

To: All holders of an electricity distribution licence

NOTICE OF MODIFICATION OF THE STANDARD CONDITIONS OF THE ELECTRICITY DISTRIBUTION LICENCES UNDER SECTION 11A OF THE ELECTRICITY ACT 1989

1. In accordance with paragraph 11A(3) and (4) of the Electricity Act 1989 (the "Act"), the Gas and Electricity Markets Authority (the "Authority") hereby gives notice that it proposes to modify, in the manner as set out in the schedule to this Notice, Standard Condition 21 (Distribution Code) and Standard Condition 22 (Distribution Connection and Use of System Agreement) of electricity distribution licences granted, or treated as granted, under section 6(1)(c) of the Electricity Act 1989 (the "Act").
2. In summary, the effect of the proposed licence modification is to obligate electricity distribution licence holders to include, when providing a report setting out outcome of a review of a proposal for modification of the code to the Authority, evaluation of whether the proposal better facilitates the applicable code objectives which includes an assessment (where applicable) of the economic impacts of greenhouse gas emissions ("GHG") in accordance with Ofgem guidance published from time to time, as set out in the Code Governance Review Final Proposals published on 31 March 2010¹ (the "Final Proposals").
3. In summary, the reasons for proposing this licence modification are that, as part of the Code Governance Review, we have identified a number of deficiencies in the existing code arrangements which the Final Proposals seeks to remedy. Particularly, in June 2008, we issued guidance to industry participants specifying that the costs of GHG emissions should be taken into account by industry in evaluating and assessing code modification proposals. However, while industry has taken steps to incorporate the guidance into procedures, we considered that there was a continuing perception of this being desirable rather than essential. There was also some uncertainty on whether this guidance was limited only to emissions or other environmental impacts, such as upon flora and fauna. The detailed reasons for proposing the licence modifications are contained in the following documents:
 - a. Code Governance Review: Final Proposals, Ofgem Ref: 43/10.
 - b. Code Governance Review: Governance of charging methodologies: Initial proposals - Ofgem Ref: 108/09.
 - c. Code Governance Review: Major Policy Reviews and Self-Governance - Initial Proposals - Ofgem Ref: 84/09.

¹ A copy of the Code Governance Review Final Proposals can be found here: http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?file=CGR_Finalproposals_310310.pdf&refer=Licensing/IndCodes/CGR.

- d. Code Governance Review – role of code administrators and small participant/consumer initiatives – initial proposals - Ofgem Ref: 85/09.
 - e. Review of Industry Code Governance - Environment and Code Objectives - Ofgem Ref: 66/09.
 - f. Review of Industry Code Governance – Code Administrators Working Group - Ofgem open letter, 20 April 2009.
 - g. Review of Industry Code Governance – role of code administrators and small participant/consumer initiatives - Ofgem Ref: 173/08.
 - h. Review of Industry Code Governance – Environment and Code Objectives, Ofgem open letter, 21 November 2008.
 - i. Code Governance Review: Charging methodology governance options - Ofgem Ref: 132/08.
 - j. Review of industry code governance - scope of review - Ofgem Ref: 92/08.
 - k. Corporate Strategy and Plan 2008-2013 - Ofgem Ref: 34/08.
 - l. Open letter announcing review of industry code governance - Ofgem Ref: 284/07.
4. Documents referred to in this Notice are available free of charge from the Ofgem Research and Information Centre, 9 Millbank, Westminster, SW1P 3GE (020 7901 7003 or library@ofgem.gov.uk) or from the Ofgem website (www.ofgem.gov.uk).
5. Any representations or objections to the proposed licence modifications may be made on or before 1 July 2010 to:

Clare Cameron
Licensing and Codes Manager, Industry Codes & Licensing
Ofgem
9 Millbank
Westminster
SW1P 3GE

Or by email to industrycodes@ofgem.gov.uk

6. Only those licensees who are a “relevant licence holder” under section 11A(10) of the Electricity Act 1989 may register their formal objection, if any, to a proposed modification, although any person may make representations. A pro forma that relevant licence holders may wish to use in order to register a statutory objection is appended to this Notice.
7. All responses will normally be published on Ofgem’s website and held in the Research and Information Centre. However, if respondents do not wish their response to be made public then they should clearly mark their response as not for publication.

8. Subject to the outcome of this statutory consultation and consideration of respondents' views, it is the intention of the Authority to direct the proposed modifications to the standard conditions of the electricity distribution licences to have effect on and from 31 December 2010.

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Mark Cox, Associate Partner, Industry Codes and Licensing

Duly authorised on behalf of the Gas and Electricity Markets Authority

3 June 2010

NOTICE OF STATUTORY OBJECTION

Proposed Modification of Standard Conditions 21 and 22 of the electricity distribution licence

In response to the statutory notice dated 3 June 2010 in respect of the above proposed modification, this notice constitutes a statutory objection to that proposal on behalf of² I confirm that I am duly authorised to give this notice on behalf of the above named company or each of the above named companies.

