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By email to: RIIO-ED1@ofgem.gov.uk

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Informal consultation on modification to the Electricity Distribution Licence to recover the costs associated with appointing a Supplier of Last Resort

Dear Grant

Thank you for the invitation to comment on the above consultation. This response is on behalf of UK Power Networks' three distribution licence holding companies: Eastern Power Networks plc, London Power Networks plc, and South Eastern Power Networks plc.

We are pleased to see that the work on the impact to DNOs of a supplier of last resort we pushed for are coming to a natural conclusion. This helps ensure that, mindful of the recent number of suppliers ceasing trading, the industry is positioned to work in the best way possible to ensure continuity of supply for customers.

We have set out our detailed feedback to your proposed licence changes in the Appendix to this letter and hope that you find these constructive. If you have any questions, please do not hesitate to get in touch.

Yours sincerely

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Head of Regulation and Regulatory Finance
UK Power Networks

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Appendix – Response to Individual Questions

1. The split between the two schemes (and consequently the application of the licence conditions) is based around "before 31 March 2019" and "on or after 31 March 2019". We think it would be better to align the split to the regulatory year and not one day adrift from it.
2. 38A.1 – the structure of the licence condition is such that it is not clear that the Roman numeral clauses under (b) apply to (b) only. This could be overcome by repeating the opening paragraph of 38A.1 before (b) and splitting the condition here to create a new numbered paragraph with consequential renumbering across the rest of the condition.
3. The inference in 38B.2 is that the Energy Supply Company Administration Order applies when this condition does not apply, however it could be read that the existing LC38 applies. To avoid this potential for misinterpretation, the wording should be clarified to precisely say what applies when this condition does not apply.
4. The structure of 38B.5 and the consequential lack of a definition of "Materiality Threshold" may confuse the reader. We recommend that a new definition of "Materiality Threshold" is added into paragraph 11. This should point to the table in Appendix 1. Doing so would then allow redrafting of paragraph 5 such that the lower case "materiality threshold" can be removed to increase clarity.
5. In respect of paragraph 38B.7, we believe that the intent was that where a breach of the materiality threshold occurs all of the claim or claims that take licensees over the threshold should be recovered via a price change in their entirety, not just the excess. Therefore we propose that this clause is changed to:

   "*Subject to paragraphs 38A.5 and 38A.6, the Excess Specified Amount will equate to the aggregate value of Valid Claims received in a Regulatory Year that would cause ~~in excess of~~ the Materiality Threshold in any single Regulatory Year to be breached."*

   A similar change to the definition in 38.B11 is also required along with a correction to the paragraph cross reference.

   ***"Excess Specified Amount** means the aggregate value of Valid Claims ~~in excess~~ that would cause a breach of the Materiality Threshold that are recovered in accordance with paragraph 38~~A~~B.9."*
6. We note that in 38C.2 there could be a time period of over two and a half years after the claim is received before an IDNO is required to be paid. We are unclear if this was identified as a potential weakness in the drafting.
7. The 30 day timescales in paragraph 38C.3 appear to overwrite the longer ones in paragraph 38C.2 and we seek clarity as to whether this reflects Ofgem's intended policy.
8. We also note that 38C.3 does not cater for adjustments downwards e.g. where an IDNO adjusts its claim following receipt of a payment from an administrator. We seek clarity as to whether this drafting correctly reflects Ofgem's policy intent.
9. We believe that the cross reference in 38C.3 to paragraph 10 of BA5 is not correct and that it should refer to paragraph 11.
10. Across all the conditions there are references to supply licences being revoked – we seek clarity from Ofgem that they will always revoke supply licences (when a supplier ceases trading) and in what timescales revocations will be conducted so as to ensure that late revocations do not affect DNOs or IDNOs ability to follow the processes outlined in these conditions.
11. The closing words of the opening sentence to BA5.4 should be reworded to "…2017/18, it must, no later than 30 June 2019:" as the current drafting does not flow correctly.
12. Furthermore, the sub-bullets of BA5.4 should be (a) and (b) not (c) and (d)
13. We propose that, as an affected party, within BA5.7 Relevant Distributors should also be sent a copy of the proposed directions for comment.

14. Within BA5.11(b) we believe that this should refer to the “respective proportion of the Revised Relevant Amount and Relevant Amount” in line with the terminology used in paragraph 9.
15. In 2B.34 the ‘t’s in SLRt and EBDt should be subscripted for consistency with the rest of the condition.
16. Within 2B.35(c) the final words “and standard condition 38” should be “**or** standard condition 38” as the current drafting would require a Valid Claim under all three licence conditions to be made before the costs could be deducted.
17. 2B.38 uses the term LBDA as the final term in the formula we believe that this should be the same term as in 2B.27, namely IBDA.
18. The opening sentences to 2B.37 would be much clearer by repeating the relevant wording from the same place in 2B.38 and adding the correct years – i.e.2021/22 and 2022/23 only.
19. We seek clarity as to how and when the HBD term in 2B.39 will be directed.
20. We also seek clarity as to how and when the form of statement in 2B.40 will be prescribed by Ofgem.
21. 2B.43 refers to the submission of the statement being optional (using the term “may”). We believe that this should be mandatory; using “shall where relevant” would solve this point.
22. Finally, in 2B.41 and the associated Appendix 7, amendments are required to include a “Not Yet Due” line which covers unbilled debt at the time of insolvency. This is important as this is where the vast majority of the bad debt will lie. 100% of face value should be recoverable in such cases.