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Dear Kate,

LL: Proposed Update to the SLC 11.3 operating guidance

Thank you for the opportunity to respond to this consultation on Licence Lite (LL) operating guidance. Although LL at present is largely untested, we would like to be involved in shaping the regulatory framework to assist in development of innovation such as Distributed Energy (DE) schemes to enter this market and supporting these arrangements in future.

We welcome the reduction of regulatory barriers for promoting these schemes as a way to facilitating sustainable development in the energy sector. This consultation clarifies aspects around how the arrangement works and we broadly agree with the proposals on roles and compliance obligations for the LL Supplier and the Third Party Licensed Supplier (TPLS) with regard to Smart Energy Code, Electricity Market Reform and government's environmental and social programmes.

Ofgem proposals appear fair and reasonable and npower is supportive, including the proposal for LL customers to be uniquely identifiable. We do not however believe the framework should be overly restrictive but rather needs to allow some flexibility on how this identification can be achieved, particularly at this early stage of LL development. As LL is an untested arrangement in the industry, it is very important that parties are encouraged to explore options that best suit their requirements providing there is a clear distinction of customers between the TPLS and LL supplier. Ultimately, Ofgem reserves the right to grant derogation to the LL supplier only if it is satisfied with the arrangements between the TPLS and LL supplier. Further details can be found in our response to Question 7.

We need to bear in mind that the core of a successful LL arrangement relates to the nature of the relationship and commercial agreements between all involved parties. Therefore, any unnecessary restrictions will deter prospective TPLS' from considering these arrangements.

We would be happy to discuss this further as required. The consultation questions are answered within the appendix.

Yours sincerely,

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APPENDIX

Question 1: Are further clarifications regarding the functioning of a LL arrangement required from the regulator, and if so, in what areas?

No, the additional guidelines cover all aspects of changes that have taken place in the industry since the publication of the original proposals and provide clarity over procedures, compliance and enforcement. However, we would not want the regulator to restrict options available to uniquely identify LL customers as we believe this should be a flexible approach based on the requirements of the LL supplier and how best the TPLS can support these. As LL arrangements are developed within the industry, these guidelines may in time need to be revisited,

Question 2: Do you agree that our position over the balance of responsibilities and regulatory obligations is: a) sufficiently clear to allow parties confidence to enter into commercial agreements, and b) a proportionate approach?

We agree with the balance of responsibilities but it would be inappropriate for Ofgem to hold TPLS responsible for the areas where it does not have direct control or the necessary powers to fix the problem. To address this, Ofgem may want to add a caveat which empowers the TPLS to take remedial measures to resolve any apparent issues resulting in possible regulatory breaches.

There is no reason for an industry wide modification to the licence condition at this stage. The TPLS should be able to decide whether any commercial agreement to enter into LL is viable for them and must have some commercial incentive to enter into such an arrangement. We suggest Ofgem examines each case on an individual basis.

We suggest any changes to the LL arrangements be made in the light of experience rather than putting in place obligations which are restrictive and could later prove unnecessary and unhelpful.

Question 3: Do the LL arrangements relating to the Smart Energy Code – as set out in this consultation and in paragraphs 1.39-1.41 of the proposed guidance – provide sufficient clarity over roles and compliance obligations between parties?

We support these proposals as the guidance allows Ofgem to make decisions on a case by case basis although it is imperative that Ofgem tests the robustness of the proposed solution before granting such derogation.

We would suggest that Ofgem clarifies the aspects of Smart Energy Code (SEC) it would be willing to consider for derogation and the length of such derogation. Further guidance is also required on how Ofgem expects the process to work when this derogation ends and the LL supplier needs to comply with the SEC as there could be potential issues in moving a large portfolio to SMART in a short period of time.

What happens if the LL supplier systems are not capable of handling this change at the end of the derogation and need further development before they can comply with SEC? Would Ofgem grant further derogation in such cases or request TPLS to step in? This situation may also arise if there is Change of Supplier (COS) or migration to TPLS systems in case of Supplier of Last Resort (SOLR) situation where the TPLS or the new supplier is obliged to offer SMART. There may be potential high costs for such migration to the new supplier. Further, if a site already has SMART meter and then needs to be changed to a dumb meter as a result of the derogation, there may be complications and costs attached.

