

Heather Stewart
European Coordination
Ofgem
10 South Colonnade
Canary Wharf
London
E14 4PU

8 February 2019

Dear Heather,

Preparing for EU Exit: statutory consultation on consequential licence modifications in the event the UK leaves the EU without a deal

Thank you for the opportunity to comment on this statutory consultation. Our networks business SP Energy Networks (SPEN) is responding separately on the proposed modifications to the Electricity Distribution and Electricity Transmission Licences.

We understand the purpose of this statutory consultation is to propose modifications to ensure that retained EU law will function effectively at the point of exit (in the event the UK leaves the EU without a deal), and that the licences take into account the provisions of the Statutory Instruments (SIs) that have been prepared under the European Union (Withdrawal) Act 2018. We welcome Ofgem's confirmation that the proposed modifications do not seek to change the current obligations and duties of licensees, nor do they seek to change current policy positions.

Insofar as we have been able to determine, the proposed licence modifications achieve the above policy intent. We have two comments.

Electricity Transmission Licence

ScottishPower is part of the Spanish utility group Iberdrola and the ultimate parent company of our transmission licensee SP Transmission (SPT) is Iberdrola S.A. Electricity Transmission SLC B.21 ("Notification of changes that may affect eligibility for certification") currently requires the licensee to inform Ofgem in writing when *"the licensee is or may become a person from a third country, or that a person from a third country has or may take control of the licensee"*. Ofgem is proposing to replace references to *"person from a third country"* with *"person from a country outside the United Kingdom"*.

In the event that the UK leaves the EU without a deal and Ofgem makes these licence modifications, SPT would be obliged to inform Ofgem that its ultimate controller was a person from a country outside the UK. Our current thinking is that SPT would inform Ofgem by means of the written declaration it is obliged to provide by 31 July 2019, in

accordance with SLC B.21.5(b), but we would welcome confirmation that this is Ofgem's intent.

Smart Meter Communications Licence held by DCC

SLC 27 ("Indebtedness & Transfer of Funds") currently requires the DCC to hold SEC Parties' funds in a bank account which is which is held within the European Economic Area. Ofgem is proposing to modify the requirement to refer to a bank account which is held within the United Kingdom and/or the European Economic Area.

While this modification accords with Ofgem's policy intent not to change the current obligations and duties of licensee or change current policy positions, we think Ofgem should separately give consideration as to whether it might be more appropriate and secure to require the funds to be held in a bank account in the UK. Were the UK to leave the EU without a deal, it would cease to be a member of the EEA and would lose any protections available to EEA members. Therefore we think it would be prudent for the DCC to ensure wherever possible that its operations, assets and finances are located within the UK.

Please do not hesitate to contact me or Haren Thillainathan (tel 0141 614 2007, email: hthillainathan@scottishpower.com) if you have any questions arising from our response.

Yours sincerely,



Richard Sweet
Head of Regulatory Policy