A DRAFT STANDARD LICENCE CONDITION TO SUPPORT A DUTIES-BASED APPROACH TO

THE LOSSES INCENTIVE AT ED1

NOTE FROM JOHN FRANCE

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18 June 2012

INTRODUCTION

1. At the last meeting of the Losses Working Group the strawman paper on a duties-based approach to the incentivisation of losses performance was discussed. For convenience a copy of that paper is attached at Annex 1.

2. During the discussion at the meeting on 28 May a number of concerns were expressed about the general approach that was outlined in the paper, but it was agreed that a possible licence condition should be drafted that would show how this approach could be implemented through a licence modification. A draft condition is attached at Annex 2.

USE OF THE DUTIES-BASED APPROACH AS AN INTERIM SOLUTION

3. This approach could be used throughout the ED1 period or it could be used as an interim measure until there was a sufficiently stable dataset available from settlements that could be used to set targets and measure performance on a consistent basis. As already observed, potential changes in the behaviour of generators, households and businesses connected to the distribution network could mean that completion of the smart meter roll out is not a sufficient condition for such a stable dataset to exist.

4. If the policy preference is for a mechanistic settlements-based incentive once there is confidence in the data, it would be simple to draft the condition that gave effect to the duties-based approach in such a way that it could be replaced by the mechanistic settlements-based incentive by a direction from Ofgem. Alternatively, it could remain in place in parallel with an active mechanistic incentive.

ISSUES RAISED IN PREVIOUS DISCUSSION

5. A mechanistic reward/penalty mechanism appears to be regarded as superior to a duties-based approach if the data is good enough to support such an incentive. However, a mechanistic reward/penalty mechanism appears to be regarded as dependent on a dataset being available that is fit for purpose. The duties-based approach may be the best that can be devised until the data is good enough for a marginal incentive mechanism based on outturn performance compared with targets.

6. However, the duties-based approach also has the merit that it does not clash with the objective of introducing more low-carbon generation onto the network. Since an increased take-up of low-carbon generation will increase losses, it would be irrational to establish a disincentive to this desirable outcome in the DNO price controls. The duties-based approach does not reward

or penalise a DNO relative to a target and therefore the problem of establishing an incentive that conflicts with the low-carbon agenda does not arise.

INCLUDING DETECTION AND PREVENTION OF THEFT IN THE DUTIES-BASED APPROACH

7. It was suggested at the meeting held on 28 May that consideration should be given to incorporating theft within the duties-based approach.

It would certainly be possible to use a licence condition to impose a new duty on a DNO to take reasonable steps to detect and prevent theft from its network. Such an obligation could be supported by a duty on the licensee to publish a statement setting out its policy and arrangements for doing this.

However, I have not included such a duty in the draft condition for the following reasons:

(i) insofar as theft occurs through meter interference (as distinct from theft during conveyance), such an approach seems to conflict with the supplier hub principle. Consideration would also have to be given to the limited powers and duties of distributors under statute. Suppliers (not distributors) appoint meter operators and it would seem to odd to place distributors under a duty to try to detect and prevent meter interference;

(ii) it would be unwise to impose such a duty on distributors without thinking through the steps that would allow them to discharge that duty. This would have implications for the way that provisions within core industry agreements are drafted. My understanding is that under these agreements distributors presently have rather limited powers to take action;

(iii) SLC27 already places the distributor under certain reporting obligations where the distributor encounters meter interference. It was not clear to me how or why these obligations would need to be altered to give effect to a duties-based approach. A copy of SLC27 is attached at Annex 3; and

(iv) theft and electrical losses are different. We consider them together because the consequence of both is assumed to show up in the reported losses performance of the DNO and it is not possible to know with certainty the relative contributions of each cause to that outturn losses level. The duties-based approach tries to focus on the actions that a distributor can take to reduce electrical losses. Such an approach does

not necessarily need to include a duty to detect or prevent theft (which of course arises from the criminal activity of a third party).

