



Data Transfer Service (DTS)
users and other interested
parties

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

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Dear interested parties,

Consultation on ElectraLink's proposed expansion regarding electricity-related activities

Earlier this year, we received a letter from the Chair of the Energy Network Association Electricity Distribution Licence Drafting Group, on behalf of the 14 licensed electricity Distribution Network Operators (DNOs) in Great Britain, asking us to give consent to enable ElectraLink to expand its electricity-related activities. Following discussions with ElectraLink, we are minded to provide a consent which will enable this expansion. We are now seeking views on this approach.

ElectraLink is a company wholly owned by the DNOs. The company was originally set up to comply with DNOs' obligation under their electricity distribution licences (the Licence) to provide, or procure the provision of, data transfer services (DTS).¹ The DTS allows participants in the energy sector to share data safely and efficiently. As data transfer services are required by the Licence, they are a regulated activity and certain restrictions apply.

The Licence includes a restriction on ownership of companies which carry on business falling outside of certain activities permitted by the Licence, without the Authority's prior consent.² As a company fully owned by DNOs, ElectraLink's activities were therefore originally limited to those permitted by the DNOs' licences.

In 2004 we granted consent to DNOs to enable ElectraLink to operate in the gas and water sectors, carrying out certain unregulated data services. Electralink is now seeking to expand its electricity activities beyond those set out in the Licence, on a common basis. These additional electricity activities may include several commercial opportunities linked to the Department of Energy and Climate Change's (DECC) Smart Metering Implementation Programme (SMIP).

In light of the potential size and scope of these activities, we have sought to ensure that customers of the regulated data transfer services continue to benefit from the quality of service currently received. We also wish to ensure that customers are adequately protected by ensuring that regulated charges do not subsidise ElectraLink's commercial activities and that customers are not exposed to liability incurred through additional activities. We wish to ensure that the regime remains suitable if the regulated activities cease to be the primary focus of ElectraLink.

¹ DNOs' obligations regarding data transfer services are captured in Standard Licence Conditions 35 and 37 to the electricity distribution licence.

² Electricity Distribution Standard Licence Condition 29

We have recently considered the way consumers should be protected when a company seeks to undertake both regulated and commercial activities.³ We have established four criteria, which in our view are appropriate for assessing the safeguards in place. As applied to ElectraLink these are:

- DTS users should benefit from any diversification;
- the new arrangements should not place disproportionate risk on DTS users;
- standards of service under the Data Transfer Service Agreement (DTSA) should be maintained; and
- ElectraLink's DTSA role should not give it any undue competitive advantage in a contestable activity.

On 19 September 2012 we asked Electralink to set out its views on whether and how Electralink meets these criteria. Electralink responded on 29 October 2012. It considers that it is meeting these criteria such that existing DTS users would benefit from ElectraLink's proposed expansion.

As part of our consideration of the four criteria we also asked ElectraLink and the DNOs to answer the following questions;

- Can we be assured that DTS Users will / can never face higher charges as a result of ElectraLink's commercial activities and that DTS activities will not and cannot cross-subsidise commercial activities in any way?
- Can it be confirmed that the measures ElectraLink has in place to maintain resources and funding for DTS activities are adequate?
- How do ElectraLink propose to continue to achieve compliance with DNOs' obligation to provide or procure Data Services in the most efficient and economic manner practicable?
- Will it be necessary to mandate separate accounting and reporting between commercial and regulated activities within ElectraLink?
- How will existing governance arrangements concerning the DTS need to be adapted to take account of ElectraLink's proposed expansion?

ElectraLink's response to the four criteria and these additional questions, on behalf of both ElectraLink and all DNOs, is set out in an associated document to this consultation.

We have reviewed ElectraLink's comments on how it is meeting the four principles. Based on this, and subject to responses to this consultation, we are minded to conclude that our four criteria will be met. We consider that the proposed new arrangements should benefit DTS users by helping to foster a more commercial and innovative environment. We also consider that DTS Users will be adequately protected in the future if we grant the requested consent. Our draft consent is set out in Appendix 1.⁴

We invite views on ElectraLink's consent request, including whether there are any risks to DTS Users that we have not identified to date and whether any additional measures are required to protect customers. We also seek views on our provisional assessment that the proposed consent is in line with our four criteria and on the draft consent itself.

In our view, DTS Users, as the directly affected parties, will be best placed to assess ElectraLink's comments and consider these issues; whilst we encourage views from all respondents, we are therefore particularly interested in DTS Users' assessment.

ElectraLink has informed us that DNOs need consent to enable ElectraLink's expansion by 11 January 2013. Since we understand that this is relatively simple extension of

³<http://www.ofgem.gov.uk/Licensing/IndCodes/Governance/Documents1/elexon%20expansion%20way%20forward%20letter%20300412.pdf>.

⁴ This takes the form of an amendment to the existing consent, which replaces the consent currently in place.

ElectraLink's activities, we consider that a four week consultation period would be sufficient. Given that this falls over the Christmas period, we have however added 7 days to give parties extra time to respond.

Please provide your comments by email to james.veaney@ofgem.gov.uk as soon as possible and no later than **7 January 2013**.

Yours sincerely

A handwritten signature in blue ink that reads "Andy Burgess". The signature is written in a cursive style with a large initial 'A'.

Andy Burgess
Associate Partner, Transmission and Distribution Policy

Appendix 1 – Draft consent that Ofgem is minded to grant

1. The Authority hereby consents to the Licensee holding shares in ElectraLink notwithstanding the fact that ElectraLink's activities will not solely be to carry on business ~~for a permitted purpose and provide services pursuant to Standard Condition 37, including the operation of the Data Transfer Service.~~

2. This consent has effect from ~~4th February 2004~~ [date of publication] and shall remain in force for as long as ElectraLink's business activities are confined to:

2.1 The provision of services pursuant to Standard Condition 37 ~~Activities which fall within the definition of a "permitted purpose" under standard condition 32 of the Licence; and~~

2.2 The provision of data ~~transfer~~ services and market operation and support infrastructure services to businesses in the electricity, gas and water industries in the UK and elsewhere unless revoked or amended in writing by the Authority by the provision of reasonable notice to the Licensee.