

Notice under section 27A of the Electricity Act 1989

Decision of the Gas and Electricity Markets Authority following an investigation into compliance with SLC 4D and SLC 12 of the electricity distribution licence by EDF Energy Networks (EPN) plc, EDF Energy Networks (LPN) plc and EDF Energy Networks (SPN) plc

3 November 2009

1 Summary

- 1.1 This is the decision of the Gas and Electricity Markets Authority ("the Authority") following an investigation into compliance by EDF Energy Network (EPN) plc, EDF Energy Networks (LPN) plc and EDF Energy Networks (SPN) plc (collectively referred to as "EDFE") with SLC 4D and, since 1 June 2008, SLC 12 of the electricity distribution licence.
- 1.2 Under SLC 4D EDFE was obliged to provide offers for connection as soon as practicable, and in any event within three months of receipt of an application which contains all such information as EDFE may reasonably require for the purpose of formulating the terms of the offer.
- 1.3 Since 1 June 2008 the obligations in SLC 4D have been set out in SLC 12 (Requirement to offer terms for Use of System and connection). SLC 12 requires EDFE to provide offers for connection as soon as *reasonably* practicable, and in any event within three months of receipt of an application which contains all such information as EDFE may reasonably require for the purpose of formulating the terms of the offer. SLC 4D and SLC 12 are set out in Annex 1.
- 1.4 Ofgem's investigation concerned applications and offers for connections made between April 2006 and 21 November 2008. During this time, EDFE has accepted that there were 107 breaches of SLC 4D and one breach of SLC 12. The Authority is satisfied that EDFE contravened SLC 4D and SLC 12.
- 1.5 The Authority announced on 24 July 2009 that it intended to impose a financial penalty of £2m on EDFE in relation to the 46 breaches of SLC 4D and the breach of SLC 12.
- 1.6 Representations were received from EDFE. The Authority has considered these representations carefully. It has decided to confirm the penalty of £2 million.
- 1.7 The penalty must be paid by 18 December 2009. Payment details are being provided to EDFE separately.

2 Background

The breaches

- 2.1 In April 2006, EDFE replied to a query from Ofgem regarding a complaint that Ofgem had received from one of EDFE's customers, and confirmed an instance where it had breached the three month timescale for providing connection offers in SLC 4D. Ofgem told EDFE that it took breaches of SLC 4D seriously and that it expected EDFE to meet its obligations under SLC 4D in the future.
- 2.2 On 16 February 2007, Ofgem advised Distribution Network Operators ("DNOs") (including EDFE) of its intention to request performance data, as part of the Connection Industry Review for 2007/2008, and following this announcement EDFE

Decision of the Gas and Electricity Markets Authority, following an investigation into compliance with SLC 4D and SLC 12 of the electricity distribution licence by EDF Energy Networks (EPN) plc, EDF Energy Networks (LPN) plc and EDF Energy Networks (SPN) plc
3 November 2009

discovered further breaches of SLC 4D. EDFE alerted Ofgem to this by telephone on 25 January 2008, and on 27 February 2008 EDFE wrote to Ofgem stating it had identified 70 cases of breach. In light of the above, Ofgem opened an investigation into EDFE's compliance with these licence conditions.

- 2.3 In response to information requests from Ofgem, in September 2008 EDFE stated it had discovered an additional 32 cases of breach and in November of 2008 EDFE accepted that a further breach of SLC 4D had occurred, as well as a breach of SLC 12.
- 2.4 EDFE also informed Ofgem, on 13 February 2009, that it had identified an additional three breaches of SLC 4D which took place in 2006. However, it stated that it did not have appropriate systems in place to provide Ofgem with complete information on potential breaches of SLC 4D which may have occurred before April 2007. Therefore Ofgem has not been able to ascertain the exact number of breaches of SLC 4D which may have occurred prior to this time.
- 2.5 In total, EDFE accepted that there were 107 breaches of SLC 4D and one breach of SLC 12.

