



To distribution network  
operators, suppliers and other  
interested parties

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*Promoting choice and value for  
all gas and electricity customers*

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Dear colleague

**Notice under s5A Utilities Act 2000**

In October 2011, the Authority published a consultation document which, amongst other things, consulted stakeholders on the effects of data cleansing activity on the distribution losses incentive mechanism contained in the licences of distribution network operators (DNOs) and on the two methodologies that had been proposed for addressing the issues that data cleansing has given rise to. We are now about to publish our decision letter concluding that consultation exercise.

Section 5A of the Utilities Act 2000 ("the Act") requires that before implementing an important proposal, we are required to either carry out and publish an assessment of the likely impact of implementing the proposal ("a section 5A IA"), or publish a statement setting out our reasons for thinking that it is unnecessary for us to carry out such an assessment. We consider that the forthcoming decision on the methodology to be used in making adjustment to a DNO's losses performance could meet the technical definition of an important proposal set out in Section 5A. Therefore, in accordance with the requirements of section 5A(3)(b) of the Act, this letter sets out our reasons why we consider it unnecessary for the Authority to carry out a section 5A IA in respect of the decision letter.

Our reasons for not publishing an IA in advance of our decision on the losses adjustment methodology are as follows:

1. The decision in principle for the Authority to allow adjustments to losses performance where there is evidence of a disruption to settlements data has already been made as part of the DPCR4 price control settlement. This part of the settlement decision is reflected in Special Condition C1 of the DPCR4 Distribution Licence (and CRC7 of the DPCR5 Distribution Licence).
2. The decision on the methodology to be applied will not of itself have an immediate impact on persons engaged in (or in commercial activities connected with) the generation, transmission, distribution or supply of electricity or on the general public in Great Britain. The impact will only occur if the Authority agrees there is a case for an adjustment and, in that case, once the Authority has applied the methodology.
3. DNOs have already provided us with information on the potential impact of the restatement methodology decision on them and on the overall cost to consumers

and we have published the summaries of those consultation exercises<sup>1</sup>. A section 5A IA would in this respect simply replicate materials and information already consulted upon

4. We are continuing to consult on related DPCR5 issues affecting the losses incentive mechanism in the coming months. We will conduct and publish specific impact assessments as appropriate, at which time more quantifiable effects will be identifiable.
5. Publishing a section 5A IA for consultation at this stage of the process would lead to a delay in closing out the DPCR4 losses incentive and setting the DPCR5 target levels. This could reduce the incentive on DNOs to control losses on their networks. Delay would also impact on the determination of charges, causing increased uncertainty to suppliers and adversely affecting their customer charges. A further consequence of a delay could be that the financial impact could in some respects have to be spread over one rather than two years, substantially increasing price volatility, amongst other things.
6. Finally, the decision will not affect the incentives for ongoing investments by DNOs and so it has no plausible environmental impact.

For the reasons set out above, we do not consider it necessary, appropriate or practicable to publish a section 5A IA or that such publication and consultation would be in the best interests of stakeholders and consumers.

Yours faithfully



Rachel Fletcher

Acting Senior Partner, Distribution

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<sup>1</sup>

<http://www.ofgem.gov.uk/Networks/ElecDist/PriceCtrls/DPCR5/Documents1/Summary%20of%20resubmitted%20questionnaire%20responses.pdf> and <http://www.ofgem.gov.uk/Networks/ElecDist/PriceCtrls/DPCR5/Documents1/Summary%20of%20questionnaire%20responses.pdf>