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Gemserv, MRA Parties

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Date: 1 October 2012

Dear Colleague

Notice of an appeal by Utilita against a decision of the Master Registration Agreement (MRA) Forum regarding MAP CP 130

This letter is to inform you of the process that we will follow in taking our decision on an appeal raised by Utilita Energy Limited (Utilita) in relation to a proposed modification of the Master Registration Agreement (MRA) (MAP CP 130). It also seeks your views on the appeal.

Responses to this letter should be sent on or before Friday 19 October 2012 to:

Dora Ianora
Industry Codes and Licensing Manager
Ofgem
9 Millbank
London
SW1P 3GE
Or by email to: industrycodes@ofgem.gov.uk

Background

On 2 July 2012 we received notification of an appeal raised by Utilita in accordance with clause 7.26 of the MRA. This appeal was made in respect of the decision of the MRA Forum of 28 June 2012 not to overturn the earlier decision taken by the MRA Develop Board (MDB) to accept MRA Agreed Procedure (MAP) Change Proposal 130¹. Both Utilita and EdF appealed the MDB decision to the MRA Forum, though only Utilita has appealed against the subsequent MRA Forum decision.

MAP CP 130 aimed to introduce into the MRA arrangements for the allocation of prepayment meter (PPM) revenues. The need to allocate PPM revenues will typically arise where a Prepayment Meter Infrastructure Provider (PPMIP) is unable to identify the correct supplier to credit with a payment they have received. The effect of MAP CP 130 would be that suppliers would be required by the MRA to instruct PPMIPs to pay to suppliers unallocated sums in accordance with the formula introduced by the change proposal.

¹ Both MAP CP130 and the minutes of the relevant MRA Forum can be found here:
http://www.mrasco.com/admin/documents/MDB_CPP_12_06.zip
http://www.mrasco.com/admin/documents/MRA_Forum_12_03_DRA_MIN.pdf

Parties' right of appeal

A party to the MRA may raise an appeal within 10 working days of receiving notice of a decision where it reasonably believes that decision (in this case a refusal of the MRA Forum to overturn an earlier MDB decision) will, or is likely to, unfairly prejudice the interests of that party, or will cause it to be in breach of the MRA, its licence or the Electricity Act 1989.

We are satisfied that we were notified of Utilita's intention to appeal within the requisite 10 working days.

In the notification of their appeal, Utilita set out that they object to the decision because they do not believe MAP CP130 would lead to a fair allocation of PPM revenues. They also set out that they do not believe that the industry has made all efforts to resolve the issue of non-allocation or miss-allocation of pre-payment revenues.

Utilita was also represented at the MRA Forum meeting on 28 June 2012, where the appeal against MAP CP 130 was discussed. A record of discussion is set out in the minutes which are available on the MRA website².

Appeal process

This is the process that we will follow for taking forward this MAP CP 130 appeal:

- Any interested MRA party, who wishes to make a written representation in relation to this appeal, may do so, no later than **Friday 19 October 2012**; in particular, we ask for views on the following:
 - a. Does the formula to re-distribute PPMs unallocated transactions better facilitate competition in electricity supply, in accordance with Standard Licence Condition 23 of the Electricity Distribution Licence?
 - b. Is there a more efficient and economical way to re-distribute these unallocated transactions, which would better facilitate competition in the supply of electricity?
 - c. Is the industry trying to find other ways of solving the issue of unallocated PPMs transactions?
 - d. Do you consider that this change aims to introduce an incentive on parties and, if so, do you think that the effect of this incentive would be retrospective?
- We currently expect to make our decision by the end of **November 2012**. However, this is indicative only and the timing of our decision will depend on the quality of the information received, and we may identify the need to request additional information from relevant parties.

Outcome of the appeal

The options for the final decision are the following:

- a) reject the appeal, allowing the original decision of the MRA Forum to stand;
- b) remit the matter to the MRA Forum for re-consideration and determination in accordance with certain directions which may also be given; or
- c) quash the decision being appealed against.

² The minutes can be found at the following link:
http://www.mrasco.com/admin/documents/MRA_Forum_12_03_DRA_MIN.pdf

The final decision will be taken by Colin Sausman, Partner: Retail Markets and Research.

Notwithstanding the failure of the earlier appeal to the MRA Forum, we understand that work on implementing MAP CP 130 has been suspended, and as such there is no requirement to issue a direction to suspend activity pending the outcome of an appeal.

Yours faithfully

Lesley Nugent
Head of Industry Codes and Licensing