INCLUDING A REPUTATIONAL ELEMENT WITHIN THE DUTIES-BASED APPROACH

8. It was suggested at the meeting held on 28 May that a duties-based approach might also make provision for a reputational incentive.

9. I am not convinced of the underlying logic behind this suggestion as it seems to me to follow that, if the data is not good enough to support a mechanistic reward/penalty incentive, neither would it be good enough to support a reputational incentive if that incentive were to depend upon establishing a benchmark performance against which DNOs could be assessed.

10. However, I have included in the drafting a provision that requires the licensee to continue to report its losses performance each year according to a methodology to be prescribed by Ofgem. If Ofgem wished to publish the performance of each DNO, perhaps with traffic lights to indicate whether Ofgem considered the performance to be good, bad or indifferent that would be possible, albeit in my view it would be very misleading. Whether there is a reputational incentive or not, I see no harm in requiring DNOs to report their losses performance under an Ofgem-prescribed methodology, so I have drafted the condition accordingly.

11. This reporting requirement can also be used regardless of the measure of losses that Ofgem determines would be appropriate. Alternative approaches to measuring the performance of distribution companies on losses, other than settlements data, could be accommodated. In particular, it would also be possible for Ofgem to pursue a similar reputational incentive to that being implemented in transmission, based on the modelled difference in losses that results from companies taking losses into account in their investment decisions, depending on the technical feasibility of this approach.

QUESTIONS FROM THE OFGEM SLIDES

12. Ofgem's slides for the meeting held on 28 May posed a number of questions with respect to a duties-based approach. I set out the questions and my response in each case below:

    (i) *Who would determine what level of losses would be as low as reasonably practicable?*

13. I envisage that, as with any licence condition, the judgement as to whether this obligation has been met would rest with Ofgem. Clearly that judgement could only be reached after a proper consideration of all the relevant facts and circumstances and it might not be a simple matter to decide whether this particular obligation has been met. However, the exercise of this judgement is neither more nor less problematic than the judgement that Ofgem would have to make with respect to several other enforceable obligations, some of which are of considerable significance. For example, the duty under section 9 of the Act to develop and maintain an efficient, co-ordinated and economical system of electricity distribution is one that Ofgem has a duty to enforce and it is one where a similar judgement has to be applied that would take into account all the relevant circumstances.

14. Moreover, in the licence condition there would be some obligations that would require less judgement to decide whether the obligation had been met. For example, it would be a simple matter of fact whether the licensee had produced the statement required by the condition and whether it had been approved by Ofgem.

Would the standard (i.e. as low as reasonably practicable) vary between licensees?

15. The short answer is that there would be variation in losses performance across licensees but the behavioural standard would be the same. This is because the primary obligation is cast so that the licensee must design and operate its network so as to ensure that losses are as low as is reasonably practicable. Using the 'as low as is reasonably practicable' formulation imports some reality into the obligations because these words introduce a balance of cost and benefit that takes into account the characteristics of the network that presently exists. The level of losses that is reasonably practicable for one system will differ from the level that is reasonably practicable for another. It will also differ over time and in accordance with the behaviour of those who are connected to the network.

16. Moreover, under this approach the obligation is not to achieve a particular *level* of losses, but to design and operate the network so as to ensure that losses from the network are as low as is reasonably practicable. In other words the focus of the obligation is on the things that the licensee does that affect losses (i.e. design and, possibly, operation) rather than on achieving a given target level of losses.

17. Some may think that this implies a weakness in the approach because there is no single outturn number that can be compared with another number to determine whether the obligation has been met. I do not think that it would be possible to introduce such a convenient and simple test into a duties-based approach, but I accept that those who crave

such simple regulatory devices will not find this approach appealing. However, there is another layer of obligation built into the draft condition whereby the licensee must prepare a statement of the manner in which it proposes to discharge this overarching duty. The licensee would also have a duty to act in accordance with its Ofgem-approved statement and its compliance with that obligation could be made subject to audit. Although this would not deliver a simple numerical result that would indicate a 'pass' or 'fail' it would create a meaningful statement of the manner in which the licensee would behave in fulfilment of the principal duty imposed under the condition. Compliance with that duty could be checked by Ofgem. It would be possible to show whether a licensee had complied using traffic lights as the chosen presentational device.