Ofgem's statement of case

- 2.6 Ofgem produced a statement of case, setting out its views on the licence breaches. This was sent to EDFE and to the Authority Committee before an oral hearing on 7 July 2009.
- 2.7 In response to Ofgem's queries, EDFE accepted that it did not have appropriate resources, systems and processes in place to monitor and ensure compliance with SLC 4D; and that this had contributed to the breaches. In this respect, Ofgem's view was that EDFE should have been effectively monitoring and reviewing the time taken to provide offers for connections, in order to assess whether it was complying with the obligation in SLC 4D/12 to provide offers as soon as practicable/reasonably practicable and in any event within three months.
- 2.8 Ofgem considered that EDFE should have had appropriate processes in place to monitor compliance from at least April 2006 (when it first became aware of an instance of breach), if not the time from which EDFE had the licence obligation. As such, the breaches should have been discovered by EDFE well before it decided to put in place new systems and processes to meet external reporting requirements to Ofgem in 2007.
- 2.9 The lack of appropriate monitoring systems and processes was of particular concern to Ofgem given its express statement, after the instance of breach EDFE confirmed in April 2006, that it takes breaches of SLC 4D seriously - which was intended to put EDFE on notice to ensure that it met the required timescales in the future.
- 2.10 Ofgem acknowledged that, on a purely numerical basis, 108 instances of breach out of several thousand connection offers did not appear significant. However, it considered that the contraventions were of a serious nature given the potential for delays in providing connection offers to cause significant detriment to customers or to the market.
- 2.11 In order to prevent future breaches from occurring EDFE implemented a number of measures to improve its systems and processes. It also employed additional resources to help ensure compliance with its obligations, and it was from July 2008

Decision of the Gas and Electricity Markets Authority, following an investigation into compliance with SLC 4D and SLC 12 of the electricity distribution licence by EDF Energy Networks (EPN) plc, EDF Energy Networks (LPN) plc and EDF Energy Networks (SPN) plc
3 November 2009

that the measures implemented by EDFE appear to have stemmed the number of breaches.¹

- 2.12 Ofgem considered that EDFE had taken a number of positive measures to ensure that offers were provided as soon as reasonably practicable and in any event within three months. The number of breaches had dropped significantly, with only one breach of SLC 12 reported as having occurred since October 2008. Ofgem was concerned however that EDFE had provided reassurances to Ofgem in the past, regarding its ability to comply with the licence obligations, that proved unfounded. Ofgem therefore considered that EDFE's performance should be closely monitored.
- 2.13 As such, Ofgem proposed that EDFE provide Ofgem with information on its performance in relation to SLC 12 every month for six months from the decision date. Ofgem also requested that EDFE ask for feedback on its performance from a random sample of its customers. In this respect Ofgem considered that EDFE should survey all customers who received offers on one particular day of every month, and ask for their views in relation to EDFE's processes; from the very first point of contact by the customer (in some cases this may be before the 'application date'²) to the date when the offer is made. Ofgem proposed that EDFE provide Ofgem with the results of this exercise on a quarterly basis for one year.

Representations from EDFE on the proposed penalty

- 2.14 Representations on the proposed penalty were received from EDFE. There were no other representations.
- 2.15 The Authority has considered the main argument in EDFE's representations. This was that a penalty of £2m would be disproportionate to that imposed by the Authority on NGN in December 2007. The Authority has reviewed the background to the NGN case. Although this case also involved connection offers and customer service, the Authority considers that there are fundamental differences between the NGN and EDFE cases. Firstly, NGN is a smaller company and the level of financial penalty might be expected to reflect this. Secondly, NGN inherited problems in taking over the business, and the effect of these problems was shortlived while NGN addressed them. Thirdly, NGN submitted that it had suffered a loss of business as a number of major commercial customers withdrew connections work from NGN and placed this with alternative providers. Finally, the penalty imposed on NGN was not designed to have a deterrent effect.
- 2.16 EDFE on the other hand is an incumbent network operator with a combined turnover of £988m. It has had responsibility for meeting these obligations for many years, including the time when the current obligations were introduced (2004). While it has lately taken action to resolve them, this was only after Ofgem announced in February 2007 that it would require regular reporting from DNOs. The Authority also notes that for some time EDFE did not have fit for purpose systems, mechanisms or procedures in place to ensure compliance with these long standing obligations and did not monitor adequately the effectiveness of those systems, mechanisms or procedures it did have in place. In arriving at the proposed penalty of £2m, the Authority regarded these matters and the repeated contraventions since 2006 as an aggravating factor. Such repeated contraventions were not present in the NGN case. The compliance with licence conditions is a fundamental duty of regulated companies and the Authority