Signed³:

Date:

² Please state full name of each relevant licence holder making the objection

³ Please include address for acknowledgement, preferably including email address

SCHEDULE

PROPOSED MODIFICATION OF THE STANDARD CONDITIONS OF THE ELECTRICITY DISTRIBUTION LICENCES

Standard Conditions 21 and 22 of the electricity distribution licence are proposed to be modified in the manner set out in this schedule. The proposed insertions are shown underlined.

Condition 21. The Distribution Code

Licensee's obligation

1. The licensee must take all steps within its power to ensure that the Distribution Code in force under this licence at 31 May 2008 remains a code approved by the Authority that complies with each of the following requirements.
2. The first requirement is that the Distribution Code must cover all material technical aspects relating to connections to and the operation and use of the licensee's Distribution System or (so far as is relevant to such operation and use) the operation of electric lines and electrical plant connected to that system.
3. The second requirement, which is without prejudice to the first requirement, is that the Distribution Code must make express provision for the matters referred to in paragraphs 21.5 to 21.7.
4. The third requirement is that the Distribution Code, so far as is consistent with the first two requirements, must be designed so as to better facilitate the achievement of the Applicable Distribution Code Objectives, which are to:
 - a. permit the development, maintenance, and operation of an efficient, co-ordinated, and economical system for the distribution of electricity; and
 - b. facilitate competition in the generation and supply of electricity.

Specific contents of the Distribution Code

5. The Distribution Code must include a Distribution Planning and Connection Code (see paragraph 21.6) and a Distribution Operating Code (see paragraph 21.7).
6. The Distribution Planning and Connection Code must contain:
 - a. planning conditions that specify the technical and design criteria and procedures that are to be applied by the licensee in the planning and development of its Distribution System and taken into account by persons having a connection or seeking a connection to that system in the planning and development of their own plant and systems; and
 - b. connection conditions that specify the technical, design, and operational criteria to be complied with by any person having a connection or seeking a connection to the licensee's Distribution System.
7. The Distribution Operating Code must specify the conditions under which the licensee must operate its Distribution System, and under which persons must operate their own plant and systems in relation to that system, so far as is necessary to protect the security, quality of supply, and safe operation of the licensee's Distribution System under both normal and abnormal operating conditions.
8. The licensee must (in consultation with other Authorised Electricity Operators likely to be materially affected) periodically review (including at the Authority's request) the Distribution Code and its implementation.

- 8A. The review undertaken under paragraph 8 shall involve an evaluation of whether any revision or revisions to the Distribution Code would better facilitate the achievement of the Applicable Distribution Code Objectives and, where the impact is likely to be material, this shall include an assessment of the quantifiable impact of any such revision on greenhouse gas emissions, to be conducted in accordance with any such guidance (on the treatment of carbon costs and evaluation of greenhouse gas emissions) as may be issued by the Authority from time to time.
9. After completing any such review, the licensee must send to the Authority:
- a. a report on the outcome of the review conducted in accordance with paragraphs 8 and 8A;
 - b. a statement of any proposed revisions to the Distribution Code that the licensee (having regard to the outcome of the review) reasonably thinks are appropriate for the continuing achievement of the objectives referred to in paragraph 21.4; and
 - c. any written representations or objections from Authorised Electricity Operators (including any proposals by such operators for revisions to the Distribution Code that have not been accepted by the licensee in the course of the review) that were received during the consultation process and have not been withdrawn.
10. Revisions to the Distribution Code that are proposed by the licensee and sent to the Authority under paragraph 21.9(b) must not be implemented without the Authority's approval.
11. The Authority (having regard to any representations or objections referred to in paragraph 21.9(c) and after any further consultation that it considers appropriate) may give a direction to the licensee that requires it to revise the Distribution Code in such manner as may be specified in the direction.

Availability of the Distribution Code

12. The licensee must give or send a copy of the Distribution Code (as from time to time revised):
- a. to the Authority; and
 - b. to any person who requests it.
13. The licensee may make a charge for any copy of the Distribution Code given or sent under paragraph 21.12(b) but this must not exceed the amount specified in directions issued by the Authority for the purposes of this condition generally, based on its estimate of the licensee's reasonable costs of providing the copy.

Performance of obligations

14. The licensee must fulfil its obligations under this condition in conjunction and co-operation with all other Electricity Distributors and in accordance with such arrangements for that purpose as are approved by the Authority.

Condition 22. Distribution Connection and Use of System Agreement

Licensee's obligation

1. The licensee must take all steps within its power to ensure that the Distribution Connection and Use of System Agreement ("the DCUSA") in force under this licence at 31 May 2008 remains an agreement that:
 - a. is designed to facilitate achievement of the Applicable DCUSA Objectives set out in Part A of this condition;
 - b. conforms to the requirements of Parts B to D of this condition in relation to the amendment of the DCUSA; and
 - c. makes express provision for the matters described in the Schedule of DCUSA Contents ("the Schedule") set out at Appendix 1, which is part of this condition.

