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Dear Simon,

Electricity Distribution Licence Review Proposals

SSE welcomes the opportunity to comment on the proposed new distribution licence as published by Ofgem on 25th October 2007.

We support the key themes of the project, namely the no policy change; clearer and more user friendly style and format; consolidation; and the removal of obsolete obligations. Broadly, we believe that the proposed new licence adheres to these themes and is a clearer, more succinct and more accessible document as a result.

However, we do have some concerns with what we see as a broadening of the scope of the Distribution Licence Review ("DLR") in certain areas with the result that we believe the new, draft licence contains some specific additional obligations that are outwith the scope of the review.

We set our key concerns and comments below. We also attach, at Annex 1, our response to the questions raised by Ofgem in its consultation and, at Annex 2, our specific detailed commentary on the proposed new licence conditions.

Codes of Practice and Vulnerable Customers

We note that Chapter 3 of the new licence, "Public Service Requirements", contains significant new obligations which are currently set out either in the Codes of Practice or in Ofgem's guidance notes. However, given the proposal to replace the obligation for licensees to have

approved Codes of Practice with statements which comply with the licence, we accept that it is appropriate to add these obligations at this time. Notwithstanding the above we have a small number of specific concerns with the translation of the requirements into the proposed licence conditions. These are set out in Annex 2 and will need to be addressed prior to us accepting the licence modification proposals.

High Cost Distribution Areas

We agree that the provisions contained in SLC53A, B & C can be removed from the licence. Furthermore, as they are already adequately covered in the licensee's special conditions and the Transmission Licence we do not believe that it is necessary to replace them with other special licence conditions. We are happy to discuss this further with Ofgem.

BA Conditions

We believe that the most appropriate solution to the issues caused by consolidating BA conditions into Section A of the proposed licence is to align the small number of variant provisions into single licence conditions which apply both to IDNO's and DNO's.

Related Projects

We note that in section 3 of its consultation proposals paper Ofgem highlights a number of ongoing projects which have the potential to influence the future content of the distribution licence. We strongly believe that these projects should remain separate from the licence review.

In particular we note that in its "Open Letter Consultation on Electricity Distribution Network Planning – Engineering Recommendation P2/6 – 303/07", Ofgem states that it intends to address the clarity of the SLC5 obligation as part of the distribution licence review. We believe that this would be beyond the scope of the licence review project and should remain separate.

Should any proposals for licence modification be made as a result of these 'related projects', we believe that separate consultations should be issued and separate modifications made accordingly. We set out our specific comments on this matter in response to questions 3.1 to 3.4 in Annex 1.

Potential future changes

We note the potential future changes identified by Ofgem in section 4 of the proposals paper. We would welcome a review of a number of the areas highlighted and would also suggest the inclusion of a review of the Long Term Development Statement (SLC5). We set out our specific comments in response to questions 4.1 and 4.2 in Annex 1.

We note that Ofgem does not intend to consult further before issuing formal statutory notice to modify the standard conditions of the distribution licence and that they would prefer to introduce the changes through a single licence modification in February 2008. Whilst we understand Ofgem's desire to streamline the process, we believe that it would be prudent to consider a

further workshop and/or consultation depending on the level of detail and nature of responses received to the current consultation.

With regard to the desire for a single licence modification, we could not accept the proposals as they stand. In particular we have specific concerns over the treatment of Codes of Practice (CoPs) and vulnerable customers set out in Annex 2 of our response. However if these, and the other issues clearly marked as “Objection” in Annex 2 are addressed prior to the issue of a statutory consultation, SSE would not object to a single modification of the licence.

I hope that these comments are helpful. Please do not hesitate to contact me if you wish to discuss any of the issues raised further.

Yours sincerely,

Malcolm J Burns

Regulation Manager

Annex 1: Question Responses

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.

Our comments on the detailed proposals are covered in our response to the consultation questions below and in the commentary set out in Annex 2. Notwithstanding our desire to minimise the regulatory burden, we would urge Ofgem to consider hosting an additional workshop, or perhaps an additional consultation, depending on the outcome of this consultation, where any substantive concerns raised in the responses can be discussed. This may provide licensees with the comfort needed to accept the modifications as a single package.