What checks and balances would be in place to ensure an acceptable cost/benefit analysis was done for investment decisions?

18. The design of the approach leaves the licensee with the task of carrying out the correct cost/benefit analysis in every case, whilst ensuring that the validity of the approach has been blessed by Ofgem when it approves the licensee's statement of method. Provision is made for an additional check because Ofgem can audit selected projects at any time to establish whether the approved method has been followed. A licensee that was found not to have complied with its Ofgem-approved method would be exposed to:

- enforcement action and financial penalties for a breach of the principal obligation under the condition;
- enforcement action and financial penalties for the breach of the obligation to act in accordance with the approved statement; or
- clawback of allowed revenue for failure to deliver outputs.

What value would be placed on a unit saved and on what basis would this be calculated?

19. I had not thought about this when I wrote the original strawman paper, but there appear to me to be two potential answers. The first is that the licensee would propose the value of a saved unit in its methodology. If this value was contingent on movements in, say, wholesale prices or the price of carbon, the licensee's method would have to set out how this number would be computed. The other, simpler, approach would be that Ofgem would specify in a direction the value of this number. I do not see that this would present Ofgem with any greater difficulty than it has at present when arriving at the reward/penalty rate in the present

incentive (which depends on a similar calculation). I have drafted the condition to include such a power of direction for Ofgem.

20. If Ofgem is to decide the value of a unit saved I do not think we need to be too prescriptive about the basis on which Ofgem will make this judgement. This number will be used as an input to investment appraisals and scheme designs and possibly to any decision-making tool that is used to reach decisions on the operation of the network. It will not be used to determine the level of outturn losses that a licensee is expected to achieve on its network or in the revenue driver under the price control. Licensees would not therefore need reassurance that Ofgem would calculate this value in a particular way. Customers should be reassured that Ofgem's statutory duties require it to balance the various interests before exercising such a function.

How regular would the audits be, by whom would they be carried out and at what cost? How would proportionate cost be evaluated?

21. Again I confess I had not thought about the details of the audits, but I had in mind the IIS audit regime as the model. In preparing the draft condition I have followed the analogue of SLC44A that deals with the audit of the Network Outputs regime.

22. Other approaches are possible if there is a concern about the impact on Ofgem's expenditure. For example, an obligation could be included that required the licensee to procure an audit opinion in a form specified by Ofgem from a competent person to be approved by Ofgem. That would also be simple to draft.

23. On the question of how to evaluate the proportionate cost of the audit, I think that, if Ofgem is left to decide who to appoint and to direct the auditor in its work, the issue of the proportionality of the cost can safely be left to Ofgem to decide and to police.

Would there be any penalties for non-compliance? Would these be set out in the licence?

24. As set out in paragraph 18 above a duties-based approach would place a licensee that breached its duties at risk of enforcement action and financial penalties under the Electricity Act 1989. No special provisions would be needed to expose the licensee to such a regime.

25. It was suggested above that a failure to satisfy one or more of the obligations set out in the new licence condition could alternatively be treated as a failure to deliver an output under the ED1 regime.

26. Although the existence of outputs is recognised in the licence (in terms of reporting obligations), a failure to deliver a particular output is not itself something that gives rise to the risk of enforcement action and statutory financial penalties.

27. I have drafted the condition so that a breach of any of the new obligations would put the licensee at risk of enforcement action and financial penalties under the 1989 Act. An alternative approach would be to incorporate within the agreed outputs at ED1 an output that was cast in a form that specified that achieved losses would be as low as was reasonably practicable. If the output were not met, this could be treated like any other non-delivery of an output. However, I think the enforcement regime under the Act is more appropriate for something that is cast as a 'duty', so I have not taken the outputs approach forward in the drafting.

