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*Promoting choice and
value for all customers*

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Date: 11 December 2008

Dear Sir/Madam

Decision in relation to EDF Energy Networks ("EDF") modification proposal EDFE 023: Cessation of upfront charging of Assessment and Design ("A&D").

On 13 November 2008, EDF submitted to the Gas and Electricity Markets Authority ("the Authority")¹ a proposal to modify its connection charging methodology for its three licensed distribution businesses, namely:

- EDF Energy Networks (EPN) plc;
- EDF Energy Networks (LPN) plc; and
- EDF Energy Networks (SPN) plc.

EDF proposed to update its connection charging methodology, required under Standard Licence Condition ("SLC") 13 of the electricity distribution licence ("the licence"), in order to amend its policy concerning the upfront charging of connection A&D fees. EDFE also proposed to make housekeeping changes to bring their connection charging methodology in line with the revised licence and to remove references to energywatch.²

Having considered the issues raised by EDF's proposal, we have decided **not to veto** the proposed modification.

This letter sets out the background to the modification proposal, summarises the proposed changes and explains our decision.

Background

EDFE has licence obligations³ to have in place three charging statements:

- the statement of Use of System ("UoS") charging methodology;
- the statement of UoS charges; and
- the statement of connection charging methodology and charges.

¹ Ofgem is the office supporting the Authority. The terms 'Ofgem' and 'the Authority' are interchangeable for the purposes of this letter.

² Following the introduction of The Consumers, Estate Agents and Redress (CEAR) Act 2008 from 1 October the Government introduced new arrangements for consumer representation in the energy sector. These new arrangements replaced energywatch and created a package of support and protection for consumers that have complaints against their energy supplier.

³ SLC 13 -14.

The statement of connection charging methodology and charges outlines the method by which distribution connection charges are calculated. EDF has a requirement to keep these methodologies under review and bring forward modification proposals so that they better achieve the relevant objectives⁴.

On 14 August 2008, Ofgem issued a consultation on the practice of charging upfront A&D fees. This consultation document outlined the Authority's view that the practice of charging upfront A&D fees was not consistent with the Electricity Act 1989 ("the Act").⁵ The Authority's consultation letter explained that:

- the practice of upfront charging for A&D works as a pre-condition of providing a section 16A(5) connection offer is not consistent with the Act;
- A&D fees can only be recovered if the full and formal connection offer, the section 16A(5) notice, is accepted by the customer; and
- A&D fees fall within section 19(1) of the Act as they are expenses incurred in respect of making the connection (i.e. where any electric line or plant is provided as long as they are reasonably incurred as required by that section).

The August consultation stressed that Ofgem were concerned that distribution network operators' ("DNOs") connection charging methodologies might not be compliant with the statutory arrangements. We therefore requested that DNOs review their methodologies and raise the necessary changes in the form of modifications.

EDFE's proposal

EDF have proposed to amend their connection charging methodology by removing all references to the levying of upfront charges for A&D fees. The references to A&D fees that remain in the methodology refer to them being included in the connection charge.

EDF also propose to make further amendments to their connection charging methodology. That is, they propose to update this to reflect the re-numbering of licence conditions 4B, 4C, 5 and 9 following the Electricity Distribution Licence Review⁶.

Following the introduction of the Consumers, Estate Agents and Redress Act 2008 (CEAR) EDF also propose to replace references to energywatch with details of the new consumer representation arrangements, i.e. the Energy Ombudsman. EDF also includes references to its own dispute resolution procedure.

⁴ The relevant objectives for the connection charging methodology, as contained in paragraph 3 of SLC 13 of EDFE's licences are:

- (a) that compliance with the methodology facilitates the discharge by the licensee of the obligations imposed on it under the Electricity Act 1989 and its licence;
- (b) that compliance with the methodology facilitates competition in generation and supply of electricity, and does not restrict, distort or prevent competition in the transmission or distribution of electricity;
- (c) that compliance with the methodology results in changes which reflect, as far as is reasonably practicable (taking into account of implementation costs), the costs incurred by the licensee and its distribution business; and
- (d) that, so far as is consistent with sub-paragraphs (a), (b) and (c), the methodology, as far as is practicable, properly takes account of developments in the licensee's distribution business.

⁵ Ofgem's consultation letter can be found at:

<http://www.ofgem.gov.uk/Networks/Connectns/CompinConn/Documents1/A%20and%20D%20fees%20consultation.pdf>

⁶ Ofgem's conclusions of the Electricity Distribution Licence Review can be found at:

<http://www.ofgem.gov.uk/NETWORKS/ELECDIST/POLICY/Pages/Policy.aspx>

The Authority's decision

In coming to our decision we have assessed EDF's proposal against the relevant objectives and Ofgem's wider statutory duties.

The Authority considers that EDF's proposal to remove references to up-front charging for A&D fees is more in line with statutory requirements than their present methodology.

The Authority considers that by allowing customers to receive quotations for works without paying any up-front charges the methodology better reflects the statutory arrangements as laid out in sections 16, 16A and 19 of the Act. By better facilitating the discharge by EDF of the obligations imposed on it by the Act this proposal also better facilitates the relevant objective detailed in SLC 13.3(a).

The Authority considers that the proposed amendments to the methodology provide better clarity for customers about the costs they will face when requesting a connection offer.

Furthermore, the Authority considers that the removal of references to energywatch from the methodology better informs customers of the new consumer advocacy arrangements and ensures the methodology advises customers of EDF's complaints escalation procedures.

The Authority considers that updating the outdated licence condition numbers with references to the current licence makes it simpler for customers to cross reference EDF's methodology with the licence.

We consider that the proposals detailed in this letter better facilitate the relevant objectives. Consequently, we have decided **not to veto** EDF's modification to their connection charging statement.

The Authority understands that though it is not cause to veto a proposal, as a document intended for customer use, certain sections of EDF's charging methodology could state charges more clearly. We would like to suggest that when next raising a proposal to modify their connection charging methodology that EDF review the way they state their charges, in particular those design approval charges detailed in section 4.2.

If you have any questions relating to this letter then please contact Rebecca Langford at rebecca.langford@ofgem.gov.uk or on 0207 901 7388.

Yours faithfully,



Rachel Fletcher
Director, Distribution

Signed on behalf of the Authority and authorised for that purpose by the Authority.