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.

We highlight in our detailed commentary (at Annex 2) a number of areas where we believe that obligations on licensees have changed and hence where the DLR project has gone beyond the agreed scope. In particular there are a number of issues in Chapter 3 “Public Service Requirements” of the new licence. However, if these concerns are addressed, we would be able to accept the changes as a single modification

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.

In general we believe that the proposals do achieve the aims of the review and the principles of Better Regulation and we welcome the additional clarity and accessibility of the proposed licence. We have noted in Annex 2 where we believe that the aims and scope of the review and the principles of Better Regulation have not been met.

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.

Yes, please see our response to question 2.3 below.

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.

We believe that it would be clearer if the definitions which remain embedded within specific licence conditions were lifted and placed in PLC1 and PLC36. Ideally we would prefer to see all definitions in one place and not split between PLC 1 and PLC 36.

We do not understand the need to redefine the terms “*basic meter operation services*” and “*basic meter asset provision*”, as highlighted by Ofgem in its proposals paper, as these were the subject of revision during the recent redrafting of SLC36. The terms “*meter asset provision*” (MAP) and “*meter operation provision*” (MOP) are well known and understood throughout the industry. We strongly believe that these definitions should not be changed.

Please also see our specific comments on defined terms set out in Annex 2.

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

With any exercise of this scale, it is possible that in redrafting the licence, some unintended consequences may result. Whilst we acknowledge that the proposed changes have had the benefit of expert review, we would welcome recognition from Ofgem that unintended consequences may occur. Where these are subsequently identified we would wish assurance that Ofgem will take necessary steps to address the issues and modify the licence, following consultation, accordingly.

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?

We believe that, with minor exceptions, (detailed in Annex 2), Ofgem has captured and explained the changes properly.

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.

We believe that the most appropriate solution to the issues caused by consolidating BA conditions into Section A of the proposed licence is to align the small number of variant provisions into single licence conditions which apply both to DNO's and IDNO's.

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.

We believe that Ofgem's proposals for the treatment of licence conditions which relate to codes of practice and vulnerable customers are outwith the scope of the review. By codifying, within the licence, requirements which are currently set out in the Codes of Practice and guidance documents, Ofgem is placing additional obligations on licensees. However, given the proposal to replace the obligation for licensees to have approved Codes of Practice with statements which comply with the licence, we accept that it is appropriate to add these obligations at this time.

Notwithstanding our concerns about the principles underpinning these proposals, we set out specific issues which arise from the changes to obligations in relation to codes of practice and vulnerable customers In Annex 2.

Ofgem notes in Section 3 of the proposals paper that the recently introduced Consumers, Estate Agents and Redress Act 2007 ("CEAR") will have significant implications for the way in which complaint handling procedures and standards are stipulated and enforced. Given this, and given that Ofgem itself acknowledges that these changes are likely to necessitate future modification of the licence, we are unclear as to why Ofgem has proposed changes to current SLC21 (Complaint Handling Procedure) which in themselves change the obligations set out in the current licence. For example PLC10 expands on the provisions in SLC21 by adding new requirements to publicise services and procedures in relation to Complaint Handling.

We believe that Ofgem should leave the text of SLC21 unchanged and consult on proposed changes to SLC21 when the final outcomes and impact of CEAR are known.

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

Whilst we do not object to these modifications, we note that PLC4.2 expands on the obligations in respect of restriction, distortion and prevention of competition in that these now apply to all of a licensee's "activities". Notwithstanding this, we are of course aware of the Competition Act obligations in this regard and hence accept the broad widening of the licence obligation on the basis that significant consolidation and improvement in clarity results from Ofgem's proposals.

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

We agree with the proposals but would urge Ofgem to consider providing flexibility in the wording of the relevant PLC's to allow for the possibility that a single Distribution Code may not be formally in place by 1st April 2008.

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.

We agree that the provisions contained in SLC53A, B & C can be removed from the licence. We do not believe that it is necessary to include these within the Special Licence Conditions for Scottish Hydro Electric Power Distribution as they are already covered both there and in the Transmission Licence.