¹ EDFE states the problems with its databases were fixed in July.

² The 'application date' refers to the date when EDFE has all the information it reasonably requires in order to formulate the terms of the offer.

Decision of the Gas and Electricity Markets Authority, following an investigation into compliance with SLC 4D and SLC 12 of the electricity distribution licence by EDF Energy Networks (EPN) plc, EDF Energy Networks (LPN) plc and EDF Energy Networks (SPN) plc
3 November 2009

regards very seriously situations that involve repeated and/or prolonged contraventions.

- 2.17 At the oral hearing in this case, EDFE also offered to improve its compensation of customers in future if it were given a low penalty. However, the Committee noted at the time that this offer was conditional and that standards being proposed by Ofgem in its price control of DNOs (DPCR5) would require action approaching EDFE's offer of DNOs generally.
- 2.18 The Authority considers that there is nothing in EDFE's representations which is new or materially affects its original decision. Furthermore, it considers that a penalty of £2m is proportionate in all the circumstances of this case.

3 The Authority's decision

- 3.1 The Authority is satisfied that contraventions of SLC 4D and SLC 12 have occurred on the basis of the evidence available and EDFE's acceptance of it.
- 3.2 The Authority has carefully reviewed the relevant licence obligations, the statement of case submitted by Ofgem, EDFE's written response, Ofgem's written comments on EDFE's response and the considerable representations made to it by both parties at the oral hearing on 7 July 2009, together with the representations EDFE made in response to the Authority's notice on the intended penalty.

4 The Authority's decision on whether to impose a financial penalty

General background to the Authority's decision to impose a financial penalty

- 4.1 The Authority has considered whether the imposition of a financial penalty is reasonable in all the circumstances of this case, in accordance with the requirements of the Electricity Act 1989 and having regard to its published statement of policy ("Policy") with respect to financial penalties. The Authority is required to carry out all its functions, including the taking of any decision as to penalty, in the manner which it considers is best calculated to further its principal objective, having regard to its other duties. The Authority is not, under its own Policy, limited to consideration of matters specifically mentioned in the Policy, but will consider all the circumstances. The matters detailed in this policy are considered below.

Factors tending to make the imposition of a financial penalty more likely than not

- 4.2 Whether the contravention or the failure has damaged the interests of consumers or other market participants – the Authority finds that the interests of consumers have been damaged by the contravention.
- 4.3 Whether imposing a financial penalty is likely to create an incentive to compliance and deter future breaches – the Authority considers that imposing a financial penalty on EDFE is likely to incentivise compliance and help deter future breaches, by sending a message that licence holders must be proactive in securing compliance with licence obligations.

Decision of the Gas and Electricity Markets Authority, following an investigation into compliance with SLC 4D and SLC 12 of the electricity distribution licence by EDF Energy Networks (EPN) plc, EDF Energy Networks (LPN) plc and EDF Energy Networks (SPN) plc
3 November 2009

Factors tending to make the imposition of a financial penalty less likely than not

- 4.4 If the contravention is trivial in nature - the Authority considers that, while numerically small, the contraventions cannot be described as "trivial". The Authority's view is that breaches of the three month timeframe are serious, especially given EDFE's position in the market and given the potential for delays in providing offers for connection to cause significant customer detriment.
- 4.5 That the principal objectives and duties of the Authority preclude the imposition of a penalty - there is nothing in the Authority's principal objective and duties to preclude the imposition of a penalty in this case.
- 4.6 That the breach or possibility of a breach would not have been apparent to a diligent licensee - The Authority considers that a diligent licensee would have had in place such systems as were necessary to discover and prevent breaches of SLC 4D. EDFE did not act in a diligent manner, especially given that despite the warning in 2006 it only discovered the other breaches after Ofgem stated it might be required to produce reports to Ofgem in 2007.
- 4.7 In light of the above, the Authority considers it appropriate to impose a financial penalty in this case.

