

COLLECTIVE LICENCE MODIFICATION PROPOSAL ref. 48/09 (next steps in delivering the electricity distribution structure of charges project: putting in place a licence obligation on Distribution Services Providers to deliver a common distribution use of system charging methodology and governance arrangements for the lower voltage levels of the electricity distribution networks for implementation with effect from 1 April 2010)

NOTICE CONCERNING THE PROPOSED MODIFICATION OF THE STANDARD LICENCE CONDITIONS OF ELECTRICITY DISTRIBUTION LICENCES UNDER SECTION 11A(3) OF THE ELECTRICITY ACT 1989

The Gas and Electricity Markets Authority ("the Authority") hereby gives notice pursuant to section 11A(3) of the Electricity Act 1989 ("the Act") as follows:

1. The Authority proposes to modify all electricity distribution licences granted or treated as granted under section 6(1)(c) of the Act by amending Standard Licence Condition (SLC) 1 and 13 and by introducing a new SLC50 and SLC13A.
2. The primary reason why the Authority proposes to make this licence modification is to implement its decision, by way of a licence obligation on licensees, that it would be appropriate for those licensees deemed Distribution Services Providers (DSPs), to bring forward by 1 September 2009, a Common Distribution Charging Methodology (CDCM) and governance arrangements for calculating use of system charges levied on persons connected to the lower voltage levels of the electricity distribution networks for implementation on 1 April 2010, which is, in respect of governance arrangements, consistent with the Authority's decision as published on 1 October 2008 titled 'Decision document: Delivering the electricity distribution structure of charges project (ref.135/08)' and in respect of a CDCM, consistent with the Authority's decision as published on 20 March 2009 titled 'Decision document: Next steps in delivering the electricity distribution structure of charges project (ref.24/09)'. The proposed licence modification is attached at Schedule 1 to the Notice and modifies SLC 1 and SLC13 and introduces a new SLC50 and SLC13A.
3. The proposed modification to SLC1 is to move the definition of a charging methodology to have a general application in the licence. The proposed modification to SLC13 clarifies the relationship between this condition and other conditions, and adds three new paragraphs setting out the 'Arrangements applying because of other conditions'. In particular, SLC13.15 provides for any consequential modifications to SLC13 that may be required to ensure that SLC13A, as set out in Appendix One of SLC50, has the effect intended on 1 April 2010.
4. New condition SLC50 deals with, among other matters, the 'Development and implementation of a CDCM' which places an obligation on licensees to ensure that a CDCM which conforms to the requirements set out in Appendix 2 of the Authority's 1 October 2008 decision and subsequently clarified and amended in Appendices 3 and 4 of the Authority's 20 March 2009 decision is developed in conjunction with other licensees and is brought forward by 1 September 2009 for approval by the Authority.
5. Condition SLC50 also requires licensees to develop arrangements for handling modification proposals to the CDCM and sets out that those arrangements must provide for a process by which any Authorised Electricity Operator or person whose interests are materially affected by the CDCM, may propose modifications to the methodology. New condition 13A will apply to the licensee on and after 1 April 2010 if the licensee is a DSP, and details amongst other matters the relevant objectives of and the procedure for modifying the CDCM by reference to the modification arrangements which will be in force on and after 1 April 2010.

