

## Summary

ScottishPower Energy Networks welcomes the opportunity to respond to this consultation. We are grateful to the working group for their efforts in restructuring the distribution licence conditions, and believe that this has been a helpful exercise in making the licence easier to read and navigate.

Our main comments on the review are as follows:

### *1. Accessibility*

Much of the value of this project will be lost unless updated distribution licences on the Ofgem website are easier to locate and navigate. Although we note that there have been recent changes that have helped in this respect, it is still difficult for non-expert users to use the Electronic Public Register. Given that a number of industry codes will need to be amended to reflect the restructuring of these standard licence conditions, we think that unless accessibility is further improved, it is questionable whether the DLR project should be completed.

### *2. Existing anomalies*

This is also an opportunity to correct some anomalies in the existing licence. For example, the existing requirement in existing DLC 4D (new condition 12) for connection offers to provide for the installation of metering or for special metering to enable compliance by third parties with the BSC is no longer necessary in our view.

### *3. Complaints Handling*

In the light of the recent consultation on Complaints Handling Standards under the Consumer, Estate Agents and Redress Act, we believe that requirements in relation to complaints handling should be removed from the licence.

### *4. Requirement not to distort competition (new Condition 4)*

We are concerned at the broadening in scope of existing requirements now proposed. In addition, the changes would require licensees to positively seek out the best action in competition terms from among a range of possible actions, and in that respect they go beyond the present position. Accordingly, and given the intention of the DLR not to introduce policy changes, this consolidated condition should be redrafted to preserve the existing provisions.

### *5. Implementation of the DLR*

As some of the changes proposed have significant policy implications (for example, new Condition 4, and changes to the Distribution Business definition), we think that a further update and consultation on the relevant changes should be undertaken before the statutory consultation takes place.

**Detailed comments by chapter*****Chapter 1 – Overview***

We support the proposals to have two sections for standard licence conditions rather than three, and to merge the ‘BA’ conditions relating to IDNOs with the corresponding DNO licence conditions.

**Question 1.5 – Defined terms**

The introduction of capital letters for defined terms is to be welcomed.

***‘Condition 1’ definitions***

“Basic metering services” - we note that this new definition applies only to June 2003 standards of service, and that ‘basic metering equipment’ covers only June 2003 metering functionality. This in turn feeds into the definition of “Distribution Business” (for Distribution Services Providers). It is not clear why the 2003 reference applies (in effect) in respect of DNO metering activity in relation to this definition, whereas in the existing licence (and in the case of IDNOs in the new licence) it does not. This change could have significant implications due to the restrictions on licensees undertaking activities other than the “Distribution Business”.

“Conditions” – this definition is not very clear and we are not sure why it is needed.

“Distribution Business” – see comments above on “basic metering equipment” and “basic metering services” definitions.

“Electricity Supplier” - in the current draft, this includes only licensed suppliers (at present, a Supplier must be ‘Authorised’, whether by licence or exemption). The reason for the change is unclear.

***Chapter 2 - specific changes and related issues*****Question 2.1 – significant changes and related issues**

We think that there are some redundant obligations that should be taken into account as part of this review. For example, existing condition 4D (new condition 12) - (requirement to offer terms for (use of system and) connection), includes the existing requirement that connection offers must make detailed provision in relation to installation of metering required to measure flows to and from the licensee’s distribution system (new paragraph 12.3(d)(i)). It must also provide for any special metering to enable compliance with the BSC by a third party and (12.3 (d)(ii)). These requirements date back to ‘PES’ licences, and can now be removed.

**Question 2.2 – consolidation of obligations on DNOS and IDNOs in relation to financial ring fencing**

We agree that DNOs could in theory block changes to the new Condition 33 that relate solely to IDNOs, and vice versa. This point applies also the other new 'hybrid' conditions that combine the 'BA' conditions in IDNO licence with the corresponding DNO licence conditions. We agree that the draft Special Condition X could in theory address this issue by providing for circumstances where only the class of licence holders affected by a modification are entitled to vote. However, in practice there may be room for debate about when a party is directly affected, and so we think it would be better to stick with the status quo, eliminating as many differences as it is reasonable to do. That approach would also avoid complications if the statutory voting rules for licence modifications are changed.