5 Criteria relevant to the level of financial penalty

- 5.1 Under the Electricity Act 1989, the Authority may impose a financial penalty of up to 10 per cent of the annual turnover of the relevant licence holder. Annual turnover is defined in Regulations issued by the Secretary of State³. The Regulations allow the inclusion of all revenue from the activities of the licence holder, whether regulated or not. The combined turnover of EDFE is £988.2m⁴.
- 5.2 In arriving at the quantum of the penalty in this case, the Authority has considered the following factors in accordance with its Policy. It notes that the factors set out in its Policy do not preclude the Authority considering other factors. It has also taken the view that it may consider potential harm under this section of its Policy, and that the potential for harm will be part of the reason why the relevant condition was imposed in the first place. However, in this particular case the potential harm has not been a major factor in determining the level of the penalty.

Factors which are first considered when determining the level of penalty

- 5.3 The seriousness of the contravention and failure - It is the Authority's view that the contravention is of a serious nature. EDFE is a monopoly network operator and provides a vital service. Many people are dependent on it, and on non-contestable work it faces no competition, while on other contestable work there is only limited competition. EDFE is funded under the existing price control to deliver good customer service and the licence obligations reinforce this. A network operator can benefit financially both from both inadequate compliance with the standards set out in licence conditions and from having inadequate systems to monitor compliance. Such compliance is an important part of the integrity of monopoly network regulation.

³ The Electricity and Gas (Determination of Turnover for Penalties) Order 2002

⁴ Annual accounts for year ending 31 December 2008.

Decision of the Gas and Electricity Markets Authority, following an investigation into compliance with SLC 4D and SLC 12 of the electricity distribution licence by EDF Energy Networks (EPN) plc, EDF Energy Networks (LPN) plc and EDF Energy Networks (SPN) plc
3 November 2009

- 5.4 The degree of harm or increased cost incurred by customers or other market participants after taking into account any compensation paid – The Authority considers that there has been consumer detriment arising from EDFE’s failure to provide connection offers in accordance with the time limit. Nevertheless, it notes the inherent difficulty in determining robust quantification of potential or actual harm when connection offers are delayed. It also notes that EDFE has also made significant efforts to compensate affected customers and has paid out around £450,000 in compensation to customers.
- 5.5 The duration of the contravention or failure – there have been multiple breaches of the backstop three month timeframe between 2006-2008. For the purposes of imposing a penalty, the specific breaches which are relevant are those where the ‘time of the contravention’ was on or after 1 September 2007. However, the fact that there have been multiple breaches, and this was not an isolated incident, are aggravating factors in relation to the level of any such penalty, as set out in more detail below.
- 5.6 The gain (financial or otherwise) made by the licensee – it is clear that, although there may not be a precise quantification, EDFE avoided costs from not expending resources on appropriate systems to identify and prevent breaches of these licence obligations. EDFE may also have benefited from not having sufficient “spare” resources or flexibility to manage the inevitable variation in demand for connection offers. There is however no evidence that EDFE deliberately sought to breach the condition for financial gain.

