
Introduction

Chapter 1

Question 1: Do you think our proposed timetable for the implementation of changes to the licence conditions and other legal instruments (set out in this chapter) is appropriate?

Yes the timetable for the Licence drafting and Statutory Instrument is appropriate. The timetable for publishing final RIGs in February is very challenging.

Chapter 2

Question 1: Do you think any of our proposed changes to the standard licence conditions or new charge restrictions (current special licence conditions) are inappropriate?

Our representation on the Legal Working Group is intended to ensure that the Licence Drafting reflects the policy matters being developed by Ofgem that will be published in Final Proposals.

Some drafting comments are attached as Appendix 1.

Question 2: Do you think there are any other changes to the standard licence conditions or new charge restriction conditions (current special licence conditions) we should be looking to make at the start of the DPCR5 period?

We have asked Ofgem to consider re-openers category for possible liabilities arising from compensation to pre-2005 generators and for changes to taxation liabilities.

There is a consequential amendment required to SLC14 to remove the 3 month backstop for connections quotations. There are new timescales in the Connection Guaranteed Standards that provide for different timescales for different types of connection. These are now enforceable at 90% performance under SLC15A.10.

Question 3: Do you think we have chosen the appropriate implementation instrument (eg licence condition, statutory instrument, RIG or direction) for each of the policy areas?

Yes. There should be a single Connections RIGs to ensure reporting consistency.

Appendix 1 – Drafting Comments

SLC15A Connection Policy & Connection Performance.

There needs to be a single Connection RIGs that includes all the connections data required for the purposes of connections policy, connections performance, connections margin and other connections costs. The drafting should reflect this.

15A.10(a). There is no justification for a duty to take all reasonable steps to comply in every case with the guaranteed standards. There is already a payment penalty in every case for non-compliance. This paragraph should be removed.

15A.10(b) The 90% performance obligation triggers multiple financial penalties in the event of poor performance.

Level 1. Individual GS failures result in uncapped payments to customers.

Level 2. Failure at 90% level can be enforced under SLC15A and potentially result in a fine.

Level 3. It is also proposed that enforced breach of SLC15A will be part of the Legal's Test and result in clawback of some or all of the unregulated margin in the relevant sector.

As a matter of principle this is unfair and could mean that the financial impact is disproportionate to the impact on customers. Within the ECSG Working Group Ofgem has recognised this and provided verbal assurance that each level of financial impact would be offset against the others. The DNOs have also requested that such a statement is included in Final Proposals.

We would ask that the Final Proposals clarifies that in assessing the impact of a breach of SLC15A, Ofgem will offset all relevant payments made or due to customers (including GS payments, margin clawback and future reduced margin) against any fine determined for enforced licence breach and also the level of margin clawback.

As referred to in Ofgem's consultation, there is a consequential amendment required to SLC12.6 (b) and (c) to remove the 3 month backstop for connections quotations. There are new timescales in the Connection Guaranteed Standards that provide for different timescales for different types of connection. These are now enforceable at 90% performance under SLC15A.10.

SLC44B Distribution Losses Regime

SLC 44B.10 requires a DNO to submit a Statement of Compliance to Ofgem explaining how it will comply with the Condition and the Distribution Losses Reporting RIGs by April 2010. This is inconsistent with Ofgem timescale for publishing the Final RIGs in February, subject to a 28 day consultation period. The timescale for submitting the Statement of compliance should be within 6 months of the issuing of the Distribution Losses RIGs. This point was accepted by Ofgem at the Legal Working Group Meeting on 5 November 2009.

SLC46A Business Carbon Footprint

This drafting is incomplete. At the Legal Drafting Group, Ofgem had agreed to include an Appendix outlining a Schedule of Specified Information based on the Scope 1 Scope 2 and partial Scope 3 approach set out in Initial Proposals. This would be consistent with the format of other licence conditions such as SLC44B.

A proposed drafting is attached as Appendix 2.

The submission of the Annual BCF Report will need to be 31 July as this requires includes distribution losses data.

CRC13 Connections Margins

13.23 is no longer needed as all relevant market segments are now covered by the single "competition test" that provides for appropriate standards as to price and service under SLC13.22(b).

13.39 For consistency regulatory deadlines are now all moving to 31 July to tie up with RRP cost reporting etc.

13.56 The clawback of margin is intended to be some or all of the difference between the unregulated margin and the regulated margin. The drafting needs to clarify this.

Definition of Margin – Ofgem recognises that connection charges are based on estimated costs and not actual costs incurred. The drafting needs to reflect this.

The definitions of the Market Segments needs to be consistent with the Connections Guaranteed Standards definitions, in order for DNOs to provide consistent data. Work is in hand to address this.

Appendix 2 – Proposed drafting for SLC46 Business Carbon Footprint

Appendix 1: Schedule of Specified Information

A1. As provided for at paragraph 46A.2, this Schedule details the Specified Information that the licensee must measure, record and report under this condition.

A2. The Licensee shall report on all Scope 1 and Scope 2 emissions from operations over which it has full authority to introduce and implement its operating policy. The licensee shall also report on a subset of Scope 3 emissions (business travel and external contractors emissions related to the operational transport fleet and mobile power plant).

Specified Information Category 1

A3. This information comprises a reporting methodology that is compliant with the principles of the Greenhouse Gas Protocol 73 (GHG Protocol) as at October 2009. This shall include a description of data sources and processes for recording, estimating, converting to kgCO₂e. It shall clarify how these principles have been translated into the reporting, including details of assumptions and excluded emissions.

Specified Information Category 2

A4. This information comprises:

- (a) Buildings Energy Usage, including electricity usage in substations.
- (b) Transport
- (c) Fugitive emissions (SF₆)
- (d) Fuel combustion Non-building (mobile power plant)
- (e) Network losses