



To electricity distribution companies, customer groups and other interested parties

Promoting choice and value for all gas and electricity customers

Your Ref:
Our Ref: 48/12
Direct Dial: 020 7901 7029
Email: james.hope@ofgem.gov.uk

Date: 30 March 2012

Dear Colleague,

Open letter consultation on the review of the Interruption Incentive Scheme (IIS) and non-connections related Guaranteed Standards of Performance (GSOP) post the 2009 Dartford exceptional event and recent storms in Scotland

The 2009 Dartford exceptional event highlighted a number of potential concerns with the Interruption Incentive Scheme (IIS) and the Electricity (Standards of Performance) Regulations (known as the Guaranteed Standards of Performance - GSOP). This letter consults on whether the changes made for the current price control (DPCR5)¹ sufficiently address the issues arising out of the 2009 Dartford exceptional event, namely exemptions from the IIS and the application of the GSOP for one-off exceptional events.

We also suggest a number of additional changes to the GSOP arrangements that we believe should be considered as part of the forthcoming work on the next price control (RIIO-ED1)².

The rationale behind our proposed approach is as follows:

- From a customer's perspective, the cause of a power cut is generally unknown. It is therefore appropriate to remove some exemptions so that customers receive the same payments for long duration interruptions regardless of the cause of the interruption or the location of the customer.
- Companies should be incentivised to minimise the impact of power cuts on customers (both frequency and duration).
- It is appropriate for companies to face financial penalties for interruptions in circumstances that are either substantially within their control or, for low frequency high impact events, where they have not done everything reasonable to reduce the probability of interruptions and not acted appropriately when the interruption occurred.

We welcome views on any of the issues set out in this letter. Responses should be emailed to ElectricityDistribution.CostsandOutputs@ofgem.gov.uk by Friday 1 June 2012.

¹ DPCR5 is the current price control, which runs from 1 April 2010 to 31 March 2015.

² RIIO-ED1 will run from April 2015.

Introduction

Following an adjustment to the performance of EDF Energy Networks (LPN) plc (EDFE LPN³) under the IIS in October 2010, Ofgem committed to investigate further and consult on the application of the licence condition that permits such adjustments.

The adjustment to EDFE LPN's performance was in relation to an incident at Dartford where, on the 20 July 2009, a fire caused by vandalism irreparably damaged the four 132 kV cables and the pilot cables at the Dartford Creek cable bridge. The cables formed the main outfeeds from EDFE's Littlebrook Grid Substation into both its EDFE LPN and EDFE SPN (Southern Power Network)⁴ licensed areas. The incident had a major impact on the supplies to customers fed from these networks. In total, approximately 94,000 customers were affected; 77,000 EDFE LPN customers and 17,000 EDFE SPN customers.

EDFE began emergency repair work immediately after it obtained access to the site by the police, who had declared the site a crime scene. The loss of these main outfeeds severely restricted EDFE's ability to restore supplies. EDFE had to invoke rota connections⁵ to provide limited supplies to approximately 34,000 customers until the first 132kV circuit was restored and power was provided to all customers on the 23 July. Approximately 5,000 customers were without supply throughout the duration of the event.

The incident highlighted aspects of EDFE LPN's performance that appeared to fall short of best practice. This was the catalyst for the review of the regulatory framework, as we seek to ensure that companies have an incentive to review continuously the measures they take to protect the integrity of critical parts of their network and to respond to incidents on their network.

Although this adjustment concerned performance under the previous price control (DPCR4)⁶, we are mindful that the interpretation of the licence condition that governs the IIS was one of the concerns raised in the Dartford case. The relevant licence condition for DPCR5 is CRC 8 of the Special Conditions of the Electricity Distribution Licence.

We have undertaken a review of this licence condition in order to ensure that proportionate requirements are placed on electricity distribution network operators (DNOs) to assess and mitigate risk to reduce the level and duration of supply interruptions to customers. Going forward, DNOs need to be able to demonstrate that they have carried out a sufficiently robust risk assessment for the relevant assets or sites, be that for the IIS mechanism or any other part of the arrangements that are intended to protect customers. The industry has been developing a guidance document to inform proportionate risk mitigation.

Issues

Interruption Incentive Scheme (IIS)

Ofgem is responsible for administering the IIS which forms part of the licences of the DNOs. The IIS sets annual targets for performance to encourage DNOs to reduce the number⁷ and length⁸ of interruptions to customers. A DNO receives rewards or incurs penalties depending on its performance against these targets.

The IIS recognises that some events that cause a large number of interruptions may be outside the direct control of the DNO, although they are expected to take appropriate

³ EDFE LPN is now called London Power Networks Limited.

⁴ EDFE SPN is now called South Eastern Power Networks Limited.

⁵ A programme of planned, sequential supply reconnections/disconnections to achieve a reduction in total supply demand in certain areas.