Factors tending to increase the level of penalty

- 5.7 Repeated contravention or failure – There have been repeated contraventions in this case – a total of 108 (61 before 1 September 2007 and 47 on or after 1 September 2007). The Authority notes that EDFE was informed in April 2006, in relation to its first identified breach of SLC 4D, that Ofgem would take such breaches seriously and that EDFE should ensure that it complied with its obligations in this respect. The Authority considers that the instance of breach in 2006 should have prompted EDFE to ‘take stock’ and secure compliance with its obligations. As EDFE did not do so in early 2006, there have been repeated contraventions up until November 2008.
- 5.8 Continuation of the contravention or failure after either becoming aware of the contravention or failure or becoming aware of the start of Ofgem’s investigation – EDFE continued to breach SLC 4D after first becoming aware of a contravention in early 2006. There were also further breaches of the three month timeframe after EDFE had provided assurances to Ofgem that it had remedied the problem in February 2008, and after the start of Ofgem’s investigation on 29 August 2008. The last breach reported to Ofgem occurred in October 2008 and an offer was not provided until 21 November 2008.
- 5.9 Absence of any evidence of internal mechanisms or procedures intended to prevent contravention or failure - EDFE did not take adequate steps to monitor and assess whether it was complying with SLC 4D until Ofgem advised DNOs of its intention on 16 February 2007 to request SLC 4D performance data. These measures did not become fully effective until July 2008, approximately two years after EDFE first became aware of an instance of the three month timeframe being breached. The Authority considers that EDFE’s senior management should have ensured that EDFE had appropriate systems and processes to monitor compliance with its licence

Decision of the Gas and Electricity Markets Authority, following an investigation into compliance with SLC 4D and SLC 12 of the electricity distribution licence by EDF Energy Networks (EPN) plc, EDF Energy Networks (LPN) plc and EDF Energy Networks (SPN) plc
3 November 2009

obligations, and that it should have identified that breaches of SLC 4D were occurring before it was required to provide reports to Ofgem.

- 5.10 The involvement of senior management in any contravention or failure – Senior management were not involved in any deliberate actions in relation to the contraventions or failures.
- 5.11 The extent of any attempt to conceal the contravention or failure from Ofgem After the matter had been drawn to its attention, EDFE did not attempt to conceal the contravention from Ofgem.

Factors tending to decrease the level of penalty

- 5.12 Co-operation with Ofgem's investigation – EDFE has co-operated with Ofgem over the course of the investigation providing Ofgem with detailed information, both on a voluntary basis and in response to formal information requests. It also attended a meeting with Ofgem staff where issues relating to the investigation were discussed. Information has been provided by EDFE, in a consistently timely manner. Because EDFE accepted the breaches, Ofgem did not have to expend resources on a detailed analysis of the relevant cases.
- 5.13 Appropriate action by the licensee to remedy the contravention or failure – EDFE has, since discovering the breaches, spent a considerable amount of time and money on recruiting additional resource and upgrading its systems and processes.
- 5.14 EDFE has also agreed to send customers information on its obligations under SLC12 at the time it sends an acknowledgement letter to customers on receipt of an application and has agreed to Ofgem's proposals as set out in paragraph 2.13 above.
- 5.15 The Authority also notes that EDFE has shown regret in its representations to the Committee.
- 5.16 The extent to which the licensee had taken steps to secure compliance either specifically or by maintaining an appropriate compliance policy, with suitable management supervision – the Authority considers that EDFE had not taken adequate steps to prevent breaches prior to July 2008. EDFE has stated that it was from this time, after a data cleansing exercise, that its systems, processes and resources were in its view, adequate for preventing breaches.
- 5.17 Evidence that the contravention or failure was genuinely accidental or inadvertent – The Authority recognises the fact that EDFE's breach was not wilful. However, it should have taken adequate steps to ensure compliance and the licence breaches were not accidental or inadvertent.
- 5.18 Reporting the contravention or failure to Ofgem – After Ofgem advised DNOs of its intention to request SLC 4D performance data, EDFE discovered the breaches and reported them to Ofgem.
- 5.19 The Authority considers that there were mitigating factors in this case. It recognises the fact that EDFE brought this matter to Ofgem's attention and co-operated with Ofgem throughout the course of its investigation. EDFE has also implemented a number of measures to prevent further breaches, which now appear to be working.