- 6.** The effect of the proposed modification is to obligate licensees who are DSPs to bring forward by 1 September 2009, a CDCM which conform to the Authority's 1 October and 20 March 2009 decisions, and governance arrangements which conform to the Authority's 1 October decision, and in the event that the Authority approves the CDCM under condition 50.18, to obligate licensees who are DSPs, to ensure that the CDCM in force at 1 April 2010 continues to be a Charging Methodology that achieves the Relevant Objectives set out in SLC13A Part B. More detailed reasoning for the proposed licence modification has been published by the Authority, namely:
- a. a decision document entitled "Next steps in delivering the electricity distribution structure of charges project" (24/09) on 20 March 2009 (the March decision document)
 - b. a consultation document entitled "Next steps in delivering the electricity distribution structure of charges project" (160/08) on 11 December 2008
 - c. a decision document entitled "Delivering the electricity distribution structure of charges project" (135/08) on 1 October 2008 (the 1 October decision document)
 - d. a decision document and consultation entitled "Delivering the electricity distribution structure of charges project: decision on a common methodology for use of system charges from April 2010, consultation on the methodology to be applied across DNOs and consultation on governance arrangements (Ref 104/08) on 22 July 2008 (the July joint decision and consultation document)
 - e. a consultation document entitled "Delivering the electricity distribution structure of charges project" (Ref 36/08) on 2 April 2008 (the April consultation document).
- 7.** Licence holders for the purposes of this Notice are all the holders of an Electricity Distribution Licence.
- 8.** The proposed licence modification does not deviate in its effect from those parts of the Authority's 1 October 2008 Collective Licence Modification proposal, ref. 137/08, (the October proposal) intended to apply to Use of System charges levied on persons connected to the lower voltage distribution networks. Two statutory objections to the October proposal were received, creating a blocking minority, but none of the representations received to the October proposal indicated opposition among any of the relevant licence holders to those parts of the proposal intended to apply to Use of System charges levied on persons connected to the High and Low Voltage Networks.
- 9.** The Authority widely consulted licence holders prior to publishing its October and March decisions and has widely consulted on the licence modifications which now require to be implemented to ensure that a CDCM and governance arrangements which conform to the requirements set out in these decisions are brought forward for approval by the Authority by 1 September 2009. Licence holders have also been consulted by way of a Licence Drafting Working Group (LDWG) meeting.
- 10.** The feedback from licence holders in the period following the LDWG meeting has resulted in a limited number of cosmetic and definitional changes to the indicative CLM proposal published in Appendix 2 of our March document. In particular the text in proposed condition 50.2 which defined the CDCM as being 'levied on customers connected to the High and Low Voltage Networks' has been removed. In proposed condition 50.5 we now qualify the CDCM as applying to 'Designated Properties', and 'Designated Properties' are defined in proposed condition 50.10 as 'premises or Distribution Systems connected to assets on the licensee's Distribution System at a voltage level of less than 22 kilovolts, but excluding any such premises or Distribution Systems in respect of which the Use of System Charges levied by the licensee are calculated on the same basis as those levied in respect of premises or

Distribution Systems connected to assets on the licensee's Distribution System at a voltage level of 22 kilovolts or more.' The Authority has widely consulted on this change.

11. A pro forma that relevant licence holders may wish to use in order to register a statutory objection is appended to this notice.
12. A copy of the proposed modification and other documents referred to in this notice are available (free of charge) from the Ofgem library (telephone 020 7901 7003) or on the Ofgem website (www.ofgem.gov.uk).
13. Any representations or objections to the proposed licence modifications may be made on or before 8 June 2009 to: Lewis Hodgart, Office of Gas and Electricity Markets, Regent Court, 70 West Regent Street, Glasgow, G2 2QZ or by email to lewis.hodgart@ofgem.gov.uk.
14. All responses will normally be published on Ofgem's website and held in the Research and Information Centre. However, if respondents do not wish their response (or any part of it) to be made public then they should clearly mark their response (or a relevant part of it) as not for publication. Ofgem prefers to receive responses in an electronic form so they can be placed easily on the Ofgem website.
15. If you wish to discuss any aspect of this Notice, Lewis Hodgart would be pleased to help.

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Rachel Fletcher, Director of Distribution
Duly authorised on behalf of the
Gas and Electricity Markets Authority 8 May 2009

Proposed Modification of Standard Licence Condition 13 and introduction of new Standard Licence Condition 50 and 13A

In response to the statutory notice dated 8 May 2009 in respect of the above proposed modification, this notice constitutes a statutory objection to that proposal on behalf of¹ I confirm that I am duly authorised to give this notice on behalf of each of the above named companies.

