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*Promoting choice and
value for all customers*

Our Ref: Networks/Electricity Distribution

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Dear Alison

Notice of Authority Decision and Reasons

Notice of decision on the applications of Western Power Distribution plc (WPD) to re-open the current price control to accommodate additional costs related to the introduction of and changes to the Electricity Safety Quality and Continuity Regulations 2002.

1. Introduction

1.1. The purpose of this letter is to advise you of the Authority's decision regarding your application to re-open your current price control to accommodate additional costs related to the introduction of and changes to the Electricity Safety Quality and Continuity Regulations 2002 (ESQCR).

2. Background

2.1. As part of the last price control review we recognised that the introduction of the ESQCR and potential further changes to the regulations that BERR were consulting on at the time associated with tree cutting for network resilience would place additional costs on Distribution Network Operators (DNOs). We also recognised that there were uncertain costs associated with the implementation of the Traffic Management Act 2004 (TMA) and the equivalent legislation in Scotland. At that time the magnitude of these costs was uncertain and we considered it was preferable to specify fixed allowances once the efficient level of costs could be assessed¹.

2.2. Under Special Condition A3² ("the relevant condition") of the Distribution licence each DNO may by notice to the Authority propose a relevant adjustment to the Charge Restriction conditions in regards to changes to the ESQCR and any Order or Regulations made pursuant to Part 3 of the TMA. Ofgem has four months to determine a relevant adjustment to the Charge Restriction after which time the licensee may give notice to the Authority that the relevant adjustment will take effect.

2.3. The Amendment Regulations to the ESQCR³ amend and extend the scope of standards for, amongst other things, overhead line clearance particularly in relation to

¹ Electricity Distribution Price Control Review Final Proposals November 2004 ref 265/04

² Arrangements for the recovery of uncertain costs

³ The Electricity Safety, Quality and Continuity (Amendment) Regulations 2006

trees. The standards now apply to all lines built before 1988 and require tree cutting for continuity of supply as well as to avoid danger to the public.

- 2.4. Following consultation on 1 July 2008 we published a letter setting out the approach we would apply to assessing reopener applications, requesting information from the DNOs for this purpose and committing to provide a final decision by 31 October 2008 for DNOs who made an application during July 2008.
- 2.5. All DNOs responded to our narrative questionnaire and provided Forecast Business Plan Questionnaire (FBPQ) cost and finance data. As a result we have been able to create an industry wide benchmark of costs and management practices associated with the ESQCR related activities.
- 2.6. On 17 July 2008 the Authority granted delegated powers to me.
- 2.7. On 30 September 2008 we wrote to the Applicants advising them of our proposed treatment of their claims as agreed by Ofgem's Executive at their meeting of 29 September 2008. We have discussed our 'minded to' position with the Applicants and with their agreement we published updated 'minded to' letters on 10 October 2008.
- 2.8. In coming to each decision the Authority has taken into account the views of the applicants regarding our 'minded to' position.

3. Summary of WPD claims

- 3.1. WPD has submitted claims in respect of WPD South West and WPD South Wales in regard to additional costs incurred due to:
 - Increased vegetation management to meet the requirements of ESQCR.
 - ESQCR costs related to overhead line horizontal or vertical clearances.
 - The consequential impact of this work on the licensees planned interruption performance
 - TMA set up costs and increased contractor costs as a result of changes under TMA.
- 3.2. The tables below set out the amount of their claim for each category.

4. Authority Decision and Reasons

- 4.1. The Authority has considered the Licensee's request in accordance with its principal objective and general duties and taking into account responses to the 'minded to' letter and other representations.
- 4.2. Following consultation with the Applicants and interested parties the Authority has decided that it is appropriate to allow the cost adjustments set out in Tables 1 and 2 below. This results in the total revenue adjustment set out in Table 3. The Authority has decided that the revenue adjustment should be recovered over a single year in 2009-10.
- 4.3. The following tables set out the Authority's decisions regarding the applications made by WPD and the Authority's explanation for those decisions.