Decision of the Gas and Electricity Markets Authority, following an investigation into compliance with SLC 4D and SLC 12 of the electricity distribution licence by EDF Energy Networks (EPN) plc, EDF Energy Networks (LPN) plc and EDF Energy Networks (SPN) plc
3 November 2009

5.20 However, the Authority considers that there are a number of aggravating factors which outweigh the mitigating factors in this case. In particular, this is a repeated contravention. EDFE did not take appropriate steps to secure compliance with the licence condition until informed that Ofgem intended to request performance data, even though it had been advised by Ofgem in relation to a breach in 2006 that it took breaches of SLC 4D seriously and that it should ensure that it complied with the condition in the future. Furthermore, EDFE continued to breach its obligations after assuring Ofgem in February 2008 that its systems were fit for purpose.

6 The Authority's decision on financial penalty

6.1 The Authority has imposed a financial penalty on EDFE of £2 million which it considers is reasonable in all the particular circumstances of this case.

6.2 The Authority considers that there is no particular case for apportioning the penalty to the three EDFE licence holders involved on the basis of the number of breaches. It has therefore decided to split the penalty sum between the relevant licensees in proportion to their turnover in the year ending 31 December 2008⁵. This would result in individual penalties of:

- EDF Energy Networks (EPN) plc £880,000;
- EDF Energy Networks (LPN) plc £640,000; and
- EDF Energy Networks (SPN) plc £480,000.

6.3 The penalty must be paid by 18 December 2009.



Andrew Wright

On behalf of

Gas and Electricity Markets Authority

November 2009

⁵ EPN – £437.8m; LPN – £315.6m; SPN – £234.8m

Decision of the Gas and Electricity Markets Authority, following an investigation into compliance with SLC 4D and SLC 12 of the electricity distribution licence by EDF Energy Networks (EPN) plc, EDF Energy Networks (LPN) plc and EDF Energy Networks (SPN) plc
3 November 2009

Annex 1 - SLC 4D and SLC 12

Standard Licence Condition 4D. Requirement to Offer Terms for Use of System and Connection

1. On application made by any person, the licensee shall (subject to paragraph 4) offer to enter into an agreement for use of system:
 - a. to accept into the licensee's distribution system, at such entry point or points and in such quantities as may be specified in the application, electricity to be provided by or on behalf of such person; and/or
 - b. to distribute such quantities of electricity as are referred to in sub-paragraph (a) (less any distribution losses) at such exit point or points on the licensee's distribution system and to such person or persons as the applicant for use of system may specify.
2. On application made by any person for a connection, the licensee shall offer terms for making the connection pursuant to sections 16 and 16A of the Act and in compliance with the provisions of this condition.
3. Where the licensee makes an offer to enter into a connection agreement pursuant to section 22 of the Act, or replies to a request for a connection made to it under section 16A of the Act, the licensee shall, in making the offer or replying to the applicant, make detailed provision regarding:
 - a. the carrying out of the works (if any) required to connect the licensee's distribution system to any other system for the transmission or distribution of electricity, and for the obtaining of any consents necessary for such purpose;
 - b. the carrying out of the works (if any) in connection with the extension or reinforcement of the licensee's distribution system rendered (in the licensee's discretion) appropriate or necessary by reason of making the connection or the modification of an existing connection, and for the obtaining of any consents necessary for such purpose;
 - c. (save to the extent that such matters are included in any agreement offered in accordance with standard condition 36 (Requirement to Offer Terms for Legacy Basic Meter Asset Provision) or standard condition 36A (Requirement to Offer Terms for the Provision of Data Services)), the installation of appropriate meters (if any) required to enable the licensee to measure electricity being accepted into the licensee's distribution system at the specified entry point or points or leaving such system at the specified exit point or points;
 - d. the installation of such switchgear or other apparatus (if any) as may be required for the interruption of supply where the person seeking connection

Decision of the Gas and Electricity Markets Authority, following an investigation into compliance with SLC 4D and SLC 12 of the electricity distribution licence by EDF Energy Networks (LPN) plc, EDF Energy Networks (LPN) plc and EDF Energy Networks (SPN) plc
3 November 2009