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.

Please see our response to question 1.1, above, on Ofgem's proposals for implementing the modified standard licence. We agree with Ofgem's proposals in relation to special condition A1.

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.

We do not believe that any of the projects highlighted by Ofgem in section 3 of its proposals paper should be incorporated into the scope of the DLR. The themes established by Ofgem for the DLR are the correct ones and to broaden the scope to accommodate these additional projects would run counter to the agreed themes.

We suggest that, when the outcome and impact of these separate projects is known, Ofgem should carry out discrete consultations on any resulting licence modifications which may be necessary.

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?

No.

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.

We support the proposals for a reduction in the three month notice period for changes to UoS charges for IDNO's and DNO's operating out of area. However, this is outside the scope of the current review and should be carried out as a separate activity. Indeed it may be more appropriate for the timescales to be incorporated in the DCUSA rather than the licence and this should be considered as part of any review.

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.

In our view it will aid transparency for all network operators to publish a charging methodology. However, where there is an obligation to adopt the host DNO's charges a simple statement to this effect would be adequate.

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?

In relation to the policy areas identified for review in section 4 of the proposals document:

Metering: We continue to have concerns about the development of competition in metering and metering services and we welcome Ofgem's review in this area.

Regulatory Accounts: We would welcome a review of regulatory accounts but believe that it is not acceptable for any review to result in subsequent increases in RRP obligations. This would clearly be contrary to the principles of Better Regulation.

Appointment of Compliance Officers: We believe that the appointment of compliance officers has been effective to date with regard to ensuring business separation. However, given the developments in the market in recent years a review of the continued need for *an obligation* to have a compliance officer in place may be appropriate.

Regulatory Instructions and Guidance: We believe there may be scope to consolidate some or all of the RIG's and we look forward to further discussion on this matter.

Metering Point Administration Service: We would welcome a review of MPAS services which may result in consolidation and a reduction in the regulatory burden.

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

We would suggest a review of the Long Term Development Statement (LTDS) (SLC5). The review should consider the current process for revision of the statement following Direction. In particular we believe that there are sections of the LTDS, for example "general philosophy" and "fault levels" which need only be updated every two to three years rather than every year as is currently required.

We would welcome the establishment of a forum tasked with review of the LTDS and the opportunity to discuss Directions given by Ofgem *before* they are issued.

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.

As a package, as they stand currently, we could not accept these proposals.

However, if the concerns we have raised in this response, specifically those marked as “Objections” in Annex 2, are addressed then we would not object to a single modification of the licence.

ANNEX 2: Detailed Commentary

SLC Reference	Comment
<p>SLC1 “Definitions and Interpretation”</p> <p style="text-align: center;">OBJECTION</p>	<p>“Ancillary Business”: We do not understand the need to change “<i>De-minimis</i>”. This is a clearly defined and well understood term and we suggest that its definition should not be changed.</p> <p>“Connection”: The inclusion of the term “<i>indirect</i>” implies that a licensee has obligations on embedded networks which it doesn’t own. We do not believe this was the intention and the definition should be amended accordingly.</p> <p>The requirement within the definition to “<i>retain</i>” an existing connection is not (as suggested in Ofgem’s commentary) set out in the Act and should be removed.</p> <p>“Representative”: The proposed new licence describes “<i>a representative of the licensee</i>” in its dealings with customers, whilst Ofgem’s Detailed Log of Proposed Changes (259b/07) (Annex 4) describes “<i>representative of customers</i>”. We suggest that the former is the intended definition.</p> <p>“Website”: There is a circular definition here which can be resolved by using the defined term “<i>Licensee’s Website</i>” and keeping the definition as currently drafted.</p> <p>“Confidential information”: We believe that this definition should sit in PLC36 not in the condition itself (43)</p>

Retained and Amended Conditions:

“Basic Meter Asset Provision”: We do not understand the need to change the definition, since the meaning of this term is clearly understood and the terminology is used throughout the industry. The proposals will necessitate consequential changes to other documentation.

