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07<sup>th</sup> January 2008

Dear Mr Polley,

**Ref: Electricity Distribution Licence Review – Proposals Document**


Thank you for the opportunity to comment on this review, which we believe is a positive step in improving clarity and will assist in supporting the principles of better regulation. We would also like to take this opportunity to thank the parties on the working group for their hard work

We have some specific points on issues raised within the consultation document, which are detailed in the chapters that follow. We also wish to highlight one key issue of principle, which we address first:

- we do not believe that the weakening of obligations was within the scope of this review and on this basis no changes should be made that weakens the obligation on licensees not to restrict, distort or prevent competition.

I hope these comments are helpful. Please let me know if you require any clarification or further detail that might assist in finalising the proposals prior to implementation.

Yours sincerely



**Darren Grundy**  
**Business Leader**  
**For Laing O'Rourke Energy**

## ELECTRICITY DISTRIBUTION LICENCE REVIEW – OFGEM CONSULTATION LAING O'ROURKE ENERGY RESPONSES

### 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.

**LOE Answer:** In general we agree with the proposals for modifying the standard conditions of the distribution licence, with the exception of the points noted in answers to other questions in this response.

**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.

**LOE Answer:** In general we believe that the proposals maintain the obligations in the current standard licence conditions, with the exception of the points noted in answers to other questions in this response.

**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.

**LOE Answer:** In general we believe that the proposals meet the aims of the review, with the exception of the points noted in answers to other questions in this response.

**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.

**LOE Answer:** As discussed in our answer to question 2.4 below, we will object to any measure which weakens the existing licence obligations to not restrict, distort or prevent competition in the electricity distribution sector. We do not believe that the weakening of such obligations was within the scope of this review. If the weakening of this obligation is not removed as part of this initial consultation exercise then we would wish this change to be considered separately, as we would not want the generally welcome improvements to the licence to be held back by this one issue.

**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.

**LOE Answer:** We have no comment to make on this issue.

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

**LOE Answer:** We have no further general comments to make, other than those in answers to other questions in this response.

## 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?

**LOE Answer:** We have no comment to make on this issue.

**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.

**LOE Answer:** We have no comment to make on this issue.

**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.

**LOE Answer:** We have no objection to these provisions.

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

**LOE Answer:** Given the current fragile state of competition within electricity distribution we would object to any change that weakens the obligation on licensees not to restrict, distort or prevent competition. There has not been any compelling reason given for the proposed change, either in the consultation document or at the Ofgem workshop on 29 November 2007. The proposed change is apparently due to the consolidation of text only, and we do not accept that this should result in any weakening of the obligations with regard to competition. The proposed text for this area should be redrafted such that no weakening of the current licence requirements exists. Even if the effect of the modified wording is seen as not being material in practice, we feel that any indication that the obligation on licensees not to restrict, distort or prevent competition can be weakened is unwelcome and will be detrimental to the promotion of competition in the electricity distribution industry.

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

**LOE Answer:** Provided there is a satisfactory outcome to the current consultation on incorporation of IDNOs into Distribution Code Review Panel governance leading to IDNOs have suitable representation on the DCRP then we agree that this provision is acceptable.

**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.

**LOE Answer:** We have no comment to make on this issue.

**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.

**LOE Answer:** We believe that the proposed new condition included as Annex 1 to the proposed legal text should be included within the new licence, such that IDNOs can vote on IDNO only issues. We are concerned, however, about how DNOs operating out of area would be treated with regard to this proposal. If the 'Relevant Licence Holders that are not Distribution Services Providers' definition includes DNOs that may wish in the future to operate out of area then all DNOs could be included and the proposed licence condition will not provide any further protection for IDNOs.

### 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.

**LOE Answer:** We have no comment to make on this issue.

**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?

**LOE Answer:** We have no comment to make on this issue.

**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.

**LOE Answer:** Given the requirements of relative price control it is not reasonable, nor indeed practically feasible, for IDNOs to have the same three month notice period

as the DNOs. Following publication of a revised DNO UoS charging statement IDNOs would need to modify and publish their own UoS charging statements, based on the DNO charges, within the same day in order to maintain compliance with the requirements of proposed licence condition 34.4 'Regulation of Charging Arrangements'. Following publication of the DNO's charging statements IDNOs will need time to review the changes and assess any impact, as significant changes may alter the IDNO's business model which may then impact on the charging methodology and the use of system charges. There is also the administration time required to update the use of system charging statement, which as there may be 12 separate charging statements to modify including any tariff changes and modified line loss factors is not an insignificant task. We believe that a two month notice period will be reasonable, as this will allow IDNOs one month to respond to any upstream DNO changes and still give suppliers two months to respond to subsequent IDNO changes. In the majority of cases the changes to the IDNO charging statements will just reflect the changes made by the upstream DNO and so the suppliers will also have had prior warning of the likely changes.

**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.

**LOE Answer:** If the IDNO has adopted the host DNO's charges, we do not consider that production of an appropriate charging methodology statement is a significant imposition. As such we are happy that the requirement to produce a charging methodology statement remains in the licence under these conditions.

## 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?

**LOE Answer:** We have no comment to make on this issue.

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

**LOE Answer:** We have no comment to make on this issue.

## 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.

**LOE Answer:** In general we think that the proposals result in a significant improvement on the existing standard licence conditions, and would like to thank the parties on the working group for their hard work. As such we would like to be able to accept the proposals, however we do have a number of significant comments as stated in the responses to other questions. If these are not addressed as part of this

consultation, particularly the issue around weakening the obligations on licensees not to restrict, distort or prevent competition, then we would have no option but to object to the proposals. It would be unfortunate if the benefits of the majority of the changes were delayed or not achieved due to a small number of significant issues. If these issues are not removed following this informal consultation, we would recommend that the statutory consultation on the majority of the proposal be carried out separately from any outstanding contentious items.