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Dear Roger

Connections Assessment and Design (A&D) fees levied by Electricity Distribution Network Operators (DNOs)

We were surprised to receive your letter of 14 August which stated that the practice of DNOs levying upfront charges prior to issuing a connection offer is, in fact, illegal as this has been a feature of the electricity market for a long time. This is obviously a major concern to us and we have had a number of discussions with other network operators to verify the position you set out.

During these discussions, it became clear that you have been aware of this situation for sometime and EDF Energy, whose charges were the subject of the initial complaint, provided details to you of the legal opinions they had received and the amendment to the Electricity Act which would address this issue. We are disappointed that these amendments were not introduced through the Energy Bill and discussions with the Energy Bill Team and ENA representatives last week confirmed their opposition to introducing such an amendment at such a late stage in the Parliamentary process. As you state in your letter, you support upfront charging in principle and you will seek amendment to the Electricity Act as soon as a suitable legislative vehicle allows. We believe you should actively pursue this option with the Department for Business Enterprise and Regulatory Reform at the earliest opportunity.

With regard to current charging practice, ENW charge prior to a connection offer being made for system studies for large generation and demand projects. This is far more restricted than the approach EDF Energy had taken that resulted in the legal challenge. We recently modified our approach to system study charges and we received a non-veto of our proposals on 11 June 2008. It is surprising that Ofgem did not raise this issue when considering this modification. The requirement to charge up front is set out in paragraph 7.6 of Section 7 of our Connection Charging Statement where we state, "Note, payment of system study charges (plus VAT) is required in advance of the study being undertaken". As an interim measure and to ensure our charging regime remains lawful, we will seek the Authority's approval not to apply this aspect of our Connection Charging Statement, in accordance with SLC14.7. When

we have received this consent we will cease to request system study charges in advance of a connection offer being issued.

We do have concerns that this approach may lead to us incurring additional costs in providing quotations on a speculative basis with the costs being recovered from genuine applicants. We are therefore undertaking a thorough review of our approach to charging to ensure that cost reflectivity is retained and we will bring forward modifications following consultation with interested parties.

Yours sincerely,

Paul Bircham
Regulation Director
Electricity North West Limited