“Basic Meter Operation Services”: We do not understand the need to change the definition, since the meaning of this term is clearly understood and the terminology is used throughout the industry. The proposals will necessitate consequential changes to other documentation.

“Electricity Supplier”: The amendment as drafted will exclude exempt suppliers. This can be remedied by capitalising “*Authorised*” in the definition and deleting the text “*by a Supply Licence*”

“Licensee’s Transmission System”: If the reference in PLC12 (3)a is changed to the “*GB transmission system*”, this definition can be removed.

“Metering Services”: We query why Ofgem is making these changes as we don’t believe that they aid clarity. The existing definition should be maintained.

“Price control review information”: We believe that the proposal to change this term to “*Price Control Revenue information*” whilst maintaining the reference to cost **and** revenue information is ambiguous and less clear than the current definition. We suggest that no change to the current definition is required.

	<p>“Subsidiary”: The words <i>“in relation to the licensee”</i> should be deleted as the term is used in the definition of <i>“Affiliate”</i> and other places in the licence such that the definition of <i>“Subsidiary”</i> should be a subsidiary of a holding company or other party not just a subsidiary of the licensee.</p>
SLC2 “Application of Section C”	
2(4)	<p>We don’t understand the need to remove reference to <i>“with the consent of the licensee”</i>. The intent is understood and the current definition aids clarity. There is no need to make this amendment.</p>
SLC4D “Requirement to offer terms for UoS and Connection”	
4D(2)	<p>The redrafted text in 12.2 (b) adds a new obligation to <i>“take all reasonable steps to ensure that it does so comply”</i>. We believe that the effect of this will be to add undue burden to licensees.</p> <p>We suggest the inclusion of <i>“to inform the person making the request and identify shortcomings in the request.”</i> to be inserted after <i>“must take all reasonable steps . . .”</i></p>
SLC9 “Distribution Code”	
9(1)	<p>We fully support the proposals but note that the PLC as drafted relies on the Distribution Code being complete by 1st April 2008. We suggest that Ofgem should consider adding flexibility to the drafting to allow for the eventuality that the Distribution Code is not complete by that date.</p>
SLC9B “DCUSA”	

<p>9B (15)</p>	<p>Appendix 1 for PLC 22 adds an additional clause, clause “d”. We are unsure of the origin of this clause.</p>
<p>SLC14C “Requirement to Offer terms for provision of MPAS”</p>	
<p>14C (5) OBJECTION</p>	<p>PLC17.5 as drafted states “<i>the licensee must not offer or offer to enter into ...</i>”. This is a change from SLC14C (5) which states that “<i>The licensee shall not be obliged...</i>” The affect of this change is that should a licensee unwittingly make an offer to an applicant which does breach the Act, codes or conditions it may have also breached this licence condition.</p> <p>The current drafting of 14C (5) does not have this effect (whilst we acknowledge that the licensee would still have potentially breached the Act, codes or conditions).</p> <p>This amendment has also been applied in PLC 37.12 (terms for legacy MAP) and PLC 38.9 (terms for the provision of data).</p> <p>We object to this amendment wherever it appears in the proposed new licence as it adds additional obligations to the licensee, which is outside the scope of the review.</p>
<p>SLC17 “Provision of Services for Persons who are of Pensionable Age, Disabled or Chronically sick” Codes of Practice and Vulnerable Customer Issues</p>	
<p>SLC 17 (1) OBJECTION</p>	<p>PLC 10.3 as drafted could be interpreted such that all customers who are of pensionable age, disabled or chronically sick are, by definition, PSR customers.</p>

