*(In our view, this better reflects the drafting of the current SLC 18(2)).*

### **Other comments**

We note the concern of some DNO representatives at the licence review workshop in November 2007 that certain definitions should not be removed if they better represent the meaning of a term than the proposed replacement, e.g. De Minimis Business which is being replaced by Ancillary Business. This issue may need to be considered further depending on the responses to this consultation.

We agree with the proposed treatment for keeping the existing definitions in licensees’ special licence conditions the same as they are prior to the introduction of these proposed standard licence conditions from 1 April 2008. Otherwise there is a risk of confusion with the same definitions which may appear in both special and standard licence conditions.

We look forward to engaging with Ofgem in further debate on the review of Engineering Recommendation P2/6. In the meantime, the existing licence condition should be retained and, subject to the proposed redraft, transferred into PLC 24.1.

We have responded to Ofgem’s recent consultation on complaint handling procedures to apply to different types of licensee and await Ofgem’s conclusions. If there is a requirement for additions to the revised distribution licences as a result of the consultation outcome, we would expect Ofgem to come forward with appropriate drafting.

We note that IDNOs and DNOs operating out of area require to provide three months’ notice for changes to their use of system charges under existing licence

obligations. We do not have a strong opinion on the length of the appropriate notice period and we appreciate that three months may be excessive and insufficient in terms of allowing such operators to adjust to host DNOs' charges, unless they simply intend to adopt the host DNOs' charges. However, whichever notice period is chosen must be adequate to prevent potentially significant tariff disturbance to consumers who are passive users of networks and have to pay whatever level of charges the DNOs, to which they are connected, impose on them. Consumers must not be disadvantaged by a reduced notice period.

Going forward, we will continue to keep these issues under review as and when they are raised, always considering the possible impact on consumers. If Ofgem chooses to take forward further reviews as they apply to the electricity distribution licensees, we will take a full and active part in those further reviews.

We would appreciate being kept informed of the progress of this consultation and any related issues to enable us to comment further as the need arises.

If you do wish to discuss our response further please do not hesitate to contact me on 0191 2212072.

Yours sincerely

A handwritten signature in black ink that reads "Carole Pitkeathley". The signature is written in a cursive style with a large initial 'C' and a long, sweeping underline.

Carole Pitkeathley  
Head of Regulatory Affairs