



Citiworks Ruling and Implications for UK Development

Briefing Note

October 2008

Background

In May 2008, the European Court of Justice ruled on the Citiworks case regarding access to the electricity distribution network at Leipzig Airport. The case hinged on whether a derogation under German Law which allowed the site to avoid giving third party access was legal under the EU Directive. The Court ruled that it was not legal to give a derogation on the requirement to offer third party access. Although the ruling is not directly applicable with the lack of third party access in license exempt sites in the UK, the UK government has been concerned that our current regulations breach EU law.

What are Government Planning?

On 13th October, Fontenergy met with officials from DECC to discuss their plans to respond to the Citiworks ruling. DECC's view was that a derogation against third party access or a public service obligation are not going to be legal. It proposes to make a small change to the license exemption regime, inserting a requirement to provide third party access. DECC indicated that they did not intend to put any proscriptive wording regarding the access nor require any price controls or similar regulatory regime.

What might that mean?

Parties should be free to set their own third party access arrangements provided that they are non-discriminatory. DECC indicated that there would be no requirement to have a common methodology across exempt sites, giving the freedom to set prices and rules based on the specific economics of each site.

In order to provide third party access, each site must provide some rules regarding access and charges. There are two key components to the rules: use of system charges relating to the distribution costs for the private network; and method for dealing with actual flows of electricity.

The use of system charges element is quite straightforward. The simplest method is to match the local distribution charges by customer class, however there is no requirement to match local charges. The private network continues to make money on the difference between their charges and their cost base. On a network with no onsite generation, this would be the only element which would need resolving.

The physical energy flows are more complicated. On private networks which have their own generation, energy consumed by the customer may well have been generated on site and so no import may have passed through the boundary meter. The onsite generator/distributor and the third party supplier must come to some agreement about how this is settled. There are two ways that it can be managed (1) financial settlement; and (2) physical settlement.

1.1 Financial Settlement

Financial settlement is where the third party supplier pays the onsite generator for their customer's electricity, at a pre-agreed rate and the onsite generator continues to generate

electricity and source top-up and spill for that customer. The pricing can be any combination from fixed price through to index linked.

This system would operate as a side agreement from the industry settlement systems and would be settled financially between the two parties. Many private wire sites have either smart metering at domestic sites or are planning to install smart metering for sites currently under development. This allows accurate, half-hourly assessment of customer demand. This means the onsite generator can accurately give customer consumption to the third party and it allows for financial pricing that reflects the customer demand profile.

1.2 Physical Settlement

The second route is to register the customer who switches to a third party into the industry settlement systems. The customer's meter will then be allocated an MPAN (Meter Point Administration Number). Under the current trading rules, the boundary meter volume can be adjusted to subtract the switched away customer demand. This means the onsite generator will have no liability for that customer's demand, but may mean that the industry systems will calculate a greater spill volume from the private network to the local distribution grid reducing embedded benefits and increasing sales into the wholesale market.

There is a second issue with this method of settlement. If the customer who transfers is a domestic customer, its meter volumes will be calculated based on its profile class as settlement does not allow half-hour meter reads for this customer type. There is always some mismatch between actual customer demand and the profile class. The onsite generator will be left with this profile class imbalance risk.

Conclusions & Next Steps

DECC indicates that any changes made will be light touch and up to individual sites to apply. There will be no fundamental alteration of the license exempt regime for either existing or new sites.

There are two basic methods to provide third party access (1) financial settlement; or (2) physical settlement. Both of these methods contain some level of risk for the exempt site and will require the preparation of various documents such as charging statements for distribution charges and methodology and contracts relating to the physical energy elements. It will entail some additional complications compared to the current licence exempt operations, but it does not have to be unduly onerous.