How does the duties based approach work in relation to the section 9 duty?

28. I understand that some members of the working group queried how such a duties-based approach interacted with the duty in section 9 of the act to develop an economical system of electricity distribution. Clearly, the duty in the Act must take precedence. Moreover, I think the section 9 duty is a useful consideration to have in mind to make sure that the duty to reduce losses to the level that is as low as is reasonably practicable does not have an inappropriate salience in the overall scheme of things. I have therefore expressed the duty with respect to losses as being subject to and without prejudice to the section 9 duty. I think that this formulation allows the quantification of the economic value of a saved unit to take its proper place among the considerations that should guide the design of the system.

ANNEX 1

PAPER FOR LOSSES WORKING GROUP

INCENTIVISING THE DNOs TO REDUCE ELECTRICAL LOSSES FROM THE DISTRIBUTION NETWORKS – A DUTIES BASED APPROACH

NOTE FROM JOHN FRANCE

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11th May 2012

INTRODUCTION

1. This paper considers an alternative approach to the problem of incentivising the DNOs to reduce electrical losses from their distribution networks.

2. Since privatisation there has been a losses incentive that is based on measuring the difference between the number of units that enter a DNO's network and the number of units that leave the network. The details of the mechanism have changed over the various price control reviews but have always been based on rewarding or penalising the DNO for the difference between these two numbers.

3. In the recent past it has become clear that there are intractable measurement problems about one of these two numbers, i.e. the number of units exiting the DNO's network.

4. However, even if it were possible to measure that number in a consistent manner and with reasonable accuracy in future, it is doubtful whether an incentive that is based on rewarding or penalising the difference between units entering and exiting the network is appropriate for the future.

5. In this note I shall explain why I think the simple approach of an incentive based on the difference between units entering and exiting the network is inappropriate. I shall then go on to explore an alternative approach that I call a 'duties based approach' because it rests on the introduction of a new duty into the DNO licence.

THE INCENTIVE PROBLEM

6. The analysis that follows is not affected by whether or not an accurate and consistent method of measuring units exiting the system can be found. Even if this issue went away, there is a fundamental problem with the nature of the incentive.

7. Real electrical losses from the networks are the result of the combination of the behaviour of the DNO itself and the behaviour of those who are connected to the DNO's network.

8. The DNO's own behaviour can influence the level of losses from the network through the way that the network is designed and operated. At the margin, new investments can introduce lower loss equipment. The DNO may also operate its network in a way that

reduces (or increases) electrical losses. However, in the absence of changing demands being placed on the network by end users, and given the scale of the network, it appears reasonable to suppose that such changes to investment and operational practice will have only a small impact relative to the total level of losses on the network.

9. An incentive based on calculating the difference between units entering and units exiting the network could still work if the measurements were accurate and the factors that drove that difference were indeed factors under the control of the DNO.

10. The first of these two factors, the ability to accurately and consistently measure the level of losses on the distribution network, is not currently present, as the recent past has demonstrated. However, the introduction of smart meters during the RIIO-ED1 period may improve this position.

11. The second factor referred to above is the behaviour of those who are connected to the DNO's network. The way that connectees use, or generate, electricity, and the times at which they do so has an effect on the level of electrical losses. Measured electrical losses (but not real electrical losses) also increase as a result of theft from the network. At the losses working group meeting on 4th May 2012, a number of DNO representatives stated that electrical losses would increase significantly in the future due to changes in the way connectees use the network. This paper takes as a starting assumption that this is the case, and that the consequent change in losses would far exceed the impact on losses any DNO could have through changes to the physical configuration or operation of its network.

12. It is sometimes said that it is wrong to reward or penalise a DNO for the behaviour of others. There is an intuitive appeal to this statement: after all why should a DNO be handsomely rewarded just because those who we connected to its network have changed their behaviour?