Table 1 –WPD South West cost adjustments

Costs £m (2007-08 prices)	Company	WPD S West	Difference	Explanation
Tree cutting costs (ENATS 43-8 and ETR 132)	DNO adjustment	2.8		The direct unit costs for the EATS 43-8 work fall within our range. However, looking at the 5 yrs in total only £1.9m of costs were above the overall allowance. We have benchmarked total CI and CML relative to the costs of the tree cutting work being undertaken. The total CI and CML impact for WPD South West was within our range and we have applied no adjustment
	Authority Decision	1.9	0.9	
Horizontal building clearances	DNO adjustment	8.0		We have compared unit costs across the DNOs and also looked at costs in our connections database. The unit costs for WPD S West are above our benchmarks and we have made an adjustment to bring them back to our benchmark.
	Authority Decision	7.6	0.4	
Vertical clearances	DNO adjustment	0.0		No change
	Authority Decision	0.0	0.0	
Other (pensions, indirect and non-operational capex)	DNO adjustment	2.9		In general WPD S West had a relatively low level of these costs and we have applied no adjustments.
	Authority Decision	2.9	0.0	
Total	DNO adjustment	13.7		
	Authority Decision	12.5		
Difference		1.3		
% difference		9%		

Table 2 – WPD South Wales cost adjustments

Costs £m (2007-08 prices)	Company	WPD SWales	Difference	Explanation
Tree cutting costs (ENATS 43-8 and ETR 132)	DNO adjustment	0.0		The direct unit costs for the EATS 43-8 and the ETR132 work are within our range. However, looking at the 5 yrs in total there are no costs above the allowance and hence no adjustment. We have benchmarked total CI and CML relative to the costs of the activity being undertaken. The total CI and CML impact for WPD S Wales is within our benchmark range and therefore we have applied no adjustment. However, the adjustments relate to 2008-09 and 2009-10 which given the lag in Quality of Supply scheme (QoS) apply in the DPCR5 period.
	Authority Decision	0.0	0.0	
Horizontal building clearances	DNO adjustment	1.9		We have compared unit costs across the DNOs, taking account of differences in the number of LV services per pole, and also looked at costs in our connections database. The unit costs for WPD are slightly higher than our benchmarks and we have adjusted the costs to bring them to our benchmarks.
	Authority Decision	1.8	0.1	
Vertical clearances	DNO adjustment	0.0		No change
	Authority Decision	0.0	0.0	
Other (pensions, indirect and non-operational capex)	DNO adjustment	0.2		In general WPD W Wales had a low level of these costs and we have made no adjustment.
	Authority Decision	0.2	0.0	
Total	DNO adjustment	2.1		
	Authority Decision	2.0		
Difference		0.1		
% difference		5%		

Table 3 – Allowed revenue adjustments

The following table sets out the allowed revenue adjustments derived by feeding the cost adjustments above through the Ofgem financial model.

£m (2007-08 prices)	WPD SWales	WPD SWest
Allowed revenue 2009-10	176.9	216.9
Increase in allowed revenue (Effect of DNO adjustment through Ofgem financial model)	1.1	6.2
% increase in allowed revenue	0.6%	2.8%
Allowed increase in revenue (Authority decision)	1.1	5.5
% increased in allowed revenue	0.6%	2.5%

Table 4 – CI and CML Revenue Adjustment for 2010-11 and 2011-12

Due to the two year lag in the Interruption Incentive Scheme only interruption performance for 2005-6 to 2007-8 has an impact in DPCR4. The remaining impact of interruption performance feeds into DPCR5.

