

Rachel Fletcher
Director, Distribution
Ofgem
9 Millbank
London
SW1P 3GE

Your ref

Our Ref

Date

8 June 2009

Contact / Extension

01698 413 475

Dear Rachel

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

I refer to the Collective Licence Modification Proposal (ref. 48/09) issued by Ofgem on 8 May 2009 relating to the preparation and implementation of a common distribution charging methodology ("**CDCM**"); the Energy Networks Association response to Ofgem's Michael Brocklehurst dated 20 May 2009 ("**the ENA Letter**"); and your letter dated 3 June 2009 ("**the Clarification Letter**").

SP Energy Networks ("**SPEN**") are concerned about the legal formulation of the obligations to be imposed on SP Distribution Limited and SP Manweb Plc by the proposed SLC 50, namely:

- **SLC 50.2 and SLC 50.11** - these SLCs when read in conjunction with one another would lead to all licensees being bound under a duty to both jointly and severally comply with the obligations of these conditions. If this duty as currently drafted is neither amended nor qualified by Ofgem, this could lead to all 14 licensees being in breach of this obligation due to the acts or omissions of 1 licensee - clearly this was never the intention of these obligations.
- **SLC 50.14** - requires the CDCM to conform to the requirements specified in the Authority's 1 October 2008 decision document, as clarified and amended by the Authority's 20 March 2009 decision document (including the principles and assumptions). These requirements, as currently drafted, require to be strictly adhered to. However SPEN consider that this provision should allow for such principles and assumptions to adapt in line with the development of the CDCM, provided that appropriate justification can be provided by the licensees.

SPEN have serious reservations about the potential implications of the current SLC drafting and share the concerns set out in the ENA Letter. SPEN welcomes your Clarification Letter in response to the concerns over SLC 50.2 and SLC 50.11.

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SPEN believes that the Clarification Letter provides clarity on this issue and minimises to some extent, SPEN's concern. However, SPEN would still welcome clarity being brought to our concerns over SLC 50.14 from Ofgem in a further qualifying statement (such as side letter in a similar form to your Clarification Letter) confirming that for the purposes of SLC 50.14, the definition of the CDCM in the Authority's 20 March 2009 decision document (including but not limited to the fundamental principles and assumptions expressed therein) will not be strictly adhered to by the Authority, where alternatives can be justified by the licensees. The Authority will also advise the licensees at the earliest opportunity where the Authority believes that the CDCM being developed by the licensees is not likely to be approved by the Authority.

Notwithstanding the concerns expressed above, SPEN fully supports the development and implementation of a CDCM and is committed to bringing forward, in conjunction with the other licensees a compliant CDCM by 1 September 2009. To this end SPEN accepts the proposed licence modifications.

We look forward to receiving the additional clarification requested above, in advance of 1 September 2009.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Scott Mathieson', with a stylized flourish at the end.

Scott Mathieson
Regulation and Commercial Director