- or the modification of an existing connection does not require the provision of top-up or standby; and
 - e. (save to the extent that such matters are included in any agreement offered in accordance with standard condition 36 (Requirement to Offer Terms for Legacy Basic Meter Asset Provision) or standard condition 36A (Requirement to Offer Terms for the Provision of Data Services)), the installation of special metering, telemetry, or data processing equipment (if any) for the purpose of enabling any party to the Balancing and Settlement Code and/or the Settlement Agreement for Scotland to comply with its obligations there under in respect of metering or the performance by the licensee of any service in relation to such metering.
4. In making an offer pursuant to this condition to enter into any connection agreement, or in replying to a request for connection under section 16A of the Act, the licensee shall set out:
- a. the date by which, in the case of an agreement under paragraph 2, any works required to permit access to the licensee's distribution system (including for this purpose any works to reinforce or extend the licensee's distribution system) shall be completed, time being of the essence unless, in the case of connection agreements only, otherwise agreed between the parties;
 - b. the charges to be paid in respect of the services required, which are (unless manifestly inappropriate):
 - i. to be set in compliance with the requirements of standard condition 4B (Connection Charging Methodology), and
 - ii. to be presented in such a way as to be referable to the statement prepared in accordance with paragraph 4 of standard condition 4B (Connection Charging Methodology) or any revision thereof; and
 - c. such other detailed terms in respect of each of the services required as are or may be appropriate for the purpose of the agreement.
5. The licensee shall offer terms for agreements in accordance with paragraphs 1, 2, and 4 as soon as is practicable and (save where the Authority consents to a longer period) in any event not more than the period specified in paragraph 6 after receipt by the licensee (or its agent) from any person of an application containing all such information as the licensee may reasonably require for the purpose of formulating the terms of the offer.
6. For the purposes of paragraph 5, the period specified is:
- a. in the case of persons seeking the provision of use of system only, 28 days;
 - b. in the case of persons seeking connection or the modification of an existing connection, three months; and

Decision of the Gas and Electricity Markets Authority, following an investigation into compliance with SLC 4D and SLC 12 of the electricity distribution licence by EDF Energy Networks (EPN) plc, EDF Energy Networks (LPN) plc and EDF Energy Networks (SPN) plc
3 November 2009

Standard Licence Condition 12 - Requirement to offer terms for Use of System and connection Agreement for Use of System

12.1 The licensee must, on receiving a request from any person ("the requester") asking it to do so, offer to enter into an agreement for Use of System under which it will:

- (a) accept into the licensee's Distribution System, at any Entry Point and in any quantity that was specified by the requester in the request, electricity that is provided by or on behalf of the requester; and
- (b) distribute that quantity of electricity (subject to any distribution losses) to such Exit Point on the licensee's Distribution System and to any person as the requester may specify.

Treatment of requests for connection

12.2 On receiving a request from any person asking it to make a connection, the licensee:

- (a) must not treat that request as anything other than a Notice given under section 16A of the Act requiring it to make the connection pursuant to section 16(1) of the Act; and
- (b) to the extent that the request does not comply with the requirements of section 16A of the Act, must take all reasonable steps to ensure that it does so comply.

Provision of information about connection terms

12.3 Where the licensee makes an offer to make a connection under section 16(1) of the Act, it must in that offer make detailed provision in relation to:

- (a) any works required to connect the licensee's Distribution System to any other Distribution System or a Transmission System, and any consents needed for that purpose;
- (b) any works to extend or reinforce the licensee's Distribution System which in the opinion of the licensee are necessary or appropriate in consequence of the connection, or modification of an existing connection and any consents needed for that purpose;
- (c) the installation of any switchgear or other apparatus required for the interruption of supply; and

Decision of the Gas and Electricity Markets Authority, following an investigation into compliance with SLC 4D and SLC 12 of the electricity distribution licence by EDF Energy Networks (EPN) plc, EDF Energy Networks (LPN) plc and EDF Energy Networks (SPN) plc
3 November 2009

(d) except to the extent included in any agreement offered in accordance with standard condition 34 (Requirement to offer terms for the provision of Legacy Metering Equipment) or standard condition 35 (Requirement to offer terms for the provision of Data Services), the installation of:

- (i) any Electricity Meters required to enable the licensee to measure electricity that is being accepted into or leaving the licensee's Distribution System at specified Entry Points or Exit Points, and
- (ii) any special metering, telemetry, or Data Processing equipment for the purpose of enabling any party to the Balancing and Settlement Code to comply with its obligations under that code in respect of metering or the licensee's performance of any related service.