WPD South Wales			
Costs £m (2007-08 prices)		2010-11	2011-12
Total CI and CML impact for 2008-09 and 2009-10 - revenue adjustment to incentive scheme for 2010-11 and 2011-12	DNO view	0.02	0.04
	Authority decision	0.02	0.04
WPD South West			
Costs £m (2007-08 prices)		2010-11	2011-12
Total CI and CML impact for 2008-09 and 2009-10 - revenue adjustment to incentive scheme for 2010-11 and 2011-12	DNO view	0.2	0.3
	Authority decision	0.2	0.3

Qualitative Assessment

- 4.4. The Authority notes that WPD scored highly in the assessment of their management structure, data management and overall procedures for vegetation management. They have a good approach to the assessment of the work required to increase storm resilience under ETR132. WPD recognise the importance of sustaining their established stakeholder relationships with interested parties and the need to continue to confirm that landowners are satisfied with the work carried out on their property.
- 4.5. The Authority notes that WPD scored highly in their approach to addressing the resolution of horizontal and vertical overhead line clearance issues. The Authority considered that their consultation with HSE, prioritised programme management, and attention to seeking optimum site specific solutions to be best practice. Their use of designated teams specialising in specific solutions ensures efficiency in the use of equipment and skills.

ENATS 43-8 and ETR 132 tree cutting costs

- 4.6. The Authority has found WPD's unit costs for both ENATS 43-8 and ETR 132 tree cutting work to be efficient.
- 4.7. WPD has argued that the introduction of the requirement for ETR132 resilient tree cutting was introduced under the Electricity Safety, Quality and Continuity (Amendment) Regulations 2006 and therefore was not allowed for in DPCR4 and consequently they should receive their entire claim for ETR132 work in addition to the tree cutting DPCR4 allowance. The Authority considers that the forthcoming introduction of ETR132 was discussed at the time of DPCR4 and therefore this expenditure is no different in nature to ENATS 43-8 in this regard and therefore has maintained its 'minded to' position.
- 4.8. Overall the Authority has viewed WPD's unit costs for EATS 43-8 tree cutting costs to be efficient but noted the application requested adjustments for tree cutting

expenditure in years where the costs had exceeded the tree cutting allowance without taking into account years where costs were lower than the allowance. In making their assessment the Authority has taken a view across the full period.

TMA set-up costs

- 4.9. The Authority has decided that it is appropriate to accept WPD's claim for TMA set up costs of £0.25m.
- 4.10. The Authority notes WPD has made a further claim for a forecast increase of £1.15 in contractor costs as a result of TMA in anticipation that highway authorities will require them to reduce the overall duration of road works by requiring them to complete work in fewer days causing an increase in overtime working. The Authority rejects this claim which is outside the scope of the reopener as it falls under a different part of the TMA. The reopener only relates to costs under any Order or Regulations made pursuant to Part 3 of the TMA which impose permit schemes. The ability for highway authorities to give "directions to timings of works" is set out under New Roads and Street Works Act 1991 (NRSWA) section 56 and part 4 of the TMA which are not relevant enactments under the relevant condition.

ENATS 43-8 (horizontal and vertical clearances)

- 4.11. There was a statutory requirement for DNOs to carry out a survey to identify all sites which did not comply with the clearance requirements set out in ESQCR. WPD has submitted a claim for their 'survey costs'. Our view is that the statutory minimum compliance survey costs were foreseen under DPCR4 and correctly not allowed under the reopener. However the Authority recognises that WPD's application for survey costs went beyond this minimum requirement and included costs attributable to solution design. WPD has submitted a table showing this breakdown and we have decided that these additional pre-design costs are allowed.
- 4.12. WPD has also argued that they adopt identical approaches for LV horizontal clearances in both South Wales and South West and therefore that there should be no differences in efficiency. They have suggested that the differences in unit cost are explained by the differences in the number of LV service connections per span and have provided supporting evidence; more work being necessary when there is a greater number of service connections.
- 4.13. The Authority has revised its analysis based on this approach and it has increased the allowance for WPD.

CI and CML impact

- 4.14. The Authority has applied a revised approach to the benchmarking suggested by WPD and on this basis views their level of planned interruption to be efficient. The Authority has allowed the claim in full.

