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Dr Eileen Marshall  
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18 March 2003

Dear Dr Marshall,

**Electricity Generation Standard Licence Condition 18:  
Generating Unit availability**

I refer to the consultation document “Electricity Generation Standard Licence Condition 18: Generating Unit availability” dated February 2003. The response from Magnox Electric plc is given below.

The paper notes how similar conditions to SLC 18 were introduced into the generation licences of larger generators under the Pool, and that since then market structure has evolved substantially, and the rules governing the trading of electricity have changed with the abolition of the Pool and the introduction of NETA. Within that context, we have given careful consideration of the potential options open to Ofgem with regard to SLC 18 that have been outlined in the paper.

We welcome the fact that Ofgem does not appear to consider it appropriate either to extend the provisions of SLC 18 to all generation licence holders, nor to continue to apply SLC 18 *in toto* in the specific case of Powergen. We would contend that the application of the provisions of SLC 18 to some, but not all, generators is discriminatory. We would argue that Option 5, the removal of SLC 18 as a Standard Licence Condition in all Electricity Generation Licences, is the most appropriate of the options which Ofgem has outlined, on the following grounds:

- (i) the formulation of SLC 18 reflects specific concerns that existed given the nature of the Pool, and the potential for individual market participants to influence Pool prices. Given that the Pool is no longer in operation, and that market structure has evolved to the point where there is a fully competitive market in generation, there is no justification for the retention of SLC 18.

- (ii) The paper illustrates how Ofgem would retain adequate powers under the Competition Act 1998 to fulfil its statutory duties without the provisions of SLC 18. Under these circumstances, removal of the SLC would be appropriate. Confidence in the regulatory environment can only be enhanced by the removal of unnecessary regulations.
- (iii) The removal of the SLC from all licences would remove the administrative burden associated with subsequent disapplication requests and consultative processes. It also removes the actual or potential burden associated with compliance for those generators where SLC 18 is “switched on”
- (iv) Were circumstances to arise in the future in which Ofgem considered it appropriate to reintroduce a licence condition identical to SLC 18, it is entirely reasonable that Ofgem should be required to justify its actions to the Competition Commission in the event that a licensee objected. Such a safeguard can only act to reduce the perception of regulatory risk on the part of market participants, thus improving the functioning of the market to the overall benefit of consumers.

I trust the above is helpful in deciding how to proceed. Please feel free to contact me should you require any clarification of this response.

Yours faithfully,

Nigel Burrows  
Regulation and Market Access Manager

