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Dear David,

Informal consultation on proposed modifications to the Electricity Distribution Licence

Thank you for the opportunity to provide some comments on your suggested changes to the Standard Licence Conditions (SLC) of the electricity distribution licence associated with electricity distribution licence applications from affiliates of existing licensees.

Our overriding concern is that whilst the proposed drafting is intended to provide additional protection where a Distribution Network Operator (DNO) wishes to hold a separate 'AIDNO' licence, the drafting as proposed imposes new obligations on DNOs even if they don't. Our concerns therefore relate to what new obligations are imposed and what if any unforeseen consequences arise. Our preference therefore would be to have licence drafting that imposes any new obligations only in the situation where a separate AIDNO licence is granted.

Where a DNO seeks to hold an AIDNO licence we consider the protection is most needed if the AIDNO intends to operate within the Distribution Services Area (DSA) of the DNO. Where the AIDNO intends to only operate outside of the DNO DSA then the levels of protection need to be proportionate to the risks. An example would be the requirement to have branding that is "fully independent"; this would be very relevant if the AIDNO was operating within the DSA but less so if it was only operating outside the DSA.

We have applied for derogation from SLC 42 in respect of the new restrictions on generation operation because the issues sought to be managed do not exist in Electricity North West. Ofgem acknowledged that such applications for a derogation could be made. Therefore the requirements under SLC 42 particularly should only be switched on in the case of a Distribution Group having an AIDNO that operates within any of its DSAs. Where a Distribution Group has an AIDNO that only operates outside of their DSA's then SLC 42 is not required as SLC 4 and general Competition Law affords significant protection to manage any perceived or real competition concerns.

We understand the intention of the additional text (e) in the definition of a Relevant Licence Holder is to apply the obligation where a DNO holds an AIDNO licence but not to impose any new obligations where more than one DNO licence is held. We do not think that the proposed drafting achieves this. A Distribution Services Provider is defined as "*means any Electricity Distributor in whose Electricity Distribution Licence the requirements of Section B of the standard conditions of that licence have effect (whether in whole or in part)*" and therefore we see no distinction between that and a holder of an electricity distribution licence. The simplest approach may be to define an AIDNO and add that into the definition.

We are happy to discuss these comments and participate in any other industry discussions on this topic.

Yours sincerely

Brian Hoy
Head of Market Regulation and Compliance