



31 July 2008

Anna Kulhavy
Senior Economist – GB Markets
Ofgem
9 Millbank
London
SW1P 3GE

Dear Ms Kulhavy,

SembCorp Response to Consultation Document “Distributed Energy – Further Proposals for More Flexible Market and Licensing Arrangements”

Thank you for the opportunity to comment on the proposals set out in your June 2008 consultation document. This letter sets out the response of SembCorp Utilities (UK) Limited (“SembCorp”).

Summary of Key Points

- *Supply licence exemptions are appropriate in certain circumstances – particularly for on-site supply over private wires.*
- *We agree that the Exemption Order requires up-dating and clarification (but without removing existing exemptions).*
- *The Citiworks case is about third party access to distribution systems. This can be implemented without requiring distribution license or imposing price regulation. Citiworks is not about supply.*

Background

SembCorp provides utilities and services to industrial customers on the Wilton International manufacturing site on Teesside. SembCorp owns a private (licence exempt) distribution network and a good-quality combined heat and power station on the site. We have also recently commissioned a new 30MWe stand alone biomass-fired power station (“Wilton 10”).

The site electricity demand is close to 200MW, made up of around a dozen large non-domestic customers. Most of this demand is met by licence-exempt supplies of on-site generation. Where this is not the case (for example where top-up electricity is imported from the Grid) the supply is made by our wholly-owned subsidiary Wilton Energy Limited, which holds an Electricity Supply Licence. SembCorp is also exempt from the requirement for a generation licence and a distribution licence.

Our interest in this consultation is primarily in relation to Chapter 2 – the role of licence exemptions in the future development of DE. We are particularly concerned about the possible impact of the recent Citiworks case on the existing licence exemptions regime. We recently met with Chris Chown and Steve Davies of BERR to discuss these concerns.

Supply Licence Exemptions

You state in paragraph 2.7 that DE should be supported by making supply licences less onerous rather than by increasing supply licence exemption limits. While we agree that this is appropriate for many DE schemes, we maintain that there are circumstances where supply licence exemptions are appropriate.

For example at our Wilton site we supply licence exempt electricity to a handful of very large consumers over a private network. These are customers with a detailed understanding of the electricity industry and who have chosen to connect to our network, presumably after weighing the benefits of having a licensed supply against the increased costs it would bring. These customers are competing against other sites in Europe (where electricity taxes are typically lower than in the UK), and they should not be subjected to extra regulatory burden unless absolutely necessary.

Hence the existing supply licence exemptions regime should be retained. Indeed, in our response to your initial (December 2007) consultation we argued that the arbitrary 100MW limit in the on-site exemption should be removed as it is out-of-date and is acting as a barrier to further development of CHP capacity on our site.

However we fully agree with the statement (paragraph 2.9) that the Exemption Order requires up-dating and simplification. We put forward a proposed simplification in previous meetings with BERR (Rita Wadey and Chris Chown) in late 2007, and we remain keen to work with BERR on any revisions to the Class C “on-site” exemption (which we believe was written primarily with the Wilton site in mind).

Distribution Licence Exemptions and Citiworks

We recognise that BERR may wish to respond to the Citiworks case proactively by reviewing the existing Exemption Order. However we would urge BERR to limit any response only to measures which are absolutely necessary. We are concerned that any over-reaction might lead to unnecessary increased regulation of private networks. At a meeting with BERR on 23 July 2008 we explained our view of the implications of Citiworks (based on legal advice we have taken). We were encouraged that BERR intends to consult fully with stakeholders, and we volunteered to sit on any stakeholder group which might be set up.

Our first point is that Citiworks is about third party access (“TPA”) to distribution networks. TPA can be offered on unlicensed networks – indeed we have offered it to several of our customers. In practice these customers have chosen to continue to take supplies from Sembcorp, but the existence of a contractual right to take supplies from other suppliers gives them comfort that our supply offering is competitive. One option open to BERR is to say that the requirement to offer TPA if requested is a condition of exemption from a distribution licence.

We strongly believe that Citiworks does not create a requirement to licence all distribution networks, and it certainly does not require price regulation. In any event it would not be practicable to regulate what must amount to thousands of distribution networks (for example where a tenant is connected to its landlords network).

We also firmly believe that Citiworks should not impact supply licence exemptions (since it clearly allows access to distribution networks). In particular, it does not prevent a DE scheme entering into a long term supply contract with a willing on-site customer and it does not undermine the validity of existing contracts.

The underlying concern here is that Citiworks could lead to an increase in the barriers facing developers and operators of DE schemes. The purpose of the current consultation process is to reduce barriers to DE, not to increase them. We are encouraged by paragraph 2.16, which states that “schemes that allow third party access when requested to do so will be able to operate as before”. We would welcome clarification as to how this would work in practice, but we take it to mean that you are not seeking to impose the requirement for a licence (distribution or supply) where there is none currently..

Please do not hesitate to contact me if you have any questions regarding this letter. We look forward to your reply.

Yours faithfully,



Ali Lloyd
Sembcorp Utilities
01642 212242