13. I do not quite agree with this objection in its unqualified form, but in the end I get to the same position.

14. In principle there would be nothing wrong with an incentive that rewarded or penalised a DNO for the combination of its own actions and for the actions of others, provided that the DNO is able to ensure that the economic signal that is inherent in that incentive

can be sent effectively to the third parties whose behaviour is contributing to the outcome.

15. The inability to distinguish by measurement the contribution to actual losses that is made by the DNO's own behaviour, as opposed to the contribution that has been made by the behaviour of those connected to the DNO's network, would not be fatal to the idea of an incentive that rewards or penalises the DNO for the combined effect of these two behaviours provided that the DNO is able to incorporate in its prices the signal that will encourage connectees to minimise losses. In practice the only lever that the DNO has that could influence the behaviour of connectees is the DNO's ability to incorporate the economic signal in its pricing structure.

16. In principle, it would be possible to incentivise the DNO without needing to isolate the consequences of its own behaviour, but the pre-condition to this being a sensible approach is that the DNO must then be able to introduce these signals into its charges.

17. Before the purists leap to the conclusion that this should be done because losses are a bad thing that are contributing to CO_2 emissions, we must pause to consider the fact that the introduction of low carbon technologies is going to increase the electrical losses from the network. That is not a bad thing; in CO_2 terms it is a price worth paying, because the reduction in CO_2 emissions resulting from the introduction of the technology is more beneficial than the increase in electrical losses that is its concomitant (although it is of course true that, for any given capacity low carbon generation capacity, there is still a benefit from having lower losses since more high carbon generation can then be displaced).

18. Incorporating a losses signal in the charges of DNOs is therefore problematic in policy terms, unless the policy maker wished there to be a locational signal that helped encourage only the 'lowest loss' green generation to go ahead. However, this would have to be borne in mind as part of a policy mix and, assuming the status quo is

correctly calibrated, more direct support for low carbon generation may be required to avoid discouraging generation that should actually be installed. It would otherwise be silly to penalise the very technologies that can contribute to reduced emissions just so that the DNOs can be placed under an incentive that is based on the difference between two very large numbers, only a part of which has anything to do with the behaviour of the distributors themselves.

19. The practicalities of introducing a pricing signal into a DNO's charges that incentivises loss minimising behaviour on the part of connectees would no doubt be considerable in any case.

20. To try to do that but at the same time to distinguish between technologies to turn the signal off where the connectee was considered to be virtuous would add a layer of complexity that would make the approach still more unappealing.

21. However, the logic is inescapable. If it is not thought possible (or desirable) to incorporate such a signal in the charges of DNOs, it follows that it would be absurd to reward or penalise the DNO for the behaviour of others.

22. For these reasons a duties based approach may commend itself to policy makers.

THE DUTIES BASED APPROACH

23. The duties based approach proceeds from the assumption that the DNO can influence the level of electrical losses from the distribution network only at the margin. In particular, it focuses on the DNO's decisions on the equipment to use and the way it is configured as new assets are introduced, whether in replacement of existing assets because they have (or may in due course) failed or because new capacity is necessary at particular points on the network.

24. The duties based approach is simple in its design and straightforward in its application. It has no problems of measurement and therefore avoids all the issues that Ofgem has had to address in its recent decision and consultations on the current settlements-based incentive.

25. In place of the existing special condition there would be a new condition (probably a standard condition as it would not be part of the price controls).

26. The new condition would impose a new overarching duty on the licensee to design and operate its network so as to ensure that losses from the network are as low as is reasonably practicable.

27. In support of this new duty, there could be a requirement placed on the licensee to prepare a statement of the manner in which it will discharge the overarching duty having regard to factors such as:

- the licensee's policy with respect to the electrical characteristics of new assets to be introduced to the network;
- the licensee's policy with respect to decisions on which existing assets may be replaced and over what timescale;
- the licensee's policy with respect to the way that the distribution network is operated (under normal operating conditions);
- the assumptions made by the licensee in investment appraisals where potential solutions are evaluated. This would include the value placed on electrical losses by the licensee in such appraisals.

