

GREATER LONDON AUTHORITY

REQUEST FOR DIRECTOR DECISION – DD1416

Title: Licence Lite – the GLA's licence application to Ofgem

Executive Summary:

The GLA has made an application for a junior electricity supply licence ('licence lite') to Ofgem. Following discussion with Ofgem, amendments are required to the application, namely:

1. that the description of who can be supplied with electricity by the GLA should be changed from a list of premises to all non domestic premises the GLA decides to supply. In addition to TfL, this may include certain governmental bodies and public authorities;
2. that the GLA should not restrict tenders for purchase of electricity for its operations to London sources only.

The changes do not change the feasibility of the GLA's licence lite proposals, however this decision is required since these changes modify statements made in the licence application or in DD897 which included its authorisation.

Decision

That the Executive Director approves:

- The change in the description of the licensable activities in the application from the purchase by the GLA of electricity generated by London boroughs and other public sector bodies in London to the purchase of electricity from any party.
- In substitution for the GLA supplying electricity only to non domestic premises owned or managed by London boroughs, Transport for London, the London Fire and Emergency Planning Authority, the Metropolitan Police and other governmental bodies and public authorities in London, the GLA be able to supply any non domestic premises (on the basis that the GLA's business plan proposes only to supply non-domestic premises within or proximate to the GLA area).

AUTHORISING DIRECTOR

I have reviewed the request and am satisfied it is correct and consistent with the Mayor's plans and priorities.

It has my approval.

Name: Fiona Fletcher - Smith

Position: Executive Director of Development, Enterprise and Environment

Signature:



Date: 2.11.2015

PART I - NON-CONFIDENTIAL FACTS AND ADVICE

Decision required – supporting report

1. Introduction and background

- 1.1 The GLA application for a junior (licence lite) electricity supply licence was authorised in DD897, so that the GLA could buy the electricity produced by London boroughs and other public sector decentralised energy generators in London and sell it at proper market rates. The decision noted that the request for a decision has gone to IPB and will come back to IPB at the point at which a decision is needed on accepting the grant of the licence and entering into the contracts necessary to purchase and supply electricity in the manner described in DD897.
- 1.2 Since the licence application to Ofgem was made in March 2013, the outstanding regulatory issues in respect of the licence application have been resolved, a detailed financial model delivered to Ofgem and a third party fully licensed electricity supplier appointed to provide market interface services to the GLA, as required under the terms of the grant of the licence to the GLA.
- 1.3 Some statements made by the GLA in its lite licence application now require revision, to comply with the conclusions reached in discussions with Ofgem.
- 1.4 The revisions are concerned with two matters. The first is that the premises to which the GLA may supply electricity under the licence be differently defined. The licence application currently defines premises to which the GLA may supply electricity as-
- London boroughs and non domestic premises owned or managed by them;
 - Transport for London, the London Fire and Emergency Planning Authority, the Metropolitan Police and non domestic premises owned or managed by them;
 - other governmental bodies and public authorities in London and non domestic premises owned or managed by them.
- 1.5 This DD requests authorisation to change the definition of premises which the GLA may supply to any non domestic premises, not distinguished by ownership or location within Great Britain.
- 1.6 The reason for the change is technical, in that specifying narrow classes of premises that can be supplied would be complex and time consuming to administer, since the premises would need to be individually identified so that Ofgem can monitor that the scope of the licence is being complied with and the premises supplied would be constantly subject to change.
- 1.7 The GLA may still keep the scope of its supply activities to within the GLA area, since the GLA is at liberty to manage its licence lite business within that scope. It is suggested that the practical scope adopted be the GLA area and also consumers proximate to it, to provide a small amount of flexibility.
- 1.8 This change of scope would not cause the GLA to be exposed to any additional risks or liabilities under its licence. At the operational level, the change would improve the flexibility available to the GLA regarding whom it may supply and increase potential demand for the GLA's electricity supply. That would be advantageous to its licence lite business and consistent with its licence lite objectives because it increases potential demand.
- 1.9 Second, that the source of the electricity that the GLA purchases from generators for the purposes of its licence lite supply be changed from its current description in the licence application as –

'electricity generated by or on behalf of the London boroughs and other public sector bodies in London;'

to -

'electricity generated from any source'.

- 1.10 The reason for the change is to allow the GLA to evaluate potential sources of supply on a number of criteria including price and to be able to select the most economically advantageous sources not solely by reference to geographical location or ownership.
- 1.11 Decentralised small scale electricity generating capacity is likely to find meeting the GLA's needs for power for its licence lite business attractive because of the enhanced financial margins. This has already been demonstrated in the responses received from small scale electricity generating interest to the GLA's Pre-qualification Questionnaire, received in June 2015.

