

To:

**Western Power Distribution (East Midlands) plc (EMID)
Eastern Power Networks plc (EPN)
SP Distribution plc (SPD)
SP Manweb plc (SPMW)**

**Electricity Act 1989
Section 11A(1)(a)**

**MODIFICATION OF THE LICENCE HELD BY EMID, EPN, SPD AND SPMW WHO HOLD
AN ELECTRICITY DISTRIBUTION LICENCE GRANTED UNDER
6(1)(c) OF THE ELECTRICITY ACT 1989**

Whereas –

1. Each of the companies to whom this document is addressed (the Licence Holders) is the holder of an electricity distribution licence (the Licence) granted or treated as granted under section 6(1)(c) of the Electricity Act 1989 (the Act).
2. In accordance with section 11A(2) of the Act the Gas and Electricity Markets Authority (the Authority) gave notice on 24 July 2014 (the Notice) that it proposed to modify Special Condition CRC 14 (Distribution Charges: supplementary restrictions) of the Licence and required any representations to the modification to be made on or before 21 August 2014.
3. In accordance with section 11A(4)(b) of the Act, the Authority gave notice of its intention to make the modification to the Secretary of State and has not received a direction not to make the modification.
4. Prior to the close of the consultation period in respect of the Notice, the Authority received 3 responses. All non-confidential responses have been placed on the Ofgem website. Our response to these comments is set out at Schedule 1 below.
5. The Authority has carefully considered, in relation to the proposed modification, all representations received.
6. The Authority gives the following reason for making the licence modification:

The Authority is making this licence modification to prevent the Licence Holders being unfairly penalised for the under/over recovery of revenue related to the Authority's decisions not to activate the Distribution Losses Incentive Mechanism (published 16 November 2012)¹ and closing out the DPCR4 losses incentive mechanism (published 21 March 2014).²

In our decision on closing out the DPCR4 losses incentive mechanism we stated, in paragraph 2.183, "We stand by our previous statement that any adverse impact or penalty arising as a result of the effect of the restatement of data or the anticipation of PPL values on a DNO's under/over recovery position, will be dealt with on a case-by-case basis". The licence modification provides us with a mechanism to deal with any adverse impact before the Licence Holder sets their charges for 2015/16.

¹ Document A: Decision not to activate the Losses Incentive Mechanism in the Fifth Distribution Price Control (ref 149/12) - <https://www.ofgem.gov.uk/ofgem-publications/45566/1adecisionlossesdpcr5161112.pdf>

² Decision on restatement of 2009-10 data and closing out the DPCR4 losses incentive mechanism - <https://www.ofgem.gov.uk/publications-and-updates/decision-restatement-2009-10-data-and-closing-out-dpcr4-losses-incentive-mechanism>

7. The effect of the modification is to:

Provide for the value of the penalty interest rate ('the PR_t term'), applied to the Licence Holder in any Regulatory Year to the over and under recoveries of revenue, to be set in a direction given by the Authority.

8. The Authority considers it necessary to make a minor alteration to the modification set out in the Notice for EMID only. This additional alteration is shown in yellow highlight in Schedule 3A, published alongside this decision. The reason for the difference between the modification set out in the Notice and the modification reflected in Schedule 3A is to allow us to direct a value of PR_t between zero and 3, rather than a value of either zero, 1.5 or 3. This alteration is to ensure that any penalty interest adjustment that EMID receives through the correction factor (K factor)³, as a result of any directed PR_t value, includes the penalty interest adjustment EMID would have incurred had the under recovery in relation to the losses incentive mechanism not taken place.