Timing of recovery

- 4.15. The Authority has considered the appropriate timeframe over which the additional revenue should be recovered taking into account the fact that some of these costs have already been incurred and the potential impact on consumers. The Authority considers that, in principle, it is reasonable for these costs to be recovered in a single year, subject to it not leading to an overall increase in distribution charges of more than 4 per cent in real terms (i.e. over and above any inflationary increase after adjusting for inflation) when any other adjustments are taken into account (such as any revenue under recovery from the previous period). If the year on year increase in charges when other adjustment are made is in excess of 4 per cent in real terms then any remaining amounts due can be recovered in subsequent years on an NPV neutral basis

subject to the same principle i.e. that distribution charges do not increase by more than 4 per cent in real terms year on year. In the case of WPD the reopener only has a small impact on distribution charges. As such the Authority has decided to allow the revenue adjustment to be recovered fully in 2009-10.

4.16. The additional revenue associated with the impact of the additional work on the Interruption Incentive Scheme (IIS) for 2008-09 and 2009-10 will be added to the revenue for 2010-11 and 2011-12 in the updated quality of service scheme for DPCR5. This revenue will need to be updated for changes in RPI.

Impact on the capex rolling incentive

4.17. The Authority agrees to adjust the capital expenditure allowances for capex roller/sliding scale purposes to reflect the proportion of the additional expenditure relating to the reopener that, under the DPCR4 financial model and the RRP rules, goes to RAV.

Decision pursuant to section 49A(1)(c) of the Electricity Act 1989.

Yours sincerely



Steve Smith

Managing Director - Networks

Signed on behalf of the Authority and authorised for that purpose

Appendix

5. Summary of the Authority's approach to key issues

- 5.1. The purpose of the reopener was to make provision for the uncertain costs resulting from changes to the ESQCR relating to the management of vegetation to improve network reliability by both mandating tree clearances and setting out the requirements to reduce the impact of abnormal weather conditions on overhead lines. Our approach is to allow DNOs to recover the combined efficient overall level of costs associated with these revised obligations over and above the costs that have already been allowed under the current price control for vegetation management.
- 5.2. Our overall adjustment for tree cutting will be calculated using our assessment of the total of the efficient costs for both ENATS 43-8 and ETR 132⁴ summed over the 5 year period minus the sum of DPCR4 vegetation management allowances for the equivalent period. This will avoid any risk of double counting given that as part of DPCR4 final proposals we made an allowance for increased tree cutting activity.
- 5.3. We have assessed the efficiency of additional costs applied for under the re-opener in a two stage process; firstly by an assessment involving quantitative benchmarking, carrying out cost comparisons and secondly a qualitative assessment of management and contract processes to seek evidence of value for money by reviewing the DNOs' strategies, procedures and approaches for managing the work. The additional building clearance costs will be capitalised and the additional tree cutting costs part expensed and part capitalised in accordance with the DPCR4 rules. Indirect costs, non-operational capex and pension costs also follow the treatment set out at DPCR4.
- 5.4. We set out our proposed approach to assessing the impact of the additional work under the ESQCR on quality of service incentives in our 1 July 2008 letter which was recommended and agreed by the Authority on 17 July 2008. We wrote to licensees on 31 July 2008 detailing the agreed approach, including the statement that "where a DNO failed to meet the planned element of their Customer Interruption (CI) and Customer Minutes Lost (CML) targets as a result of this work we would make an adjustment to revenue compensating the DNO for this underperformance." A number of DNOs have suggested that this approach is inappropriate and may penalise a company that has taken steps to improve its planned interruption performance. We have given these comments further consideration and have adopted a revised methodology. In our assessment we have benchmarked the planned interruption performance across companies relative to the cost of work being carried out and have allowed the full benchmark impact. We have done this for each of the main sources of planned interruptions; Energy Networks Association Technical Specification (ENATS) 43-8 work, horizontal and vertical clearances.