2. Objectives and expected outcomes

- 2.1 The objective is to conform to Ofgem's guidance and legal requirements through the alterations to the licence application terms described above; but to do so without causing the GLA to be exposed to any additional risk or liabilities under the terms of its licence.
- 2.2 The outcome of changing the relevant terms in the licence application is expected to be positive, in that –
- a) it will facilitate the grant of the licence upon which the GLA's licence lite operations are dependent;
 - b) adopting the changes to the licence application terms should not adversely affect the feasibility of the licence lite business, including the opportunity to realise the full economic advantages available to smaller scale decentralised electricity generators and the GLA as the supplier, through the matching of generation with electricity consumption requirements which is central to the licence lite business model.

3. Equality comments

- 3.1 The changes in respect of which this decision is being made will have no impact, either positive or negative, on those with protected characteristics.

4. Other considerations

- 4.1 That there are no additional risks or liabilities in relation to the licence involved in extending the permitted scope for electricity supply under the licence.

5. Financial comments

- 5.1 There are no direct financial implications to the GLA arising from this proposal. However, the purchase and associated sale of the electricity must still be in line with the conditions set out in DD897 and the Authority's financial and statutory obligations.

6. Legal comments

- 6.1 The GLA has powers under the Greater London Authority Act 1999 (section 30) to promote the improvement of the environment in Greater London, in doing which it is to have regard to the achievement of sustainable development in the UK, and to climate change, and the consequences of

climate change. Further, the GLA has an obligation (under section 361A) to address climate change, so far as relating to Greater London. Under section 34 of the GLA Act, the GLA may do anything calculated to facilitate, or conducive or incidental to, its functions.

- 6.2 Provided that implementation of these proposals will help to improve the environment in Greater London, having regard to the achievement of sustainable development in the UK, and/or to address climate change in Greater London, and/or will facilitate, conduce or be incidental to, such matters, the proposals are within the GLA's powers. Notwithstanding the power under the prospective licence to supply premises throughout Great Britain, the GLA will need to bear in mind the geographical constraints on its powers.
- 6.3 It is understood that at present what is proposed is purely a pilot scheme. In piloting this scheme, the GLA does not appear to be exercising its powers for a commercial purpose.
- 6.4 Should the pilot scheme be successful, and should it be contemplated that the scheme will move towards a full scale, enduring, operational scheme, with a view to profit, then the further legal considerations set out in the following paragraphs (which are not exhaustive) will apply.
- 6.5 It is noted above that the GLA plans to sell electricity at market rates. Under section 95 of the Local Government Act 2003, and the Local Government (Best Value Authorities) (Power to Trade) (England) Order 2009, the GLA has power to do for a commercial purpose anything which it is authorised to do for the purpose of carrying on any of its ordinary functions. Under s95(4) of the 2003 Act the GLA must exercise its powers to do so through a company.
- 6.6 Further, under article 2(2) of the 2009 Order, the GLA must prepare and approve a business case, defined as "a comprehensive statement as to—
 (a) the objectives of the business,
 (b) the investment and other resources required to achieve those objectives,
 (c) any risks the business might face and how significant these risks are, and
 (d) the expected financial results of the business, together with any other relevant outcomes that the business is expected to achieve."
- 6.7 Any proposals should be reviewed generally on preparation of a business case.

7. Planned delivery approach and next steps

Activity	Timeline
Issue of Prequalification questionnaire to electricity generators	20 th October 2015
Tenders received for generating capacity	November 2015
Contracts terms settled but not signed with third party electricity supplier	December 2015
Ofgem advertises GLA licence application	December 2015
Contract forms settled (but not signed) with generators and TfL for supply of electricity	December 2015
IPB approval and MD requested to business plan /grant of licence /contract commitments	January 2016

Appendices and supporting papers: None

Public access to information

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FOI Act) and will be made available on the GLA website within one working day of approval.

If immediate publication risks compromising the implementation of the decision (for example, to complete a procurement process), it can be deferred until a specific date. Deferral periods should be kept to the shortest length strictly necessary.

Note: This form (Part 1) will either be published within one working day after approval or on the defer date.

Part 1 Deferral:

Is the publication of Part 1 of this approval to be deferred? NO

If YES, for what reason:

Until what date: (a date is required if deferring)

Part 2 Confidentiality: Only the facts or advice considered to be exempt from disclosure under the FOI Act should be in the separate Part 2 form, together with the legal rationale for non-publication.

Is there a part 2 form – NO

ORIGINATING OFFICER DECLARATION:

Drafting officer to confirm the following ✓

Robert Tudway has drafted this report in accordance with GLA procedures and confirms that the following have been consulted on the decision - ✓

Assistant Director:

Patrick Feehily has reviewed the documentation and is satisfied for it to be referred to the Sponsoring Director for approval. ✓

Financial and Legal advice:

The Finance and Legal teams and external counsel have commented on this proposal, and this decision reflects their comments. ✓

EXECUTIVE DIRECTOR, RESOURCES:

I confirm that financial and legal implications have been appropriately considered in the preparation of this report.

Signature

M. J. O'Leary

Date

30.10.15

