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Dear Ayesha

GDPCR – Second Licence Drafting Consultation Document

You have invited views on any issues raised in the GDPCR – Second Licence Drafting Consultation document. I am pleased to set these out below:

CHAPTER: Two

Question 1: *Is it appropriate to include a provision in SC E7 which enables the Authority to determine on TMA costs that are not already covered by the provisions of the re-opener?*

We strongly support the inclusion of a provision in SC E7 which would enable the Authority to determine any other categories of TMA costs which it may be appropriate to include in the re-opener provisions at the request of the GDNs. It is not clear that the categories set out in the draft licence condition of permit costs, fixed penalties and ongoing administration costs, would include additional costs incurred under the TMA due to, for example, local authorities prescribing routes other than the most efficient identified by the DN and when work can be undertaken. The TMA provides a number of such new powers to local authorities and we believe these are legitimate costs for the re-opener and therefore the drafting of this provision should be broadened to include other legitimate costs.

Question 2: *Are our proposed changes to SC Part E appropriate?*

Appendix 15 – Part E:

- **SC E6 – Exit Capacity costs and incentive revenue.** In Paras. 2 and 13, the words “relevant NTS operator” need to be changed to “shipper or relevant shipper” as in the definition of ExIIC in Para. 10.

In the first line of Para. 16, the words “the condition” have been included in error.

Also in Para. 16, the definition of NTSIC_hE should refer to Formula Year t-3 not t-4.

We believe the last sentence of paragraphs 11 and 12 are no longer required. However, to the extent that they are retained the dates should be amended to correspond with Ofgem’s proposal to apply the enduring incentive from 1st April 2011.

- SC E7 – Adjustment factor. In Para. 2, the definition of IE_t should refer to “ EDC_t in paragraph 17” not “ EIT_t in paragraph 16”. This correction needs to be made through the rest of this condition e.g. paras. 3(c) and 7(b).

In Part D Para. 12, in relation to the tax liability re-opener, the drafting only caters for the potential move to IFRS. In our view, this should also include the HMRC changing the tax rules for replacement expenditure, which it is possible could change independent of any statutory accounting requirement.

We also note that in Para. 22(b) the period within which the Authority has to make a determination has been extended, without explanation, from 3 months to 6 months. This is unhelpful and leaves the DN with an extended period of uncertainty over its allowed revenue.

- SC E8 – Shrinkage allowance. The GDNs have recently held the first meeting with xoserve and NTS to discuss the changes required to UNC and the Gemini systems to implement the new shrinkage arrangements. xoserve has indicated that it is unlikely that the required Gemini system changes can be completed in time for the software release in August, and the rollover to the new arrangements on 1 October. We believe that in order to avoid windfall gains / losses it is appropriate to include a provision that would allow Ofgem to extend the six-month rollover period, if the Gemini and UNC changes cannot be made quickly enough.

In Para. 2, we question whether in the formula for Sh_t the shrinkage factor $SF_{t,i}$ should be divided by 100 given that the shrinkage factors in Annex N are expressed as percentages.

In Para. 3, the definition of “d” refers to “an Approved Market Price Report” but it does not state which one. For the current one-year price control it is the 'Heren' Report, and we see no reason to change this. We urgently need certainty on this as we are already purchasing against the Heren market index for 2008/09.

In Annex N, the shrinkage factors given for our LDZs are incorrect, they are our leakage factors not our shrinkage factors. The correct figures should be: Scotland 0.490%; South East 0.679%; Southern.0.729%.

In Annex O, the header in the table should be “Shrinkage Factor SV (GWh)” not “Shrinkage Factor SF (%)”.

- SC E10 – Discretionary reward scheme. It would be helpful if this condition referenced the £4m proposed available, and the governance arrangements set out, in the GDPCR Final Proposals.
- SC E12 – Meterwork revenue driver. In Para. 2, the formula for LM_t appears to be missing, we believe it should be $LM_t = (TPV - MV_t) * (LMRD_t * RPI_t)$

CHAPTER: Three

Question 1: *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.*

SSC A19 – Provision of services for specific domestic customer groups. Para. 3 should include words “when asked to do so” or “on request”. This would also be consistent with SSC A20 para. 3(d) and (e) and SSC A21 para. 3(c), (d) and (e).

Question 2: *Is it appropriate to move some or all of the conditions in SSC A19-22 to the Standard Special Conditions in Part D? If so why?*

We have no further comment on this.

Question 3: *Are our proposed changes outlined in this chapter and set out in detail in the appendices appropriate?*

Appendix 7 - SLC 4B. We are currently submitting draft connections charging methodology statements for approval by the Authority. In the event that this process goes beyond 31 March 2008, and as this is a new obligation, we believe that it would be helpful in Para. 3, after the words "The licensee shall by 1 April 2008" to add the words "unless otherwise directed by the Authority" or similar. As a minimum we would expect prior confirmation from Ofgem that by submitting draft statements we have discharged our licence obligation.

Appendix 9 – Independent systems. We believe that this proposed licence condition for GDNs should be included within Part E, given the price control implications and impact on allowed revenue.

We are also of the view that para. 5 of the new condition for NGG NTS should require payments monthly rather than quarterly. This would then be consistent with the payment of general transportation charges.

Appendix 12 – Part A:

- SSC A20 – Arrangements for access to premises. Para. 1(c) should refer to "paragraph 2" of SSC A19 not "paragraph 3".
- SSC A37 – Availability of Resources. We continue to be of the firm opinion that it is not necessary nor appropriate to require DNs to also submit a cash flow forecast with the Availability of Resources Certificate. It should be sufficient for Ofgem's needs that the certificate is approved and signed by Directors and accompanied by an auditor's report.
- SSC A35 – Prohibition of Cross-Subsidies. Para. 4 should more correctly refer to "paragraph 3a above" not "paragraph 3 above".

Appendix 14 – Part D:

- SSC D8 – Reform of DN interruption arrangements. This licence condition does not appear to be mentioned in the consultation. However, consistent with Ofgem's views in the Initial Consultation, in our view it is no longer required following the implementation of Mod. 90 and should therefore be deleted. This would be consistent with Ofgem's decision to delete the equivalent enduring offtake reform licence condition SSC A55.
- SSC D9 – Distribution Network transportation activity incentive scheme and performance reporting. In the current licence condition, the Authority can only require additional categories of specified information or increased accuracy, subject to the provision of SSC D2 (voting threshold). This protection has been removed in the revised draft condition, and is now inconsistent with the equivalent electricity distribution licence condition. Such an additional requirement could have price control implications, in terms of additional system costs (at least), and given Ofgem's definition of Part E, we firmly believe that it should be reinstated.
- SSC D10 – Quality of service standards. Para. 2(f) is not clear and does not appear to be consistent with the GDPCR Final Proposals.

Para. 2(g) should, given the important concerns raised by DNs and that Ofgem have decided not to grant exemptions to this standard, as a minimum reflect the words set out in Para. 5.27 of the Final Proposals. In addition, in our view, this paragraph should still reference the distribution services area as does the current Overall Standard.

I hope the comments above are helpful, if you would like to discuss any of these issues further please call.

Yours sincerely

Paul Hemsley
Regulation Manager