Tree-cutting costs

- 5.5. We have carried out a qualitative assessment of the written submissions with DNOs which has enabled us to suggest areas where the applicants can improve. We recognise that DNOs have historically operated to different policies resulting in varying work loads to enable them to meet the common standards now enforced under ESQCR.
- 5.6. Our assessment of applications has taken into account the need for DNOs to have in place appropriate contracts and management structures to enable sustainable vegetation management that seeks long term value rather than low cost short term

⁴ ETR132 – Engineering Technical Report – Improving network performance under abnormal weather conditions by use of a risk based approach to vegetation management near electric overhead lines – March 2006

compliance. As part of this approach we consider that well developed stakeholder⁵ relationships are important to create the credibility that allows for establishing the set clearances, reducing restricted cuts and applying innovative solutions such as replanting schemes.

- 5.7. In general most companies that have applied for reopeners at this stage have relatively robust tree-cutting processes and procedures in place although there is some room for improvement in areas such as benchmarking, auditing and managing stakeholder relationships.
- 5.8. We have compared unit costs for the ENATS 43-8 tree cutting work across all DNOs for each voltage level. Our assessment of the reopener applications focused on: (a) historical expenditure already incurred in the current price control and (b) forecast expenditure for the remainder of the current price control.
- 5.9. We have considered the use of information on tree coverage both in terms of overall woodland cover and linear features to normalise the companies' cost data. However as there is no significant correlation between these measures and the companies' costs we have not made such an adjustment.
- 5.10. As there are some significant differences in costs between DNOs we have developed a range of costs from the lower to the upper quartile (both including and excluding indirect costs and pension costs). We have adjusted companies' tree cutting costs downwards to the top end of our benchmark range where they fall outside of this.
- 5.11. We have applied reductions to vertical and horizontal clearance costs for a number of companies where their unit costs are above our benchmark range.
- 5.12. We have reviewed companies' assessments of their costs for carrying out additional ETR132⁶ tree cutting for network resilience. Most DNOs have made an initial assessment of the volumes of work required either based on the DTI impact assessment which suggested that 20 per cent of the overhead line network should be addressed over 25 years or their own risk assessment and are prioritising the work on a risk basis. However, companies have made clear that they are at a relatively early stage in assessing the costs and most companies have adopted the £9000 per km unit costs set out in the IA, in some cases adjusted for inflation.
- 5.13. We have assessed the costs for this work by multiplying the DNOs forecast volumes by the £9000 per km unit cost adjusted for inflation and have capped our assessment at the DNO forecast.
- 5.14. Notwithstanding that all DNOs responded to our narrative questionnaire and provided Forecast Business Plan Questionnaire (FBPQ) cost and finance data we have excluded the preliminary costs data submitted by SSE from our assessment as their programmes could be subject to change following further discussion with BERR and HSE.

Vertical and horizontal line clearances

- 5.15. We have carried out a qualitative assessment of the written submissions with DNOs with regard to vertical and horizontal line clearances. In general companies have robust processes in place although there is some room for improvement.

⁵ Stakeholders include organisations such as Country Landowners Association, Forestry Commission, Local and Parish councils, Woodland Trust. To develop long term strategies such as replanting schemes, efficient clearances and a reduction in "restricted cuts" it is essential for DNOs to establish credibility with these interest groups to enable DNOs to have sustainable and efficient process and costs.

⁶ ETR132 – Engineering Technical Report – Improving network performance under abnormal weather conditions by use of a risk based approach to vegetation management near electric overhead lines – March 2006

- 5.16. We have also carried out a unit cost comparison for different approaches to dealing with horizontal and vertical clearance issues at different voltages and also looked at cost data for equivalent work in the cost database we have for our connections work. We have adopted a benchmark for each engineering solution at each supply voltage based on this data. We have used our judgement to establish benchmark costs based on the upper quartile of the DNO cost information and from the cost database.
- 5.17. Where a DNO's costs are above our benchmark we have adjusted them down to the benchmark. The Authority agrees to adjust the capital expenditure allowances for capex roller/sliding scale purposes to reflect the proportion of the additional expenditure relating to the reopener that, under the DPCR4 financial model and the RRP rules, goes to RAV.