Signed²:

Date:

¹ Please state full name of each relevant licence holder making the objection

² Please include address for acknowledgement, preferably including email address

Schedule 1

Condition 1. Definitions for the standard licence conditions

Relocation of the SLC 13 definition of 'Charging Methodology'

Transpose existing paragraph 14 of SLC 13 into SLC 1 and place it between 'Charge Restriction Condition' and 'Competition Commission', as follows:

Charging Methodology means a complete and documented explanation, presented in a coherent and consistent manner, of the methods, principles, and assumptions that apply:

- (a) in relation to Use of System, for determining the licensee's Use of System Charges; and
- (b) in relation to connections, for determining the licensee's Connection Charges,

as approved by the Authority by virtue of the provisions of standard conditions 13, 13A or 50 (as the case may be).

Condition 13. Charging Methodologies for Use of System and connection

Clarification of relationship between SLC 13 and other conditions

Add section heading and three new paragraphs to SLC 13 immediately after paragraph 13.13, as follows:

Arrangements applying because of other conditions

- 13.14 If the licensee is a Distribution Services Provider, standard condition 50 (Development and implementation of a Common Distribution Charging Methodology) applies in relation to certain obligations of the licensee under this condition 13 with effect from 1 July 2009.
- 13.15 The Authority may, after consulting all Electricity Distributors, make such consequential modifications of this condition 13 and, so far as is relevant, of standard condition 14 (Charges for Use of System and connection) at such time, in such manner, and to such extent as may be necessary to ensure that, as from 1 April 2010, those provisions properly reflect the effects of the introduction into this licence, on that date, of standard condition 13A (Common Distribution Charging Methodology).
- 13.16 Modifications made by the Authority under paragraph 13.15 may make different provision for different categories of Electricity Distributor.

Condition 50. Development and implementation of a Common Distribution Charging Methodology

Introduction

- 50.1 This condition applies on and after 1 July 2009 for the following purposes.
- 50.2 The first purpose is to ensure that a Common Distribution Charging Methodology ('the CDCM') is developed and brought into force by the licensee in conjunction with all other Distribution Services Providers on 1 April 2010 ('the Implementation Date') in accordance with the provisions of this condition.
- 50.3 The second purpose is to provide for the introduction into this licence with effect from the Implementation Date of a transparent compliance and change control framework for the CDCM.

Part A: Relief from requirements of standard condition 13

- 50.4 While this condition is in force in this licence, and except where the Authority directs otherwise, such provisions of standard condition 13 (Charging Methodologies for Use of System and connection) as relate to the licensee's duty to review its Use of System Charging Methodology at least once a year, with a view to modifying it for the purpose of better achieving the Relevant Objectives of that condition, do not have effect in relation to such parts of that Use of System Charging Methodology as are to be superseded by the CDCM on 1 April 2010.

Part B: Common Distribution Charging Methodology

- 50.5 The CDCM is a Charging Methodology that:
- (a) applies for the purpose of ensuring that the Use of System Charges levied in respect of Designated Properties (see paragraph 50.10) by Distribution Services Providers are determined on a common basis, so far as is reasonably practicable; and
 - (b) is approved by the Authority, having regard to its principal objective and duties under the Act, on the basis that it achieves the Relevant Objectives set out below.
- 50.6 The first Relevant Objective is that compliance with the CDCM facilitates the discharge by the licensee of the obligations imposed on it under the Act and by this licence.
- 50.7 The second Relevant Objective is that compliance with the CDCM facilitates competition in the generation and supply of electricity and will not restrict, distort, or prevent competition in the transmission or distribution of electricity or in participation in the operation of an Interconnector.
- 50.8 The third Relevant Objective is that compliance with the CDCM results in charges which, so far as is reasonably practicable after taking account of

implementation costs, reflect the costs incurred, or reasonably expected to be incurred, by the licensee in its Distribution Business.

- 50.9 The fourth Relevant Objective is that, so far as is consistent with paragraphs 50.6 to 50.8, the CDCM, so far as is reasonably practicable, properly takes account of developments in the licensee's Distribution Business.
- 50.10 For the purposes of this condition, Designated Properties are premises or Distribution Systems connected to assets on the licensee's Distribution System at a voltage level of less than 22 kilovolts, but excluding any such premises or Distribution Systems in respect of which the Use of System Charges levied by the licensee are calculated on the same basis as those levied in respect of premises or Distribution Systems connected to assets on the licensee's Distribution System at a voltage level of 22 kilovolts or more.

