

Karl Hurley
The Office of Gas and Electricity Markets
9 Millbank
London
SW1P 3GE

21 January 2015

Dear Karl

Statutory consultation on Ofgem's proposals to revise existing standards of performance for relevant electricity operators

This letter and the attachment to it constitute the response of Northern Powergrid to the notice published by the Gas and Electricity Markets Authority (GEMA) under section 40B of the Electricity Act 1989 on 18 December 2014 relating to proposed modifications to the Electricity (Standards of Performance) Regulations 2010 and to the Electricity (Connection Standards of Performance) Regulations 2010. As such it is supplementary to the submission of even date (which we fully support) that has been made by the Energy Networks Association on behalf of the fourteen distribution network operators (DNOs) that are distribution services providers.

The attachment to this letter contains some comments of our own on the detailed drafting that for the most part time did not permit us to raise with other DNOs. In addition we have a small number of more substantive comments that relate more to process than to content in relation to these two statutory instruments.

Firstly, we are concerned about what appears to be a further version-control issue associated with Ofgem's December 2014 statutory notices and associated documents. Ofgem's 18 December 2014 notice relating to the standards of performance sets out that the second of its three reasons for modifying the Electricity (Connection Standards of Performance) Regulations is to make clear that delays imposed by a requirement to serve a notice under the New Roads and Street Works Act can be treated as an extension of time. However, the mark-up copy of the regulations that accompanied the notice shows no extension to the wording of regulation 16(4)(d) to achieve this (whereas the copy that was provided on 5 December 2014 for informal consultation showed the words "or the New Roads and Street Works Act 1991" added to the end of regulation 16(4)(d)). No doubt Ofgem will clarify the position following this consultation.

Secondly, we believe that the intention stated in Ofgem's 18 December 2014 notice in respect of the Electricity (Standards of Performance) Regulations of "aligning regulatory treatment of 'one-off' exceptional events by removing certain exemptions in recognition of how such events are treated under the interruptions incentive mechanism" is inconsistent both with the corresponding statement in paragraph 7.5 of Ofgem's "Strategy decision for the RIIO-ED1 electricity distribution price control: Reliability and safety" document and with the changes actually shown in the mark-up that accompanied the 18 December 2014 notice. The above-mentioned paragraph 7.5 limits its applicability to standard GS2B (5,000 or more customers interrupted during normal weather conditions). However, the proposed modification of regulation 4(i) (which defines "relevant period") was stated in the mark-up that Ofgem issued on 5 December 2014 for informal consultation to deliver the implementation of this policy

NORTHERN POWERGRID

is the trading name of Northern Powergrid (Northeast) Ltd (Registered No: 2906593) and Northern Powergrid (Yorkshire) plc (Registered No: 4112320)

Registered Office: Lloyds Court, 78 Grey Street, Newcastle upon Tyne NE1 6AF. Registered in England and Wales.

If you would like an audio copy of this letter or a copy in large type, Braille or another language, please call 0800 169 7602

www.northernpowergrid.com

intent, but its effect extends across the GS2 and GS11 standards as well as the GS2B standard. Furthermore, Ofgem's characterisation of this particular modification as removing exemptions is inaccurate. Exemptions relating to the guaranteed standards are set out in regulations 10 and 22 and essentially excuse a distributor from making a payment when it has failed a standard in specified circumstances. The parts of regulation 4(i) that Ofgem proposes to remove, on the other hand, served to extend the period of time that would elapse before a failure occurred. Notwithstanding both this and the fact that we believe Northern Powergrid is the company most affected by removal of the concession relating to 20kV underground cable, please note that we do not wish to make a representation against the proposed modification of regulation 4(i).

