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16 March 2006

Dear John

**DISTRIBUTION LICENCE: STANDARD CONDITION 5**

I am responding on behalf of our three network operators to your consultations on Ofgem's proposals to modify distribution SLC 5 while also introducing simplified arrangements in relation to compliance with the new system planning standard. Our response is not confidential and can be published on your website.

Taking the simplified arrangements first, we have no concerns about the proposed new treatment of derogations and can see much in the proposals that is to be welcomed. They are sensible and pragmatic, are consistent with the principles of good regulatory practice, and will reduce the administrative burden of pursuing a formal derogation procedure in circumstances where the decision should really be uncontroversial and self-evident.

Of the two suggested options for implementing the simplified arrangements, we would favour the second one. This would require a further amendment of SLC 5 to change the scope of the compliance obligation so as to properly allow for the new derogation arrangements.

Taking account of this preference, and also of a couple of drafting points arising from your own modification proposal for the introduction of P.2/6, we should like to encourage Ofgem to undertake a formal statutory consultation under section 11A on the basis of the kind of approach to which the SLC 5 modifications set out in the attachment to this letter would give effect.

I hope that these comments are helpful.

Yours sincerely

**Roger Barnard**

Head of Regulatory Law  
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**Attachment: Modification proposals for SLC 5 arising from  
EDF Energy's letter of 16 March 2006 (attached)**

1. The following drafting points arise in relation to the modification proposal set out at Appendix 1 to Ofgem's Open Letter dated 28 February 2006:
  - The use of the term "licensee's distribution system" is a hangover from the old PES licence, in which that term was a defined term. This is no longer the case in the distribution licence, where the defined term (see SLC 1) is simply "distribution system".
  - It is desirable to attribute ownership of P.2/6 to ENA more formally than by way of a mere parenthesis.
2. As regards Ofgem's Reform of Requirement letter dated 28 February 2006, EDF Energy supports the option of rescoping the compliance obligation under SLC 5 to allow for the proposed new arrangements. We believe that the appropriate place to provide for this is at paragraph 4 of the condition.
3. The modification proposals set out below for SLC 5 reflect and seek to give effect to the above comments.

**SLC 5 Paragraph 1**

1. The licensee shall plan and develop its distribution system in accordance with a standard not less than that set out in Engineering Recommendation P.2/6 of the Energy Networks Association insofar as applicable to it [etc]

**SLC 5 Paragraph 4**

4. The Authority, following consultation with the licensee and, where appropriate, with the system operator and any other authorised electricity operator liable to be materially affected thereby:
  - (a) may publish guidance, for the purposes of this condition generally, on the scope and interpretation of the licensee's compliance with its obligation under paragraph 1; and
  - (b) may issue directions relieving the licensee of its obligation under paragraph 1 in respect of such parts of its distribution system and to such extent and subject to such conditions as may be specified therein.

**EDF Energy  
March 2006**