Charges and other terms for Use of System and connection

12.4 Where the licensee makes an offer to enter into an agreement for Use of System under paragraph 12.1 or to make a connection under section 16(1) of the Act, it must in that offer set out:

- (a) the charges to be paid, which must (unless clearly inappropriate):
 - (i) be consistent with the relevant Charging Methodology within the meaning of standard condition 13 (Charging Methodologies for Use of System and connection), and
 - (ii) be presented so as to be referable to the Use of System Charging Statement or the Connection Charging Statement (as the case may be) of the licensee under standard condition 14 (Charges for Use of System and connection);
- (b) such other detailed terms as may be appropriate for the purposes of the agreement; and
- (c) in the case only of an offer to make a connection, the date by which any works required for connection to the licensee's Distribution System, including any works to extend or reinforce that system, will be completed (time being of the essence unless otherwise agreed with the person who requires the connection to be made).

Decision of the Gas and Electricity Markets Authority, following an investigation into compliance with SLC 4D and SLC 12 of the electricity distribution licence by EDF Energy Networks (EPN) plc, EDF Energy Networks (LPN) plc and EDF Energy Networks (SPN) plc
3 November 2009

Timing of offer of Use of System and connection terms

12.5 The licensee must offer terms for an agreement for Use of System under paragraph 12.1 and for the making of a connection under section 16(1) of the Act:

- (a) as soon as is reasonably practicable after its (or its agent's) receipt of the request from the requester or of the Notice under section 16A of the Act (as the case may be); and
- (b) in any event, not more than the period set out in paragraph 12.6 after the receipt by the licensee of all the information that it may reasonably require for the purpose of formulating the terms of the offer.

12.6 The period set out in this paragraph is:

- (a) in the case of a request for an agreement for Use of System only, 28 days;
- (b) in the case of a request for an agreement for both Use of System and a connection, three months; and
- (c) in the case of a request for a connection, three months.

Exceptions to the obligation to offer terms

12.7 The licensee is not obliged under paragraph 12.1 to offer to enter into an agreement for Use of System or under paragraph 12.2 to offer to enter into an agreement for connection if doing so would be likely to cause it to be in breach of:

- a) its duties under section 9 of the Act;
 - (b) any regulations made under section 29 of the Act, or any other enactment that relates to safety or standards applicable to the Distribution Business;
 - (c) the Grid Code or the Distribution Code; or
 - (d) any of the Conditions of this licence,
- or if the requester does not agree to be bound, to the extent applicable to him, by the terms of the Grid Code or the Distribution Code.

Settlement of disputes

12.8 Disputes arising under this condition are subject to the provisions of standard condition 7 (Determinations by the Authority) to the extent provided for in that condition.

Notice under section 27A of the Electricity Act 1989

Decision of the Gas and Electricity Markets Authority, following an investigation into compliance with SLC 4D and SLC 12 of the electricity distribution licence by EDF Energy Networks (EPN) plc, EDF Energy Networks (LPN) plc and EDF Energy Networks (SPN) plc
3 November 2009

Application Regulations

12.9 The licensee must, within 28 days of receiving a request from any person, give him any information held by the licensee that he reasonably requires for the purpose of completing an application under the Application Regulations.

Interpretation

12.10 In this condition, any reference to a connection to be made under or pursuant to section 16(1) of the Act includes a reference to a connection to be made in accordance with the terms of a special connection agreement under section 22 of the Act.