Ofgem should consider the cost implications and possible complications while deciding on its final proposals regarding SEC as any provisions for a small range of suppliers to be relieved from SEC could have wider implications on the other suppliers, add more complications to the management of this process and also make it unfair.



Question 4: Do the LL arrangements relating to the Electricity Market Reform – as set out in this consultation and in paragraphs 1.42-1.46 of the proposed guidance – provide sufficient clarity over roles and compliance obligations between parties?

We agree with these arrangements and believe it is best left to commercial arrangements on how this can be achieved.

Question 5: Do the LL arrangements relating to the government’s social and environmental programmes – as set out in this consultation and in paragraphs 1.42-1.46 of the proposed guidance – provide sufficient clarity over roles and compliance obligations between parties?

The proposed guidance provides sufficient clarity over the roles and compliance obligations for the government’s social and environmental programmes.

Question 6: Does the potential impact of the MPID restriction warrant a modification to the Balancing and Settlement Code?

We do not believe it is necessary to use separate MPIDs to identify LL customers. We have no objection to the proposal which removes the BSC MPID restriction as one option to separating LL and TPLS customers. We understand that this limit was put in place to protect settlement systems and any risks will need to be addressed. Exelon may be best placed to provide a view on this.

Question 7: Are there any complications (not identified in the consultation) to uniquely identifying a LL supplier’s customers on central systems?

We agree with the proposal that a LL supplier’s customers should be uniquely identifiable but would not restrict how this could be achieved as there are different ways in which the LL customers can be separately identified that may be robust, cost effective and less complicated. As LL is untested, the industry should be allowed some flexibility on how best this may work in each individual arrangement.

One such option is to separate the LL customers within TPLS systems. This will still capture the correct volume data for LL customers, which can be shared with the LL supplier to accurately assign environmental and social obligations, and to distinguish sets of customers (ring fenced in TPLS systems) for the purposes of a Last Resort Supply Direction. This would mean there are no administrative costs or the complications associated with setting up and managing separate supply IDs that would otherwise increase costs for customers. This option could be commercially more attractive for LL arrangements where particularly small volumes or small numbers of MPANs exist. Suppliers successfully manage large group customer contracts now and this arrangement is not dissimilar.

We do not believe there is any benefit in identifying LL customers in central systems if the TPLS and LL supplier have absolute certainty to which sites are owned by the latter and are able to share this information with Ofgem. This will ensure that Ofgem is supplied with the correct data for monitoring and compliance purposes.

Ultimately, Ofgem reserves the right to grant derogation to the LL supplier only after it has satisfied itself that all aspects of the regulatory and commercial arrangements are reasonably addressed.

Question 8: Are the risks to LL suppliers inherent in the current operation of supplier of last resort arrangements in the event of TPLS failure sufficient to justify backstop measures, and if so, what measures would be appropriate and why?

LL was created to reduce costs/liabilities for distributed energy generators looking to enter the market. One of the major barriers to entry for LL suppliers is credit cover and the ability to offer it. Other market participants and customers may be exposed to smeared costs in the event of default where there is inadequate cover. This is the only way the rest of the market may be protected from the failure of a LL supplier.



If a LL's TPLS were to fail then their portfolio of LL customers could be transferred to another TPLS along with any settlement liability. We believe this is something that can be part of the contractual arrangements between the two parties.

Question 9: Is the information required for a LL application appropriate for all potential applicants?

The information required for a LL application appears appropriate but since this is something untested, the guidance is premature and needs to be tested against working examples. Suppliers may be able to identify proposals to make this arrangement work more effectively after the industry has gone through its first and subsequent applications.

Question 10: Are there any relevant milestones which are omitted from the proposed guidance?

No, not at this stage but these could be revisited once the industry has gone through the first few arrangements.

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