

To: All holders of an electricity generation licence

NOTICE UNDER SECTION 11A(2) OF THE ELECTRICITY ACT 1989.

The Gas and Electricity Markets Authority ('the Authority') hereby gives notice pursuant to section 11A(2) of the Electricity Act 1989 ('the Act') as follows:

1. The Authority proposes to modify all electricity generation licences granted or treated as granted under section 6(1)(a) of the Act by amending standard licence condition ('SLC') 14 (Compulsory Acquisition of Land etc.) and SLC 15 (Other Powers etc.).
2. The effect of the proposed modification will be to:
 - enable access to the compulsory entry power for generators seeking to survey the suitability of land for electric line activity including the installation, inspection, maintenance, adjustment, repair, alteration, replacement or removal of electric lines and electrical plant associated with them and any structures for housing or covering such lines or plant, connecting a generating station with the national electricity system or distribution system;
 - clarify that the provision of compulsory powers for generators are exercisable for the purpose of work preliminary to electric line activity; and
 - remove inconsistency between SLC 14 and SLC 15 in the description of the types of electric line activity.
3. The reasons why the Authority proposes to make these licence amendments are as set out in the Authority's statutory consultation letter dated 24 March 2015, which accompanies this notice, and in our initial open letter consultation.¹ In summary, we are proposing these amendments with the aims of removing uncertainty for licence holders and other stakeholders, and of better facilitating the timely and efficient development of electricity generation.
4. The Authority proposes to amend SLC 14 of the electricity generation licence as follows:
 - amend paragraph 2(b) to remove text that repeats the preceding reference to "*activities which relate to (a) the construction or extension of a generating station*". The phrase "*connected with*" is also removed as it duplicates the preceding reference "*which relate to*" in the text of paragraph 2.
 - replace the word "*and*" at the end of paragraph 2(b) with "*and/or*" to clarify that each of the powers are capable of being exercised independently.
 - amend paragraph 2(c) to make it clear that the provisions applicable to generators working on electric lines are exercisable in relation to work preliminary to electric line activity, whether the activities are to be carried out by the licensee or another licence holder.
 - amend paragraph 2(c) to align the current description of electric line activity with the proposed amendments in renumbered paragraph 2(c) of SLC 15.
 - remove the word "*and*" at the end of paragraph 3(a)(ii) to avoid confusion.

¹ <https://www.ofgem.gov.uk/ofgem-publications/91968/finalforpublicationam151214.pdf>.

5. The Authority proposes to amend SLC 15 of the electricity generation licence as follows:
- amend paragraph 2 to include reference to paragraph 4, and to include “*and which relate to*” to align with the current reference in paragraph 2 of SLC 14.
 - insert new paragraphs 2(a) and 2(b) to include “*the construction and extension of a generating station*”, and “*the operation of a generating station*” in a manner consistent with the proposed references in paragraphs 2(a) and 2(b) of SLC 14 respectively.
 - amend the original paragraph 2(a), now renumbered 2(c) after the insertion of two new paragraphs above, to make it clear that the provisions applicable to generators working on electric lines are exercisable in relation to work preliminary to electric line activity, whether the activities are to be carried out by the licensee or another licence holder.
 - remove “*in relation to, or in pursuance of,*” in original paragraph 2(a), now renumbered 2(c) after the insertion of two new paragraphs above, as it duplicates the new wording in amended paragraph 2 and is not necessary. This change also aligns the proposed drafting with the proposed amendments in paragraph 2(c) of SLC 14.
 - remove the phrase “*in relation to*” at the start of original paragraphs 2(b) and 2(c), now renumbered 2(d) and 2(e) after the insertion of two new paragraphs above, as it duplicates the preceding reference “*which relate to*” in paragraph 2.
 - amend paragraph 3 to ensure the correct cross references to relevant sub-paragraphs of SLC 15(2) after the proposed amendments to that paragraph.
 - amend paragraph 4 to ensure that the compulsory power to enter on and survey land is exercisable in relation to electric line activity and work preliminary to such activity subject to the Authority’s prior consent, as well as aligning the drafting with the wording in paragraph 10(1) of Schedule 4 to the Act.
 - replace the word “*and*” at the end of paragraph 4(a) with “*or*” to clarify that each of the powers are capable of being exercised independently.
 - amend paragraph 4(b) to remove the text “*it obtains the consent of the Authority before exercising those rights.*” as it duplicates the proposed wording in paragraph 4 and is not necessary, and to align the description of electric line activity with the proposed amendments in renumbered paragraph 2(c).
6. The proposed changes to SLC 14 and SLC 15 are marked up in Appendix 1 to this Notice and a copy of the proposed modification and other documents referred to in this Notice are available (free of charge) from the Ofgem website www.ofgem.gov.uk.
7. We must receive any representations regarding the proposed licence modification on or before 19 May 2015. They should be sent to: Stephen Taylor, Ofgem, 9 Millbank, London SW1P 3GE or emailed to: Stephen.Taylor@ofgem.gov.uk.
8. We normally publish all responses on our website. However, if you wish that your response, or part of your response, be treated as confidential then you should clearly mark the response or the relevant part as ‘not for publication’. We prefer to receive responses in an electronic format so that they can be easily placed on our website.

