

Nicholas Rubin  
Local Grids – Distribution Policy  
Ofgem  
9 Millbank  
London  
SW1P 3GE

17 June 2011

Dear Nicholas,

### **Charges for pre-2005 distributed generators' use of DNOs' distribution systems**

Thank you for the opportunity to comment on this consultation.

EDF Energy is one of the UK's largest energy companies. We provide 50% of the UK's low carbon generation. Our interests include nuclear, coal and gas-fired electricity generation, renewables, combined heat and power plants, and energy supply to end users. We have over 5 million electricity and gas customer accounts in the UK, including both residential and business users.

We are happy for this letter to be published on the Ofgem website.

In order that pre-2005 distributed generators (DGs) are charged in accordance with the distribution use of system charging methodologies we recognise that DNOs may need to renegotiate their contractual terms with pre-2005 DGs and pay compensation where it is necessary.

We consider the determination of the amount of compensation or the level of refund is a matter to be resolved between the DNO and DG.

However, as a Supplier we have the contractual relationship with SVA registered DG and responsibility for collecting Use of System (UoS) charges on behalf of the DNO. We do not think it is reasonable to put Suppliers in the middle of any dispute by charging them UoS charges for a DG that are subject to a dispute with a DNO. Therefore, we support Ofgem's proposal that DNOs should log up the value of those charges that they would bill pre-2005 DGs from 1<sup>st</sup> April 2012. If the dispute is then resolved so that the DG becomes liable for UoS charges, the logged up charges could then be back-billed.

To minimise the likelihood of disputes between DNOs and DGs, and to limit the duration of any existing disputes beyond 1<sup>st</sup> April 2012, we expect Ofgem to take an active role in dispute resolution.

The following Appendix 1 details our response, where appropriate, to the consultation questions.

I hope you find these comments useful, however if you wish to discuss this response further please contact either of my colleagues Simon Vicary ([simon.vicary@edfenergy.com](mailto:simon.vicary@edfenergy.com) 02031262168) or Julia Haughey ([julia.haughey@edfenergy.com](mailto:julia.haughey@edfenergy.com) 02031262167).

Yours sincerely,

A handwritten signature in blue ink that reads "Paul Delamare".

Paul Delamare  
Head of Regulation

## Appendix 1

**CHAPTER: One** - There are no questions for this chapter

**CHAPTER: Two** - There are no questions for this chapter

**CHAPTER: Three**

**Question 1: Is our description and interpretation of historical charging arrangements (including connection and use of system agreements, charging statements, determinations, regulatory precedents) complete and accurate? If not, please provide supporting evidence setting out any issues that you identify.**

The description of historical charging arrangements appears comprehensive and we have not identified any issues.

**Question 2: Do you agree with our rationale for only allowing refunds for instances of double payment to be funded through the price control?**

We agree that it is inappropriate for a DG to pay twice for the same service. Ofgem's identification of double payment occurring where capitalised operations and maintenance (O&M) was paid as part of a connection charge and has not yet expired appears logical because both the CDCM and EDCM would recover these O&M costs as well.

**Question 3: Are there any other instances (beyond that of double payment) where refunds should be funded through the price control? If yes, please explain why these instances are appropriate and compatible with the regulatory regime as it has evolved over time.**

We have not identified any other instances.

**Question 4: Are there any other circumstances beyond capitalised O&M payments that may give rise to instances of double payment that should be reimbursed and funded through the price control? If yes, please explain why these instances are appropriate and compatible with the regulatory regime as it has evolved over time.**

We have not identified any other circumstances.

**Question 5: Do you agree with our proposed approach to calculating refunds for unexpired capitalised O&M payments? Please suggest any improvements to the approach outlined and reasons for these.**

The proposed approach to calculating refunds for unexpired capitalised O&M payments seems reasonable.

**Question 6: Where DNOs have entered into agreements that are/were inconsistent with regulatory practice (eg giving indefinite rights to use of system without further charge or entering into contracts that cannot be freely modified) do you agree that any compensation required by virtue of these contracts should not be funded through the price control?**

Where DNOs have entered into agreements that are or were inconsistent with regulatory practice at that time, we agree that any compensation required by virtue of these contracts should not be funded through the price control.

