

Anna Rossington
Senior Manager Distribution Policy
Ofgem
9 Millbank
London
SW1P 3GE

Direct line 01925 846863
paul.bircham@enwLtd.co.uk

24 March 2010

Dear Anna,

Re: Notice under Charge Restriction Condition (CRC13) of the Electricity Distribution Licence with respect to the LCN Fund Governance Document

Further to your letter of 24 February 2010 regarding the LCN Fund Governance document and consultation, ENW has considered the draft document and can confirm that we do not object to this Notice. In considering the document there were several areas that ENW felt merited some comment and I have provided explanation of these in Appendix 1.

The process for enabling the production of the draft document has been a constructive one. In particular the changes that have been made to the document as it has progressed through drafting are a reflection of the Ofgem's willingness to listen, consider and action the views of the DNOs where appropriate.

Whilst the LCN Fund Governance document covers only the First Tier at the moment it is noted that the scope of these projects has been tightly controlled with strict limits as to what is and isn't eligible. ENW recognises that this reflects Ofgem's desire to have little direct involvement in approving First Tier projects but would emphasise the need to remove these constraints when considering Second Tier projects. Second Tier projects should be judged on their own overall merits and not be constrained otherwise this will be to the detriment of implementing new and innovative ideas, technologies or commercial arrangements.

We hope the points are considered in the constructive nature that they were intended and look forward to working with you on the details for Second Tier projects. If you wish to discuss any of the points raised above please do not hesitate to contact me.

Yours sincerely,

Paul Bircham
Regulation Director

Appendix 1

These are ENW's detailed comments on the LCN Fund Governance document:

Section 3.4 details the three year limit on projects under the First Tier which ENW feels may be unduly restrictive. We are happy to work with this for the early implementation of First Tier projects but would ask that this area be specifically reviewed at the Two Year Review stage.

Section 3.20 states that you are producing guidance on Intellectual Property Rights (IPR) and considering working on standard agreements for IPR. ENW asks that any guidance is produced as quickly as possible and that it would probably be beneficial to generate standard IPR agreements. ENW is happy to participate in work in delivering standard documentation as we believe it will help to accelerate work on the First Tier projects.

Section 4.2 states that the First Tier funds are provided on a 'use it or lose it' basis in any one year. ENW's experience in the early years of the Innovation Funding Incentive (IFI) is that the levels of spend are considerably lower than the funds available as we developed our procedures and process and generated schemes for use in the funding mechanism. This is also borne out by the Ofgem figures for IFI spend across all DNOs who generally failed to fully utilise the funding available. The IFI scheme has the ability to carryover a certain amount of spend into the following year. Whilst the amounts within the First Tier spend may not be large we are concerned that this 'use it or lose it' principle may also be applied to the Second Tier and if proposed projects are not awarded funding then significant amounts of the £320 million LCN Fund may remain unused. Our suggestion is that a more flexible approach to allow unused funds is utilised in future years where worthwhile projects can justify this. Whilst this approach may not be used in First Tier straightaway again we would urge this be reviewed at the Two Year Review stage to consider the carryover or more flexible approach based on spend achieved at that time.

Sections 4.11 to 4.14 covering engagement with customers do not, we feel, fairly or adequately reflect the current level of engagement that DNOs already have with customers. In 4.12 we are told we must have consent of the customer but this is something which has been and remains standard practice in our business. In 4.14 we are requested to provide Ofgem with a statement of good practice in regard to customer interaction which is something that is already a legal obligation on us. The requirement for good practice codes and safeguards for Customers are already covered in Standard Licence Condition 9 which set out "*..the licensee's obligations in relation to Customers at premises connected to the licensee's Distribution System*" This seems like unnecessary duplication for a pre-existing obligation and we would suggest referring to SLC9.

Section 4.13 covers Smart meters and the interaction with LCN First Tier projects. ENW is highly supportive of the Smart Meter initiative and its rollout across the country as we believe this is fundamental to the functioning of Smart Grids and managing networks in the future. As such we will be working to ensure that our programs of work not only do not interfere but actively assist in the Smart Meter roll-out. ENW's opinion is that this and the other paragraphs in this section imply a level of criticism and a lack of understanding of the considerable amount of existing DNO interaction with customers. This paints a negative picture which we feel is wholly unjustified.