### **Question 2.3 – codes of practice and vulnerable customers.**

We agree with the proposal to replace the requirement to have in place approved codes of practice with a requirement to publish statements that clearly set out arrangements whereby the licensee will meet its obligations.

Following the proposals in Ofgem's recent consultation on complaints handling standards under the Consumers, Estate Agents and Redress Act, we do not think that new condition 10 should specify requirements in relation to complaints handling.

We think that the redrafted requirements in relation to vulnerable and disabled customers in new condition 10 are reasonable.

### **Question 2.4 – requirement not to distort competition**

The new Condition 4 (no abuse of the licensee's special condition) consolidates requirements across a number of existing conditions. As recognised in paragraphs 2.19 to 2.22 of the consultation paper, in doing so it widens the scope of certain prohibitions, for example in relation to competition in metering equipment and metering services. We do not think that this is justified or appropriate as a part of the current licence review

In addition, the new provision that the licence must carry on its activities "... in the manner most likely to ensure that its conduct... does not ... restrict, distort or prevent competition..." strengthens the existing requirements, as in order to comply, it seems that the licensee must actively seek out the single most effective course of action in avoiding restriction of competition etc.

In both the above respects, the amended obligations in new Condition 4 are inappropriate and the existing provisions should be preserved. We attach a redrafted version of new Condition 4 that seeks to do this. In view of the significant policy implications of the proposed Condition 4, we think that there should be a further consultation prior to a statutory consultation taking place.

### **Question 2.5 – single Distribution Code**

We think that this is a sensible change that reflects the current position in practice.

**Question 2.7 – format of statutory consultations and proposed amendment to special condition A1**

The proposal to implement the changes to standard conditions as a package is appropriate, once policy matters such as those mentioned above have been addressed. We think that there should be a further informal consultation on the relevant points prior to the statutory consultation on licence modifications.

We think that the proposed amendment to special condition A1 to preserve the March 2008 definitions of terms in standard conditions for the purposes of special conditions appears to be a sensible one.

**Question 3.1 – P2/6, complaint handling and IDNO charges**

Regarding P2/6, we understand that proposals on possible licence changes are being considered. Significant changes should be dealt with separately from this licence review.

Our comments on complaint handling are dealt with under question 2.7 above.

As regards the notice period for IDNO and out of area DNO charges we think that this should be addressed separately from this licence review, as the relative price cap applies in the first place only to domestic DUoS charges. The question of whether or not a charging methodology should apply is also not a straightforward one, as there may in some cases be significant scope for flexibility in charging structures within the constraints of the relative charging cap and the non-discrimination requirement.

**Question 4.1 and 4.2 – potential future changes**

We believe that it is appropriate to review the areas mentioned. The need for a continued requirement to offer terms for use of system could also be reviewed in the light of the DCUSA.

**ATTACHMENT – SUGGESTED REDRAFT OF NEW STANDARD CONDITION 4**

**Condition 4. No abuse of the licensee’s special position**

**Non-Distortion of Competition**

4.1 The licensee must at all times manage and operate its Distribution Business in a manner calculated to ensure that it does not restrict, prevent or distort competition in the supply of electricity or gas or the shipping of gas or the generation of electricity.

4.2 In setting its charges for connection or use of system, and in the provision of non-contestable connection services and information relating thereto, the licensee must not restrict, distort, or prevent competition in the generation, transmission, distribution, or supply of electricity or in the participation in the operation of an interconnector.

4.3 If the licensee is a Distribution Services Provider, then in setting its charges for, or in setting the other terms that will apply to, legacy basic meter asset provision and the provision of data services, the licensee must not restrict, distort or prevent competition in the generation, distribution or supply of electricity or in the provision of meter equipment, meter maintenance or data retrieval services.

**Prohibition of cross-subsidy**

4.4 If the licensee is a Distribution Services Provider, it must ensure in carrying on its activities that the Distribution Business does not give any cross-subsidy to, or receive any cross-subsidy from, any other business of:

- (a) the licensee; or
- (b) any Affiliate or Related Undertaking of the licensee.