28. The statement referred to in the previous paragraph should be submitted to Ofgem for approval and the licensee should be placed under a duty to review it from time to time, taking account of the views of stakeholders.

29. Since the Authority would have the power to approve the statement, Ofgem would have control over some of the decisive components (e.g. the value to be placed on a saved unit).

30. This may be too light touch for some. The approach could be supplemented by a regime of selected audits at price control reviews. Ofgem could appoint a reviewer to establish whether the licensee had properly applied the approved policy in the schemes that were selected for audit. It would then be a relatively simple matter to link an adverse finding from such an audit with the review of outputs that will take place at the price control review under the RIIO frameworks. Indeed, for the sake of clarity, Ofgem may wish to specify the action that would follow if a DNO failed with respect to this particular output.

NEXT STEPS

31. If this approach commends itself to Ofgem, I would be happy to draft an appropriate licence condition that (I hope) will demonstrate how straightforward it would be to implement such an approach.

ANNEX 2

DRAFT LICENCE CONDITION

Condition [X]. Requirements with respect to the design [and operation] of the Distribution System having regard to electrical losses

Licensee's obligation to minimise electrical losses

X.1 The licensee shall design, build [and operate] the Distribution System in the manner that may be expected to result in electrical losses from the Distribution System being at a level that is as low as is reasonably practicable.

X.2 The licensee shall prepare and submit to the Authority for its approval a statement that sets out the manner in which the licensee will discharge the duty in paragraph X.1 having regard to the following:

(i) the licensee's policy with respect to the electrical losses characteristics of new assets to be introduced to the Distribution System;

(ii) the licensee's policy with respect to decisions on whether and when assets that form part of the Distribution System are replaced or repaired;

(iii) [the licensee's policy with respect to the way that the Distribution System is operated under normal operating conditions];

(iv) the assumptions to be made by the licensee in carrying out investment appraisals with respect to the development or replacement of any part of the Distribution System; and

(v) the manner in which the licensee has incorporated any guidance issued by the Authority under paragraph X.7(i) below.

X.3 By [date] the licensee shall submit the statement referred to in paragraph X.2 above to the Authority for its approval and the Authority shall notify the licensee within [28] days whether it has approved the statement. Where the Authority does not approve the statement it shall set out its reasons for withholding its approval and the licensee shall promptly submit a revised statement for approval that remedies the defects identified by the Authority.

X.4 In designing, building [and operating] the Distribution System the licensee shall act in accordance with the statement that has been approved by the Authority. Where the licensee does so act it shall be presumed that the licensee is in compliance with the duty set out in paragraph X.1.

X.5 The licensee shall review the statement approved under paragraph X.3 from time to time and propose variations to the statement if the licensee considers that:

(i) a variation to the statement is necessary to give effect to any new guidance issued by the Authority under paragraph X.7(i) below or to a new direction from the Authority issued under paragraph X.7(ii) below; or

(ii) a variation to the manner in which the licensee meets the duty in paragraph X.1 above would be more likely to result in electrical losses being at a level that is as low as is reasonably practicable.

X.6 Where the licensee has proposed a variation under paragraph X.5 above it shall continue to act in accordance with the statement that has most recently been approved by the Authority under paragraph X.3 above until whichever of the following first occurs:

(i) the Authority approves the variation to the statement proposed by the licensee; or

(ii) a period of [28] days has elapsed from the submission of the proposed variation during which time the Authority has not rejected the variation giving its reasons for so doing.

Guidance and direction from the Authority

X.7 In preparing the statement under paragraph X.2 above, or a variation to the statement under paragraph X.5 above, the licensee shall have regard to:

(i) any guidance issued from time to time by the Authority as to the factors that the licensee should take into account in meeting its obligations under paragraph X.1 above; and

(ii) any direction given by the Authority from time to time with respect to the monetary value to be attributed to a saved unit of electricity in any investment appraisal carried out by the licensee with respect to the Distribution System.

