

To:

Western Power Distribution West Midlands (WMID)

Western Power Distribution East Midlands (EMID)

Western Power Distribution South West (SWEST)

Western Power Distribution South Wales (SWALES)

(the 'Licensees')

Electricity Act 1989

Section 11A(1)(a)

Modification of the special conditions of the electricity distribution ('ED') licences held by the Licensees and the ED1 Price Control Financial Handbook (fast-track licensees)

1. The Licensees are holders of electricity distribution licences ('the Licences') granted or treated as granted under section 6(1)(c) of the Electricity Act 1989 ('the Act').
2. Under section 11A(2) of the Act, the Gas and Electricity Markets Authority ('the Authority')¹ gave notice on 21 January 2020 ('the Notice')² that we propose to modify:
 - a. Charge Restriction Condition ('CRC') 3F.25 of the Licences, and
 - b. Paragraph 7.37 of the ED1 Price Control Financial Handbook (fast-track licensees) ('the Fast-track Handbook')³.

We stated that any representations to the modifications must be made on or before 18 February 2020.

¹ The terms "the Authority", "we" and "us" are used interchangeably in this document.

² See Annex 1 - Notice of statutory consultation on proposed modifications to WPD's Licences and to the Fast-track Handbook:
https://authors.ofgem.gov.uk/system/files/docs/2020/01/wpd_stat_consultation_cover_letter_notice_and_licence_changes.pdf

³ ED1 Price Control Financial Handbook (fast-track licensees):
https://www.ofgem.gov.uk/system/files/docs/2017/08/ed1_handbook_v4_fasttrack_0.pdf

3. A copy of the Notice was sent to the Secretary of State in accordance with section 11A(4)(b) of the Act, and we have not received a direction that the change should not be made.
4. We received two responses to the Notice, which we carefully considered. We have placed both non-confidential responses on our website. The consultation responses were supportive of the proposed modifications. A summary of the comments received and our response is set out in Annex 1.
5. It is necessary to make a minor alteration to the modifications set out in the Notice by including paragraph 7.35 of the slow track ED1 Price Control Financial Handbook in the Fast-track Handbook. This alteration is shown in yellow highlight in Schedule 1. This inclusion was suggested by a respondent to the consultation. We consider that this adds clarity to the definition of Specified Street Works Costs ('SSWC') in the Fast-track Handbook and is within the scope of the policy intent for the modifications proposed in the Notice.
6. We are making the changes to CRC 3F.25 in order to align the definition of SSWC in the Licences with the corresponding definition in the licences of the other Distribution Network Operators ('DNOs'). The changes to the Fast-track Handbook are being made in order to align the provisions relating to SSWC in that document with those in the ED1 Price Control Financial Handbook (slow-track licensees)⁴.
7. The effect of these modifications will be that the definition of SSWC in all of the DNOs' licences is the same, and the relevant SSWC paragraphs in the fast and slow-track ED1 Price Control Financial Handbooks are consistent.
8. Where an application for permission to appeal our decision is made to the Competition and Markets Authority (CMA) under section 11C of the Act, Rule 5.7 of the Energy Licence Modification Appeals: Competition and Markets Authority Rules⁵ requires that the appellant must send to any relevant licence holders who are not

⁴ See paragraph 7.34 of the ED1 Price Control Financial Handbook (slow-track licensees):

https://www.ofgem.gov.uk/system/files/docs/2019/09/appendix_1_-_riio-ed1_price_control_financial_handbook_slow-track_licensees_v4.pdf;

⁵ CMA 70

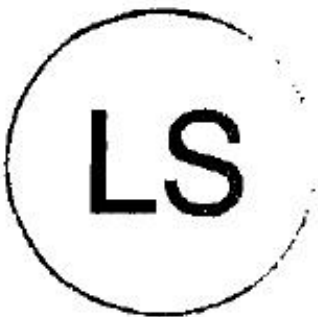
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/655601/energy-licence-modification-appeals-rules.pdf

parties to the appeal a non-sensitive notice setting out the matters required in Rule 5.2. The attached Schedule 2 provides a list of the relevant licence holders in relation to this modification. Section 11A(10) of the Act sets out the meaning of 'relevant licence holder'.

