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Andrew Burgess
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Dear Andrew,

Notice under Section 11A(2) of the Electricity Act 1989: Proposed new Standard Licence Condition (SLC) 52 and amendments to SLC 1 and 14

Whilst we welcome the level of engagement shown by Ofgem in drafting the Competition in Connections Code of Practice licence condition, we are disappointed that the new standard licence condition (SLC), as drafted, has dismissed our concerns raised in the later, more informal rounds of consultation.

We had expressed two specific concerns in relation to the direct obligations on the licensee (Part A), both of which remain in the current drafting.

The first relates to the obligation on us to remove “*to the extent that it is within its power to do so, any barrier associated with managing and operating its Distribution Business*”. We did not support the use of this new terminology, ‘within its power’, which we felt was unhelpful and, if taken at face value, could require us to take measures that were at odds with obligations elsewhere in our licence. Also, we questioned whether this obligation should apply to any barrier. Our view was that this should reference any ‘unreasonable’ barrier and also require some element of consultation with relevant stakeholders ahead of any barriers being removed.

Whilst we accept that Ofgem is reluctant to introduce a consultation process that could itself become a barrier, we do not agree that the wording of the licence is suitably specific and indeed we share the concerns of others as to just what constitutes any barrier that is within our power to remove. We believe there is scope for this to leave us vulnerable to undue challenge under our licence.

Our second concern relates to the direct requirement (and Code objective) to minimise “*to the fullest extent reasonably practicable, the number and scope of Input Services*”. Again, our view was that this should have been subject to a caveat to ensure that it did not undermine or cut across existing obligations in our licence and to ensure that the DNOs were not bound by licence to diverge from a common Code.

Whilst we acknowledge that licensees must always act in accordance with their licence duties, we remain of the view that, as drafted, the lack of any limitation is unhelpful.

Should you wish to discuss any of the above, please do not hesitate to get in touch.

Yours sincerely,

Gillian Hilton

Regulation, Networks