Publication of losses performance

X.8 The licensee shall calculate and publish its distribution losses each year in accordance with the requirements of the Distribution Losses Reporting RIGs issued by the Authority under standard condition 44B (Distribution Losses Reporting Regime).

Nomination of an Examiner

X.9 The licensee must permit a person or persons nominated by the Authority (in either case, an "Examiner") to examine the extent to which the licensee has:

(i) behaved in accordance with the statement that has been approved by the Authority under paragraph X.3 and, as relevant, modified under paragraph X.6; and

(ii) calculated its distribution losses in accordance with the Distribution Losses Reporting RIGs referred to in paragraph X.8 above.

Co-operation with an Examiner

X.10 Subject to paragraph X.13, the licensee must co-operate fully with an Examiner so as to enable him to carry out, complete, and report to the Authority on any examination carried out in accordance with paragraph X.9.

X.11 The licensee's obligation to co-operate fully with an Examiner under paragraph X.10 includes an obligation to ensure, so far as it can, that the following persons also co-operate fully with the Examiner:

(a) any Affiliate or Related Undertaking of the licensee; and

(b) any person from whom the licensee procures a service that facilitates the meeting of the obligation imposed on the licensee by paragraph X.1.

Provision of access to people and premises

X.12 The licensee's obligation under paragraphs X.10 and X.11 to co-operate or ensure co-operation with an Examiner includes, so far as may be necessary or expedient for such purpose, and in each case subject to reasonable Notice to the licensee:

(a) providing access to management, employees, agents, or independent contractors of the licensee sufficient to enable the Examiner to make any enquiries and to discuss any matters that he reasonably considers to be relevant to the carrying out of the examination;

(b) giving the Examiner access at reasonable hours to any premises occupied by the licensee or by any other person in performing the obligations set out in this condition; and

(c) allowing the Examiner at reasonable hours:

(i) to inspect and make copies of, and take extracts from, any documents and records of the licensee that are relevant to the obligations in paragraphs X.1 and X.4 (other than information that is subject to legal privilege); and

(ii) to take onto such premises or onto or into any assets used for the purposes of the licensee such other persons and such equipment as may be necessary or expedient for the purpose of carrying out an examination pursuant to this condition.

X.13 The licensee is not required to perform its obligation in relation to an Examiner and his functions unless the Examiner has entered into an agreement with the licensee to maintain confidentiality on reasonable terms.

X.14 The duty in paragraph X.1 is without prejudice to and subject to the duty of the licensee under section 9 of the Act.

ANNEX 3

SLC 27

Condition 27. Theft, damage and meter interference

Reporting obligation to Authorised supplier

27.1 This paragraph applies if the licensee, in the course of providing services to any Authorised supplier of electricity to premises directly connected to the licensee's Distribution System, has reason to believe that there has been:

(a) damage to any electrical plant, electric line, or Metering Equipment through which such premises are supplied; or

(b) interference with the Metering Equipment through which such premises are supplied so as to alter its register or prevent it from duly registering the quantity of electricity supplied.

27.2 If paragraph 27.1 applies, the licensee must inform the Authorised supplier in question of the relevant incident as soon as is reasonably practicable.

Reporting obligation to relevant owner

27.3 This paragraph applies where any electrical plant, electric line, or Metering Equipment that is connected to the licensee's Distribution System is owned by a person other than the licensee ("the relevant owner") and the licensee has reason to believe that there has been:

(a) damage to that electrical plant, electric line, or Metering Equipment; or

(b) interference with the Metering Equipment so as to alter its register or prevent it from duly registering the quantity of electricity supplied.

27.4 If paragraph 27.3 applies, the licensee must inform the relevant owner about the incident in question as soon as is reasonably practicable, except if it has reason to believe that the damage or interference was caused by the relevant owner.