⁶ DPCR4 ran from 1 April 2005 to 31 March 2010.

⁷ Customers interrupted per 100 customers (CI).

⁸ Customer minutes lost per customer (CML).

action to mitigate their impact. Such events may be classified “exceptional events” under CRC 8. These include “severe weather events” (such as major storms) and “other one-off events” (such as acts of vandalism) that cause physical damage to the network. Where an event is deemed to be exceptional there are provisions in the licence for the impact of it to be excluded from the IIS performance data for the reporting year in question.

The Dartford incident materially and adversely affected EDFE LPN’s performance for 2009/10. It was classified as a one-off exceptional event under the IIS and Ofgem was required to consider whether to adjust its IIS performance in 2009/10 to account for this.

Our initial “minded to” position was not to adjust EDFE LPN’s performance⁹. This was on the basis that there was insufficient evidence to conclude that EDFE LPN met the criteria for preventative action. While we considered that EDFE LPN adopted appropriate measures after the event, we believed that it took insufficient steps to prevent its occurrence, namely the lack of an up to date risk assessment for the Dartford site. There was no evidence presented of a cost benefit analysis in relation to appropriate security arrangements for such a strategically important part of the network.

Following consideration of the consultation responses to our “minded to” document, we conducted a further review of the relevant legal test. This review found that before we can expose a DNO to IIS penalties associated with exceptional events, we need to demonstrate that the DNO’s actions (or lack of actions) were contributory factors to the occurrence of the event and that certain preventative and mitigating actions would have been likely to have made a difference to the event occurring. This was not possible for the Dartford incident and, notwithstanding our concerns, it was decided that EDFE LPN should not carry the IIS penalties associated with the incident.

Guaranteed Standards of Performance

The Electricity (Standards of Performance) Regulations 2010¹⁰ (known as the Guaranteed Standards of Performance - GSOP) require DNOs, under certain circumstances, to pay individual customers compensation if their supply is interrupted.

At the time of the Dartford incident, under the 2005¹¹ GSOP, domestic customers were entitled to £50 (£100 for non-domestic customers) for an initial loss of supply of 18 hours and subsequent payments of £25 for every successive 12-hour period without power. To be eligible a customer has to be continuously off supply for the set periods. This means that a customer who experiences periods with no supply followed by periods with supply would only have been eligible for a payment under the GSOP if individual periods without supply met the relevant thresholds. At the time, the GSOP did not have a mechanism for adding periods without supply.

Under the GSOP a DNO may invoke an applicable exemption if it considers the circumstances meet those specified in the GSOP. Additionally, the contravention period under the GSOP may also be extended where the DNO is unable to gain access to restore supplies, for example waiting for flood waters to recede, or being prevented access by the emergency services.

The Dartford incident gave rise to a number of issues affecting whether customers were entitled to compensation payments. However, many customers affected were not entitled to compensation because they were not off supply for long enough continuous periods (there was no provision to aggregate different periods of interruptions), because they had not claimed within the necessary timescale (three months from the date supply was restored) or because they had been told by the DNO that the event was exempt. There was also a debate on when the supply interruption period should begin (EDFE did not obtain

⁹ [Minded to position on the major supply interruption at Dartford Creek in July 2009 \(70/10\)](#)

¹⁰ [The Electricity \(Standards of Performance\) Regulations 2010](#)

¹¹ [The Electricity \(Standards of Performance\) Regulations 2005](#)

formal control of the site from the police for some hours) and on whether the different periods of interruptions throughout the event can be considered an individual interruption for the purpose of the multiple interruption standard¹².

Nevertheless, EDFE offered to make goodwill payments to the individual worst affected customers (totalling £0.7m) and to donate £0.75m to the community via local authorities.

More recently, in December 2011 and January 2012, Scotland was subject to numerous storms that caused damage to homes, road and rail infrastructure, as well as leaving over tens of thousands of residents without a power supply. In some cases it took more than three days before power was restored. Concerns were raised following these storms over the GSOP arrangements, in particular the current carve out for the Highlands and Islands¹³ from the interruptions related standards under GSOP.