Thirdly, we note that it is proposed that those elements of the Electricity (Standards of Performance) Regulations that relate to electricity suppliers will be transferred to a separate, new statutory instrument later this year. We very firmly believe that it will be essential for the Electricity (Standards of Performance) Regulations to be amended and reissued at the same time (and possibly renamed also, to reflect their narrower focus on electricity distribution and avoid any confusion with the new supplier-related statutory instrument). We are concerned that anything less than this would be a recipe for confusion (bearing in mind that it is not just licensees that need to be able to read and understand the regulations), and would welcome clarification of Ofgem's intentions in this respect.

I hope that you will find these comments helpful. If you should require anything further in relation to them, please do not hesitate to contact me.

Yours sincerely

A handwritten signature in black ink that reads "John France". The signature is written in a cursive style with a large initial 'J' and 'F'.

John France
Regulation Director

Attachment to Northern Powergrid response of 21 January 2015 to Ofgem's statutory consultation on its proposals to revise existing standards of performance for relevant electricity operators

Detailed comments on the drafting

Both documents

- All references to 'sub-paragraph' should be changed to 'subparagraph'.

The Electricity (Standards of Performance) Regulations

Contents listing

- It may be more appropriate to put words such as "Not used" alongside the references to regulations that are not going to be used rather than "Redundant" (which we see here) or "This regulation no longer applies" (which we see against regulations 9 and 13 in the main text of the regulations), and there seems to be no merit in including reference to what the subject matter of each such particular regulation number used to be.

Regulation 3

- The definition of "distribution services area" is faulty in the current regulations, and should be corrected for the new regulations. Such an area is not specified or described pursuant to standard condition 2 of the standard conditions of electricity distribution licences (and this has been the situation since 1 June 2008). Furthermore, it is illogical for the definition of "distribution services area" in the regulations to differ from the definition of the same term in the electricity distribution licence (where reference is correctly made to standard condition 2 of the standard conditions as it was at 31 May 2008).
- In the third line of limb b) of the definition of "Priority Services Register Customer" the word 'its' should be changed to "his".
- In the fourth line of limb (a) of the definition of "specified time", the comma after "or" should either be removed altogether or shifted one word to the left to appear after "noon" - it is not correct where it is.
- In the second line of regulation 3(4)(e), and in the corresponding footnote, the reference to "paragraph 1A of Schedule 7" is incorrect (as it is in the current regulations). The correct reference should be to paragraph 1(1A) of Schedule 7.

Regulation 6

- The maximum payment amount of £300 cited at the end of paragraph (2) is a figure that could never fall to be paid. If the power stayed off for long enough in a Regulation 6 situation, a domestic customer might qualify for a payment of £285 or £320, and a non-domestic customer might qualify for a payment of £290 or £325. In all previous similar situations Ofgem has ensured that the amount of the cap corresponded to a figure that could actually fall to be paid. If this particular cap is to remain at £300, it will be necessary for Ofgem to clarify whether, to take the example of a domestic customer, the highest payment made would be £285, or whether, if the appropriate payment would have been £325 but for the cap, £15 of the final £35 should still be paid, so that the total payment made would be £300.

Regulation 7

- Paragraph (8) needs to be renumbered as paragraph (7) in consequence of the proposed removal of the current paragraph (7).

Regulation 10

- In the third line of regulation 10(4), a comma should be inserted after "premises".

- Footnote (a) on page 11 needs to be moved to the foot of the page.
- In footnote (b) on page 12 it is not correct to refer to substituting one thing into another. The same point applies in respect of footnote (b) on page 26.

Regulation 19

- It seems illogical that visits arising out of application of the connections guaranteed standards are expressly excluded from the scope of regulation 19, but visits arising out of application of the DGSD are not.

Regulation 21

- Paragraph (7) should start on a new line.

Regulation 24

- In the second line of paragraph (2)(a), “Council” should be changed to “Bureaux”.

Schedule 2

- Paragraph 3(2)(d) should start on a new line, and the number for paragraph (3) should be reunited with its associated text.

The Electricity (Connection Standards of Performance) Regulations

No comments.