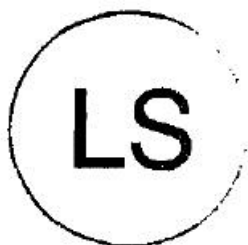
9. Where an application for permission to appeal the Authority's decision is made to the Competition and Markets Authority under section 11C of the Act, Rule 5.7 of the CMA's Energy Licence Modification Appeals Rules⁴ requires that the appellant must send to any relevant licence holders who are not parties to the appeal a non-confidential notice setting out the matters required in Rule 5.2. The attached Schedule 2 provides a list of the relevant licence holders in relation to this modification notice. The meaning of 'relevant licence holder' is set out in section 11A(10) of the Act.

Now therefore

In accordance with the powers contained in section 11A(1)(a) of the Act, the Authority hereby modifies the licences of EMID, EPN, SPD AND SPMW in the manner specified in Schedules 3A, 3B and 3C published alongside this decision. This decision will take effect on and from 24 October 2014.

This document constitutes notice of the reasons for the decision to modify the electricity distribution licence held by EMID, EPN, SPD and SPMW as required by section 49A of the Act.

**The Official Seal of the Gas and Electricity Markets Authority
here affixed is authenticated by the signature of**



.....
Dora Guzeleva
Head of Networks Policy: Local Grids
Duly authorised on behalf of the
Gas and Electricity Markets Authority

28 August 2014

³ The K factor is derived in accordance with CRC 3 (Restriction of Distribution Charges: Use of System Charges).

⁴ The rules were published by the Competition Commission in September 2012. On 1 April 2014, the Competition Commission was abolished and its functions transferred to the Competition and Markets Authority (CMA).

Schedule 1: Our response to comments from stakeholders

We received three responses to the Notice.

All of the responses are broadly supportive of our proposed changes to CRC14. Only EMID made any representation to the Notice.

The change proposed to CRC 14 in EMID's response is to allow for the Authority to direct a value of PR_t within a range of zero and three per cent. The reason for this change is to ensure that any penalty interest adjustment that EMID receive through the K factor, as a result of any directed PR_t value, includes the penalty interest adjustment they would have incurred had the under recovery of the residual losses incentive (PPL_t) not taken place. Excluding the impact of PPL_t , EMID would have been in an over recovery position of greater than 103%, attracting a PR_t value of three percent. Therefore any directed value of PR_t under the new provisions of CRC 14 will need to take this into account. This means that setting a PR_t value between zero and three per cent is appropriate.

We agree with EMID's representation and have made its proposed alteration to CRC 14 in Schedule 3A (marked in yellow highlight).

We have not made EMID's proposed change to versions of CRC 14 held by EPN, SPD or SPMW (Schedules 3B and 3C) because none of these licensees were in an over recovery position attracting a PR_t value of three per cent, when excluding the impact of PPL_t .

Schedule 2: Relevant licence holders⁵

The relevant licence holders vary for each version of special condition CRC 14 set out in Schedules 3A, 3B and 3C published alongside this decision. The relevant licence holders for each version of CRC 14 are set out below.

Schedule 3A:

- 1) Western Power Distribution (East Midlands) Plc
Avonbank
Feeder Road
Bristol
BS2 0TB

Schedule 3B:

- 1) Eastern Power Networks Plc
Newington House
237 Southwark Bridge Road
London
SE1 6NP

Schedule 3C:

- 1) SP Distribution Plc
1 Atlantic Quay
Robertson Street
Glasgow
G2 8SP
- 2) SP Manweb Plc
3 Prenton Way
Prenton
CH43 3ET

⁵ Electricity licence holders are listed at: <https://www.ofgem.gov.uk/publications-and-updates/all-electricity-licensees-registered-addresses>

Schedule 3A: CRC 14 applicable to EMID

Schedule 3B: CRC 14 applicable to EPN

Schedule 3C: CRC 14 applicable to SPD and SPMW

A copy of the modifications to special conditions CRC 14 for EMID, EPN, SPD and SPMW are published alongside this decision and can be found on our website at:

<https://www.ofgem.gov.uk/publications-and-updates/decision-changes-licence-condition-crc-14-relation-dpcr4-losses-incentive-mechanism>