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Dear Simon,

ELECTRICITY DISTRIBUTION LICENCE REVIEW PROPOSALS

I write in response to your consultation published in October and the opportunity to comment on the welcome proposals to update the licence.

Introduction

We have been fully supportive of the Ofgem/ENA's co-ordinating role on this issue and welcome many of the proposals and the helpful Ofgem workshop on 29 November. We have a number of comments on the proposals and these are based on the proposed new section titles within the new standard licence conditions document and the proposed individual licence condition number where appropriate. We would also add for the future, that Ofgem should continue to regularly update the licence as required on the Ofgem website.

Chapter 1- Interpretation and Application

Some concern was expressed at the workshop regarding the removal of all Latin expressions such as replacing 'de-minimis business' with 'ancillary business'. We support efforts to make the licence more accessible and therefore the replacement of most expressions of that type is justified. However, there is probably a sensible middle-way whereby an expression such as 'de-minimis business' which is fully familiar to regular users of the licence and does not have an easily defined alternative should remain. Perhaps the option used in the Water licence should be considered, namely activities referred to as 'non-regulated activities'.

Chapter 4- Arrangements for the provision of services- SLCs 12-14

The need for a long Use of System contract notice period has been diminished by the restriction to two price changes a year (imposed by the DCUSA) and the publication of our price control projected outturn at points throughout the year. This means that suppliers now

have sufficient enough information on our income recovery and pricing mechanisms. From a DNOs point of view a reduction from 90 days would allow DNOs to produce more robust and accurate indicative prices. This would align more closely to final values to the benefit of all users of our system. We would suggest the notice period could perhaps be formally reduced to 60 days and it should apply to all network users including IDNOs.

Paragraph 3.10 of the consultation asks for comments on whether the requirement to have a charging methodology is necessary when the IDNO or out of area DNO simply adopts the host DNO's charges. The obligation to have a charging methodology in place must be equal across all parties whether a DNO, IDNO or a DNO operating out of area. A level playing field and the need for cost reflective charging must be maintained. This suggestion should be rejected.

We support the formalisation of the web publication in place of the 1st April obligation.

Chapter 5- Industry codes and agreements- SLC 21

We have a number of specific comments on the proposed Distribution Code licence condition. SLC 21.4 - is deficient in that the Code should include transmission in as "... economical system for the *transmission and* distribution of electricity;" and also (b) facilitate competition in the generation, supply, transmission and distribution of electricity

SLC 21.8-21.11 - these provisions need to be clarified with the work proceeding on the DCRP governance going forward.

SLC 21.12 – We are unclear about the need for this provision. Is this necessary now for a document of this nature as it is available on the web? There is no similar requirement, correctly so, for a document such as the DCUSA and we see no need for such a requirement for the Distribution Code.

Chapter 9- Requirements within the Distribution services area- SLCs 37-39

We would support a further review by Ofgem of the competitive metering market as previously suggested.

The remaining metering obligations (SLC 37 and part of SLC 39) could be removed at the next price control review given the considerable market power that suppliers exercise in relation to the provision of metering services. The substantial loss of market share in recent years is sufficient evidence of the existence of a competitive market. The current transitional period where some obligations remain on DNOs should only be considered as a safety net in cases where competition had not fully developed and this should be reviewed. Any protection still needed is provided by competition law.

It is also important that Ofgem links the approach to removing remaining metering obligations to ongoing work on the development of smart metering in conjunction with BERR. Ofgem has recognised the genuine risk from early replacement of smartcard technology and the need for stranding protection for all PPM technologies. Early replacement of any meters as a result of a

smart meter installation programme would result in very significant stranded assets and arrangements will need to be put in place to compensate owners of existing meters. However, as we have indicated to BERR, we continue to believe that DNOs are best placed to offer smart meter installation as a monopoly service to the industry and within an appropriate timescale.

The above metering issues will need to be considered at the next distribution price control review and discussions should also include continuing the de-minimis threshold, revenue protection issues and UMETS.

Chapter 10- Independence of the Distribution Business

The proposed Compliance officer provisions should remain in the revised licence whilst vertically integrated companies exist. In fact, we would argue that there could be circumstances where the role should be extended to ensure there is no cross subsidy of one regulated company and another (eg SSE and SGN). We have had concerns for some time as to how seriously Ofgem monitor this issue and in particular on branding. It remains important that the vertically integrated companies should be compliant on business separation issues and we would urge Ofgem to look at whether the branding of some companies is still compliant.

Chapter 11- Provision of regulatory information

As most of the important information we submit to Ofgem is now included in the RRP and Revenue RIGs submissions, we question the future merit in keeping the Regulatory Accounts requirement. Companies will still have to produce statutory accounts and a streamlining of some of the financial information currently provided to Ofgem would also meet better regulation objectives.

We would therefore suggest that Ofgem could usefully remove the requirement to produce Regulatory accounts and consider how some of the information provided in the RRP/Revenue RIGs/DG RIGs could be consolidated. We would also suggest that there may be some sense in incorporating a Quality of Supply discussion into the Ofgem September RRP visit. Perhaps consideration could be given by Ofgem to publishing the Cost & Quality reports at the same time (or even as a single volume) as they both seem to take until December to finalise in any event. Such a move would allow companies, stakeholders and customers to be able to view a companies' cost and quality performance together more easily.

I hope our comments and suggestions where relevant are of assistance.

Yours sincerely

Paul Bircham
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