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Dear Rachel

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

We will not be issuing a statutory objection to the above Collective Licence Modification. Whilst we continue to believe that it is better for licensees to develop their own charging proposals which reflect their own particular circumstances, we recognise that a Common Distribution Charging Methodology is the most pragmatic approach to ensuring that this project reaches a conclusion and removes uncertainty for our customers and we will continue to take all appropriate steps within our power to ensure delivery of this project in the required timescales.

We do, however, believe that this CLM is unnecessary as its only purpose is to place obligations on Distribution Service Providers (DSPs) to deliver a CDCM and governance arrangements in the next few months, when they have been working together since October 2008 to this effect. In our letter to you of 16 January 2009, in response to your consultation on the next steps, we proposed that these informal arrangements would continue as has proved to be the case.

Our main concern is with the drafting of the CLM and the absolute nature of the obligation placed on DSPs. In this regard we supported the collective representation made by Roger Barnard on behalf of all DSPs. We did however receive a measure of comfort from the meeting you called with DSPs on 22 May 2009, and your subsequent letter, where you stated that Ofgem would adopt a pragmatic approach to enforcement and would not take enforcement action against a particular DSP where the CDCM were not delivered in the required timescales, if the DSP could demonstrate that it had done everything within its power to comply with the obligations. Ofgem also has a key role to play in ensuring the success of this project and again we welcome your comments that Ofgem sees the definition of the CDCM in the March document as a guide and will not stick rigidly to this definition where alternatives can be justified. Ofgem needs to advise the DSPs at the earliest opportunity where it believes

that the CDCM being developed by the DSPs is not likely to be approved by Ofgem, even with conditions.

We note Ofgem's reasons for rejecting the DSPs proposed licence drafting which would have addressed the governance requirements as one of process. We believe that the governance arrangements for the CDCM should be via DCUSA as this provides all parties with a right of appeal. We believe that, by having this right, there will be greater focus on getting the initial decision correct and that this will improve the CDCM.

We did not respond to your March document with regard to EHV charging where you proposed that DSPs be required to choose between the FCP and LRIC methodologies. We intend to model both approaches and select the one which best meets the relevant objectives and is compliant with competition law. In these circumstances, if we choose FCP, we would object to an ex post review of capex decisions if such a review were not also applied to DSPs who had chosen the LRIC approach. If such a review were implemented it should not only look at DSP investments but also look at connection applications that were not progressed due to excessive charges. Excessive charges which do not reflect costs could block efficient investments by developers and jeopardise the Government's renewable energy targets.

I hope you find these comments constructive and I can assure you that we will do everything we can to bring this project to a successful conclusion.

Yours sincerely,

Paul Bircham
Regulation Director
Electricity North West Limited