9. Under the powers set out in section 11A(1)(a) of the Act, we hereby modify CRC 3F.25 of the Licences and the Fast-track Handbook in the manner specified in attached Schedule 1. This decision will take effect from 29 April 2020.

10. This document is notice of the reasons for the decision to modify the electricity distribution licences held by the Licensees as required by section 49A(2) of the Act.

**The Official Seal of the Gas and Electricity Markets Authority
here affixed is authenticated by the signature of**



James Veaney
Head of Electricity Distribution Policy, Systems and Networks
Duly Authorised on behalf of the Gas and Electricity Markets Authority

3 March 2020

Annex 1- Consultation Responses

Consultation Response	Ofgem Response
ENWL was supportive of the proposed modifications in the Notice. On a separate matter, ENWL requested clarification on the logging up of future SSWC, as outlined in the Reopener Decision ⁶ , in particular on the treatment of a zero materiality threshold for specific cost categories such as lane rental costs.	This is outside the scope of these modifications, however, we will seek to consult with all DNOs on a close out methodology for SSWC in Spring/Summer 2020. This will include discussion of materiality thresholds.
WPD was supportive of the proposed modifications in the Notice. It further suggested that paragraph 7.35 of the RIIO-ED1 Price Control Financial Handbook (slow-track licensees) is added to the Fast-track Handbook to bring the SSWC provisions in both documents further into alignment.	We have decided to incorporate WPD's suggestion to include this additional paragraph in the Fast-track Handbook as it adds clarity to the definition of SSWC in the Fast-track Handbook and is within the scope of the policy intent for the modifications proposed in the Notice.

⁶ SSWC Reopener Decision. https://www.ofgem.gov.uk/system/files/docs/2019/10/riio-ed1_reopener_decision_-_specified_street_works_costs_new.pdf

Schedule 1- Modifications⁷ to CRC 3F.25 and to the Fast-track Handbook

a) CRC 3F.25

Specified Street Works Costs means the costs incurred, or expected to be incurred, by the licensee in complying with obligations or requirements arising under any order or regulations made under Part 3 of the Traffic Management Act 2004 (or, in Scotland, the Transport (Scotland) Act 2005) that impose a permit scheme, lane rental scheme or equivalent and comprise:

- (a) permit fee costs;
- (b) one-off set up costs;
- (c) administrative costs arising from the introduction of permit schemes or equivalent and lane rental schemes or equivalent; and
- (d) costs arising from the introduction of permit conditions or equivalent and lane rental schemes or equivalent,

all as further clarified in the RIGs.

b) Fast-track Handbook

7.37 The term Specified Street Works Costs means costs incurred, or expected to be incurred, by the licensee in complying with obligations or requirements arising under any order or regulations made under Part 3 of the Traffic Management Act 2004 (or, in Scotland, the Transport (Scotland) Act 2005) that impose a permit scheme and comprise:

- (a) permit fee costs, or equivalent;
- ~~(b)~~ lane rental costs, or equivalent;
- ~~(b)~~ one-off set up costs;
- ~~(c)~~ administrative costs arising from the introduction of permit schemes or equivalent and lane rental schemes or equivalent; and
- ~~(d)~~ additional costs arising from the introduction of permit conditions or equivalent, as further clarified in the RIGs.

⁷ A double strikethrough denotes a deletion and a double underscore denotes insertion of new text.
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7.37A⁸ Specified Street Work Costs are only associated with a new permit or lane rental scheme (or Scottish equivalent). These are ones which were not operational by 1 July 2013 or where the scheme was implemented by this date but the DNO did not have 12 months of cost data relating to the scheme. Only the costs of these schemes will be considered as part of the reopener mechanism.

⁸ Yellow highlight represents an alteration to the modifications proposed in the Notice.

Schedule 2 - Relevant Licence Holders⁹

Western Power Distribution (West Midlands) Plc, registered company number 03600574

Western Power Distribution (East Midlands) Plc, registered company number 02366923

Western Power Distribution (South West) Plc, registered company number 02366894

Western Power Distribution (South Wales) Plc, registered company number 02366985

⁹ Electricity licence holders are listed at: <https://www.ofgem.gov.uk/publications-and-updates/list-all-electricity-licensees-including-suppliers>