

Maxine Frerk  
Senior Partner  
Smarter Grids and Governance: Distribution  
Ofgem  
9 Millbank  
London  
SW1P 3GE

**Electricity North West**  
304 Bridgewater Place, Birchwood Park  
Warrington, Cheshire WA3 6XG

Telephone: +44(0) 843 311 4800  
Fax: +44(0) 843 311 5119  
Email: [enquiries@enwl.co.uk](mailto:enquiries@enwl.co.uk)  
Web: [www.enwl.co.uk](http://www.enwl.co.uk)

Direct line: 08433 113700  
Email: [paul.bircham@enwl.co.uk](mailto:paul.bircham@enwl.co.uk)

19 January 2015

Dear Maxine

**Statutory consultations on RIIO-ED1 slow track Standard Licence Conditions, Charge Restriction Conditions, Financial Handbook, Price Control Financial Model and Network Asset Workbook**

Thank you for the opportunity to comment on your proposed Licence Conditions and Financial Handbook and other associated workbooks and documents for the implementation of the RIIO-ED1 Final Determination. We recognise the significant amount of work that has gone into the development of these documents. The process that Ofgem has operated in the development of these documents has generally proved helpful and has fostered collaborative working on some very complex topics. Ofgem has listened to and acted on much of our feedback throughout this process. However, we are disappointed that in one instance Ofgem refuses to make a change required to correct an acknowledged error specific to Electricity North West.

Electricity North West has undertaken a detailed review of the draft conditions and Financial Handbook that were published on 16 December and has contributed fully to the Energy Networks Association's (ENA's) response to the consultation.

The ENA's response is comprehensive and includes the majority of the issues that we wish to raise. Please consider that the ENA's response also represents part of Electricity North West's response to your consultation.

In addition to the points raised by the ENA we have identified four further substantive issues that must be addressed before the implementation of the changes to the Licence, Handbook and associated workbooks and documents.

**1. Directly Remunerated Services 8 and 9**

We believe that the Ofgem team has made an error in calculating the proposed licence values relating to Directly Remunerated Services in our Final Determination. This error inappropriately removes £1.3m (2012-13 prices) from Electricity North West's allowed revenues and totex allowances. The error comes from a failure to subtract the indirect costs we will incur in providing these services from the forecasted revenues we will receive.

We have highlighted this error to the Ofgem team and it is clear from our exchange of correspondence that the Ofgem team understand the issue.

We are very disappointed, therefore, that the Ofgem team has subsequently dismissed making the necessary correction. Given the extensive correspondence we have had through-out this price control review and the specific changes Ofgem made at Final

Determination, it is clear that Ofgem understands the finely balanced nature of our financeability position. When this is combined with the very stretching nature of our plan, this error is far from an immaterial amount to us.

We are particularly concerned by the inequitable treatment of DNOs in this area on two counts. Firstly, where DNOs that are currently undertaking activities that would be classed as Directly Remunerated Services failed to predict ongoing revenues from such activities this has been ignored by Ofgem, whilst those who forecast more accurately had their revenue reduced. Secondly, Ofgem has recognised that costs need to offset revenues for some DNOs, even where these costs were originally missed from their business plans, but refuse to do so in our case, even though our business plan did not need to be restated.

## **2. Moorside Licence Condition 3L and associated Handbook Chapter 12B**

We have worked closely with the Ofgem team to develop an appropriate mechanism to address the unique prospect of the Transmission network being extended to connect a new nuclear power station in Cumbria at Moorside.

In the statutory consultation drafting there were a number of issues that still needed to be resolved in both the Charge Restriction Condition (CRC) 3L and Handbook Chapter 12B.

- CRC2B 'passes through' to customers any difference between the level of Pass-through Transmission Connection Point Charges including in Opening Base Revenues and actual Pass-through Transmission Connection Point Charges costs incurred. Pass-through Transmission Connection Point Charges are not added to the RAV, they are funded as 100% Fast Money.

CRC3L does not allow for a change to revenues associated with the Moorside project where another part of the licence provides for such a change. The adjustment to revenues in CRC2B occurs two years in arrears of costs being incurred. This leads to a mismatch between the timing of the costs being incurred and associated revenues being received. This difference results in deterioration in a number of key ratios.

In Electricity North West's case, the deterioration in PMICR that results as a consequence of this timing mismatch results in an unacceptable ratio position. This problem is particularly acute in this instance because the costs are treated as 100% statutory operating expenditure for ratio purposes.

A specific mechanism is required to align the timing of the outgoing and incoming cash flows to leave the ratio effect neutral.

- Whilst the statutory consultation draft of CRC3L provides for adjustments to revenues and Secondary Network Deliverables where there are material changes to costs incurred as a result of the Moorside project, there is currently no provision for a change in Secondary Network Deliverables if there is no required change in revenues.
- Our final significant issue with the drafting in the Statutory Consultation is the fact that it provides for a provisional determination to be superseded by a firm determination up to three Annual Iteration Process cycles after application. This could precipitate significant investment to be at risk to an unacceptable degree and also is likely to distort the interactions between funding requests by ourselves and the Transmission Licensee.

We have engaged extensively with the Ofgem team on these issues and other more minor drafting details and are pleased that Ofgem recognises the need to refine the drafting to address these issues. We understand that simple corrections can be made to ensure that the drafting matches the policy intent associated with these issues, and do not believe that any changes would constitute a change to the intended effect of the condition. It is essential, however, that these corrections are made prior to modification notices being issued if this licence condition is to be acceptable to us.

We also note that this major project still represents a significant uncertainty as well as an unprecedented interaction between Transmission and Distribution licensees. Therefore, it

may yet be necessary to make further modifications to both the Distribution and Transmission licences as Ofgem's policy relating to this project develops further to address additional issues.

### **3. Licence changes as a result of the DPCR4 Losses Closeout decision**

Ofgem's decision of 21 March 2014 included adjustments to Allowed Revenue in respect of the PPL term and also for the growth term impact of restating 2009-10 data. CRC2M provides the mechanism for adjusting Allowed Revenue for the PPL term; however there is currently no equivalent mechanism in respect of the growth term impact.

The decision document stated the intention to consult separately on a licence change to incorporate an adjustment mechanism for the growth term impact. There is currently an opportunity to put in a placeholder clause in CRC2M to allow the Authority to direct values for the growth term impact; this would allow the proposed consultation to proceed without the need for a statutory consultation on a further licence modification.

### **4. Need for Common Asset Indices Methodology to address material inconsistencies between approaches deployed by different licensees**

It is clear from review of licensees' Network Asset Workbooks that licensees have adopted very different approaches to ascribing movements in Risk Indices to interventions on assets. These differences are particularly acute in refurbishment activities. It is essential that, as part of the development of the Common Network Assets Indices Methodology, Ofgem ensures that all licensees ultimately face the same Network Asset Secondary Deliverables for activities that have been funded at the same unit costs. To do otherwise would result in inequitable targets being set.

We believe that the drafting of SLC51 can be interpreted as allowing Ofgem to achieve this, but would value Ofgem confirming that it agrees the requirements of the common methodology include this important alignment between licensees.

The comments provided in this response are intended to give constructive feedback on the statutory consultation and we look forward to working with Ofgem to progress the issues we have highlighted in preparation for the formal modifications. Specifically, we believe it is vital that Ofgem continues to meet with Electricity North West and other DNOs to progress these issues and develop an appropriate final version.

If you have any questions about our response please do not hesitate to contact me.

Yours sincerely

**Paul Bircham**  
**Regulation Director**

cc Anna Rossington  
Jane Jellis  
Ian Rowson  
Clothilde Cantegreil