#### **CHAPTER: Four**

**Question 1: In general are our proposals for implementing the refund arrangements considered by this consultation appropriate? Is the level of detail we have provided sufficient to make our proposals clear and workable? Please outline any areas where you think more clarity/detail is required.**

The proposals for implementing the refund arrangements considered by this consultation are appropriate and appear workable. More information on Ofgem's role in the dispute resolution process is required to ensure a fair and consistent approach.

**Question 2: In the section on "Consistent application of principles", have we appropriately identified who is eligible for a refund? Do we need to provide any further areas of clarification? Which of the two options outlined for mixed sites (demand and generation) are appropriate?**

Knowing whether the connection charge totally or partially covered export requirements is important to determine how much of the original connection charge should be refunded.

Where there is no clear evidence of any intended split of a capitalised O&M payment between import and export, Option 1 seems the most appropriate to calculate the extent of any duplication of charges.

Paying a refund based on whether the connection assets installed at the time of the original connection were sized for the import or export requirement of the site appears most appropriate. This is because the connection fee would have been paid irrespective of the smaller requirement at the site.

**Question 3: Are the evidence requirements set out in the chapter as necessary to support a case for refunding appropriate? Are they sufficiently robust to prevent ineligible claims for compensation being recovered through the price control? Are there additional or alternative assumptions that could be used for supporting a case for a refund?**

We agree that whenever possible, explicit, specific evidence should be used to support a case for paying a refund. It is important to ensure a strong case because any refunds paid for through a DNO's price control are ultimately recovered through charging end customers connected to the DNO's network. We have not identified any additional or alternative assumptions that could be used for supporting a case for a refund.

**Question 4: Is our approach to due process appropriate? Are there additional or alternative steps that should be incorporated?**

The standard process proposed for DNOs to engage with DGs over the issue of refunds seems reasonable and consistent with the aim to ensure that DGs are treated consistently. More information on the Ofgem process of dispute resolution is required to ensure this uses a fair and consistent approach.

**Question 5: We welcome views on how refunds should be paid and the details of implementation. In particular, should it be a one-off payment, a phased payment or a hybrid of the two? If a refund is not a one off-payment, over what time period should it be paid? Do you agree with our proposals for refunds that are not agreed by 1 April 2012?**

One-off payments seem a more consistent way to refund DGs as the decision was made to unbundle compensation payments from the UoS charges. However, we also recognise a one-off payment would mean that DNOs experience a temporary impact on cash-flow between paying the refund and being able to recover costs as part of their next price control.

**Question 6: Do you agree with the mechanics for allowing DNOs to recover refunds through the price control?**

Where O&M refunds have been made with a robust case it seems appropriate for DNOs to be able to fund the payments as part of their next price control. It is also reasonable that other costs that were accrued by the DNO in order to finance the payment of refunds are also considered for inclusion by Ofgem, but we would expect such consideration to ensure this has been efficient.

Adding the economic and efficient costs of O&M refunds to the DNO's RAV to recover them through the total allowed revenue over the depreciation period is a reasonable mechanism. If the total cost of O&M refunds is very low, we agree that recovery in the first year, or even the first few years, of the price control may be more appropriate than adding the costs to the RAV.

**Question 7: Do you agree with our proposals for dispute resolution where DNOs and DGs cannot reach a settlement by 1 April 2012? How can we encourage DNOs and DGs to reach a timely settlement? In particular, should use of system charges in respect of the DG be logged up and back-billed once a refund has been settled on? If these DGs do not have these charges back-billed, how should these charges be recovered by the DNO from other customers?**

As a Supplier we have the contractual relationship with SVA registered DG and responsibility for collecting Use of System (UoS) charges on behalf of the DNO.

We do not think it is reasonable to put Suppliers in the middle of any dispute by charging them UoS charges for a DG in an ongoing dispute with a DNO. Therefore we support Ofgem's proposal that DNOs should log up the value of those charges that they would bill pre-2005 DGs from 1st April 2012. If the dispute is then resolved so

that the DG becomes liable for UoS charges, the logged up charges could then be back-billed.

Where this occurs the DNO will experience a temporary impact on cash-flow but we do not think it is appropriate to recover these costs from other customers.

To minimise the likelihood of this occurring, and to limit the duration of any disputes existing beyond 1<sup>st</sup> April 2012, we expect Ofgem to take an active role in dispute resolution.

**CHAPTER: Five** - There are no questions for this chapter

**EDF Energy**  
**June 2011**