Part C: Developing a Common Distribution Charging Methodology

- 50.11 The licensee must develop the CDCM in compliance with the following requirements.
- 50.12 The first requirement is that the CDCM must be developed by the licensee in conjunction with every other Distribution Services Provider.
- 50.13 The second requirement is that the CDCM must be able to be given effect by the licensee by not later than the Implementation Date.
- 50.14 The third requirement is that the CDCM must conform to such requirements as have been specified by the Authority for the purposes of this condition in a decision given on 1 October 2008, as subsequently clarified and amended by the Authority on 20 March 2009, with respect to the fundamental principles and assumptions on which the development of the CDCM is to be based.
- 50.15 The fourth requirement is that the CDCM must be submitted by not later than 1 September 2009 for approval by the Authority.
- 50.16 The fifth requirement is that a full set of illustrative Use of System Charges for the Regulatory Year 2009/10 which would have resulted from the licensee's compliance with the CDCM if it had been in force under this licence at 1 April 2009 must be submitted to the Authority by not later than 1 September 2009.
- 50.17 The sixth requirement is that during the development of the CDCM and before submitting it to the Authority in accordance with the fourth requirement, the licensee must have taken all reasonable steps (including, where appropriate, approaching the Authority to discuss how the licensee proposes to address any unforeseen charging implications of the CDCM) to ensure that the CDCM in the form in which it is being developed will be capable of being approved by the Authority in accordance with the requirements of Part B of this condition.

Part D: Approving a Common Distribution Charging Methodology

- 50.18 Where the Authority, having regard to its principal objective and duties under the Act, is satisfied with the CDCM developed in accordance with the provisions of

Part B and Part C of this condition, it may approve the CDCM in a direction given for the purposes of this condition generally that:

- (a) sets out the Authority's reasons for approving it; and
- (b) specifies the date (being not later than 31 December 2009 unless otherwise directed by the Authority) on which it proposes that the approval should have effect.

50.19 Subject to paragraph 50.20, an approval by the Authority under paragraph 50.18 may be granted subject to such conditions as the Authority considers appropriate, having regard, in particular, to:

- (a) the need for any further action to be undertaken by the licensee to ensure that the CDCM would better achieve the Relevant Objectives; and
- (b) the time by which such action must be completed.

50.20 No condition imposed under paragraph 50.19 is effective unless, before granting the relevant approval, the Authority has informed the licensee of its intention to impose the condition in a Notice which:

- (a) sets out the nature and contents of the condition; and
- (b) specifies a period of at least 28 days within which representations or objections with respect to the condition may be made,

and has considered any representations or objections that are duly made by the licensee and not withdrawn.

50.21 Except that the Authority may not bring forward the dates specified in Parts D, E, F, G and Appendix 1 of this condition, the Authority may direct that such deadlines as are specified in those Parts or that Appendix may be amended as the Authority considers necessary for the purpose of meeting its wider public law duties or having regard to its principal objective and duties under the Act.

Part E: Implementing a Common Distribution Charging Methodology

50.22 Where the Authority has approved the CDCM under Part D of this condition, the licensee must, with effect from the Implementation Date:

- (a) revoke such parts of its Use of System Charging Methodology used for the calculation of Use of System Charges levied in respect of Designated Properties as are contained within that methodology in the form in which it is in force under standard condition 13 at 31 March 2010; and
- (b) implement the CDCM in the form in which it has been approved by the Authority.

Part F: Arrangements for handling modification proposals

50.23 The licensee, in conjunction with all other Distribution Services Providers, and in consultation with other Authorised Electricity Operators, must develop

arrangements for handling modification proposals in relation to the CDCM ('modification arrangements') and submit them for approval to the Authority by not later than 1 September 2009.