9. If the Authority decides to make the proposed modification it will take effect not less than 56 days after the decision is published.

Min Zhu

Associate Partner, Electricity Transmission
Duly authorised on behalf of the Authority

24 March 2015

Appendix 1

SCHEDULE

PROPOSED MODIFICATION OF THE STANDARD CONDITIONS OF THE ELECTRICITY GENERATION LICENCE

Standard conditions 14 and 15 of the electricity generation licence are proposed to be modified in the manner set out in this schedule. The proposed insertions are shown underlined and proposed deletions are shown cross-through.

Condition 14. Compulsory Acquisition of Land etc.

1. This condition shall have effect and come into operation for the purpose of this licence on and from 1 May 2007.

2. The powers and rights conferred by or under the provisions of Schedule 3 to the Act (Compulsory Acquisition of Land etc. by Licence Holders) shall have effect in relation to the licensee to enable the licensee to carry on the activities authorised by this licence and which relate to:

- (a) the construction or extension of a generating station;
- (b) ~~activities connected with the construction or extension of a generating station or connected with the operation of a generating station; and~~or
- (c) the installation, inspection, maintenance, ~~removal or~~ adjustment, repair, alteration, replacement or removal of electric lines and electrical plant associated with them; and any structures for housing or covering such lines or plant, connecting a generating station with:
 - (i) the national electricity transmission system; or
 - (ii) a distribution system.

including, for the avoidance of doubt, works preliminary to those activities, whether those activities are to be carried out by the licensee or another licence holder.

3. In paragraph 2 above:

- (a) the references to "generating station" are to an electricity generating station which:
 - (i) has, or will have when its construction or extension is completed, a capacity of not less than 50 megawatts or such other capacity as may be specified in relation thereto by order of the Secretary of State under section 36(3) of the Act; and
 - (ii) is, or will be when its extension or construction is completed, operated by or for the licensee; ~~and~~
- (b) "extension" in relation to a generating station includes the use by the person operating the station of any land (wherever situated) for a purpose directly related to the generation of electricity by that station.

Condition 15. Other powers etc.

1. This condition shall have effect and come into operation for the purpose of this licence on and from 1 May 2007.

2. The powers and rights conferred by or under the provisions of Schedule 4 to the Act (Other Powers etc. of Licence Holders) shall, subject to paragraph 3 and 4 below, have effect to enable the licensee to carry on its authorised activities and which relate to:

(a) the construction or extension of a generating station;

(b) the operation of a generating station;

(c) in relation to, or in pursuance of, the installation, inspection, maintenance, adjustment, repair, alteration, replacement and/or removal of:

(i) electric lines specified in paragraph 3 below;

(ii) electrical plant associated with such lines; and

(iii) any structures for housing or covering such lines or plant;

including, for the avoidance of doubt, works preliminary to those activities, whether those activities are to be carried out by the licensee or another licence holder.

~~(b)(d)~~ in relation to the installation of electrical plant to be used in connection with a generating station or the operation thereof;

~~(e)(e)~~ in relation to electric lines or electrical plant as if the references to them in Schedule 4 to the Act included pipes for conveying directly to consumers' premises heat produced in association with electricity and steam produced from air and water heated by such heat and associated works in relation to such pipes and as if "associated works" had the meaning given in section 10(3) of the Act.

3. Electric lines are specified for the purposes of sub-paragraph ~~(a)~~(c) of paragraph 2 above:

(a) if they connect, or will connect when installed, a generating station with:

(i) the national electricity transmission system; or

(ii) any distribution system;

(b) where "electric lines" has the extended meaning given by paragraph 2(e) above, if they connect a generating station with any premises.

4. Paragraph 10 of Schedule 4 to the Act shall apply to the licensee if ~~(a)~~ it wishes to it obtains the consent of the Authority before exercising its rights of entry on land under that paragraph for the purpose of ~~establishing~~ ascertaining whether ~~or not~~ the land is would be suitable for:

(a) the construction or extension of a generating station; and/or

(b) ~~it obtains the consent of the Authority before exercising those rights.~~ the installation, inspection, maintenance, adjustment, repair, alteration, replacement or removal of electric lines specified in paragraph 3 above, electrical plant associated with them and any structures for housing or covering such plant, including, for the avoidance of doubt, works preliminary to those activities, whether those activities are carried out by the licensee or another licence holder.

5. In this condition:

- “authorised activities” means the activities which the licensee is authorised by the licence to carry on, and shall include any purpose connected with the supply to any premises of heat produced in association with electricity and steam produced from air and water heated by such heat;
- “generating station” has the meaning given in paragraph 3 of standard condition 14 (Compulsory Acquisition of Land etc);
- “extension” in relation to a generating station, has the meaning given in paragraph 3 of standard condition 14 (Compulsory Acquisition of Land etc).