What we have done since the Dartford incident

Since the Dartford incident, we have taken a number of steps to address the above issues. These have been implemented for the current price control period and comprise the following:

IIS related

- Amending the relevant licence condition (CRC 8) for DPCR5 so that the DNO is required to provide evidence that any actions (or lack of actions) by it did not contribute to a particular event, and in any case it took all appropriate steps to limit the number of customers affected, and restore supplies quickly and efficiently¹⁴. Preventative and mitigating actions must be demonstrated in order for the DNO to satisfy Ofgem that the impact of the exceptional event should be removed (fully or partially) from the performance of the DNO.
- Introducing the extent to which there had been similar events in the past as one of the evaluation criterion of an exceptional event (as set out in the final proposals document for incentives and obligations in DPCR5¹⁵). Ofgem spelt out in DPCR5 Final Proposals that *"One of the requirements of an evaluation of such claims would be the extent to which there had been similar events in the past"*, i.e. that they should learn from each other's experiences.
- Expanding the types of incident eligible for evaluation under the one-off exceptional event mechanism so that asset failures can be considered.
- Development by industry of a guidance paper on security of substations, cable bridges and cable tunnels to clarify the preventative and mitigating actions that are expected of DNOs (to be available on the Energy Networks Association website in due course)¹⁶. This reflects the concerns raised by DNOs regarding clarity on what is considered best practice in terms of preventative and mitigating actions.

Within the current price control (DPCR5), and since the introduction of the above changes, there have been 14 one-off exceptional events claims to date; eight in 2010/11 and six in 2011/12. An Appointed Examiner is tasked with investigating the DNO's claim and their Terms of Reference requires them to consider the above criteria as part of their report to Ofgem. As such, the reports outline the *"performance in preventing the event"*, and the *"performance in mitigating the effects of the event"*, before providing a detailed justification for the recommendation. For example, if a substation had been broken into as part of an

¹² Regulation 9 of [The Electricity \(Standards of Performance\) Regulations 2005](#)

¹³ Regulation 10 of [The Electricity \(Standards of Performance\) Regulations 2010](#)

¹⁴ Paragraph 8.58 of CRC 8.

¹⁵ [Electricity Distribution Price Control Review Final Proposals - Incentives and Obligations \(145/09\)](#)

¹⁶ <http://www.energynetworks.org/>

incident, then the Appointed Examiner would look at the DNO's decision making regarding security notices, the height of the security fence, the electrification of the fence, security presence on site, history of break-ins in the area and on site, etc. If a circuit breaker suddenly failed, then inspection and maintenance records, what defects were found, if/when refurbishment was planned etc would be considered.

GSOP related

- An increase in all payment levels to reflect inflation over the period of April 2005 to November 2009. Currently these stand at £54 for domestic customers (£109 for non-domestic customers) for an initial loss of supply of 18 hours and subsequent payments of £27 for every successive 12-hour period without power.
- The introduction of a new standard for large-scale normal weather events where 5,000 or more customers are interrupted.
- The introduction of a new rota disconnection standard whereby when rota disconnection/reconnection policy is employed during an event to share out available load among customers affected, then customers off supply for 24 hours or longer in aggregate, across the entire event should receive a single payment (£54 for domestic and £109 for non-domestic customers). Where the customer is not off for this length of time but the aggregate duration of interruptions during the event is greater than or equal to three hours, then a count of one shall be recorded against this customer for the purposes of the multiple interruption standard¹⁷.

Suggested areas to be considered as part of RIIO-ED1

In addition to the above changes, we feel that customers would benefit from a more streamlined process and suggest that further improvement of the GSOP regime alongside the IIS incentive mechanism is considered for RIIO-ED1¹⁸. At present we are considering the following changes for the RIIO-ED1, which would run from 1 April 2015:

- Amending the 2010 GSOP by removing appropriate exemptions relating to one-off exceptional events from Regulation 10 and to make payments for going beyond prescribed timescales more straightforward. This would be in order to provide clarity and a speedy resolution for affected customers.
- Where a claim for exclusion under the IIS is subsequently accepted as being valid, allowing a DNO to recover appropriate GSOP payments through the price control mechanism.
- Where a claim for exclusion under IIS is not valid, exposing the DNO to a negative adjustment to revenue under the IIS as well as GSOP compensation payments already made (subject to some form of exposure cap such as that already in place for DPCR5).
- Removing the Highlands and Islands carve out, so that the GSOP arrangements are uniform across the entire country.

¹⁷ Regulation 11 of [The Electricity \(Standards of Performance\) Regulations 2010](#)

¹⁸ The next price control review for the RIIO-ED1 price control due to commence in April 2015.

We believe that the above changes, which comprise the accepted proposals outlined in our DPCR5 Final Proposal document which are ultimately incorporated in the DPCR5 licence, the changes introduced in the 2010 GSOP,¹⁹ and our proposed areas of work for RII0-ED1, will ensure that the issues that emerged from the Dartford incident and more recently in Scotland will be fully addressed.

Views invited

We would welcome your views on whether the above measures address the issues identified.

We welcome responses to this letter by 1 June 2012. Unless clearly marked as confidential, we will publish responses on our website. Please email responses to ElectricityDistribution.CostsandOutputs@ofgem.gov.uk.

Yours faithfully,

James Hope
Head of Electricity Distribution, Costs and Outputs

¹⁹ [Electricity Distribution Price Control Review Final Proposals - Incentives and Obligations \(145/09\)](#)