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Submitted by email to: EUExit@ofgem.gov.uk

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Dear Heather,

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

This response is submitted on behalf of the following licensees:

- Scottish Hydro Electric Power Distribution Plc;
- Southern Electric Power Distribution Plc;
- Scottish Hydro Electric Transmission Plc;
- Southern Electric Gas Ltd (gas supply);
- SSE Energy Supply Ltd (gas and electricity supply); and
- SSE Electricity Ltd (electricity supply).

SSE recognises the need for contingent preparations to be expedited given the ongoing uncertainty around the UK's withdrawal from the EU. It is important, however, to ensure that powers are repatriated to the UK in line with the legislative framework laid before Parliament.

In the event of a "no deal" withdrawal from the EU, SSE agrees with Ofgem that an interregnum period will be inevitable. SSE also agrees that the publication of a modification decision in advance of Exit Day would provide licensees with the maximum clarity possible under the circumstances.



SSE has not identified any unintended consequences of the proposed licence modifications. It is evident that the changes do not seek to modify the current obligations and duties of licensees or alter existing policy positions. On that basis, SSE is broadly in agreement with the proposed amendments (should they become necessary).

One of the amendments to the Supply Licences, however, may require further scrutiny. Ofgem propose the following change to SLC 5.6:

With respect to transactions in electricity derivatives, the obligation to keep the Relevant Data shall only apply once the ~~European Commission~~Authority has adopted guidelines pursuant to paragraph 4 of Article 40 of the Directive, to be read as if the references to the European Commission are references to the Authority.

Given that any such guidelines would express legislative policy intent, it is not clear to SSE that the Authority has powers to make provisions on an equivalent basis to any guidelines otherwise adopted by the European Commission. Consideration should be given to amending this modification such that references to the European Commission are instead to be read as references to the Secretary of State.

SSE also notes that the approaches taken to modify the definition of the term “Vertically Integrated Undertaking” differ between SLC 31B.11 of the Electricity Distribution Licence and SLC A1 of the Electricity Transmission Licence. Whilst either option would be satisfactory, the approach taken in the Distribution Licence better meets the test of being the minimum change necessary to maintain an effective regulatory framework.

These minor points of detail notwithstanding, SSE is supportive of the measures proposed by Ofgem to provide regulatory clarity in the event of a withdrawal from the EU without a deal.

Yours sincerely,

(by email)

Roger Hutcheon
Regulation Manager