Part A: Applicable DCUSA Objectives

2. The Applicable DCUSA Objectives are these:
 - a. the development, maintenance and operation by the licensee of an efficient, co-ordinated, and economical Distribution System;
 - b. the facilitation of effective competition in the generation and supply of electricity and (so far as is consistent with that) the promotion of such competition in the sale, distribution, and purchase of electricity;
 - c. the efficient discharge by the licensee of the obligations imposed upon it by this licence; and
 - d. the promotion of efficiency in the implementation and administration of the DCUSA arrangements.

Part B: Principles for making an amendment to the DCUSA

3. Any proposals to amend the DCUSA must be designed to better facilitate the achievement of the Applicable DCUSA Objectives.
4. The DCUSA may be amended at any time in accordance with such procedures (including procedures for amending those procedures) as may be Specified and are in conformity with the principles set out in paragraph 22.5.
5. Those principles are that:
 - a. proposals for the amendment of the DCUSA may be made by any
 - b. the amendment procedures for dealing with any such proposal must comply with the requirements of Part C below;
 - c. the making and implementation of any amendment of the DCUSA must comply with the provisions of Part D below; and
 - d. those parts of the DCUSA that are Specified pursuant to paragraph A3(g) of the Schedule may not be amended without the Authority's approval, which must be sought in accordance with the appropriate procedures set out in the DCUSA.

Part C: Procedures for making an amendment to the DCUSA

6. The procedures contained in the DCUSA for the making of amendments to the DCUSA must have as their objective the achievement of the matters set out in the following provisions of this Part C.
7. The procedures must ensure that every proposed amendment is brought to the attention of all parties mentioned in or pursuant to paragraph 22.5(a).

8. They must ensure that any and all representations made in respect of a proposed amendment are able to be properly considered by the relevant decision makers.
 9. They must ensure that the question of whether any proposed amendment better facilitates the achievement of the Applicable DCUSA Objectives is able to be properly evaluated.
- (9A) They must ensure that the evaluation required under paragraph 9 in respect of the Applicable DCUSA Objective(s) includes, where the impact is likely to be material, an assessment of the impact of the proposed amendment on greenhouse gas emissions, to be conducted in accordance with any such guidance (on the treatment of carbon costs and evaluation of the impact on greenhouse gas emissions) as may be issued by the Authority from time to time.
10. They must ensure that an amendment report is prepared in such manner and has all such contents as may be Specified, including:
 - a. a proposed implementation date that would enable any proposed amendment to take effect as soon as practicable after the decision to implement it has been reached, taking into account the complexity, importance, and urgency of that amendment; and
 - b. a summary of and copies of all submissions made in respect of the proposed amendment.
 11. They must ensure that the proposed implementation date may be altered with the consent of or as directed by the Authority.
 12. They must ensure that parties to the DCUSA, after considering the amendment report prepared in accordance with paragraph 22.10 and whether the amendment would, as compared with the existing provisions of the DCUSA, better facilitate the achievement of the Applicable DCUSA Objectives, are able to vote for:
 - a. the implementation or rejection of the proposed amendment, in the case of a proposal to amend any part of the DCUSA that is not Specified pursuant to paragraph A3(g) of the Schedule; or
 - b. a recommendation to the Authority to approve or reject the proposed amendment, in the case of a proposal to amend any part of the DCUSA that is Specified pursuant to paragraph A3(g) of the Schedule.
 13. They must ensure that all votes cast pursuant to paragraph 22.12 are compiled so that the DCUSA Panel established in accordance with paragraph A3(d) of the Schedule may take such steps as are necessary to facilitate the implementation of any proposed amendment or (as the case may be) to put forward a recommendation to the Authority.

Part D: Implementation of an amendment to the DCUSA

14. No amendment of the DCUSA may be made unless:
 - a. the parties to the DCUSA have voted, pursuant to paragraph 22.12(a), in favour of the amendment described in the relevant amendment report; or
 - b. the Authority, having had regard to the Applicable DCUSA Objectives, directs the licensee, in conjunction with every other Electricity Distributor, to amend the DCUSA in such manner as is stated in that direction following the making of a recommendation to the Authority by the parties to the DCUSA pursuant to paragraph 22.12(b).

Part E: Interpretation

15. For the purposes of this condition:

- a. "amendment" must be read in accordance with the meaning given to the term "modification" in section 111 of the Act, and any related expressions are to be read accordingly; and
- b. words and expressions appearing in Appendix 1 that are defined under any provision of the DCUSA have the meaning given by, or are to be read in accordance with, that provision.

Specified means specified in the DCUSA.

16. Appendix 1 follows immediately below.