

To:

Electricity North West Limited (ENWL)
Northern Powergrid (Northeast) plc (NPgN)
Northern Powergrid (Yorkshire) plc (NPgY)
SP Distribution plc (SPD)
SP Manweb plc (SPMW)
Scottish Hydro Electric Power Distribution plc (SSEH)
Southern Electric Power Distribution plc (SSES)
Eastern Power Networks plc (EPN)
London Power Networks plc (LPN)
South Eastern Power Networks plc (SPN)
Western Power Distribution (East Midlands) plc (EMID)
Western Power Distribution (West Midlands) plc (WMID)
Western Power Distribution (South Wales) plc (SWALES)
Western Power Distribution (South West) plc (SWEST)

Notice of derogations to amend the Use of Systems Charges notice period to enable DNOs to recover LRSP payments via networks charges in the regulatory year 2022/23.

WHEREAS:

1. Each of the companies to whom these derogations is addressed (each a 'Licensee') holds a Electricity Distribution Licence granted, or treated as granted, by the Gas and Electricity Markets Authority ('the Authority') under section 7 of the Electricity Act 1989 ('the Act').
2. The Authority stated in a Last Resort Supply Payment ('LRSP') process letter dated 1 December 2021¹ that it was our minded-to position to grant Distribution Network Operators ('DNOs') the required derogations so that there will be no misalignment between paying the LRSP and recovering that cost.
3. Standard Licence Condition (SLC) 38B 'Treatment of payment claims for last-resort supply where Valid Claim is received on or after 1 April 2019' of the Electricity Distribution Licence provides that where a Licensee gives notice to the Authority under SLC 38B.5 and the Authority gives the necessary direction under SLC 38B.6, then, in accordance with SLC 38B.9, recovery and payment of the Excess Specified Amount is made in the Relevant Regulatory Year.
4. Paragraph 1 of SLC 13 'Charging Methodologies for Use of System and connection' of the Electricity Distribution Licence states that, except with the consent of the Authority, a Licensee must comply with the Charging Methodology.
5. Paragraph 11 of Part F 'Amendment of Licensee's Use of System Charges' of SLC 14 'Charges for Use of System and connection' of the Electricity Distribution Licence provides that the Licensee must, not less than three months' before the date on which it proposes to amend its Use of System Charges, (a) give the Authority a Notice setting out those proposals, together with an explanation of them and

¹ [Decision letter faster levy process \(ofgem.gov.uk\)](https://www.ofgem.gov.uk/decision-letter-faster-levy-process)

(b) send a copy of such Notice to any person who has entered into an agreement for Use of System in accordance with the provisions of the licence.²

6. SLC 14.12 of the Electricity Distribution Licence allows the Authority to direct that Licensees are not required to fulfil the obligations provided in SLC 14.12(a) and (b) to give three months' Notice to the Authority of proposed amendments to the Use of System Charges.
7. Furthermore, under clause 19.1A ('Use of System Charges') of the DCUSA, a Licensee is required to give 15 months' notice of a change to its Use of System Charges.³ This is a contractual requirement that applies in addition to the Electricity Distribution Licence obligation noted above. Clause 19.1B of the DCUSA provides that such a requirement shall not apply to Licensees where the Authority directs that this period of notice need not apply.
8. Therefore, to enable Licensees to recover the LRSP in Regulatory Year 2022/2023 we have decided to issue derogations under SLC 13.1 and SLC 14.12 of the Electricity Distribution Licence, and under clause 19.1B of the DCUSA. The Authority hereby directs that Licensees need not provide three months' (or 15 months as required by the DCUSA) notice of an amendment to Use of System Charges. In order for such amendments to take effect on 1st April 2022, Licensees must submit a Notice to the Authority setting out the amendments to its Use of System Charges by 19th February 2022.
9. Given the magnitude of the LRSP, the Authority considers that it is appropriate to issue the derogations as laid out above. The Authority issues these derogations under the provision that the Licensees may amend their Use of System Charges in order to recover the applicable Excess Specified Amounts⁴, consistent with the approved LRSP claims as laid out in the table below:

Distribution Network Operator (DNO)	Last Resort Supply Payment (LRSP)
Western Power Distribution (South West) plc (SWEST)	£ 54,567,432.86
Western Power Distribution (South Wales) plc (SWALES)	£ 38,399,304.60
Western Power Distribution (East Midlands) plc (EMID)	£ 89,935,213.41
Western Power Distribution (West Midlands) plc (WMID)	£ 83,872,165.32
Northern Powergrid (Yorkshire) plc (NPgY)	£ 77,809,117.22
Northern Powergrid (Northeast) plc (NPgN)	£ 54,567,432.86
Electricity North West Limited (ENWL)	£ 80,840,641.27
Scottish Hydro Electric Power Distribution plc (SSEH)	£ 26,273,208.41
Southern Electric Power Distribution plc (SSES)	£ 104,082,325.64
Eastern Power Networks plc (EPN)	£ 123,281,977.94
London Power Networks plc (LPN)	£ 79,830,133.25
South Eastern Power Networks plc (SPN)	£ 77,809,117.22
SP Distribution plc (SPD)	£ 67,704,037.06
SP Manweb plc (SPMW)	£ 51,535,908.81
Total	£ 1,010,508,015.87

²

<https://epr.ofgem.gov.uk/Content/Documents/Electricity%20Distribution%20Consolidated%20Standard%20Licence%20Conditions%20-%20Current%20Version.pdf>

³ https://www.dcuca.co.uk/wp-content/uploads/2020/12/DCUSA-v12.8_Public.pdf

⁴ As specified in Standard Condition 38B.7 of the Electricity Distribution Licence

The Office of Gas and Electricity Markets

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10. This document constitutes notice for the reasons for this decision as required by section 49A of the Act.

NOW THEREFORE

11. For Regulatory Year 2022/23, the Authority hereby issues to the Licensees a consent under SLC 13.1, directions under SLC 14.12 and SLC 3B.6 of the Electricity Distribution Licence, and a direction under clause 19.1B of the DCUSA. For Regulatory Year 2022/23, the Licensees are therefore relieved of their obligation set out in SLC 14.11 of the Electricity Distribution Licence to give not less than three months' notice before the date on which it proposes to amend its Use of System Charges. Additionally, Licensees are relieved of their obligation set out in SLC 13 of the Electricity Distribution Licence to charge in accordance with the charging methodologies approved. Finally, Licensees are also relieved of their obligation set out in clause 19.1A of the DCUSA to give 15 months' notice of a change to its Use of System Charges.

12. These derogations are effective from the date of authorisation.

Signed

A handwritten signature in black ink, appearing to read 'Steve McMahon', written over a horizontal line.

Steve McMahon

Deputy Director, Networks

Authorised for and on behalf of the Gas and Electricity Markets Authority.

Dated: 23 December 2021