- 50.24 The modification arrangements must include provision for the following core features.
- 50.25 The first core feature is that the arrangements must provide for the licensee to meet periodically with other Distribution Services Providers, other Authorised Electricity Operators, and any other persons whose interests are materially affected by the CDCM for the purpose of discussing the further development of the CDCM.
- 50.26 The second core feature is that the arrangements must provide for a timely and efficient process by which the licensee can:
- (a) formally receive modification proposals from any Authorised Electricity Operator or any other person whose interests are materially affected by the CDCM;
 - (b) consult on the merits of those proposals with other Distribution Services Providers, other Authorised Electricity Operators, and any other persons whose interests are materially affected by the CDCM; and
 - (c) evaluate those proposals in the light of that consultation.
- 50.27 The third core feature is that the arrangements must provide for the licensee to have a report on any modification proposal prepared in a timely and efficient manner for submission to the Authority that:
- (a) sets out the terms proposed for the modification;
 - (b) fairly summarises the representations received during the consultation process under paragraph 50.26;
 - (c) sets out the conclusions reached by the licensee and other Distribution Services Providers about the modification proposal in question, including whether, in their opinion, the modification would better achieve the Relevant Objectives; and
 - (d) sets out a timetable for implementing the modification, if it were to be made, and the date with effect from which the modification (if made) would take effect.
- 50.28 The fourth core feature is that the arrangements must provide for the review and future modification (where appropriate) of the modification arrangements.

Part G: Approval of arrangements for handling modifications

- 50.29 Where the Authority, having regard to its principal objective and duties under the Act, is satisfied that the modification arrangements submitted under paragraph 50.23 comply with the features set out in paragraphs 50.25 to 50.28, it may approve those arrangements as the modification arrangements approved by the Authority for the purposes of standard condition 13A (Common

Distribution Charging Methodology) in a direction given for the purposes of this condition 50 generally that:

- (a) describes (or provides for access to a description of) the nature of the modification arrangements;
- (b) sets out the Authority's reasons for approving the arrangements; and
- (c) specifies the date on which it proposes that the approval should have effect.

50.30 Subject to paragraph 50.31, an approval by the Authority under paragraph 50.29 may be granted subject to such conditions as the Authority considers appropriate, having regard, in particular, to:

- (a) the need for any further action to be undertaken by the licensee to ensure that the modification arrangements would better meet the features set out in paragraphs 50.25 to 50.28 of this condition; and
- (b) the time by which such action must be completed.

50.31 No condition imposed under paragraph 50.30 is effective unless, before granting the relevant approval, the Authority has informed the licensee of its intention to impose the condition in a Notice which:

- (a) sets out the nature and contents of the condition; and
- (b) specifies a period of at least 28 days within which representations or objections with respect to the condition may be made,

and has considered any representations or objections that are duly made by the licensee and not withdrawn.

Part H: Compliance and change control framework

50.32 Where the Authority has approved the CDCM under Part D of this condition, this Part H applies on the Implementation Date for the purpose of modifying the standard conditions of this licence with effect from that date in accordance with paragraph 50.33 below.

50.33 The modification referred to in paragraph 50.32 is that standard condition 13A in the form set out at Appendix 1 (which is part of this condition 50) comes into force in this licence on the Implementation Date.

Part I: Interpretation and termination

50.34 For the purposes of this condition, the CDCM achieves the Relevant Objectives if it achieves them in the round, taking one objective with another.

50.35 Unless and to the extent otherwise directed by the Authority, this condition is of no further effect in this licence after the Implementation Date.

Part J: Derogations

- 50.36 The Authority may (after consulting the licensee and, where appropriate, any other Authorised Electricity Operator likely to be materially affected) give a direction ('a derogation') to the licensee that relieves it of its obligations under Part C of this condition in respect of such elements of the CDCM, to such extent, for such period of time, and subject to such conditions as may be specified in the direction.
- 50.37 Appendix 1 follows immediately below.

APPENDIX 1

Condition 13A. Common Distribution Charging Methodology

Part A: Licensee's obligations

- 13A.1 This condition applies to the licensee on and after 1 April 2010 if the licensee is a Distribution Services Provider.
- 13A.2 The licensee must take all steps within its power to ensure that the Common Distribution Charging Methodology ('the CDCM') in force under this licence at 1 April 2010 continues to be a Charging Methodology for the determination of the licensee's Use of System Charges that is approved by the Authority on the basis that it achieves the Relevant Objectives set out in Part B below.
- 13A.3 The licensee must at all times implement and comply with the CDCM.
- 13A.4 The licensee must, for the purpose of ensuring that the CDCM continues to achieve the Relevant Objectives:
- (a) review the methodology at least once every year; and
 - (b) subject to Part C of this condition, make such modifications (if any) of the methodology as are necessary for the purpose of better achieving the Relevant Objectives.