	<p>We do not believe that this is Ofgem's intention since it would include all pensionable age customers and make the maintenance of a register highly onerous with little or no benefit to customers.</p> <p>We suggest that the current ambiguity can be remedied by the addition of the word "<i>and</i>" after "...<i>chronically sick</i>" at the end of 10.3 (a)</p> <p>If it is Ofgem's intention to define all pensionable age customers as PSR customers we believe that this creates an onerous new workload obligation and is unacceptable.</p>
<p>18 (2) OBJECTION</p>	<p>The current obligation in 18 (2) to provide facilities "<i>on request</i>" is changed to "<i>must provide facilities</i>" in PLC 10.8. This change will have significant workload implications and is unacceptable to us.</p>
<p>19(2) c OBJECTION</p>	<p>19 (2) The current requirement to provide passwords for "<i>vulnerable customers</i>" has been extended to "<i>customer</i>" (PLC9.2 c). This is an additional obligation and, as set out in the proposed new licence, is likely to have significant system and resourcing implications with no proven benefit for customers.</p>
<p>Not in the current licence</p>	<p>PLC10.11(d) states:</p> <p><i>"In relation to statements prepared under paragraph 10.10, the licensee must: when asked to do so, provide to a person whose first language is not English such assistance or advice as will enable that person to understand the contents of the statements";</i></p> <p>This is a new obligation currently not within the licence. However given the intention to replace the CoP's with a "statement" we do not object to this additional clause.</p>
<p>Not in the current licence</p>	<p>PLC10.4 "Duty to give information and Advice to PSR Customers" (with the exception of 10.4 a) which is SLC17c) is not in the current licence; it is amended from the guidance notes.</p> <p>However given the intention to replace the CoP's with a "statement" we do not object to this additional clause</p>
<p>Not in the current licence</p>	<p>PLC10.5 Obliges licensee to provide the services under PLC10.4 free of charge to customers.</p>

	<p>This is a new obligation currently not within the licence. However given the intention to replace the CoP's with a "statement" we do not object to this additional clause</p> <p>PLC10.14 Contains new definitions for "Pensionable Age" and "Relevant Supplier"</p> <p>We question whether the definition of "Relevant Supplier" is necessary given that there is already a definition of "Electricity Supplier" in the new licence. However given the intention to replace the Codes of Practice with a "statement" we do not object to this additional clause.</p> <p>Again, we suggest that these definitions should be in PLC1 or PLC36 rather than within the specific licence condition.</p>
SLC 24 "Provision of information to the Authority"	
24 (8)	Ofgem asks for views on whether this provision can be removed. We suggest that 24 (8) is superfluous and agree it can be removed.
SLC29 "Disposal of Relevant Assets"	
29 (1)	The current text is simple and succinct and does not need to be expanded as Ofgem proposes. Appendix 1 to PLC26 contains reference to "easement" in A3 and A10 to condition. We suggest that Ofgem should also use the equivalent Scottish term "servitude".
SLC36A Requirement to offer terms for Legacy Basic Meter Asset Provision	
36A (7)	This has been redrafted in PLC 37.12. Please see our comments on 14(C)5 above.
SLC39 "Restriction on use of Certain Information and Independence of the Distribution Business"	

39 (6)	The current drafting is clearer and more succinct than the proposal to split the content over PLC 43.6, 43.7 and 43.8. We don't believe changes are required to this text.
SLC46 "Credit rating of the licensee"	
46 (2) OBJECTION	Whilst we note that the provisions remain largely unchanged, we are concerned that Ofgem is concerning itself with how the USA views a credit rating agency, and why a high quality agency that for example only rates UK entities would effectively be barred from consideration. There is no equivalent requirement in the gas distribution licence. We do not believe this change should be made.
SLC49 "Quality of Service Incentive Scheme and Associated Information"	
49 B (4)	We are not comfortable that the licence should stipulate due dates for QoS information as proposed. These dates are already specified in the QoS RIGS. We query whether the new drafting is in line with the RIGS and, in any event, we are not comfortable that the licence should specify due dates for this information.
49 E (14)	This appears to have been deleted. We believe this is required.
SLC51 "Incentive Schemes and associated information for DG, Innovation Funding and RPZ's"	
51 (1)	The redrafting adds a new obligation, as part of the specified information, to provide a summary of the innovation content of the RPZ. Currently there is only a requirement to provide a summary of the "innovation content" in the initial RPZ application.
SLC52 Reporting Scheme Of Price Control Information	
PLC 52(1)	This is redrafted as PLC49.1. The redrafted text contains an incorrect reference in 49.1 (b): the reference to "paragraph 2" should be to "49.2"