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DNOs, IDNOs and other
interested parties

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Date: 26 January 2010

Dear Colleague,

Statutory consultation under section 40B of the Electricity Act 1989 on the Authority's proposals to revise existing standards of performance for electricity distributors

Introduction

As part of the Distribution Price Control Review process (DPCR5), Ofgem is proposing to revise a number of the standards currently contained in The Electricity (Standards of Performance) Regulations 2005 (the "Existing Standards").

Please note that Ofgem is also introducing new connections standards of performance that will apply to the metered and unmetered connections services provided by all licensed Electricity Distributors. These new standards will be introduced via a new Statutory Instrument called The Electricity (Connection Standards of Performance) Regulations 2010 (the "New Connections Standards"), which is scheduled to come into force on 1 October 2010.

This letter deals only with the Existing Standards, a separate statutory consultation on the New Connections Standards is expected to be carried out by Ofgem in February 2010.

Purpose of this letter

This letter is accompanied by a Notice under Section 40B of the Electricity Act 1989 which provides a summary of the proposed changes to the Existing Standards along with a copy of the proposed revised Existing Standards in the form of the new Electricity Standards of Performance Regulations 2010, complete with updated numbering and cross-references.

We have carried out two rounds of consultation, in November¹ and December 2009², on our proposed revisions to the Existing Standards. In Annex 1 to this letter we summarise the responses received to our December 2009 consultation and our proposed approach after consideration of those responses.

Next Steps

¹ Open letter on Ofgem's proposals to introduce new connections standards of performance and revise existing standards of performance for electricity distributors Ref: 137/09 5 November 2009.

² Open letter consultation on Ofgem's proposals to revise existing standards of performance for electricity distributors: 18 December 2009, Ref: 161/09.

The statutory consultation on the proposed changes to the Existing Standards closes on **23 February 2010**. Responses should be sent to QoS@ofgem.gov.uk. Unless marked confidential, all responses will be published on Ofgem's website.

Any questions on the Existing Standards should be directed to James Hope on 020 7901 7029, or at Ofgem, 9 Millbank, Westminster, SW1P 3GE or by email to james.hope@ofgem.gov.uk.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Rachel Fletcher', is written over a light grey rectangular background.

Rachel Fletcher
Partner, Distribution

Annex 1 – Summary of Responses to our December 2009 consultation

Please note that we have used the updated numbering in the regulations and referenced the regulation number used in December 2009 consultation in brackets for ease.

General Comments

- The purpose of the December 2009 consultation was to provide respondents with an opportunity to consider the further changes that we propose to make to the Existing Standards and to ensure that it reflects and is consistent with the final policy position as set out in DPCR5 Final Proposals³. We were not discussing policy in that consultation.
- Respondents provided a number of detailed, relatively minor, drafting suggestions covering both the proposed changes to the Existing Standards and also to those standards where no changes have been proposed. We have accepted a number of these minor drafting changes where appropriate, but in many cases we have taken a view that the proposed changes are not necessary and have therefore maintained the existing drafting.
- In updating all payment levels to reflect inflation over the period April 2005 to November 2009 we have ensured that where a standard is capped, the cap equates to an addition of the relevant payments.

Regulation 6 [5A] - Supply restoration: normal conditions - 5,000 or more premises interrupted

- Respondents provided suggestions for drafting changes to ensure clarity of this new standard which we have reflected in Regulation 6.
- Respondents suggested drafting revisions so that the revised Existing Standards are consistent with the language used in the New Connections Standards SI. We have corrected where appropriate.
- One respondent suggested clarification as to whether this standard was intended to cover a single incident or could be applied where 5,000 or more premises across a distributor's distribution services area were interrupted. We have amended the drafting to make clear that this standard is intended for a single incident interrupting 5,000 or more premises.
- A respondent suggested that Regulation 6 is amended to explicitly make it clear that Regulation 5 and 6 are mutually exclusive. We believe Regulation 5(3)(a) makes it clear that Regulation 5 does not apply where Regulation 6 does.

Regulation 8 [6A] - Supply restoration: rota disconnection

- Respondents proposed a revised definition of what constitutes a rota disconnection. We have clarified the drafting to reflect the suggestions.
- One respondent suggested a number of drafting revisions to ensure that the duration captured and measured against this standard was cumulative over all the interruptions associated with the rota disconnection scheme in place for a given event. We have taken on board some of the suggested drafting changes where they

³ Open letter on Ofgem's proposals to introduce new connections standards of performance and revise existing standards of performance for electricity distributors Ref: 137/09 5 November 2009.

are necessary i.e. to refer to 'prescribed period', but not where we believe the current drafting is already clear.

Regulation 10 [8] - Exemptions from the normal and severe weather restoration standards

- A number of respondents queried the proposed removal of the exemption under Regulation 10(8)(e) "circumstances of an exceptional nature beyond the control of the relevant electricity distributor" for interruptions to 5,000 or more premises. Our policy intention is that where the distributor had not taken all reasonable steps to prevent the event from occurring and to prevent it from having that effect they could not use this exemption. Where they have not taken all reasonable steps, we believe that the wording in the final part of Regulation 10(8) "and the electricity distributor had taken all such steps as it was reasonable to take both to prevent the circumstances from occurring and to prevent them from having that effect", adequately covers such situations. Therefore, we now do not propose to remove that exemption for interruptions to 5,000 or more premises on that basis, subject to any views of respondents to the Section 40B Statutory Consultation.
- A respondent suggested that the exemption set out in paragraph 8(a) of regulation 10 should be extended to include industrial action by employees of a distributor's agent as this would be consistent with the equivalent drafting presented in the New Connections Standards SI. We consider that this suggested amendment could potentially have wider policy impact generally in the Regulations and since this consultation is restricted to the proposed changes to the Existing Standards and not wider policy, we have not incorporated the suggestion.

Regulation 13 [11] – Estimate of charges for connection

- Respondents provided drafting to time limit this standard, so that it falls away once the New Connections Standards come into force on the 1 October 2010. We have reflected this in the drafting of Regulation 13.

Regulation 14 [12] - Notice of supply interruption

- Respondents suggested moving the new paragraph, on removal of temporary supply arrangements, proposed by Ofgem in the December consultation, so that it sat better within the regulation and also to enable it to apply to all of the relevant paragraphs. We have reflected this in the drafting of Regulation 14.
- Respondents proposed a drafting change to better express the intended meaning of "authorised purpose". We have also reflected this in the drafting of Regulation 14.

Regulation 19 [17] – Appointments

- Respondents provided drafting suggestions to carve out connections related appointments from this standard since those would be covered under the New Connections Standards SI. We have introduced a time limit on the application of Regulation 19 concerning connections related appointments up until 1 October 2010, when the New Connections Standards will come into force.