Part B: The Relevant Objectives of the CDCM

- 13A.5 The Relevant Objectives that the CDCM must achieve are as follows.
- 13A.6 The first Relevant Objective is that compliance with the CDCM facilitates the discharge by the licensee of the obligations imposed on it under the Act and by this licence.
- 13A.7 The second Relevant Objective is that compliance with the CDCM facilitates competition in the generation and supply of electricity and will not restrict, distort, or prevent competition in the transmission or distribution of electricity or in participation in the operation of an Interconnector.

- 13A.8 The third Relevant Objective is that compliance with the CDCM results in charges which, so far as is reasonably practicable after taking account of implementation costs, reflect the costs incurred, or reasonably expected to be incurred, by the licensee in its Distribution Business.
- 13A.9 The fourth Relevant Objective is that, so far as is consistent with paragraphs 13A.6 to 13A.8, the CDCM, so far as is reasonably practicable, should properly take account of developments in the licensee's Distribution Business.
- 13A.10 For the purposes of this condition, the CDCM achieves the Relevant Objectives if it achieves them in the round, taking one objective with another.

Part C: Procedure for modifying the CDCM

- 13A.11 Proposals for modifying the CDCM ('modification proposals') may be raised:
- (a) by any Authorised Electricity Operator; or
 - (b) by any other person whose interests are materially affected by the CDCM,
- and must be handled by the licensee in conjunction with all other Distribution Services Providers and in accordance with the relevant modification arrangements.
- 13A.12 The relevant modification arrangements are the modification arrangements approved by the Authority for the purposes of this condition 13A and in force under this licence at 1 April 2010 by virtue of the provisions of standard condition 50 (Development and implementation of a Common Distribution Charging Methodology), as modified from time to time in such manner as is provided for by those arrangements.
- 13A.13 Unless otherwise directed by the Authority under paragraph 13A.14, before making a modification to the CDCM the licensee must have a report prepared for submission to the Authority that:
- (a) sets out the terms proposed for the modification;
 - (b) fairly summarises the representations received during the consultation process on the modification proposal;
 - (c) sets out the conclusions reached by the licensee about the modification proposal in question, including whether, in the licensee's opinion, the modification would better achieve the Relevant Objectives; and
 - (d) sets out a timetable for implementing the modification and the date with effect from which the modification (if made) is to take effect (which must not be a date earlier than the date on which the period referred to in paragraph 13A.16 will end)
- 13A.14 If the Authority has directed that paragraph 13A.13 should not apply, the licensee must comply with such other requirements (if any) as the Authority may specify in its direction.

- 13A.15 Subject to paragraph 13A.16, where the licensee has complied with the requirements of paragraph 13A.13 the licensee must, before making the modification:
- (a) revise the relevant statement of the CDCM (or the most recent version of that statement) published in accordance with paragraph 13A.17 so that it sets out the changed methodology and specifies the date from which that is to have effect; and
 - (b) give the Authority a copy of the revised statement.
- 13A.16 The licensee must make the modification of the CDCM unless, within 28 days of receiving the licensee's report under paragraph 13A.13, the Authority, having regard to its principal objective and duties under the Act, has either:
- (a) directed the licensee not to make the modification; or
 - (b) notified the licensee that it intends to consult and then within three months of giving that notification has directed the licensee not to make the modification.

Part D: Public availability of the CDCM

- 13A.17 The licensee must ensure that a copy of the CDCM that is in force under this condition, as from time to time modified, is publicly available on the licensee's Website and is otherwise available to any person who requests it upon payment of an amount not exceeding the reasonable costs of making and supplying that copy.

Part E: Derogations

- 13A.18 The Authority may (after consulting the licensee and, where appropriate, any other Authorised Electricity Operator likely to be materially affected) give a direction ('a derogation') to the licensee that relieves it of its obligations under Part A of this condition in respect of such elements of the CDCM, to such extent, for such period of time, and subject to such conditions as may be specified in the direction.