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Dear Bridget

Reform of requirement for Distribution Licensees to seek Derogation in respect of compliance issues with Standard Licence Condition 5 of the Distribution Licence

I write in response to John Scott's letter of 28 February. We are pleased to have the opportunity to comment on the proposed amendments to the processes related to derogations in respect of Condition 5. We recognise and appreciate the effort that Ofgem is putting into achieving a workable and proportionate approach in this complex area.

In particular, we welcome your recognition of the implications of the Interruptions Incentive Scheme (IIS) and the reporting obligations under Condition 49 for any other measures in respect of Quality of Service and its links with network planning standards. There are already powerful incentives to meet the quality of supply targets specified under IIS. These should bring forward appropriate levels of investment as well as influencing operational response to interruptions. In keeping with the broader agenda for Better Regulation we therefore support the removal of duplication that would remain if you were to retain the regime for derogations. Your suggestion that derogations should only be required in cases where substantial blocks of load are affected by any potential non-compliance is entirely reasonable. It would remove the practical challenge of applying for many derogations, affecting relatively small numbers of customers, whilst the IIS ensures a continuing management focus on efficient means of overcoming any network limitations.

In practice, we believe that a threshold for Group Demands of 100MW would be more appropriate than the 60MW that you have suggested. We accept that your proposal uses the current Group D definition within P2/5, but if we are to institute change it would be preferable to do so on a basis that has more rationale as we look to the future. The 100MW threshold represents the demand level where, within Class D, there is a need for re-supply following a second circuit outage. It is this breakpoint that is a strong driver of cost, and where compliance issues most often arise.

Subject to this modification to the threshold, we share your belief that the existing derogation process is appropriate at higher demand levels and the current mechanisms should be retained. However, it does seem a logical consequence of this line of thinking to remove any obligation on the DNO to be able to demonstrate that it had been through a P2/5 compliance assessment in respect of the smaller demand groups. This would simply add an unnecessary level of bureaucracy to sit alongside an effective incentive regime – the IIS. Hence the new obligation can be simplified to be no more than an obligation to remain compliant for demand groups in excess of 100MW, and to seek derogations for those instances where compliance is temporarily impaired for those groups.

Having established the principles for modification of the obligations on a licensee, we would further argue that these should also apply in the case of either supplies to other DNOs or to individual COMAH sites. In both instances, we believe that supply security is the responsibility of the third party. In the first case, the other DNO will have its own licence obligation for supply security, and it will be up to them to establish compliance or otherwise for their network. It is not obvious that the host DNO will know enough about the supplied DNO network to establish compliance and there are no D Code data transfer provisions in the ex-PES D Code to facilitate this. This is particularly true in the case where there is some generation contribution to security in the supplied DNO network. The host DNO is unlikely to be in a position to evaluate the generation contribution.

In the second case, security of electricity supplies will form part of the safety case for the site, and the security of external supplies will be of prime concern to the site manager. In both cases the ex-PES D Code will treat these connections as single customer connections and therefore P2/5 will not apply directly. We believe this is entirely appropriate and avoids a wider customer base taking on costs associated with assumed levels of security for these specific connections.

I hope you find these comments helpful. If you wish to discuss any points further, please do not hesitate to contact either myself or Mike Kay.

Yours sincerely,

Mike Boxall
Electricity Regulation Director