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David McCrone
Office of Gas and Electricity Markets
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13th March 2019

Dear David,

Eclipse Power Networks (EPN) comment on Ofgem's 'Informal consultation on proposed modifications to the Electricity Distribution Licence'

I am writing on behalf of Eclipse Power Networks (EPN) in response to your invitation letter dated 13th February 2019, seeking views on the proposed modifications to the Standard Licence Conditions (SLC) of the electricity distribution licence.

We welcome the decision to explore a number of potential changes to the electricity distribution licence to address concerns relating to allowing AIDNOs, in particular the objective to 'ensure the licensee would manage and operate its Distribution Business in a way that would not restrict, prevent or distort competition in the distribution of electricity (as well as in supply and generation).' There are still however a number of legitimate concerns around AIDNO operating within the affiliated DNO Distribution Service Area (DSA). If these issues are not rectified, it presents a specific risk to competition in the connections market. This letter outlines our response to the proposals.

We believe that the original licence condition did not take into consideration the separation issues associated with firms working in the same industry sector. Historically it assumed that any separation would be between generation, networks and supply sectors. There are new areas that need to be addressed in this situation. Particularly since a DNO and AIDNO could share a number of common areas/costs/services that would provide the AIDNO with commercial and or economic advantages over IDNOs.

We have broken these areas down into three main areas where costs could be shared but not in our view adequately covered in the amended licence as they only need be reported in the compliance statement (42.7) i.e. sharing of premises, systems, equipment and services of persons. For AIDNOs specifically, this would be for sharing:

1. People resources: this includes sharing board level directors, engineering staff, commercial analysts and business support staff such as regulatory compliance.
2. Information systems: IT systems, MPAS systems, Data billing systems.
3. Office premises and rents.

We encourage Ofgem to cover these areas in explicit business separation guidance for AIDNOs, and to ensure it has the power to request evidence and act to protect competition in the market when required. These concerns could be addressed by mandating that the parent DNO of an AIDNO shall not provide any services to an AIDNO that they would not also provide on an equal basis to any other IDNO (e.g. use of shared building facilities).

There are more intangible aspects of the new AIDNOs that we think are also important, and again not anticipated in the current licence text Ofgem seek to amend; In particular:

- Common branding – this should not be allowable
- Marketing under a common website – this should not be allowable.
- Referrals from the incumbent DNO

We agree with the use of a compliance statement as a reporting tool but this needs to be accompanied by a strong monitoring regime with the same level of rigor we have in generation and supply.

Finally, on entry to the market, we as a recently formed IDNO, faced considerable start up and ongoing costs linked to regulatory requirements that are effectively sunk. A DNO has this capability already and an incentive to provide these support services to its AIDNO thus minimising these regulatory sunk costs. It is vital that the regulatory conditions do not disproportionately favour some market participants over another. We cannot see how if say in two years affiliates have a substantial market share due to their parent company that this is a good outcome of these licence changes for consumers.

If you wish to discuss any of the issues raised in our response or have any queries, please contact me on 01234 486487.

I confirm that this letter may be published on Ofgem's website.

Yours Sincerely

A handwritten signature in black ink, appearing to read 'G. Gay', with a stylized flourish at the end.

Gary Gay
Managing Director