6. The Authority's Powers and Duties

- 6.1. Ofgem is the Office of Gas and Electricity Markets which supports the Gas and Electricity Markets Authority ("the Authority"), the regulator of the gas and electricity industries in Great Britain. This Appendix summarises the primary powers and duties of the Authority. It is not comprehensive and is not a substitute to reference to the relevant legal instruments (including, but not limited to, those referred to below).
- 6.2. The Authority's powers and duties are largely provided for in statute, principally the Gas Act 1986, the Electricity Act 1989, the Utilities Act 2000, the Competition Act 1998, the Enterprise Act 2002 and the Energy Act 2004, as well as arising from directly effective European Community legislation. References to the Gas Act and the Electricity Act in this Appendix are to Part 1 of each of those Acts.⁷
- 6.3. Duties and functions relating to gas are set out in the Gas Act and those relating to electricity are set out in the Electricity Act. This Appendix must be read accordingly⁸.
- 6.4. The Authority's principal objective when carrying out certain of its functions under each of the Gas Act and the Electricity Act is to protect the interests of consumers, present and future, wherever appropriate by promoting effective competition between persons engaged in, or in commercial activities connected with, the shipping, transportation or supply of gas conveyed through pipes, and the generation, transmission, distribution or supply of electricity or the provision or use of electricity interconnectors.
- 6.5. The Authority must when carrying out those functions have regard to:
- The need to secure that, so far as it is economical to meet them, all reasonable demands in Great Britain for gas conveyed through pipes are met;
 - The need to secure that all reasonable demands for electricity are met;
 - The need to secure that licence holders are able to finance the activities which are the subject of obligations on them⁹; and
 - The interests of individuals who are disabled or chronically sick, of pensionable age, with low incomes, or residing in rural areas.¹⁰
- 6.6. Subject to the above, the Authority is required to carry out the functions referred to in the manner which it considers is best calculated to:

⁷ Entitled "Gas Supply" and "Electricity Supply" respectively.

⁸ However, in exercising a function under the Electricity Act the Authority may have regard to the interests of consumers in relation to gas conveyed through pipes and vice versa in the case of it exercising a function under the Gas Act.

⁹ Under the Gas Act and the Utilities Act, in the case of Gas Act functions, or the Electricity Act, the Utilities Act and certain parts of the Energy Act in the case of Electricity Act functions.

¹⁰ The Authority may have regard to other descriptions of consumers.

- Promote efficiency and economy on the part of those licensed¹¹ under the relevant Act and the efficient use of gas conveyed through pipes and electricity conveyed by distribution systems or transmission systems;
- Protect the public from dangers arising from the conveyance of gas through pipes or the use of gas conveyed through pipes and from the generation, transmission, distribution or supply of electricity;
- Contribute to the achievement of sustainable development; and
- Secure a diverse and viable long-term energy supply.

6.7. In carrying out the functions referred to, the Authority must also have regard, to:

- The effect on the environment of activities connected with the conveyance of gas through pipes or with the generation, transmission, distribution or supply of electricity;
- The principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed and any other principles that appear to it to represent the best regulatory practice; and
- Certain statutory guidance on social and environmental matters issued by the Secretary of State.

6.8. The Authority has powers under the Competition Act to investigate suspected anti-competitive activity and take action for breaches of the prohibitions in the legislation in respect of the gas and electricity sectors in Great Britain and is a designated National Competition Authority under the EC Modernisation Regulation¹² and therefore part of the European Competition Network. The Authority also has concurrent powers with the Office of Fair Trading in respect of market investigation references to the Competition Commission.

¹¹ Or persons authorised by exemptions to carry on any activity.

¹² Council Regulation (EC) 1/2003